



Police Reform Act 2002

2002 CHAPTER 30

PART 4

POLICE POWERS ETC.

CHAPTER 1

EXERCISE OF POLICE POWERS ETC. BY CIVILIANS

38 Police powers for police authority employees

- (1) The chief officer of police of any police force may designate any person who—
 - (a) is employed by the police authority maintaining that force, and
 - (b) is under the direction and control of that chief officer,as an officer of one or more of the descriptions specified in subsection (2).
- (2) The description of officers are as follows—
 - (a) community support officer;
 - (b) investigating officer;
 - (c) detention officer;
 - (d) escort officer.
- (3) A Director General may designate any person who—
 - (a) is an employee of his Service Authority, and
 - (b) is under the direction and control of that Director General,as an investigating officer.
- (4) A chief officer of police or a Director General shall not designate a person under this section unless he is satisfied that that person—
 - (a) is a suitable person to carry out the functions for the purposes of which he is designated;
 - (b) is capable of effectively carrying out those functions; and

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- (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred on him by virtue of the designation.
- (5) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.
- (6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is—
 - (a) in the case of a person designated as a community support officer, Part 1;
 - (b) in the case of a person designated as an investigating officer, Part 2;
 - (c) in the case of a person designated as a detention officer, Part 3; and
 - (d) in the case of a person designated as an escort officer, Part 4.
- (7) An employee of a police authority or of a Service Authority authorised or required to do anything by virtue of a designation under this section—
 - (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and
 - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.
- (8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.
- (9) Where any power exercisable by any person in reliance on his designation under this section includes power to use force to enter any premises, that power shall not be exercisable by that person except—
 - (a) in the company, and under the supervision, of a constable; or
 - (b) for the purpose of saving life or limb or preventing serious damage to property.

39 Police powers for contracted-out staff

- (1) This section applies if a police authority has entered into a contract with a person (“the contractor”) for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody.
- (2) The chief officer of police of the police force maintained by that police authority may designate any person who is an employee of the contractor as either or both of the following—
 - (a) a detention officer; or
 - (b) an escort officer.
- (3) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.
- (4) A chief officer of police shall not designate a person under this section unless he is satisfied that that person—

- (a) is a suitable person to carry out the functions for the purposes of which he is designated;
 - (b) is capable of effectively carrying out those functions; and
 - (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred on him by virtue of the designation.
- (5) A chief officer of police shall not designate a person under this section unless he is satisfied that the contractor is a fit and proper person to supervise the carrying out of the functions for the purposes of which that person is designated.
- (6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is—
 - (a) in the case of a person designated as a detention officer, Part 3; and
 - (b) in the case of a person designated as an escort officer, Part 4.
- (7) An employee of the contractor authorised or required to do anything by virtue of a designation under this section—
 - (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and
 - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.
- (8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.
- (9) The Secretary of State may by regulations make provision for the handling of complaints relating to, or other instances of misconduct involving, the carrying out by any person designated under this section of the functions for the purposes of which any power or duty is conferred or imposed by his designation.
- (10) Regulations under subsection (9) may, in particular, provide that any provision made by Part 2 of this Act with respect to complaints against persons serving with the police is to apply, with such modifications as may be prescribed by them, with respect to complaints against persons designated under this section.
- (11) Before making regulations under this section, the Secretary of State shall consult with—
 - (a) persons whom he considers to represent the interests of police authorities;
 - (b) persons whom he considers to represent the interests of chief officers of police;
 - (c) the Independent Police Complaints Commission; and
 - (d) such other persons as he thinks fit.
- (12) A designation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (13), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.

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- (13) A designation under this section shall cease to have effect—
- (a) if the designated person ceases to be an employee of the contractor; or
 - (b) if the contract between the police authority and the contractor is terminated or expires.

40 Community safety accreditation schemes

- (1) The chief officer of police of any police force may, if he considers that it is appropriate to do so for the purposes specified in subsection (3), establish and maintain a scheme (“a community safety accreditation scheme”).
- (2) A community safety accreditation scheme is a scheme for the exercise in the chief officer’s police area by persons accredited by him under section 41 of the powers conferred by their accreditations under that section.
- (3) Those purposes are—
 - (a) contributing to community safety and security; and
 - (b) in co-operation with the police force for the area, combatting crime and disorder, public nuisance and other forms of anti-social behaviour.
- (4) Before establishing a community safety accreditation scheme for his police area, a chief officer of any police force (other than the Commissioner of Police of the Metropolis) must consult with—
 - (a) the police authority maintaining that force, and
 - (b) every local authority any part of whose area lies within the police area.
- (5) Before establishing a community safety accreditation scheme for the metropolitan police district, the Commissioner of Police of the Metropolis must consult with—
 - (a) the Metropolitan Police Authority;
 - (b) the Mayor of London; and
 - (c) every local authority any part of whose area lies within the metropolitan police district.
- (6) In subsections (4)(b) and (5)(c) “local authority” means—
 - (a) in relation to England, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly; and
 - (b) in relation to Wales, a county council or a county borough council.
- (7) Every police plan under section 8 of the 1996 Act which is issued after the commencement of this section, and every draft of such a plan which is submitted by a chief officer of police to a police authority after the commencement of this section, must set out—
 - (a) whether a community safety accreditation scheme is maintained for the police area in question;
 - (b) if not, whether there is any proposal to establish such a scheme for that area during the period to which the plan relates;
 - (c) particulars of any such proposal or of any proposal to modify during that period any community safety accreditation scheme that is already maintained for that area;

- (d) the extent (if any) of any arrangements for provisions specified in Schedule 4 to be applied to designated persons employed by the police authority; and
 - (e) the respects in which any community safety accreditation scheme that is maintained or proposed will be supplementing those arrangements during the period to which the plan relates.
- (8) A community safety accreditation scheme must contain provision for the making of arrangements with employers who—
- (a) are carrying on business in the police area in question, or
 - (b) are carrying on business in relation to the whole or any part of that area or in relation to places situated within it,
- for those employers to supervise the carrying out by their employees of the community safety functions for the purposes of which powers are conferred on those employees by means of accreditations under section 41.
- (9) It shall be the duty of a chief officer of police who establishes and maintains a community safety accreditation scheme to ensure that the employers of the persons on whom powers are conferred by the grant of accreditations under section 41 have established and maintain satisfactory arrangements for handling complaints relating to the carrying out by those persons of the functions for the purposes of which the powers are conferred.

