

SCHEDULES

SCHEDULE 1

Section 5(6)

PROBATION TRUSTS: FURTHER PROVISIONS

Name and status

- 1 (1) A probation trust is a body corporate.
(2) The name of the trust is that specified in the order establishing it.
- 2 A probation trust is not to be regarded as the servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown (and, accordingly, its property is not to be regarded as property of, or property held on behalf of, the Crown).

Membership and terms of appointment

- 3 (1) A probation trust shall consist of—
 - (a) a chairman and not less than four other members appointed by the Secretary of State; and
 - (b) the chief executive.(2) In the following provisions “appointed member” means a member of a probation trust appointed by the Secretary of State under sub-paragraph (1)(a) (including the chairman, where the context allows).
- (3) Where practicable, at least one of the appointed members of a probation trust must, when appointed, be a member of a relevant local authority.
- (4) For the purposes of sub-paragraph (3) “relevant local authority” means—
 - (a) a county council, district council or parish council in England, a London Borough council, the Common Council of the City of London or the Council of the Isles of Scilly; or
 - (b) a county council, county borough council or community council in Wales.
- 4 (1) An appointed member holds and vacates office (and may be removed from office) in accordance with the terms of his appointment.
(2) An appointed member may resign by giving notice in writing to the Secretary of State.

Remuneration etc of members

- 5 (1) The Secretary of State shall—
 - (a) pay appointed members such remuneration, fees and expenses as may be determined by him; and

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(b) pay, or make provision for paying, any person who is or has been an appointed member such pensions, allowances or gratuities as may be so determined.

(2) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as an appointed member (otherwise than on the expiration of his term of office) to receive compensation, the Secretary of State may pay an amount of compensation determined by him to that person.

Chief executive and other employees

6 (1) A probation trust shall have a chief executive appointed by the appointed members.

(2) The terms of employment of the chief executive are for the appointed members to determine.

(3) Sub-paragraphs (1) and (2) do not apply to—

(a) the appointment of the first chief executive of the trust, or

(b) the determination of the terms of employment applicable to the first chief executive when his appointment takes effect,

if the Secretary of State directs that the first chief executive is to be a person appointed by the Secretary of State on terms determined by the Secretary of State.

7 (1) A probation trust may appoint such employees (in addition to the chief executive) as it thinks appropriate.

(2) The terms of employment of employees so appointed are for the trust to determine.

8 The determination of terms of employment under paragraph 6(2) or 7(2) relating to—

(a) remuneration, fees or expenses, and

(b) pensions, allowances or gratuities,

requires the approval of the Secretary of State.

Proceedings and delegation

9 A probation trust may regulate its own procedure (including quorum).

10 The validity of any proceedings of a probation trust is not affected by a vacancy among its members or by a defect in the appointment of any member.

11 (1) A probation trust may authorise an appointed member, a committee, the chief executive or any other member of staff to do anything (including exercising the power under this paragraph) that the trust would otherwise have to do itself.

(2) For this purpose “committee” means a committee or sub-committee of the trust, including one that includes persons who are not members of the trust.

(3) Authorisation under this paragraph may be general or specific.

General powers

12 (1) A probation trust has power to do anything (including acquiring and disposing of property and accepting gifts) which appears to it to facilitate, or to be conducive or incidental to—

(a) the achievement of its purposes; or

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- (b) the performance of any functions conferred on it by any enactment (whenever passed or made).
- (2) But a probation trust—
 - (a) may not hold land (though it may manage land held by another);
 - (b) may not—
 - (i) borrow money, whether by way of overdraft or otherwise; or
 - (ii) invest sums not immediately required for achieving its purposes, without the approval of the Secretary of State.
- (3) Approval under sub-paragraph (2)(b) may be general or specific.
- (4) In this paragraph “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

