Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

An Act to make further provision about criminal justice (including provision about the police) and dealing with offenders and defaulters; to make further provision about the management of offenders; to amend the criminal law; to make further provision for combatting crime and disorder; to make provision about the mutual recognition of financial penalties; to amend the Repatriation of Prisoners Act 1984; to make provision for a new immigration status in certain cases involving criminality; to make provision about the automatic deportation of criminals under the UK Borders Act 2007; to amend section 127 of the Criminal Justice and Public Order Act 1994 and to confer power to suspend the operation of that section; and for connected purposes. [8th May 2008]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

YOUTH REHABILITATION ORDERS

Youth rehabilitation orders

1 Youth rehabilitation orders

(1) Where a person aged under 18 is convicted of an offence, the court by or before which the person is convicted may in accordance with Schedule 1 make an order (in this Part referred to as a "youth rehabilitation order") imposing on the person any one or more of the following requirements—

(a) an activity requirement (see paragraphs 6 to 8 of Schedule 1),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) a supervision requirement (see paragraph 9 of that Schedule),
(c) in a case where the offender is aged 16 or 17 at the time of the conviction, an unpaid work requirement (see paragraph 10 of that Schedule),
(d) a programme requirement (see paragraph 11 of that Schedule),
(e) an attendance centre requirement (see paragraph 12 of that Schedule),
(f) a prohibited activity requirement (see paragraph 13 of that Schedule),
(g) a curfew requirement (see paragraph 14 of that Schedule),
(h) an exclusion requirement (see paragraph 15 of that Schedule),
(i) a residence requirement (see paragraph 16 of that Schedule),
(j) a local authority residence requirement (see paragraph 17 of that Schedule),
(k) a mental health treatment requirement (see paragraph 20 of that Schedule),
(l) a drug treatment requirement (see paragraph 22 of that Schedule),
(m) a drug testing requirement (see paragraph 23 of that Schedule),
(n) an intoxicating substance treatment requirement (see paragraph 24 of that Schedule), and
(o) an education requirement (see paragraph 25 of that Schedule).

(2) A youth rehabilitation order—
(a) may also impose an electronic monitoring requirement (see paragraph 26 of Schedule 1), and
(b) must do so if paragraph 2 of that Schedule so requires.

(3) A youth rehabilitation order may be—
(a) a youth rehabilitation order with intensive supervision and surveillance (see paragraph 3 of Schedule 1), or
(b) a youth rehabilitation order with fostering (see paragraph 4 of that Schedule).

(4) But a court may only make an order mentioned in subsection (3)(a) or (b) if—
(a) the court is dealing with the offender for an offence which is punishable with imprisonment,
(b) the court is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that, but for paragraph 3 or 4 of Schedule 1, a custodial sentence would be appropriate (or, if the offender was aged under 12 at the time of conviction, would be appropriate if the offender had been aged 12), and
(c) if the offender was aged under 15 at the time of conviction, the court is of the opinion that the offender is a persistent offender.

(5) Schedule 1 makes further provision about youth rehabilitation orders.

(6) This section is subject to—
(a) sections 148 and 150 of the Criminal Justice Act 2003 (c. 44) (restrictions on community sentences etc.), and
(b) the provisions of Parts 1 and 3 of Schedule 1.

Commencement Information
I1 S. 1 in force at 30.11.2009 in so far as not already in force by S.I. 2009/3074, **art. 2(a)**
I2 S. 1(5) in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(a)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

2 Breach, revocation or amendment of youth rehabilitation orders

Schedule 2 makes provision about failures to comply with the requirements of youth rehabilitation orders and about the revocation or amendment of such orders.

Commencement Information
I3 S. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(b)**

3 Transfer of youth rehabilitation orders to Northern Ireland

Schedule 3 makes provision about the transfer of youth rehabilitation orders to Northern Ireland.

Commencement Information
I4 S. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(c)**

4 Meaning of "the responsible officer"

(1) For the purposes of this Part, "the responsible officer", in relation to an offender to whom a youth rehabilitation order relates, means—

(a) in a case where the order—

(i) imposes a curfew requirement or an exclusion requirement but no other requirement mentioned in section 1(1), and

(ii) imposes an electronic monitoring requirement,

the person who under paragraph 26(4) of Schedule 1 is responsible for the electronic monitoring required by the order;

(b) in a case where the only requirement imposed by the order is an attendance centre requirement, the officer in charge of the attendance centre in question;

(c) in any other case, the qualifying officer who, as respects the offender, is for the time being responsible for discharging the functions conferred by this Part on the responsible officer.