41 Accreditation under community safety accreditation schemes

- (1) This section applies where a chief officer of police has, for the purposes of a community safety accreditation scheme, entered into any arrangements with any employer for or with respect to the carrying out of community safety functions by employees of that employer.
- (2) The chief officer of police may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to any employee of the employer.
- (3) Schedule 5 (which sets out the powers that may be conferred on accredited persons) shall have effect.
- (4) A chief officer of police shall not grant accreditation to a person under this section unless he is satisfied—
- (a) that that person's employer is a fit and proper person to supervise the carrying out of the functions for the purposes of which the accreditation is to be granted;
 - (b) that the person himself is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation;
 - (c) that that person is capable of effectively carrying out the functions for the purposes of which those powers are to be conferred on him; and
 - (d) that that person has received adequate training for the exercise of those powers.
- (5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following—
- (a) considering an application for or for the renewal of an accreditation under this section;
 - (b) granting such an accreditation.

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- (6) A person authorised or required to do anything by virtue of an accreditation under this section—
- (a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his employment by the employer with whom the chief officer of police has entered into the arrangements mentioned in subsection (1); and
 - (b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation.
- (7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation; but it may be renewed at any time with effect from the time when it would otherwise expire.
- (8) An accreditation under this section shall cease to have effect—
- (a) if the accredited person ceases to be an employee of the person with whom the chief officer of police has entered into the arrangements mentioned in subsection (1); or
 - (b) if those arrangements are terminated or expire.

42 Supplementary provisions relating to designations and accreditations

- (1) A person who exercises or performs any power or duty in relation to any person in reliance on his designation under section 38 or 39 or his accreditation under section 41, or who purports to do so, shall produce that designation or accreditation to that person, if requested to do so.
- (2) A power exercisable by any person in reliance on his designation by a chief officer of police under section 38 or 39 or his accreditation under section 41 shall be exercisable only by a person wearing such uniform as may be—
- (a) determined or approved for the purposes of this Chapter by the chief officer of police who granted the designation or accreditation; and
 - (b) identified or described in the designation or accreditation;
- and, in the case of an accredited person, such a power shall be exercisable only if he is also wearing such badge as may be specified for the purposes of this subsection by the Secretary of State, and is wearing it in such manner, or in such place, as may be so specified.
- (3) A chief officer of police who has granted a designation or accreditation to any person under section 38, 39 or 41 may at any time, by notice to the designated or accredited person, modify or withdraw that designation or accreditation.
- (4) A Director General may at any time, by notice to a person he has designated as an investigating officer under section 38, modify or withdraw that designation.
- (5) Where any person's designation under section 39 is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice to the contractor responsible for supervising that person in the carrying out of the functions for the purposes of which the designation was granted.
- (6) Where any person's accreditation under section 41 is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice

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to the employer responsible for supervising that person in the carrying out of the functions for the purposes of which the accreditation was granted.

- (7) For the purposes of determining liability for the unlawful conduct of employees of a police authority, conduct by such an employee in reliance or purported reliance on a designation under section 38 shall be taken to be conduct in the course of his employment by the police authority; and, in the case of a tort, that authority shall fall to be treated as a joint tortfeasor accordingly.
- (8) For the purposes of determining liability for the unlawful conduct of employees of a Service Authority, conduct by such an employee in reliance or purported reliance on a designation under section 38 shall be taken to be conduct in the course of his employment; and, in the case of a tort, the Service Authority shall fall to be treated as a joint tortfeasor accordingly.
- (9) For the purposes of determining liability for the unlawful conduct of employees of a contractor (within the meaning of section 39), conduct by such an employee in reliance or purported reliance on a designation under that section shall be taken to be conduct in the course of his employment by that contractor; and, in the case of a tort, that contractor shall fall to be treated as a joint tortfeasor accordingly.
- (10) For the purposes of determining liability for the unlawful conduct of employees of a person with whom a chief officer of police has entered into any arrangements for the purposes of a community safety accreditation scheme, conduct by such an employee in reliance or purported reliance on an accreditation under section 41 shall be taken to be conduct in the course of his employment by that employer; and, in the case of a tort, that employer shall fall to be treated as a joint tortfeasor accordingly.

43 Railway safety accreditation scheme

- (1) The Secretary of State may make regulations for the purpose of enabling the chief constable of the British Transport Police Force to establish and maintain a scheme (“a railway safety accreditation scheme”).
- (2) A railway safety accreditation scheme is a scheme for the exercise in, on or in the vicinity of policed premises in England and Wales, by persons accredited by the chief constable of the British Transport Police Force under the scheme, of the powers conferred on those persons by their accreditation under that scheme.
- (3) The regulations may make provision—
 - (a) as to the purposes for which a railway safety accreditation scheme may be established;
 - (b) as to the procedure to be followed in the establishment of such a scheme; and
 - (c) as to matters for which such a scheme must contain provision.
- (4) The regulations may make provision as to the descriptions of persons who may be accredited under a railway safety accreditation scheme and as to the procedure and criteria to be applied for the grant of any accreditation under such a scheme.
- (5) The regulations may make provision as to the powers which may be conferred on a person by an accreditation under such a scheme.
- (6) Subject to subsection (7), no regulations made by virtue of subsection (5) shall permit a power to be conferred on a person accredited under a railway safety accreditation

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scheme which could not be conferred on an accredited person under a community safety accreditation scheme.

- (7) The regulations may provide that the powers which may be conferred on a person by an accreditation under a railway safety accreditation scheme include the powers of a constable in uniform and of an authorised constable to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices) in respect of the following offences—
- (a) an offence under section 55 of the [British Transport Commission Act 1949 \(c. xxix\)](#) (trespassing on a railway);
 - (b) an offence under section 56 of that Act (throwing stones etc. at trains or other things on railways).
- (8) In relation to a person accredited under a railway safety accreditation scheme, the regulations may apply, with such modifications as may be prescribed by them, any provision of this Chapter which applies in relation to an accredited person.
- (9) Before making regulations under this section the Secretary of State shall consult with—
- (a) persons whom he considers to represent the interests of chief officers of police;
 - (b) the chief constable of the British Transport Police Force;
 - (c) persons whom he considers to represent the interests of police authorities;
 - (d) the British Transport Police Committee;
 - (e) persons whom he considers to represent the interests of local authorities;
 - (f) the Mayor of London; and
 - (g) such other persons as he thinks fit.
- (10) In this section—
- “local authorities” means district councils, London borough councils, county councils in Wales, county borough councils and the Common Council of the City of London; and
- “policed premises” has the meaning given by section 53(3) of the British Transport Commission Act 1949.