Accounts and records

- 13
- (1) A probation trust must—
 - (a) keep proper accounts and proper records in relation to the accounts;
 - (b) prepare in respect of each financial year a statement of accounts.
 - (2) The Comptroller and Auditor General may examine any accounts of a probation trust, any records relating to the accounts and any auditor’s report on them.
 - (3) The Auditor General for Wales may examine any accounts of a Welsh probation trust, any records relating to the accounts and any auditor’s report on them.
 - (4) In the Audit Commission Act 1998 (c. 18)—
 - (a) in section 11(2) (consideration of reports etc), after paragraph (f) there is inserted—
 - “(fa) probation trusts;”;
 - (b) in paragraph 1 of Schedule 2 (bodies subject to audit), after paragraph (p) there is inserted—
 - “(q) a probation trust (other than a Welsh probation trust as defined in paragraph 13(6) of Schedule 1 to the Offender Management Act 2007).”
 - (5) In the Public Audit (Wales) Act 2004 (c. 23)—
 - (a) in section 12(1) (local government bodies in Wales), after paragraph (i) there is inserted—
 - “(j) a Welsh probation trust (as defined by paragraph 13(6) of Schedule 1 to the Offender Management Act 2007).”;
 - (b) in section 24(2) (consideration of reports in public interest), after paragraph (d) there is inserted—
 - “(e) a probation trust.”; and
 - (c) in section 25(3) (procedure for consideration of reports etc), after paragraph (d) there is inserted—
 - “(e) a probation trust.”
 - (6) In this paragraph—
 - “financial year”, in relation to a probation trust, means a period of 12 months ending with 31st March (except that its first financial year is the

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period beginning with the date on which it is established and ending with the next following 31st March); and

“Welsh probation trust” means a probation trust which is for the time being designated as such by the order establishing it under section 5(1).

Duty to comply with directions

- 14 (1) A probation trust must comply with any general or specific directions given to it by the Secretary of State in connection with the carrying on of any of its activities.
- (2) In particular, a probation trust must provide the Secretary of State with any information relating to the performance of its activities as he may from time to time direct.
- (3) Different directions may be given under this paragraph for different purposes and in relation to different probation trusts.

SCHEDULE 2

Section 11(2)

TRANSFERS OF PROPERTY ETC AND STAFF IN CONNECTION
WITH PROBATION SERVICES ARRANGEMENTS

Transfer schemes: preliminary

- 1 (1) A property transfer scheme or a staff transfer scheme may be made for the purposes of or in connection with—
- (a) the abolition of a local probation board;
 - (b) the implementation or termination of any arrangements made by the Secretary of State under section 3(2) or (5); or
 - (c) the implementation or termination of any arrangements mentioned in section 3(3)(c) for anything to be done on behalf of a provider of probation services.
- (2) In this Schedule—
- “property” includes rights and interests of any description (other than those under a contract of employment);
 - “property transfer scheme” means a scheme under paragraph 2;
 - “relevant person” means—
 - (a) a probation trust;
 - (b) any other provider of probation services; or
 - (c) a person with whom any arrangements mentioned in sub-paragraph (1) (c) are made;
 - “staff transfer scheme” means a scheme under paragraph 5.

Property transfer schemes

- 2 (1) The Secretary of State may make a scheme (“the scheme”) providing for—
- (a) the transfer to the Secretary of State of—
 - (i) the property and liabilities of a local probation board; or