(2) In this section "qualifying officer", in relation to a youth rehabilitation order, means—

(a) a member of a youth offending team established by a local authority for the time being specified in the order for the purposes of this section, or

(b) an officer of a local probation board appointed for or assigned to the local justice area for the time being so specified or (as the case may be) an officer of a provider of probation services acting in the local justice area for the time being so specified.

(3) The Secretary of State may by order—

(a) amend subsections (1) and (2), and

(b) make any other amendments of—

(i) this Part, or

(ii) Chapter 1 of Part 12 of the Criminal Justice Act 2003 (c. 44) (general provisions about sentencing),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

that appear to be necessary or expedient in consequence of any amendment made by virtue of paragraph (a).

(4) An order under subsection (3) may, in particular, provide for the court to determine which of two or more descriptions of responsible officer is to apply in relation to any youth rehabilitation order.

Commencement Information
I5 S. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(d)**

5 Responsible officer and offender: duties in relation to the other

(1) Where a youth rehabilitation order has effect, it is the duty of the responsible officer—
(a) to make any arrangements that are necessary in connection with the requirements imposed by the order,
(b) to promote the offender's compliance with those requirements, and
(c) where appropriate, to take steps to enforce those requirements.

(2) In subsection (1) "responsible officer" does not include a person falling within section 4(1)(a).

(3) In giving instructions in pursuance of a youth rehabilitation order relating to an offender, the responsible officer must ensure, as far as practicable, that any instruction is such as to avoid—
(a) any conflict with the offender's religious beliefs,
(b) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment, and
(c) any conflict with the requirements of any other youth rehabilitation order to which the offender may be subject.

(4) The Secretary of State may by order provide that subsection (3) is to have effect with such additional restrictions as may be specified in the order.

(5) An offender in respect of whom a youth rehabilitation order is in force—
(a) must keep in touch with the responsible officer in accordance with such instructions as the offender may from time to time be given by that officer, and
(b) must notify the responsible officer of any change of address.

(6) The obligation imposed by subsection (5) is enforceable as if it were a requirement imposed by the order.

Commencement Information
I6 S. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(e)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Supplementary

6 Abolition of certain youth orders and related amendments

(1) Chapters 1, 2, 4 and 5 of Part 4 of (and Schedules 3 and 5 to 7 to) the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (curfew orders, exclusion orders, attendance centre orders, supervision orders and action plan orders) cease to have effect.

(2) Part 1 of Schedule 4 makes amendments consequential on provisions of this Part.

(3) Part 2 of Schedule 4 makes minor amendments regarding other community orders which are related to the consequential amendments in Part 1 of that Schedule.

Commencement Information
I7 S. 6(1) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(f)** (with art. 4)

7 Youth rehabilitation orders: interpretation

(1) In this Part, except where the contrary intention appears—

"accommodation provided by or on behalf of a local authority" has the same meaning as it has in the Children Act 1989 (c. 41) by virtue of section 105 of that Act;

"activity requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 6 of Schedule 1;

"associated", in relation to offences, is to be read in accordance with section 161(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

"attendance centre" has the meaning given by section 221(2) of the Criminal Justice Act 2003 (c. 44);

"attendance centre requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 12 of Schedule 1;

"curfew requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 14 of Schedule 1;

"custodial sentence" has the meaning given by section 76 of the Powers of Criminal Courts (Sentencing) Act 2000;

"detention and training order" has the same meaning as it has in that Act by virtue of section 163 of that Act;

"drug treatment requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 22 of Schedule 1;

"drug testing requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 23 of Schedule 1;

"education requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 25 of Schedule 1;

"electronic monitoring requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 26 of Schedule 1;

"exclusion requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 15 of Schedule 1;

"extended activity requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 3 of Schedule 1;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"fostering requirement", in relation to a youth rehabilitation order with fostering, has the meaning given by paragraph 18 of Schedule 1;

"guardian" has the same meaning as in the Children and Young Persons Act 1933 (c. 12);

"intoxicating substance treatment requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 24 of Schedule 1;

"local authority" means—

(a) in relation to England—

(i) a county council,

(ii) a district council whose district does not form part of an area that has a county council,

(iii) a London borough council, or

(iv) the Common Council of the City of London in its capacity as a local authority, and

(b) in relation to Wales—

(i) a county council, or

(ii) a county borough council;

"local authority residence requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 17 of Schedule 1;

"local probation board" means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43);

"mental health treatment requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 20 of Schedule 1;

"programme requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 11 of Schedule 1;

"prohibited activity requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 13 of Schedule 1;

"residence requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 16 of Schedule 1;

"the responsible officer", in relation to an offender to whom a youth rehabilitation order relates, has the meaning given by section 4;

"supervision requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 9 of Schedule 1;

"unpaid work requirement", in relation to a youth rehabilitation order, has the meaning given by paragraph 10 of Schedule 1;

"youth offending team" means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37);

"youth rehabilitation order" has the meaning given by section 1;

"youth rehabilitation order with fostering" has the meaning given by paragraph 4 of Schedule 1;

"youth rehabilitation order with intensive supervision and surveillance" has the meaning given by paragraph 3 of Schedule 1.