44 Removal of restriction on powers conferred on traffic wardens

- (1) Section 96 of the Road Traffic Regulation Act 1984 ([c. 27](#)) (additional powers of traffic wardens) shall be amended as follows.
- (2) In subsection (2)(c) (powers under the Road Traffic Act 1988 ([c. 52](#)) which may be conferred on traffic wardens), after sub-paragraph (i) there shall be inserted—
- “(ia) section 67(3) (which relates to the power of a constable in uniform to stop vehicles for testing);”.
- (3) In subsection (3) (traffic wardens not to be given the powers of a constable under sections 163, 164(1), (2) and (6) and 165 of the Road Traffic Act 1988 except for the purposes of exercising them in the circumstances specified in that subsection)—
- (a) in the words before paragraph (a), the words “163” (which refer to the power to stop a vehicle) shall be omitted; and
 - (b) paragraph (c) and the word “or” immediately preceding it shall cease to have effect.

45 Code of practice relating to chief officers' powers under Chapter 1

- (1) The Secretary of State shall issue a code of practice about the exercise and performance by chief officers of police and by Directors General of their powers and duties under this Chapter.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.
- (3) Before issuing or revising a code of practice under this section, the Secretary of State shall consult with—
 - (a) the Service Authority for the National Criminal Intelligence Service;
 - (b) the Service Authority for the National Crime Squad;
 - (c) persons whom he considers to represent the interests of police authorities;
 - (d) the Director General of the National Criminal Intelligence Service;
 - (e) the Director General of the National Crime Squad;
 - (f) persons whom he considers to represent the interests of chief officers of police;
 - (g) persons whom he considers to represent the interests of local authorities;
 - (h) the Mayor of London; and
 - (i) such other persons as he thinks fit.
- (4) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (5) In discharging any function to which a code of practice under this section relates, a chief officer of police or a Director General shall have regard to the code.
- (6) For the purposes of subsection (3)(g), “local authorities” means district councils, London borough councils, county councils in Wales, county borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

46 Offences against designated and accredited persons etc.

- (1) Any person who assaults—
 - (a) a designated person in the execution of his duty,
 - (b) an accredited person in the execution of his duty, or
 - (c) a person assisting a designated or accredited person in the execution of his duty,is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.
- (2) Any person who resists or wilfully obstructs—
 - (a) a designated person in the execution of his duty,
 - (b) an accredited person in the execution of his duty, or
 - (c) a person assisting a designated or accredited person in the execution of his duty,is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale, or to both.

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- (3) Any person who, with intent to deceive—
- (a) impersonates a designated person or an accredited person,
 - (b) makes any statement or does any act calculated falsely to suggest that he is a designated person or that he is an accredited person, or
 - (c) makes any statement or does any act calculated falsely to suggest that he has powers as a designated or accredited person that exceed the powers he actually has,
- is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) In this section references to the execution by a designated person or accredited person of his duty are references to his exercising any power or performing any duty which is his by virtue of his designation or accreditation.

47 Interpretation of Chapter 1

- (1) In this Chapter—
- “accredited person” means a person in relation to whom an accreditation under section 41 is for the time being in force;
- “community safety functions” means any functions the carrying out of which would be facilitated by the ability to exercise one or more of the powers mentioned in Schedule 5;
- “conduct” includes omissions and statements;
- “designated person” means a person in relation to whom a designation under section 38 or 39 is for the time being in force;
- “Director General” means—
- (a) the Director General of the National Criminal Intelligence Service; or
 - (b) the Director General of the National Crime Squad;
- “Service Authority” means—
- (a) in relation to employment with the National Criminal Intelligence Service or to its Director General, the Service Authority for the National Criminal Intelligence Service; and
 - (b) in relation to employment with the National Crime Squad or to its Director General, the Service Authority for the National Crime Squad.
- (2) In this Chapter—
- (a) references to carrying on business include references to carrying out functions under any enactment; and
 - (b) references to the employees of a person carrying on business include references to persons holding office under a person, and references to employers shall be construed accordingly.

CHAPTER 2

PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

Powers of arrest

48 Offences for which a person may be arrested without a warrant

- (1) The 1984 Act shall be amended as follows.
- (2) In subsection (1)(c) of section 24 (arrestable offences), for “to which subsection (2) below applies” there shall be substituted “listed in Schedule 1A”.
- (3) For subsection (2) of that section there shall be substituted—
 - “(2) Schedule 1A (which lists the offences referred to in subsection (1)(c)) shall have effect.”
- (4) In subsection (3) of that section (attempts)—
 - (a) in paragraph (a), for “mentioned in subsection (2) above” there shall be substituted “listed in Schedule 1A”; and
 - (b) in paragraph (b), for “an offence under section 12(1) of the Theft Act 1968 (c. 60)” there shall be substituted “one which is a summary offence”.
- (5) After Schedule 1 there shall be inserted the Schedule set out in Schedule 6.
- (6) This section has no effect in relation to offences committed before its commencement.

49 Power of arrest in relation to failure to stop a vehicle

- (1) In section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform), after subsection (3) there shall be inserted—
 - “(4) A constable in uniform may arrest a person without warrant if he has reasonable cause to suspect that the person has committed an offence under this section.”
- (2) In section 17(1)(c) of the 1984 Act (power of entry to effect arrest for certain offences), after sub-paragraph (iii) there shall be inserted—
 - “(iiia) section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform);”.
- (3) This section has no effect in relation to offences committed before its commencement.

Power to require name and address

50 Persons acting in an anti-social manner

- (1) If a constable in uniform has reason to believe that a person has been acting, or is acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)), he may require that person to give his name and address to the constable.
- (2) Any person who—

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- (a) fails to give his name and address when required to do so under subsection (1), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection,

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Persons in police detention

51 Independent custody visitors for places of detention

- (1) Every police authority shall—
 - (a) make arrangements for detainees to be visited by persons appointed under the arrangements (“independent custody visitors”); and
 - (b) keep those arrangements under review and from time to time revise them as they think fit.
- (2) The arrangements must secure that the persons appointed under the arrangements are independent of both—
 - (a) the police authority; and
 - (b) the chief officer of police of the police force maintained by that authority.
- (3) The arrangements may confer on independent custody visitors such powers as the police authority considers necessary to enable them to carry out their functions under the arrangements and may, in particular, confer on them powers—
 - (a) to require access to be given to each police station;
 - (b) to examine records relating to the detention of persons there;
 - (c) to meet detainees there for the purposes of a discussion about their treatment and conditions while detained; and
 - (d) to inspect the facilities there including in particular, cell accommodation, washing and toilet facilities and the facilities for the provision of food.
- (4) The arrangements may include provision for access to a detainee to be denied to independent custody visitors if—
 - (a) it appears to an officer of or above the rank of inspector that there are grounds for denying access at the time it is requested;
 - (b) the grounds are grounds specified for the purposes of paragraph (a) in the arrangements; and
 - (c) the procedural requirements imposed by the arrangements in relation to a denial of access are complied with.
- (5) Grounds shall not be specified in any arrangements for the purposes of subsection (4)
 - (a) unless they are grounds for the time being set out for the purposes of this subsection in the code of practice issued by the Secretary of State under subsection (6).
- (6) The Secretary of State shall issue, and may from time to time revise, a code of practice as to the carrying out by police authorities and independent custody visitors of their functions under the arrangements.
- (7) Before issuing or revising a code of practice under this section, the Secretary of State shall consult with—
 - (a) persons whom he considers to represent the interests of police authorities;