- (ii) any property or liabilities of a relevant person; or
 - (b) the transfer to a relevant person of any property or liabilities of the Secretary of State (whether or not after an initial transfer to him under paragraph (a)).
 - (2) The scheme may—
 - (a) create rights or interests, or impose liabilities or conditions, in relation to anything transferred or acquired by virtue of the scheme;
 - (b) provide for the Secretary of State or any other person nominated by or in accordance with the scheme to determine any matter requiring determination under or in consequence of the scheme;
 - (c) make supplementary, incidental, transitional and consequential provision.
 - (3) Any property or liability that is the subject of the scheme is, by virtue of this paragraph, transferred at the time appointed by or under the scheme.
 - (4) A certificate issued by the Secretary of State that any property or liability has, or has not, been transferred by virtue of the scheme is conclusive evidence of the transfer or the fact that it has not been transferred (as the case may be).
- 3
- (1) This paragraph applies where a property transfer scheme is made.
 - (2) The scheme has effect despite any provision, of whatever nature, which would otherwise prevent, penalise or restrict the transfer of anything that is the subject of the scheme.
 - (3) A right of pre-emption, right of reverter or other similar right shall not operate or become exercisable as a result of any transfer of property by virtue of the scheme (but shall have effect after the transfer as if the transferee and the transferor were the same person and no transfer had taken place).
 - (4) Such compensation as is just is to be paid to any person in respect of any right which would, apart from sub-paragraph (3), have operated in favour of, or become exercisable by, that person but which (in consequence of that sub-paragraph), cannot subsequently operate in his favour or become exercisable by him.
 - (5) Any such compensation is to be paid by the transferor, by the transferee or by both.
 - (6) The scheme may provide for the determination of disputes as to whether and, if so, how much compensation is to be paid and as to the person by whom or to whom it is to be paid.
 - (7) This paragraph applies in relation to the creation of rights or interests, or the doing of anything else, in relation to property as it applies in relation to a transfer of property (and references to the transferor and transferee are to be read accordingly).
- 4
- (1) Anything done by or in relation to the transferor for the purposes of or in connection with anything transferred by a property transfer scheme which is in effect immediately before the transfer is to be treated as if done by or in relation to the transferee.
 - (2) There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything so transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.
 - (3) A reference to the transferor in any document relating to anything so transferred is to be taken (so far as necessary for the purposes of or in consequence of the transfer) as a reference to the transferee.

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- (4) References in this paragraph to things done or being done by or in relation to the transferor include a reference to things treated by virtue of any Act or subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) as done or being done by or in relation to the transferor.

Staff transfer schemes

- 5 (1) The Secretary of State may make a scheme (“the scheme”) for—
- (a) the transfer of employees of a local probation board to a relevant person or so as to become employed in the civil service of the state;
 - (b) the transfer of employees of one relevant person to another relevant person or so as to become employed in the civil service of the state;
 - (c) the transfer of persons employed in the civil service of the state so as to become employees of a relevant person.
- (2) The scheme may—
- (a) be expressed to apply to any description of person (or, in the case of a transfer from a local probation board or relevant person, all its employees) or to any individual person;
 - (b) provide for the Secretary of State or any other person nominated by or in accordance with the scheme to determine any matter requiring determination under or in consequence of the scheme;
 - (c) make supplementary, incidental, transitional and consequential provision.
- (3) The scheme may not be made unless any directions about consultation given by the Secretary of State have been complied with in relation to each person to be transferred by virtue of the scheme.
- 6 (1) This paragraph applies to an employee of a probation board or a relevant person who is to be transferred to a relevant person by virtue of a staff transfer scheme.
- (2) The contract of employment is not terminated by the transfer and has effect from the date of transfer as if originally made between the employee and the transferee.
- (3) Where the employee is transferred under the scheme—
- (a) all the rights, duties and liabilities of the transferor under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the transferee on the date of the transfer; and
 - (b) anything done before that date by, or in relation to, the transferor in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the transferee.

This sub-paragraph does not prejudice the generality of sub-paragraph (2).

- (4) But if the employee informs the transferor or the transferee that he objects to the transfer—
- (a) sub-paragraphs (2) and (3) do not transfer the contract of employment (or the rights, powers, duties and liabilities under or in connection with it); and
 - (b) the contract of employment is terminated immediately before the date of transfer.
- (5) The employee is not to be treated, for the purposes of the Employment Rights Act 1996 (c. 18), as having been dismissed by the transferor by reason of—