(2) For the purposes of any provision of this Part which requires the determination of the age of a person by the court, the Secretary of State or a local authority, the person's age is to be taken to be that which it appears to the court or (as the case may be) the Secretary of State or a local authority to be after considering any available evidence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.

(4) If a local authority has parental responsibility for an offender who is in its care or provided with accommodation by it in the exercise of any social services functions, any reference in this Part (except in paragraphs 4 and 25 of Schedule 1) to the offender's parent or guardian is to be read as a reference to that authority.

(5) In subsection (4)—

"parental responsibility" has the same meaning as it has in the Children Act 1989 (c. 41) by virtue of section 3 of that Act, and

"social services functions" has the same meaning as it has in the Local Authority Social Services Act 1970 (c. 42) by virtue of section 1A of that Act.

Commencement Information
I8 S. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(g)**

8 Isles of Scilly

This Part has effect in relation to the Isles of Scilly with such exceptions, adaptations and modifications as the Secretary of State may by order specify.

Commencement Information
I9 S. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(h)**

PART 2

SENTENCING

General sentencing provisions

PROSPECTIVE

9 Purposes etc. of sentencing: offenders under 18

F1(1) . . . . . .

F1(2) . . . . . .

(3) In section 44 of the Children and Young Persons Act 1933 (c. 12) (general considerations) after subsection (1) insert—

"(1A) Subsection (1) is to be read with paragraphs (a) and (c) of section 142A(2) of the Criminal Justice Act 2003 (which require a court dealing with an offender aged under 18 also to have regard to the principal aim of the youth justice system and the specified purposes of sentencing).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(1B) Accordingly, in determining in the case of an offender whether it should take steps as mentioned in subsection (1), the court shall also have regard to the matters mentioned in those paragraphs."

(4) In section 42(1) of the Crime and Disorder Act 1998 (c. 37) (interpretation of Part 3 of Act), after the definition of "local authority" insert—

""offending" includes re-offending;".

Textual Amendments

F1 S. 9(1)(2) repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

C1 S. 9 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1**, 5(2)(3); S.I. 2012/1236, reg. 2

10 Effect of restriction on imposing community sentences

In section 148 of the Criminal Justice Act 2003 (c. 44) (restrictions on imposing community sentences), after subsection (4) insert—

"(5) The fact that by virtue of any provision of this section—

(a) a community sentence may be passed in relation to an offence; or

(b) particular restrictions on liberty may be imposed by a community order or youth rehabilitation order,

does not require a court to pass such a sentence or to impose those restrictions."

Commencement Information

I10 S. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 1**

11 Restriction on power to make a community order

(1) After section 150 of the Criminal Justice Act 2003 (community sentence not available where sentence fixed by law etc.) insert—

"**150A Community order available only for offences punishable with imprisonment or for persistent offenders previously fined**

(1) The power to make a community order is only exercisable in respect of an offence if—

(a) the offence is punishable with imprisonment; or

(b) in any other case, section 151(2) confers power to make such an order.

(2) For the purposes of this section and section 151 an offence triable either way that was tried summarily is to be regarded as punishable with imprisonment

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

only if it is so punishable by the sentencing court (and for this purpose section 148(1) is to be disregarded).”

(2) Section 151 of that Act (community order for persistent offender previously fined) is amended as follows.

(3) Before subsection (1) insert—

“(A1) Subsection (2) provides for the making of a community order by the court in respect of an offence (“the current offence”) committed by a person to whom subsection (1) or (1A) applies.”

(4) In subsection (1)—

(a) for “Subsection (2) applies where” substitute “This subsection applies to the offender if—

(za) the current offence is punishable with imprisonment;”;

(b) for paragraph (a) substitute—

“(a) the offender was aged 16 or over when he was convicted;”;

(c) in paragraph (b) for “he” substitute “ the offender ”.

(5) After subsection (1) insert—

“(1A) This subsection applies to the offender if—

(a) the current offence is not punishable with imprisonment;

(b) the offender was aged 16 or over when he was convicted; and

(c) on three or more previous occasions the offender has, on conviction by a court in the United Kingdom of any offence committed by him after attaining the age of 16, had passed on him a sentence consisting only of a fine.”

(6) In subsection (3)(a) after “(1)(b)” insert “ or **[**[F2] (1A)(c) **]** (as the case may be) ”.