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- (b) persons whom he considers to represent the interests of chief officers of police; and
 - (c) such other persons as he thinks fit.
- (8) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (9) Police authorities and independent custody visitors shall have regard to the code of practice for the time being in force under subsection (6) in the carrying out of their functions under the preceding provisions of this section.
- (10) In this section “detainee”, in relation to arrangements made under this section, means a person detained in a police station in the police area of the police authority.

52 Detention reviews for detained persons who are asleep

- (1) In section 40 of the 1984 Act (review of police detention), in subsection (8) for the words from “the substitution” to the end there shall be substituted “the modifications specified in subsection (8A)”.
- (2) After that subsection there shall be inserted—
- “(8A) The modifications are—
- (a) the substitution of references to the person whose detention is under review for references to the person arrested;
 - (b) the substitution of references to the review officer for references to the custody officer; and
 - (c) in subsection (6), the insertion of the following paragraph after paragraph (a)—
“(aa) asleep;”.
- (3) In subsection (10) of that section—
- (a) for “(6)” there shall be substituted “(6B)”; and
 - (b) for the words from “the substitution” to the end there shall be substituted “the modifications specified in subsection (10A)”.
- (4) After that subsection there shall be inserted—
- “(10A) The modifications are—
- (a) the substitution of a reference to the person whose detention is under review for any reference to the person arrested or to the person charged; and
 - (b) in subsection (5), the insertion of the following paragraph after paragraph (a)—
“(aa) asleep;”.

53 Persons suspected of offences connected with transport systems

- (1) In section 34(6) of the 1984 Act (persons treated as arrested for an offence), after “1988” there shall be inserted “or section 30(2) of the Transport and Works Act 1992 (c. 42)”.
- (2) In section 62(11) of that Act (provisions of the Road Traffic Act 1988 (c. 52) relating to the taking of specimens not to be affected by provisions of that section)—

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- (a) for “affects” there shall be substituted “applies to the taking of a specimen for the purposes of any of the provisions of”; and
- (b) after “Road Traffic Act 1988” there shall be inserted “or of sections 26 to 38 of the Transport and Works Act 1992”.

Blood specimens

54 Persons authorised to take intimate samples from persons in police detention

- (1) For subsection (9) of section 62 of the 1984 Act (persons who may take intimate samples) there shall be substituted—

“(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.

(9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by—

- (a) a registered medical practitioner; or
- (b) a registered health care professional.”

- (2) In section 65 of the 1984 Act (interpretation of Part 5 of that Act), in subsection (1) after the definition of “registered dentist” there shall be inserted—

““registered health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State;”.

- (3) After that subsection, there shall be inserted—

“(1A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(1B) An order under subsection (1) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

55 Extension of role of health care professionals

- (1) In subsection (4) of section 7 of the Road Traffic Act 1988 (constable to decide if specimen is of blood or urine) for the words from “shall be decided” onwards there shall be substituted “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (4A)) by the constable making the requirement”.

- (2) After that subsection there shall be inserted—

“(4A) Where a constable decides for the purposes of subsection (4) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

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- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
 - (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;
- and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”
- (3) In subsection (2) of section 11 of that Act (interpretation of sections 3A to 10 of that Act), after the definition of “prescribed limit” there shall be inserted—
- ““registered health care professional” means a person (other than a medical practitioner) who is—
- (a) a registered nurse; or
 - (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.”
- (4) After that subsection there shall be inserted—
- “(2A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.
- (2B) An order under subsection (2) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (5) For subsection (4) of that section there shall be substituted—
- “(4) A person provides a specimen of blood if and only if—
- (a) he consents to the taking of such a specimen from him; and
 - (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”

56 Specimens taken from persons incapable of consenting

- (1) After section 7 of the Road Traffic Act 1988 (c. 52) there shall be inserted—

“7A Specimens of blood taken from persons incapable of consenting

- (1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—
- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 9) be entitled under section 7 to require the provision of a specimen of blood for a laboratory test;
 - (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;

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- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
 - (d) it appears to that constable that that person's incapacity is attributable to medical reasons.
- (2) A request under this section—
- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
 - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.
- (3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—
- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
- (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
- (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.
- (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.
- (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
- (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.”
- (2) In section 9 of that Act (protection of hospital patients), for subsection (2) there shall be substituted—
- “(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 7A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—
- (a) has been notified of the proposal to take the specimen or to make the requirement; and
 - (b) has not objected on the ground specified in subsection (2).

Status: This is the original version (as it was originally enacted).

- (2) The ground on which the medical practitioner may object is—
- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 7(7) of this Act would be prejudicial to the proper care and treatment of the patient; and
 - (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 7A(5) of this Act would be so prejudicial.”
- (3) In section 34(3) of the Road Traffic Offenders Act 1988 (c. 53) (disqualification for certain offences where offender has previous conviction)—
- (a) the word “and” at the end of paragraph (b) shall be omitted; and
 - (b) after paragraph (c) there shall be inserted—
 - “(d) section 7A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;”.
- (4) In Schedule 1 to the Road Traffic Offenders Act 1988 (offences to which sections 1, 11 and 12(1) of that Act apply), in the Table, after the entry beginning “RTA section 7” there shall be inserted—

“RTA section 7A	Failing to allow specimen of blood to be subjected to laboratory test	Sections 11 and 12(1).”
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- (5) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts), after the entry beginning “RTA section 7” there shall be inserted—

“RTA section 7A	Failing to allow specimen to be subjected to laboratory test	Summarily	(a) Where the test would be for ascertaining ability to drive or proportion of alcohol at the time offender was driving or attempting to drive, 6 months or level 5 on the standard scale or both.	(a) Obligatory in the case mentioned in column 4(a)	Obligatory	3-11, in case mentioned in column 4(a)
			(b) In any other case,	(b) Discretionary		10, in any other case.”