- (a) the transfer of the contract of employment under the scheme; or
- (b) the termination of the contract of employment under sub-paragraph (4)(b).
- (6) In this paragraph “transferor” and “transferee” refer to the employer from whom or to whom the employee is or would be transferred under the scheme.
- 7 (1) This paragraph applies where an employee of a probation board or a relevant person is to become employed in the civil service of the state by virtue of a staff transfer scheme.
- (2) The employee’s period of employment with the transferor counts as a period of employment in his Crown employment and the change of employment does not break the continuity of that employment.
- (3) So far as may be consistent with employment in the civil service of the state, the terms and conditions of his employment have effect after the transfer as if they were terms and conditions of his Crown employment.
- (4) Where the employee is transferred under the scheme—
- (a) all the rights, duties and liabilities of the transferor under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the Crown on the date of the transfer; and
- (b) anything done before that date by, or in relation to, the transferor in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the Crown.
- This sub-paragraph does not prejudice the generality of sub-paragraphs (2) and (3).
- (5) But if the employee informs the transferor or the Secretary of State that he objects to the transfer—
- (a) the transfer shall not take place (and so sub-paragraphs (2) to (4) do not apply); and
- (b) the contract of employment is terminated immediately before the date of transfer.
- (6) The employee is not to be treated, for the purposes of Part 9 of the Employment Rights Act 1996, as having been dismissed by reason of—
- (a) his transfer to Crown employment; or
- (b) the termination of the contract of employment by virtue of sub-paragraph (5)(b).
- (7) In this paragraph “transferor” refers to the employer from whom the employee is or would be transferred under the scheme.
- 8 (1) This paragraph applies to an individual who is to be transferred from employment in the civil service of the state so as to become an employee of a relevant person by virtue of a staff transfer scheme.
- (2) The individual’s employment is not terminated by the transfer.
- (3) The terms and conditions of the individual’s Crown employment (so far as consistent with employment under a contract of employment with a person other than the Crown) have effect from the date of transfer as the terms and conditions of a contract of employment originally made between the individual and the transferee.
- (4) Where the individual is transferred under the scheme—

- (a) all the rights, duties and liabilities of the Crown under or in connection with his employment are by virtue of this sub-paragraph transferred to the transferee on the date of the transfer; and
- (b) anything done before that date by, or in relation to, the Crown in respect of that employment or the individual is to be treated from that date as having been done by or in relation to the transferee.

This sub-paragraph does not prejudice the generality of sub-paragraphs (2) and (3).

- (5) But if the individual informs the Secretary of State or the transferee that he objects to the transfer—
 - (a) the transfer shall not take place (and so sub-paragraphs (2) to (4) do not apply); and
 - (b) his employment is terminated immediately before the date of transfer.
 - (6) For the purposes of Part 9 of the Employment Rights Act 1996, the individual is not to be regarded as having been dismissed by reason of—
 - (a) his transfer from Crown employment under the scheme; or
 - (b) the termination of his employment by virtue of sub-paragraph (5)(b).
 - (7) In this paragraph “transferee” refers to the employer to whom the person is or would be transferred under the scheme.
- 9 (1) Nothing in this Schedule prejudices any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions.
- (2) But no such right arises by reason only that (by virtue of paragraph 6, 7 or 8) the identity of his employer changes unless the employee shows that in all the circumstances the change is a significant change and is to his detriment.
- 10 (1) Where an employee’s contract of employment with—
 - (a) a local probation board,
 - (b) a probation trust which is to be dissolved,
 is not transferred under a staff transfer scheme, it is terminated immediately before the date on which the board or probation trust ceases to exist (and the employee is to be treated, for the purposes of the Employment Rights Act 1996 (c. 18), as having been dismissed by the board or probation trust).
- (2) Sub-paragraph (1) has effect subject to paragraphs 6(5), 7(6) and 8(6).

SCHEDULE 3

Section 39

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

NEW ARRANGEMENTS FOR THE PROVISION OF PROBATION SERVICES

Race Relations Act 1976 (c. 74)

- 1 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty under section 71), under the heading “*Other Bodies, Etc*” there are inserted, at the appropriate places, the following entries—

“A probation trust.”

“A provider of probation services (other than the Secretary of State or a probation trust), in respect of its statutory functions and the carrying out by it of activities of a public nature in pursuance of arrangements made with it under section 3(2) of the Offender Management Act 2007.”