(7) In subsections (4), (5) and (6), for “subsection (1)(b)” insert “ subsections (1)(b) and **[**[F3] (1A)(c) **]** ”.

(8) In section 166 of that Act (savings for powers to mitigate etc.), in subsection (1)(a), after “148” insert “ or 151(2) ”.

Textual Amendments

F2 Word in s. 11(6) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(2)** (with s. 180)

F3 Word in s. 11(7) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(2)** (with s. 180)

Commencement Information

I11 S. 11(1) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 2** (with Sch. 2 para. 1)

12 Pre-sentence reports

In section 158 of the Criminal Justice Act 2003 (c. 44) (meaning of “pre-sentence report”), after subsection (1) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(1A) Subject to any rules made under subsection (1)(b) and to subsection (1B), the court may accept a pre-sentence report given orally in open court.

(1B) But a pre-sentence report that—

(a) relates to an offender aged under 18, and

(b) is required to be obtained and considered before the court forms an opinion mentioned in section 156(3)(a),

must be in writing."

Commencement Information

I12 S. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 3**

Custodial sentences

[F4]13 Sentences of imprisonment for public protection

. . . . . .

Textual Amendments

F4 S. 13 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

[F5]14 Sentences of detention for public protection

. . . . . .

Textual Amendments

F5 S. 14 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

[F6]15 Extended sentences for certain violent or sexual offences: persons 18 or over

. . . . . .

Textual Amendments

F6 S. 15 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

[F7]16 Extended sentences for certain violent or sexual offences: persons under 18

. . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F7 S. 16 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

17 The assessment of dangerousness

(1) Section 229 of the Criminal Justice Act 2003 (the assessment of dangerousness) is amended as follows.

(2) In subsection (2)—

(a) the words from the beginning to "18" are omitted,

(b) after paragraph (a) insert—

"(aa) may take into account all such information as is available to it about the nature and circumstances of any other offences of which the offender has been convicted by a court anywhere in the world,", and

(c) in paragraph (b) for "the offence" substitute " any of the offences mentioned in paragraph (a) or (aa) ".

(3) After subsection (2) insert—

"(2A) The reference in subsection (2)(aa) to a conviction by a court includes a reference to—

(a) a finding of guilt in service disciplinary proceedings, and

(b) a conviction of a service offence within the meaning of the Armed Forces Act 2006 ("conviction" here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction)."

(4) Subsections (3) and (4) are omitted.

(5) Schedules 16 and 17 to that Act are omitted.

Commencement Information

I13 S. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 8** (with Sch. 2 para. 2)

18 Further amendments relating to sentences for public protection

(1) In section 231 of the Criminal Justice Act 2003 (c. 44) (appeals where previous convictions set aside), for subsection (1) substitute—

"(1) This section applies where—

(a) a sentence has been imposed on any person under section 225(3) or 227(2),

(b) the condition in section 225(3A) or (as the case may be) 227(2A) was met but the condition in section 225(3B) or (as the case may be) 227(2B) was not, and

(c) any previous conviction of his without which the condition in section 225(3A) or (as the case may be) 227(2A) would not have been met has been subsequently set aside on appeal."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F8(2) . . . . . .

(3) Section 234 of that Act (determination of day when offence committed) is omitted.

Textual Amendments

F8 S. 18(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

Commencement Information

I14 S. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 9** (with Sch. 2 para. 2)

PROSPECTIVE

F9 19 Indeterminate sentences: determination of tariffs

. . . . . .

Textual Amendments

F9 Ss. 17-20 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

20 Consecutive terms of imprisonment

(1) Part 12 of the Criminal Justice Act 2003 (c. 44) (sentencing) is amended as follows.

F10(2) . . . . . .

F10(3) . . . . . .

(4) In section 265 (restriction on consecutive sentences for released prisoners)—

(a) in subsection (1), for "early under this Chapter" substitute "—

(a) under this Chapter; or

(b) under Part 2 of the Criminal Justice Act 1991."; and

F11(b) . . . . . .

(5) Any saving by virtue of which section 84 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (restrictions on consecutive sentences for released prisoners) continues to apply in certain cases (despite the repeal of that section by the Criminal Justice Act 2003) shall cease to have effect.

Textual Amendments

F10 S. 20(2)(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 42**; S.I. 2012/2906, art. 2(h)

F11 S. 20(4)(b) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I15 S. 20 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 10**

Release and recall of prisoners

21 Credit for period of remand on bail: terms of imprisonment and detention

(1) The Criminal Justice Act 2003 (c. 44) is amended as follows.

F12(2) . . . . . .