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3 months or in any other
level 4 on case
the standard
scale or
both

- (6) In section 143(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (power to forfeit property used for the purposes of an offence under section 7 of the Road Traffic Act 1988 (c. 52))—
- (a) after “7” there shall be inserted “or 7A”; and
 - (b) after “test” there shall be inserted “or to give permission for such a test”.

57 Use of specimens taken from persons incapable of consenting

- (1) In subsection (2) of section 15 of the Road Traffic Offenders Act 1988 (c. 53) (evidence of blood alcohol level)—
 - (a) after “provided by” there shall be inserted “or taken from”; and
 - (b) after the word “provided”, in the second place where it occurs, there shall be inserted “or taken”.
- (2) In subsection (3)(a) of that section (rebutting the assumption in subsection (2)), after “provided the specimen” there shall be inserted “or had it taken from him”.
- (3) In subsection (4) of that section (circumstances in which a specimen of blood is to be disregarded), for the words from “unless” to the end there shall be substituted “unless—
 - (a) it was taken from the accused with his consent and either—
 - (i) in a police station by a medical practitioner or a registered health care professional; or
 - (ii) elsewhere by a medical practitioner;
 - or
 - (b) it was taken from the accused by a medical practitioner under section 7A of the Road Traffic Act 1988 and the accused subsequently gave his permission for a laboratory test of the specimen.”
- (4) After subsection (5) of that section, there shall be inserted—

“(5A) Where a specimen of blood was taken from the accused under section 7A of the Road Traffic Act 1988, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless—

 - (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
 - (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”
- (5) In subsection (1) of section 16 of that Act (documentary evidence as to specimens), after “15(5)” there shall be inserted “and (5A)”.
- (6) In subsection (2) of that section (documentary evidence as to consent), after the words “medical practitioner”, in both places where they occur, there shall be inserted “or a registered health care professional”.

58 Equivalent provision for offences connected with transport systems

(1) In subsection (6) of section 31 of the Transport and Works Act 1992 (c. 42) (constable to decide if specimen is of blood or urine), for the words from “shall be decided” onwards there shall be substituted “and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (6A)) by the constable making the requirement”.

(2) After that subsection there shall be inserted—

“(6A) Where a constable decides for the purposes of subsection (6) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,

and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.”

(3) After subsection (9) of that section there shall be inserted—

“(9A) In this section “health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(9B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(9C) An order under subsection (9A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) After section 31 of that Act there shall be inserted—

“31A Specimens of blood taken from persons incapable of consenting

(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 33) be entitled under section 31 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in—
 - (i) an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter; or
 - (ii) a dangerous incident (within the meaning given by section 29(3)) that constitutes or is comprised in that matter or those circumstances;

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- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
 - (d) it appears to that constable that that person's incapacity is attributable to medical reasons.
- (2) A request under this section—
- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
 - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.
- (3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—
- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
- (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
- (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.
- (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission, may render him liable to prosecution.
- (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
- (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.”
- (5) In section 33 of that Act (protection of hospital patients), for subsection (2) there shall be substituted—
- “(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 31A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—
- (a) has been notified of the proposal to take the specimen or to make the requirement; and
 - (b) has not objected on the ground specified in subsection (2).

Status: This is the original version (as it was originally enacted).

- (2) The ground on which the medical practitioner may object is—
- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 31(9) of this Act would be prejudicial to the proper care and treatment of the patient; and
 - (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 31A(5) of this Act would be so prejudicial.”
- (6) In subsection (1)(a) of section 34 of that Act (evidence of blood alcohol level) after “provided by” there shall be inserted “or taken from”.
- (7) In subsection (2)(a) of that section (rebutting the assumption in subsection (1)(b)), after “provided the specimen” there shall be inserted “or had it taken from him”.
- (8) After subsection (3) of that section there shall be substituted—
- “(3A) Where a specimen of blood was taken from the accused under section 31A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution in the proceedings unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and
 - (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.”
- (9) In section 35(3) of that Act (documentary evidence as to consent) after the words “practitioner”, in both places where they occur, there shall be inserted “or a registered health care professional”.
- (10) After subsection (2) of section 38 of that Act (interpretation of Chapter 1 of Part 2 of that Act) there shall be inserted—
- “(2A) In this Chapter “registered health care professional” means a person (other than a medical practitioner) who is—
- (a) a registered nurse; or
 - (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.
- (2B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.
- (2C) An order under subsection (2A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (11) For subsection (5) of that section there shall be substituted—
- “(5) For the purposes of this Chapter, a person provides a specimen of blood if and only if—
- (a) he consents to the taking of such a specimen from him; and

Status: This is the original version (as it was originally enacted).

- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.”

Seizure of motor vehicles

59 Vehicles used in manner causing alarm, distress or annoyance

- (1) Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which—
- (a) contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and
 - (b) is causing, or is likely to cause, alarm, distress or annoyance to members of the public,
- he shall have the powers set out in subsection (3).
- (2) A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner falling within subsection (1).
- (3) Those powers are—
- (a) power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;
 - (b) power to seize and remove the motor vehicle;
 - (c) power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;
 - (d) power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs (a) to (c).
- (4) A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this section unless—
- (a) he has warned the person appearing to him to be the person whose use falls within subsection (1) that he will seize it, if that use continues or is repeated; and
 - (b) it appears to him that the use has continued or been repeated after the warning.
- (5) Subsection (4) does not require a warning to be given by a constable on any occasion on which he would otherwise have the power to seize a motor vehicle under this section if—
- (a) the circumstances make it impracticable for him to give the warning;
 - (b) the constable has already on that occasion given a warning under that subsection in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person;
 - (c) the constable has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him; or
 - (d) the constable has reasonable grounds for believing that the person whose use of that motor vehicle on that occasion would justify the seizure is a person to whom a warning under that subsection has been given (whether or not by that constable or in respect the same vehicle or the same or a similar use) on a previous occasion in the previous twelve months.

Status: This is the original version (as it was originally enacted).