Interpretation Act 1978 (c. 30)

- 2 In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) there is inserted, at the appropriate places—

“Officer of a provider of probation services” in relation to England and Wales, has the meaning given by section 9(1) of the Offender Management Act 2007;” and

“Provider of probation services”, in relation to England and Wales, has the meaning given by section 3(6) of the Offender Management Act 2007;”.

Crime and Disorder Act 1998 (c. 37)

- 3 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 38(2) (provision of youth justice services), after paragraph (a) (but before the “and” following it) there is inserted—
- “(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
- (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to carry out the duty under this subsection in relation to the local authority;”.
- (3) In section 39 (youth offending teams)—
- (a) in subsection (3), after paragraph (a) (but before the “and” following it) there is inserted—
- “(aa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007;
- (ab) every provider of probation services that is required by arrangements under section 3(2) of the Offender

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Management Act 2007 to carry out the duty under this subsection in relation to the local authority;” and

(b) in subsection (5)(a), after “board” there is inserted “or an officer of a provider of probation services”.

(4) In section 41(10) (the Youth Justice Board) and 42(3) (supplementary provisions), after “probation board” there is inserted “a provider of probation services”.

Children Act 2004 (c. 31)

4 (1) The Children Act 2004 is amended as follows.

(2) In section 10(4) (co-operation to improve wellbeing: relevant partners), after paragraph (c) there is inserted—

“(ca) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;

(cb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;”.

(3) In section 11(1) (persons required to make arrangements to safeguard and promote welfare), after paragraph (j) there is inserted—

“(ja) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;”.

(4) In section 13(3) (establishment of LSCBs: Board Partners), after paragraph (c) there is inserted—

“(ca) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to England;

(cb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a Board partner of the authority;”.

(5) In section 25(4) (co-operation to improve wellbeing in Wales: relevant partners), after paragraph (b) there is inserted—

“(ba) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;

(bb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a relevant partner of the authority;”.

(6) In section 28(1) (persons required to make arrangements to safeguard and promote welfare in Wales), after paragraph (f) there is inserted—

“(fa) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;”.

(7) In section 31(3) (establishment of LSCBs in Wales), after paragraph (b) there is inserted—

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- “(ba) the Secretary of State in relation to his functions under sections 2 and 3 of the Offender Management Act 2007, so far as they are exercisable in relation to Wales;
- (bb) any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 to act as a Board partner of the authority;”.

Local Government and Public Involvement in Health Act 2007

- 5 (1) Section 80 of the Local Government and Public Involvement in Health Act 2007 (application of Chapter 1 of Part 5: partner authorities) is amended as follows.
- (2) In subsection (3)(g)—
- (a) the “and” after sub-paragraph (ii) is omitted;
 - (b) after sub-paragraph (iii) there is inserted “;
 - (iv) his functions under sections 2 and 3 of the Offender Management Act 2007 (responsibility for ensuring the provision of probation services throughout England and Wales).”
- (3) After subsection (5) there is inserted—
- “(5A) The Secretary of State’s functions under this Chapter as a partner authority of a local authority in relation to the functions referred to in subsection (3) (g)(iv) are functions to which section 2(1)(c) of the Offender Management Act 2007 (functions to be performed through arrangements under section 3 of that Act) applies.”

PART 2

PRISONS

Prison Act 1952 (c. 52)

- 6 In section 19 of the Prison Act 1952 (right of justices to visit prison), in subsection (3) for “visiting committee or the board of visitors” there is substituted “independent monitoring board”.

Race Relations Act 1976 (c. 74)

- 7 In Part 2 of Schedule 1A to the Race Relations Act 1976 (public bodies and other persons subject to general statutory duty), there is inserted, in the appropriate place under the heading “Other Bodies Etc.”, the following entry—
- “An Independent Monitoring Board appointed under section 6(2) of the Prison Act 1952.”