(3) In the italic heading before section 240, after "*custody*" insert " *or on bail subject to certain types of condition* ".

(4) After section 240 insert—

"**240A Crediting periods of remand on bail: terms of imprisonment and detention**

(1) This section applies where—

(a) a court sentences an offender to imprisonment for a term in respect of an offence committed on or after 4th April 2005,

(b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and

(c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition ("the relevant conditions").

(2) Subject to subsection (4), the court must direct that the credit period is to count as time served by the offender as part of the sentence.

(3) The "credit period" is the number of days represented by half of the sum of—

(a) the day on which the offender's bail was first subject to conditions that, had they applied throughout the day in question, would have been relevant conditions, and

(b) the number of other days on which the offender's bail was subject to those conditions (excluding the last day on which it was so subject),

rounded up to the nearest whole number.

(4) Subsection (2) does not apply if and to the extent that—

(a) rules made by the Secretary of State so provide, or

(b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.

(5) Where as a result of paragraph (a) or (b) of subsection (4) the court does not give a direction under subsection (2), it may give a direction in accordance with either of those paragraphs to the effect that a period of days which is less than the credit period is to count as time served by the offender as part of the sentence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Rules made under subsection (4)(a) may, in particular, make provision in relation to—

(a) sentences of imprisonment for consecutive terms;

(b) sentences of imprisonment for terms which are wholly or partly concurrent;

(c) periods during which a person granted bail subject to the relevant conditions is also subject to electronic monitoring required by an order made by a court or the Secretary of State.

(7) In considering whether it is of the opinion mentioned in subsection (4)(b) the court must, in particular, take into account whether or not the offender has, at any time whilst on bail subject to the relevant conditions, broken either or both of them.

(8) Where the court gives a direction under subsection (2) or (5) it shall state in open court—

(a) the number of days on which the offender was subject to the relevant conditions, and

(b) the number of days in relation to which the direction is given.

(9) Subsection (10) applies where the court—

(a) does not give a direction under subsection (2) but gives a direction under subsection (5), or

(b) decides not to give a direction under this section.

(10) The court shall state in open court—

(a) that its decision is in accordance with rules made under paragraph (a) of subsection (4), or

(b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.

(11) Subsections (7) to (10) of section 240 apply for the purposes of this section as they apply for the purposes of that section but as if—

(a) in subsection (7)—

(i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;

(ii) in paragraph (a) after "Schedule 12" there were inserted " or section 119(1)(a) or (b) of the Sentencing Act "; and

(b) in subsection (8) the reference to subsection (3) of section 240 is to be read as a reference to subsection (2) of this section and, in paragraph (b), after "Chapter" there were inserted " or Part 2 of the Criminal Justice Act 1991 ".

(12) In this section—

"electronic monitoring condition" means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

"qualifying curfew condition" means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"related offence" means an offence, other than the offence for which the sentence is imposed ("offence A"), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A."

F13(5) . . . . . .

(6) In section 242 (interpretation of sections 240 and 241), in the title and in subsection (1), after "sections 240" insert " , 240A ".

F14(7) . . . . . .

Textual Amendments

F12 S. 21(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F13 S. 21(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F14 S. 21(7) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

I16 S. 21(1)(3)-(7) in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 1**

I17 S. 21(2) in force at 31.10.2009 by S.I. 2009/2606, **art. 3(a)**

22 Credit for period of remand on bail: other cases

(1) The Criminal Justice Act 2003 (c. 44) is amended in accordance with subsections (2) and (3).

F15(2) . . . . . .

F15(3) . . . . . .

(4) In paragraph 2 of Schedule 2 to the Criminal Appeal Act 1968 (c. 19) (sentence on conviction at retrial), in sub-paragraph (4), for the words from the beginning to "custody:" substitute " Sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods of remand in custody or on bail subject to certain types of condition: ".

(5) In section 82A(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (part of discretionary life prisoner's sentence to be specified for purposes of early release provisions), in paragraph (b), before "if" insert " or under section 240A of that Act of 2003 (crediting periods of remand on bail subject to certain types of condition) ".

(6) In section 101 of that Act (detention and training orders: taking account of remand etc.)—

(a) in subsection (8) for "in custody" substitute "—

(a) in custody, or

(b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003),"; and

(b) in subsection (9) for "in custody" substitute " as mentioned in that subsection ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) In paragraph 2(1) of Schedule 7 to the International Criminal Court Act 2001 (c. 17) (provisions of law of England and Wales affecting length of sentence which are not applicable to ICC prisoners), for paragraph (d) substitute—

"(d) sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods spent on remand in custody or on bail subject to certain types of condition: terms of imprisonment and detention)."