- (6) A person who fails to comply with an order under subsection (3)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) Subsection (3)(c) does not authorise entry into a private dwelling house.
- (8) The powers conferred on a constable by this section shall be exercisable only at a time when regulations under section 60 are in force.
- (9) In this section—
 - “driving” has the same meaning as in the Road Traffic Act 1988 (c. 52);
 - “motor vehicle” means any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads; and
 - “private dwelling house” does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

60 Retention etc. of vehicles seized under section 59

- (1) The Secretary of State may by regulations make provision as to—
 - (a) the removal and retention of motor vehicles seized under section 59; and
 - (b) the release or disposal of such motor vehicles.
- (2) Regulations under subsection (1) may, in particular, make provision—
 - (a) for the giving of notice of the seizure of a motor vehicle under section 59 to a person who is the owner of that vehicle or who, in accordance with the regulations, appears to be its owner;
 - (b) for the procedure by which a person who claims to be the owner of a motor vehicle seized under section 59 may seek to have it released;
 - (c) for requiring the payment of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;
 - (d) as to the circumstances in which a motor vehicle seized under section 59 may be disposed of;
 - (e) as to the destination—
 - (i) of any fees or charges payable in accordance with the regulations; and
 - (ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under section 59;
 - (f) for the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 59.
- (3) Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if—
 - (a) the use by reference to which the motor vehicle in question was seized was not a use by him; and
 - (b) he did not know of the use of the vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.
- (4) In this section—
 - “local authority”—

Status: This is the original version (as it was originally enacted).

- (a) in relation to England, means the council of a county, metropolitan district or London borough, the Common Council of the City of London or Transport for London; and
- (b) in relation to Wales, means the council of a county or county borough; “motor vehicle” has the same meaning as in section 59.

Anti-social behaviour

61 Anti-social behaviour orders

- (1) Section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders) shall be amended as follows.
- (2) For paragraph (b) of subsection (1) (authority to be satisfied that order is necessary to protect persons), there shall be substituted—
 - “(b) that such an order is necessary to protect relevant persons from further anti-social acts by him.”
- (3) The words after that paragraph (which specify the authorities who, as relevant authorities, are entitled to apply for anti-social behaviour orders) shall be omitted.
- (4) After subsection (1) there shall be inserted—
 - “(1A) In this section and sections 1B and 1E “relevant authority” means—
 - (a) the council for a local government area;
 - (b) the chief officer of police of any police force maintained for a police area;
 - (c) the chief constable of the British Transport Police Force; or
 - (d) any person registered under section 1 of the Housing Act 1996 (c. 52) as a social landlord who provides or manages any houses or hostel in a local government area.
 - (1B) In this section “relevant persons” means—
 - (a) in relation to a relevant authority falling within paragraph (a) of subsection (1A), persons within the local government area of that council;
 - (b) in relation to a relevant authority falling within paragraph (b) of that subsection, persons within the police area;
 - (c) in relation to a relevant authority falling within paragraph (c) of that subsection—
 - (i) persons who are on or likely to be on policed premises in a local government area; or
 - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises;
 - (d) in relation to a relevant authority falling within paragraph (d) of that subsection—
 - (i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by that authority; or
 - (ii) persons who are in the vicinity of or likely to be in the vicinity of such premises.”

Status: This is the original version (as it was originally enacted).

- (5) Subsection (2) (which is superseded by the provision made by section 66 of this Act) shall cease to have effect.
- (6) In subsection (3) (which identifies the court to which an application should be made), for the words from “the place” to the end there shall be substituted “the local government area or police area concerned”.
- (7) For subsection (6) (nature of prohibitions which may be imposed by order) there shall be substituted—
- “(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting persons (whether relevant persons or persons elsewhere in England and Wales) from further anti-social acts by the defendant.”
- (8) In subsection (10) of that section (penalty for contravention of order), for “shall be” there shall be substituted “is guilty of an offence and”.
- (9) In subsection (12) of that section (interpretation)—
- (a) after “In this section—” there shall be inserted—
- ““British Transport Police Force” means the force of constables appointed under section 53 of the [British Transport Commission Act 1949 \(c. xxix\)](#);”;
- (b) after the definition of “local government area” there shall be inserted—
- ““policed premises” has the meaning given by section 53(3) of the [British Transport Commission Act 1949](#).”
- (10) Nothing in this section applies in relation to any application made under section 1 of the [Crime and Disorder Act 1998 \(c. 37\)](#) before the coming into force of this section.

62 Power of Secretary of State to add to relevant authorities

- (1) After section 1 of the [Crime and Disorder Act 1998 \(c. 37\)](#) there shall be inserted—

“1A Power of Secretary of State to add to relevant authorities

The Secretary of State may by order provide that the chief officer of a body of constables maintained otherwise than by a police authority is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of section 1 above.”

- (2) In subsection (2) of section 114 of that Act (negative resolution procedure for orders) after “section” there shall be inserted “1A”.

63 Orders in county court proceedings

After section 1A of the [Crime and Disorder Act 1998](#) (which is inserted by section 62), there shall be inserted—

Status: This is the original version (as it was originally enacted).

“1B Orders in county court proceedings

- (1) This section applies to any proceedings in a county court (“the principal proceedings”).
- (2) If a relevant authority—
 - (a) is a party to the principal proceedings, and
 - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,it may make an application in those proceedings for an order under subsection (4).
- (3) If a relevant authority—
 - (a) is not a party to the principal proceedings, and
 - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,it may make an application to be joined to those proceedings to enable it to apply for an order under subsection (4) and, if it is so joined, may apply for such an order.
- (4) If, on an application for an order under this subsection, it is proved that the conditions mentioned in section 1(1) are fulfilled as respects that other party, the court may make an order which prohibits him from doing anything described in the order.
- (5) Subject to subsection (6), the party to the principal proceedings against whom an order under this section has been made and the relevant authority on whose application that order was made may apply to the county court which made an order under this section for it to be varied or discharged by a further order.
- (6) Except with the consent of the relevant authority and the person subject to the order, no order under this section shall be discharged before the end of the period of two years beginning with the date of service of the order.
- (7) Subsections (5) to (7) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders made under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”

64 Orders on conviction in criminal proceedings

After section 1B of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 63), there shall be inserted—

“1C Orders on conviction in criminal proceedings

- (1) This section applies where a person (the “offender”) is convicted of a relevant offence.
- (2) If the court considers—

Status: This is the original version (as it was originally enacted).

- (a) that the offender has acted, at any time since the commencement date, in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, and
 - (b) that an order under this section is necessary to protect persons in any place in England and Wales from further anti-social acts by him,
- it may make an order which prohibits the offender from doing anything described in the order.
- (3) The court may make an order under this section whether or not an application has been made for such an order.
 - (4) An order under this section shall not be made except—
 - (a) in addition to a sentence imposed in respect of the relevant offence; or
 - (b) in addition to an order discharging him conditionally.
 - (5) An order under this section takes effect on the day on which it is made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.
 - (6) An offender subject to an order under this section may apply to the court which made it for it to be varied or discharged.
 - (7) In the case of an order under this section made by a magistrates' court, the reference in subsection (6) to the court by which the order was made includes a reference to any magistrates' court acting for the same petty sessions area as that court.
 - (8) No application may be made under subsection (6) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.
 - (9) Subsections (7), (10) and (11) of section 1 apply for the purposes of the making and effect of orders made by virtue of this section as they apply for the purposes of the making and effect of anti-social behaviour orders.
 - (10) In this section—
 - “the commencement date” has the same meaning as in section 1 above;
 - “the court” in relation to an offender means—
 - (a) the court by or before which he is convicted of the relevant offence; or
 - (b) if he is committed to the Crown Court to be dealt with for that offence, the Crown Court; and
 - “relevant offence” means an offence committed after the coming into force of section 64 of the Police Reform Act 2002 (c. 30).”