Employment Rights Act 1996 (c. 18)

- 8 In section 50 of the Employment Rights Act 1996 (right to time off for public duties)
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- (a) in subsection (2)(d), for “a board of prison visitors” there is substituted “an independent monitoring board for a prison”; and
- (b) in subsection (7)(a), for the words from the beginning to “of visitors” there is substituted ““independent monitoring board” means a board”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 9 In section 99 of the Powers of Criminal Courts (Sentencing) Act 2000 (conversion of sentence of detention or custody to sentence of imprisonment), in subsection (1) (b) for “board of visitors” there is substituted “independent monitoring board”.

Freedom of Information Act 2000 (c. 36)

- 10 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: other public bodies and offices) there is inserted, in the appropriate place, the following entry—

“Any Independent Monitoring Board established under section 6(2) of the Prison Act 1952.”

PART 3

DTOS: ACCOMMODATION

Prison Act 1952 (c. 52)

- 11 (1) Section 49 of the Prison Act 1952 (persons unlawfully at large) is amended as follows.
- (2) In subsection (1), for “secure” there is substituted “youth detention”.
 - (3) In subsection (2), for “secure” (in both places it occurs) there is substituted “youth detention”.
 - (4) In subsection (5)—
 - (a) for ““secure accommodation”” there is substituted ““youth detention accommodation””, and
 - (b) in paragraph (c), for “secure” there is substituted “youth detention”.

Army Act 1955 (3 & 4 Eliz. 2 c. 18)

- 12 (1) The Army Act 1955 is amended as follows.
- (2) In section 71AA(6)(a) (young service offenders: custodial orders), as amended by paragraph 16(c) of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), for “secure accommodation” there is substituted “youth detention accommodation”.
 - (3) In paragraph 10(6)(a) of Schedule 5A (powers of court on trial of civilian), as amended by paragraph 18(2)(d) of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43), for “secure accommodation” there is substituted “youth detention accommodation”.

Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)

- 13 (1) The Air Force Act 1955 is amended as follows.
- (2) In section 71AA(6)(a) (young service offenders: custodial orders), as amended by paragraph 23(c) of Schedule 7 to the Criminal Justice and Court Services Act 2000, for “secure accommodation” there is substituted “youth detention accommodation”.
- (3) In paragraph 10(6)(a) of Schedule 5A (powers of court on trial of civilian), as amended by paragraph 25(2)(d) of Schedule 7 to the Criminal Justice and Court Services Act 2000, for “secure accommodation” there is substituted “youth detention accommodation”.

Naval Discipline Act 1957 (c. 53)

- 14 (1) The Naval Discipline Act 1957 is amended as follows.
- (2) In section 43AA(6)(a) (young service offenders: custodial orders), as amended by paragraph 30(c) of Schedule 7 to the Criminal Justice and Court Services Act 2000, for “secure accommodation” there is substituted “youth detention accommodation”.
- (3) In paragraph 10(6)(a) of Schedule 4A (power of court on trial of civilian), as amended by paragraph 32(2)(d) of Schedule 7 to the Criminal Justice and Court Services Act 2000, for “secure accommodation” there is substituted “youth detention accommodation”.

Crime (Sentences) Act 1997 (c. 43)

- 15 (1) Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.
- (2) In paragraph 8(6)(a), for “secure”, in the first place it occurs, there is substituted “youth detention”.
- (3) In paragraph 20(1), in the definition of “prison”, for “a young offender institution” there is substituted “any accommodation which is youth detention accommodation (within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000)”.

Crime and Disorder Act 1998 (c. 37)

- 16 (1) Section 41(5) of the Crime and Disorder Act 1998 (the Youth Justice Board) is amended as follows.
- (2) In paragraph (i) (as it has effect before the commencement of paragraph 154(a) of Schedule 16 to the Armed Forces Act 2006), for sub-paragraph (i) there is substituted—
- “(i) youth detention accommodation, within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000, for the purpose of detaining persons in respect of whom a detention and training order is made under section 100 of that Act or an order is made under section 104(3)(a) or 105(2) of that Act;”.