Textual Amendments

F15 S. 22(2)(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

I18 S. 22 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 2**

F16 23 Credit for period of remand on bail: transitional provisions

. . . . . .

Textual Amendments

F16 S. 23 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(c)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

24 Minimum conditions for early release under section 246(1) of Criminal Justice Act 2003

In section 246(2) of the Criminal Justice Act 2003 (c. 44) (minimum conditions for early release of fixed-term prisoner other than intermittent custody prisoner) for paragraph (b) substitute "and

(b) he has served—

(i) at least 4 weeks of that period, and

(ii) at least one-half of that period."

Commencement Information

I19 S. 24 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 11**

25 Release on licence under Criminal Justice Act 2003 of prisoners serving extended sentences

(1) Section 247 of the Criminal Justice Act 2003 (release on licence of prisoner serving extended sentence) is amended as follows.

(2) In subsection (2)—

(a) the word "and" at the end of paragraph (a) is omitted, and

(b) paragraph (b) is omitted.

(3) Subsections (3), (4), (5) and (6) are omitted.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I20 S. 25 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 12** (with savings in Sch. 2 para. 2)

I21 S. 25 in force at 3.12.2012 in so far as not already in force by 2012 c. 10, **Sch. 16 para. 15(1)**; S.I. 2012/2096, art. 2(n)

F17 26 Release of certain long-term prisoners under Criminal Justice Act 1991

. . . . . .

Textual Amendments

F17 Ss. 26-28 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

F17 27 Application of section 35(1) of Criminal Justice Act 1991 to prisoners liable to removal from the UK

. . . . . .

Textual Amendments

F17 Ss. 26-28 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

F17 28 Release of fine defaulters and contemnors under Criminal Justice Act 1991

. . . . . .

Textual Amendments

F17 Ss. 26-28 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

29 Release of prisoners after recall

(1) In section 254 of the Criminal Justice Act 2003 (c. 44) (recall of prisoners while on licence)—

(a) subsections (3) to (5) cease to have effect;

(b) in subsection (7) for "subsections (2) to (6)" substitute " this section ".

F18(2) . . . . . .

F18(3) . . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F18 S. 29(2)(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 114(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

I22 S. 29 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 15** (with Sch. 2 para. 3)

I23 S. 29 in force at 31.10.2009 in so far as not already in force by S.I. 2009/2606, **art. 3(c)**

30 Further review and release of prisoners after recall

(1) Section 256 of the Criminal Justice Act 2003 (c. 44) (further release after recall) is amended as follows.

(2) In subsection (1) for paragraph (b) substitute—

"(b) determine the reference by making no recommendation as to his release."

(3) In subsection (2) omit "or (b)".

(4) Subsections (3) and (5) cease to have effect.

(5) In consequence of the amendments made by section 29 and this section, the heading to section 256 becomes " Review by the Board ".

(6) After section 256 insert—

"**256A Further review**

(1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.

(2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.

(3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).

(4) On a reference under subsection (1) or (2), the Board must determine the reference by—

(a) recommending the person's immediate release on licence under this Chapter,

(b) fixing a date for his release on licence, or

(c) making no recommendation as to his release.

(5) The Secretary of State—

(a) where the Board makes a recommendation under subsection (4)(a) for the person's immediate release on licence, must give effect to the recommendation; and

(b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I24 S. 30 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 16** (with Sch. 2 para. 3)

31 Recall of life prisoners: abolition of requirement for recommendation by Parole Board

(1) Section 32 of the Crime (Sentences) Act 1997 (c. 43) (recall of life prisoners while on licence) is amended as follows.

(2) For subsections (1) and (2) (power of Secretary of State to revoke licence) substitute—

"(1) The Secretary of State may, in the case of any life prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison."

(3) In subsection (3) (representations by prisoner) for "subsection (1) or (2) above" substitute " this section ".

(4) In subsection (4) (reference to Parole Board by Secretary of State) for paragraphs (a) and (b) substitute " the case of a life prisoner recalled under this section ".

Commencement Information

I25 S. 31 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 17**

F19 32 Release of prisoners recalled following release under Criminal Justice Act 1991

. . . . . .

Textual Amendments

F19 S. 32 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

Early removal of prisoners from the United Kingdom

33 Removal under Criminal Justice Act 1991

F20 (1) . . . . . .

F21 (2) . . . . . .

F20 (3) . . . . . .

F21 (4) . . . . . .

F20 (5) . . . . . .

F20 (6) . . . . . .

F21 (7) . . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F21(8) . . . . . .

Textual Amendments

F20 S. 33(1)(3)(5)(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(a)**; S.I. 2012/2906, art. 2(n)

F21 S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(4)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

34 Removal under Criminal Justice Act 2003

(1) In Part 12 of the Criminal Justice Act 2003 (c. 44) (sentencing) Chapter 6 (release on licence) is amended as follows.