65 Interim orders

- (1) After section 1C of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 64), there shall be inserted—

Status: This is the original version (as it was originally enacted).

“1D Interim orders

- (1) The applications to which this section applies are—
 - (a) an application for an anti-social behaviour order; and
 - (b) an application for an order under section 1B.
 - (2) If, before determining an application to which this section applies, the court considers that it is just to make an order under this section pending the determination of that application (“the main application”), it may make such an order.
 - (3) An order under this section is an order which prohibits the defendant from doing anything described in the order.
 - (4) An order under this section—
 - (a) shall be for a fixed period;
 - (b) may be varied, renewed or discharged;
 - (c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the main application.
 - (5) Subsections (6), (8) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders.”
- (2) In section 4(1) of that Act (appeals), after “an anti-social behaviour order” there shall be inserted “, an order under section 1D above,”.

66 Consultation requirements

After section 1D of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 65), there shall be inserted—

“1E Consultation requirements

- (1) This section applies to—
 - (a) applications for an anti-social behaviour order; and
 - (b) applications for an order under section 1B.
- (2) Before making an application to which this section applies, the council for a local government area shall consult the chief officer of police of the police force maintained for the police area within which that local government area lies.
- (3) Before making an application to which this section applies, a chief officer of police shall consult the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside.
- (4) Before making an application to which this section applies, a relevant authority other than a council for a local government area or a chief officer of police shall consult—
 - (a) the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside; and

Status: This is the original version (as it was originally enacted).

- (b) the chief officer of police of the police force maintained for the police area within which that local government area lies.”

Sex offenders

67 Sex offenders: England and Wales

- (1) Section 2 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders) shall be amended as follows.
- (2) In subsection (1) (application for a sex offender order)—
 - (a) for “in his police area” there shall be substituted “who he believes is in, or is intending to come to, his police area”;
 - (b) for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (3) In subsection (2) (which identifies the court to which an application must be made)—
 - (a) for “the magistrates' court” there shall be substituted “—
 - (a) any magistrates' court”;
 - (b) at the end there shall be inserted “; or
 - (b) any magistrates' court whose commission area includes any part of the applicant’s police area.”
- (4) In subsection (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (5) In subsection (6) (variation or discharge of the order)—
 - (a) after “the applicant” there shall be inserted “, any other relevant chief officer of police”;
 - (b) for “the court which made a sex offender order for it” there shall be substituted “the appropriate court for the sex offender order”.
- (6) After that subsection there shall be inserted—
 - “(6A) In subsection (6) above—
 - “the appropriate court” means—
 - (a) the court which made the sex offender order; or
 - (b) any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police;
 - “relevant chief officer of police” means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area.”
- (7) In subsection (7) (discharge of orders), after “parties” there shall be inserted “and subject to subsection (7A) below”.
- (8) After that subsection there shall be inserted—
 - “(7A) Where any magistrates' court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”

Status: This is the original version (as it was originally enacted).

- (9) In subsection (8) (offence for breach of order), for “shall be” there shall be substituted “is guilty of an offence and”.
- (10) Subsections (4) to (6) apply in relation to applications and orders under section 2 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

68 Interim orders for sex offenders: England and Wales

- (1) After section 2 of the Crime and Disorder Act 1998 there shall be inserted—

“2A Interim orders: sex offenders

- (1) This section applies where an application for a sex offender order (“the main application”) to a magistrates’ court has not been determined.
 - (2) The applicant may apply by complaint to the court for an interim order, pending the determination of the main application.
 - (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
 - (4) An interim order—
 - (a) shall have effect for the period specified in the order;
 - (b) shall (if still in force) cease to have effect on the determination of the main application.
 - (5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if—
 - (a) the defendant were subject to the notification requirements of that Part; and
 - (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.
 - (6) The applicant or the defendant may apply by complaint to the court which made the interim order for it to be varied or discharged by a further order.
 - (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
 - (8) A person guilty of an offence under subsection (7) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
 - (9) Where a person is convicted of an offence under subsection (7) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of the offence.”
- (2) In section 4(1) of that Act (appeals), for “or sex offender order” there shall be substituted “, a sex offender order or an order under section 2A above”.

69 Sex offender orders made in Scotland or Northern Ireland

After section 2A of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 68 there shall be inserted—

“2B Sex offender orders made in Scotland or Northern Ireland

- (1) If without reasonable excuse a person does anything in England and Wales which he is prohibited from doing there by—
 - (a) an order under section 20(4) below; or
 - (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),he is guilty of an offence.
- (2) A person who is guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under subsection (1) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of the offence.”

70 Sex offenders: Scotland

- (1) The Crime and Disorder Act 1998 shall be amended as follows.
- (2) In section 20(1) (application for a sex offender order in Scotland) for “in the area of his police force” there shall be substituted “who he believes is in, or is intending to come to, the area of his police force”.
- (3) In section 20(2) (conditions to be fulfilled), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public”.
- (4) In section 20(3) (court to which application must be made)—
 - (a) after “application to” there shall be inserted “—
 - (a)”;
 - (b) at the end there shall be inserted “; or
 - (b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force.”.
- (5) In section 20(5) (prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (6) In section 21(7) (time limit, variation and revocation of order)—
 - (a) in paragraph (b), after “revoked” there shall be inserted “(in the case of a sex offender order, by the appropriate court for that order)”;
 - (b) in paragraph (b)(i), after “the order” there shall be inserted “or, in the case of a sex offender order, any other relevant chief constable”.

Status: This is the original version (as it was originally enacted).

(7) After that subsection there shall be inserted—

“(7A) In subsection (7) above—

“the appropriate court” means—

- (a) the sheriff who made the sex offender order; or
- (b) the sheriff whose sheriffdom includes any part of the area of the applicant’s police force or of the police force of any other relevant chief constable;

“relevant chief constable” means a chief constable who believes that the accused is in, or is intending to come to, the area of his police force.”