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- (3) In paragraph (i) (as it has effect on or after the commencement of paragraph 154(a) of Schedule 16 to the Armed Forces Act 2006), in sub-paragraph (i) for “secure accommodation” there is substituted “youth detention accommodation”.
- (4) In paragraph (j) (as it has effect before the commencement of paragraph 154(b) of Schedule 16 to the Armed Forces Act 2006), for sub-paragraph (i) there is substituted—
- “(i) youth detention accommodation, within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000, to be used for detaining a person in accordance with a determination under section 102(1), 104(3)(a) or 105(2) of that Act, or”.
- (5) In paragraph (j) (as it has effect on or after the commencement of paragraph 154(b) of Schedule 16 to the Armed Forces Act 2006), in sub-paragraph (i) for “secure accommodation” there is substituted “youth detention accommodation”.
- (6) In paragraph (l)(i), for “and sentenced children and young persons” there is substituted “children and young persons and secure and other accommodation for sentenced children and young persons”.

Armed Forces Act 2006 (c. 52)

- 17 (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 214(3) (powers of court to order person to be detained where offence committed during currency of detention and training order) for “secure accommodation” there is substituted “youth detention accommodation”.
- (3) In section 215(3) (meaning of “secure accommodation” in section 214) for ““secure accommodation”” there is substituted ““youth detention accommodation””.

PART 4

ESCORT ARRANGEMENTS

Imprisonment (Temporary Provisions) Act 1980 (c. 57)

- 18 (1) Section 6 of the Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a constable) is amended as follows.
- (2) In subsection (1) for the words from “prison” to “in which” there is substituted “prison or accommodation which is youth detention accommodation (within the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000) in which”.
- (3) In subsection (2) for the words from “prison” to “in which” there is substituted “accommodation in which”.

Criminal Justice and Public Order Act 1994 (c. 33)

- 19 The Criminal Justice and Public Order Act 1994 is amended as follows.

- 20 In section 9 (powers and duties of custody officers employed at contracted out secure training centres)—
- (a) in subsection (1)(a) for “offender” there is substituted “person”, and
 - (b) in subsection (3), for “offenders” there is substituted “persons”.
- 21 In section 12 (escort arrangements and officers)—
- (a) in subsection (1), for “offenders detained at a secure training centre” there is substituted “persons detained in youth detention accommodation”, and
 - (b) in subsection (3), for paragraph (a) there is substituted—
 - “(a) that he has been approved by the Secretary of State for the purpose of performing any of the following—
 - (i) escort functions;
 - (ii) custodial duties at secure training centres;”.
- 22 In the sidenote to section 13 (protection of custody officers at secure training centres), the words “at secure training centres” are omitted.
- 23 (1) In section 14(1) (wrongful disclosure of information relating to offenders detained at secure training centres), for “offender detained at a secure training centre” there is substituted “person detained in youth detention accommodation”.
- (2) In the sidenote to section 14, for “offenders detained at secure training centres” there is substituted “persons detained in youth detention accommodation”.
- 24 In section 15 (interpretation of sections 7 to 14), after the definition of “sub-contractor” there is inserted—
- ““youth detention accommodation” has the meaning given by section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000.”
- 25 In paragraph 2(1)(b) of Schedule 1, for “offenders” there is substituted “detained persons”.
- 26 In paragraph 3 of Schedule 1—
- (a) in paragraphs (a) and (b) of sub-paragraph (1), for “offender” there is substituted “detained person”, and
 - (b) in sub-paragraph (3), for “offenders” there is substituted “detained persons”.

SCHEDULE 4

Section 39

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

PART 1

PROVISIONS RELATING TO PART 1

Compensation for certain former chief officers of local probation boards

- 1 The Secretary of State may pay such compensation as he considers appropriate to any person who—

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

- (a) ceases to hold office as chief officer of a local probation board by virtue of the abolition of the board by virtue of this Part; and
- (b) has not been appointed as chief executive of a probation trust before ceasing to hold office as chief officer.