F22(2) . . . . . .

(3) Section 260 (early removal of prisoners liable to removal from United Kingdom) is amended as follows.

(4) In subsection (1) (the power of removal)—

(a) for "subsections (2) and (3)" substitute " subsection (2) ", and

F23(b) . . . . . .

(5) For subsection (2) (conditions relating to time) substitute—

"(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period."

(6) Subsections (3) and (3A) (cases where subsection (1) does not apply) cease to have effect.

F24(7) . . . . . .

(8) In subsection (6) (order-making powers)—

(a) in paragraph (a) omit "or (3)(e)",

(b) omit paragraph (b), and

(c) in paragraph (c) for "subsection (2)(b)(ii)" substitute " subsection (2) ".

(9) For subsection (7) (meaning of "requisite custodial period") substitute—

"(7) In this section "requisite custodial period"—

(a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);

(b) in any other case, has the meaning given by paragraph (a), (b) or (d) of section 244(3)."

F25(10) . . . . . .

Textual Amendments

F22 S. 34(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F23 S. 34(4)(b) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F24 S. 34(7) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F25 S. 34(10) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 118(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

I26 S. 34(1)(3)(4)(a)(5)(6)(8)(9) in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 5**

Referral orders

35 Referral conditions

(1) Section 17 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (the referral conditions) is amended as follows.

(2) In subsection (1)—

(a) after "section 16(2) above" insert " and subsection (2) below ",

(b) insert " and " at the end of paragraph (a), and

(c) omit paragraph (c).

(3) For subsections (1A) and (2) substitute—

"(2) For the purposes of section 16(3) above, the discretionary referral conditions are satisfied in relation to an offence if—

(a) the compulsory referral conditions are not satisfied in relation to the offence;

(b) the offender pleaded guilty—

(i) to the offence; or

(ii) if the offender is being dealt with by the court for the offence and any connected offence, to at least one of those offences; and

(c) subsection (2A), (2B) or (2C) below is satisfied in relation to the offender.

(2A) This subsection is satisfied in relation to the offender if the offender has never been convicted by or before a court in the United Kingdom ("a UK court") of any offence other than the offence and any connected offence.

(2B) This subsection is satisfied in relation to the offender if the offender has been dealt with by a UK court for any offence other than the offence and any connected offence on only one previous occasion, but was not referred to a youth offender panel under section 16 above on that occasion.

(2C) This subsection is satisfied in relation to the offender if—

(a) the offender has been dealt with by a UK court for any offence other than the offence and any connected offence on one or more previous occasions, but has been referred to a youth offender panel under section 16 above on only one previous occasion;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) an appropriate officer recommends to the court as suitable for the offender a referral to a youth offender panel under that section in respect of the offence; and

(c) the court considers that there are exceptional circumstances which justify ordering the offender to be so referred.

(2D) In subsection (2C)(b) above "appropriate officer" means—

(a) a member of a youth offending team;

(b) an officer of a local probation board; or

(c) an officer of a provider of probation services."

(4) Omit subsection (5).

Commencement Information

I27 S. 35 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(a)**

36 Power to revoke a referral order

(1) Part 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (mandatory and discretionary referral of young offenders) is amended as follows.

(2) After section 27 insert—

"Referrals back to court in the interests of justice

27A Revocation of referral order where offender making good progress etc.

(1) This section applies where, having regard to circumstances which have arisen since a youth offender contract took effect under section 23 above, it appears to the youth offender panel to be in the interests of justice for the referral order (or each of the referral orders) to be revoked.

(2) The panel may refer the offender back to the appropriate court requesting it—

(a) to exercise only the power conferred by sub-paragraph (2) of paragraph 5 of Schedule 1 to this Act to revoke the order (or each of the orders); or

(b) to exercise both—

(i) the power conferred by that sub-paragraph to revoke the order (or each of the orders); and

(ii) the power conferred by sub-paragraph (4) of that paragraph to deal with the offender for the offence in respect of which the revoked order was made.

(3) The circumstances in which the panel may make a referral under subsection (2) above include the offender's making good progress under the contract.

(4) Where—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the panel makes a referral under subsection (2) above in relation to any offender and any youth offender contract, and

(b) the appropriate court decides not to exercise the power conferred by paragraph 5(2) of Schedule 1 to this Act in consequence of that referral,

the panel may not make a further referral under that subsection in relation to that offender and contract during the relevant period except with the consent of the appropriate court.

(5) In subsection (4) above "the relevant period" means the period of 3 months beginning with the date on which the appropriate court made the decision mentioned in paragraph (b) of that subsection."