(8) After subsection (7A) (inserted by subsection (7)) there shall be inserted—

“(7B) Where a sheriff makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”

(9) Subsections (5) to (7) apply in relation to applications and orders under section 20 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

71 Sex offender orders made in England and Wales or Northern Ireland

After section 21 of the Crime and Disorder Act 1998 there shall be inserted—

“21A Sex offender orders made in England and Wales or Northern Ireland

(1) If without reasonable excuse a person does anything in Scotland which he is prohibited from doing there by—

- (a) an order under section 2(3) or 2A above; or
- (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),

he is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) above shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.”

72 Sex offenders: Northern Ireland

(1) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (sex offender orders) shall be amended as follows.

(2) In paragraph (1) (application for a sex offender order)—

- (a) for “in Northern Ireland” there shall be substituted “who he believes is in, or is intending to come to, Northern Ireland”;

Status: This is the original version (as it was originally enacted).

- (b) for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (3) In paragraph (2) (which identifies the court to which an application must be made), for the words following “1981 to” there shall be substituted “any court of summary jurisdiction”.
- (4) In paragraph (4) (the prohibitions which may be imposed), for “the public” there shall be substituted “the public in the United Kingdom, or any particular members of that public,”.
- (5) In paragraph (7) (discharge of orders), after “parties” there shall be inserted “and subject to paragraph (7A)”.
- (6) After that paragraph there shall be inserted—
 - “(7A) Where a court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one.”
- (7) Subsection (4) applies in relation to applications and orders under Article 6 of the Criminal Justice (Northern Ireland) Order 1998, whether made before or after the coming into force of this section.

73 Interim orders for sex offenders: Northern Ireland

- (1) After Article 6 of the Criminal Justice (Northern Ireland) Order 1998 there shall be inserted—

“6A Interim orders: sex offenders

- (1) This Article applies where an application for a sex offender order (“the main application”) to a court of summary jurisdiction has not been determined.
- (2) The applicant may apply by way of complaint under Part VIII of the Magistrates’ Courts (Northern Ireland) Order 1981 ([S.I. 1981/ 1675 \(N.I. 26\)](#)) to the court for an interim order, pending the determination of the main application.
- (3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.
- (4) An interim order—
 - (a) shall have effect for the period specified in the order;
 - (b) shall (if still in force) cease to have effect on the determination of the main application.
- (5) While an interim order is in force, Part 1 of the Sex Offenders Act [1997 \(c. 51\)](#) shall have effect as if—
 - (a) the defendant were subject to the notification requirements of that Part; and
 - (b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.

Status: This is the original version (as it was originally enacted).

- (6) The applicant or the defendant may apply for the variation or discharge of the interim order by a further order.
- (7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.
- (8) A person guilty of an offence under paragraph (7) shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (9) Where a person is convicted of an offence under paragraph (7), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”
- (2) In Article 7(7) of that Order (sex offender orders: supplemental)—
 - (a) after “a sex offender order” there shall be inserted “or an interim order under Article 6A”;
 - (b) after “Article 6(6)” there shall be inserted “or 6A(6)”.

74 Sex offender orders made in England and Wales or Scotland

After Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (which is inserted by section 73 above) there shall be inserted—

“6B Sex offender orders made in England and Wales or Scotland

- (1) If without reasonable excuse a person does anything in Northern Ireland which he is prohibited from doing there by an order under section 2, 2A or 20 of the Crime and Disorder Act 1998 (c. 37) he is guilty of an offence.
- (2) A person who is guilty of an offence under paragraph (1) shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.
- (3) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence.”

The British Transport Police

75 Removal of truants to designated places

- (1) In section 16 of the Crime and Disorder Act 1998 (c. 37) (removal of truants to designated place), after subsection (3) there shall be inserted—

“(3A) The power of a police officer of or above the rank of superintendent under subsection (2) to specify any area falling within a police area shall be exercisable by such an officer who is a member of the British Transport Police as if the reference in that subsection to an area in the police area were a reference to—

- (a) any area in or in the vicinity of any policed premises; or
- (b) the whole or any part of any such premises;

and references in subsection (3) to the specified area shall have effect accordingly.”

- (2) In subsection (5) of that section (interpretation)—

- (a) before the definition of “local authority” there shall be inserted—

““British Transport Police” means the force of constables appointed under section 53 of the [British Transport Commission Act 1949 \(c. xxix\)](#);

and

- (b) after the definition of “local authority” there shall be inserted—

““policed premises” has the meaning given by section 53(3) of the [British Transport Commission Act 1949](#);

76 Amendments to Part 3 of the Road Traffic Offenders Act 1988

- (1) Part 3 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalties) shall be amended as follows.

- (2) In section 54(9) (meaning of authorised person for the purposes of fixed penalty provisions), at the end there shall be inserted “or a person authorised for those purposes by or on behalf of the chief constable of the British Transport Police.”

- (3) In section 75(1) (conditional offers in England and Wales), at the end there shall be inserted “or, if the constable is a member of the British Transport Police, by or on behalf of the chief constable of the British Transport Police.”

- (4) In section 76(2) (limitation on proceedings), in paragraph (a), for “the chief officer” there shall be substituted “the person by or on whose behalf the conditional offer was sent”.

- (5) In section 87 (guidance from the Secretary of State), after “areas” there shall be inserted “and to the chief constable of the British Transport Police”.

- (6) In section 89 (interpretation of Part 3), after the definition of “authorised person” there shall be inserted—

““British Transport Police” means the force of constables appointed under the [British Transport Commission Act 1949 \(c. xxix\)](#);

Status: This is the original version (as it was originally enacted).

Property in possession of NCS

77 Application of the Police (Property) Act 1897 to NCS

(1) After section 2 of the Police (Property) Act 1897 (c. 30) there shall be inserted—

“2A Application to NCS

- (1) This Act applies to property which has come into the possession of the National Crime Squad as it applies to property that has come into the possession of the police.
- (2) In relation to property that has come into the possession of the National Crime Squad—
 - (a) the reference in section 1(1) to an officer of police is a reference to a member of that Squad; and
 - (b) references in section 2 to the property remaining in the possession of the police are references to its remaining in the possession of that Squad.
- (3) The power to make regulations under section 2 has effect in relation to property that has come into the possession of the National Crime Squad as if—
 - (a) the relevant authority for the purposes of subsection (2A) of that section were the Service Authority for that Squad; and
 - (b) the reference in subsection (2A)(c) of that section to police purposes were a reference to the purposes of that Squad.”

(2) In section (2) of that Act (regulations), for subsection (2B) there shall be substituted—

“(2B) The relevant authority for the purposes of subsection (2A) is the police authority.”