Continuity of employment where chief officer is appointed chief executive of a probation trust

- 2 (1) If a person who holds office as chief officer of a local probation board is appointed as chief executive of a probation trust, his period of Crown employment in that office (including any period mentioned in section 22(2) of the Criminal Justice and Court Services Act 2000 (c. 43) for former chief probation officers) counts as a period of employment with the probation trust.
- (2) In this paragraph “Crown employment” means the employment in which the chief executive of a local probation board was, by virtue of paragraph 3(5) of Schedule 1 to that Act, treated as being employed for the purposes of the Employment Rights Act 1996 (c. 18).

General saving for existing functions of the Secretary of State

- 3 Nothing in the provisions of Part 1 conferring functions on the Secretary of State affects any other functions of his which are exercisable for any purpose that corresponds to any of the section 1 purposes.

Interpretation

- 4 Expressions used in this Part of this Schedule have the same meaning as in Part 1.

PART 2

PROVISIONS RELATING TO PART 2

Penalty for offences under sections 40C & 40D of the Prison Act 1952

- 5 In the application of section 40C and 40D of the Prison Act 1952 (c. 52) (inserted by sections 22 and 23) in relation to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (limit on magistrates' court's powers to impose imprisonment), the reference in subsection (5)(b) of those sections to 12 months is to be read as a reference to 6 months.

PART 3

PROVISIONS RELATING TO PART 3

Imprisonment of offenders aged 18 or over but under 21

- 6 (1) Sub-paragraph (2) applies if section 35(4)(a) comes into force before the day on which section 61 of the Criminal Justice and Court Services Act 2000 (c. 43) (abolition of sentences of detention in a young offender institution, custody for life, etc.) comes into force (or fully into force).

- (2) The provision that may be made by order under section 38(1) includes provision modifying the provision inserted by section 35(4)(a) of this Act with respect to sentences passed, or other things done, at any time before section 61 of that Act comes into force (or fully into force).

Remand centres

- 7 If section 59 of the Criminal Justice and Court Services Act 2000 (abolition of remand centres) has not come into force (or fully into force) before the coming into force of paragraph 18(2) of Schedule 3, that paragraph has effect until section 59 of the Criminal Justice and Court Services Act 2000 comes into force (or comes fully into force) as if after “prison” (in the second place it occurs) there were inserted “, remand centre”.

SCHEDULE 5

Section 39

REPEALS

PART 1

PROBATION SERVICES

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Criminal Justice and Court Services Act 2000 (c. 43)	Sections 1 to 5. In section 6(1), the words from “but” to the end. Sections 8 to 10. In section 18, subsection (2)(b), in subsection (3) the words “a local probation board or” and in subsection (4) the words “a probation committee”. Section 20(2). Section 21(5). Sections 22 and 23. In section 25, the definition of “approved premises”. In section 78, the definition of “local probation board”. Schedule 1.
Local Government and Public Involvement in Health Act 2007	In section 80(3), the word “and” after paragraph (g)(ii).

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

PART 2

PRISONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Prison Act 1952 (c. 52)	In section 6(2), the words from “of whom” to the end. In section 7, in subsection (1), the words “and a medical officer” and, in subsection (4) the words from “and the medical officer” to the end. Section 17. Section 28(5). Section 41.
Race Relations Act 1976 (c. 74)	In Part 2 of Schedule 1A, the entry relating to a board of visitors for a prison.
Criminal Justice Act 1991 (c. 53)	In section 85, in subsection (2) the words “Subject to subsection (3) below” and subsection (3).
Criminal Justice and Public Order Act 1994 (c. 33)	Section 97(3). In Schedule 10, paragraph 68.
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entry relating to a board of visitors for a prison.

PART 3

MISCELLANEOUS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Criminal Justice and Public Order Act 1994 (c. 33)	In the sidenote to section 13, the words “at secure training centres”. In Schedule 1, in paragraph 4, the word “and” at the end of the definition of “escort arrangements” and the definitions of “offender” and “secure training centre”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 102(1) the words “or by such other person as may be authorised by him for that purpose”.
Criminal Justice Act 2003 (c. 44)	Section 202(3)(b).