(3) In paragraph 1(1) of Schedule 1 (youth offender panels: further court proceedings), for "or 27(4)" substitute " , 27(4) or 27A(2) ".

Commencement Information
I28 S. 36 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(b)**

37 Extension of period for which young offender contract has effect

(1) Part 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (mandatory and discretionary referral of young offenders) is amended as follows.

(2) After section 27A (as inserted by section 36 above) insert—

"**27B Extension of period for which young offender contract has effect**

(1) This section applies where at any time—

(a) a youth offender contract has taken effect under section 23 above for a period which is less than twelve months;

(b) that period has not ended; and

(c) having regard to circumstances which have arisen since the contract took effect, it appears to the youth offender panel to be in the interests of justice for the length of that period to be extended.

(2) The panel may refer the offender back to the appropriate court requesting it to extend the length of that period.

(3) The requested period of extension must not exceed three months."

(3) In Schedule 1 (youth offender panels: further court proceedings), after Part 1 insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"PART 1ZA

REFERRAL BACK TO APPROPRIATE COURT: EXTENSION OF PERIOD FOR WHICH CONTRACT HAS EFFECT

Introductory

9ZB (1) This Part of this Schedule applies where a youth offender panel refers an offender back to the appropriate court under section 27B of this Act with a view to the court extending the period for which the offender's youth offender contract has effect.

(2) For the purposes of this Part of this Schedule and that section the appropriate court is—

(a) in the case of an offender aged under 18 at the time when (in pursuance of the referral back) the offender first appears before the court, a youth court acting in the local justice area in which it appears to the youth offender panel that the offender resides or will reside; and

(b) otherwise, a magistrates' court (other than a youth court) acting in that area.

Mode of referral back to court

9ZC The panel shall make the referral by sending a report to the appropriate court explaining why the offender is being referred back to it.

Power of court

9ZD (1) If it appears to the appropriate court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the contract took effect, the court may make an order extending the length of the period for which the contract has effect.

(2) An order under sub-paragraph (1) above—

(a) must not extend that period by more than three months; and

(b) must not so extend that period as to cause it to exceed twelve months.

(3) In deciding whether to make an order under sub-paragraph (1) above, the court shall have regard to the extent of the offender's compliance with the terms of the contract.

(4) The court may not make an order under sub-paragraph (1) above unless—

(a) the offender is present before it; and

(b) the contract has effect at the time of the order.

Supplementary

9ZE The following paragraphs of Part 1 of this Schedule apply for the purposes of this Part of this Schedule as they apply for the purposes of that Part—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) paragraph 3 (bringing the offender before the court);
(b) paragraph 4 (detention and remand of arrested offender); and
(c) paragraph 9ZA (power to adjourn hearing and remand offender)."

Commencement Information
I29 S. 37 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(c)**

Enforcement of sentences

38 Imposition of unpaid work requirement for breach of community order

(1) Part 2 of Schedule 8 to the Criminal Justice Act 2003 (c. 44) (breach of community order) is amended as follows.

(2) In paragraph 9 (powers of magistrates' court) after sub-paragraph (3) insert—

"(3A) Where—
(a) the court is dealing with the offender under sub-paragraph (1)(a), and
(b) the community order does not contain an unpaid work requirement,
section 199(2)(a) applies in relation to the inclusion of such a requirement as if for "40" there were substituted " 20 "."

(3) In paragraph 10 (powers of Crown Court) after sub-paragraph (3) insert—

"(3A) Where—
(a) the court is dealing with the offender under sub-paragraph (1)(a), and
(b) the community order does not contain an unpaid work requirement,
section 199(2)(a) applies in relation to the inclusion of such a requirement as if for "40" there were substituted " 20 "."

Commencement Information
I30 S. 38 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 19**

PROSPECTIVE

39 Youth default orders

(1) Subsection (2) applies in any case where, in respect of a person aged under 18, a magistrates' court would, but for **[**F26section 227 of the Sentencing Code**]** (restrictions on custodial sentences), have power to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)).

(2) The magistrates' court may, instead of proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in the case of a person aged 16 or 17, an unpaid work requirement (see **[**F27Part 3 of Schedule 6 to the Sentencing Code**]**),

(b) an attendance centre requirement (see **[**F28Part 5**]** of that Schedule), or

(c) a curfew requirement (see **[**F29Part 7**]** of that Schedule).

(3) In this section (and Schedule 7) "youth default order" means an order under subsection (2).

[F30(4) A youth default order—

(a) may, in addition to any other requirement that it imposes, impose an **[**F31electronic compliance monitoring requirement**]** (see sections 173 and 174 of the Sentencing Code), and

(b) must do so where, in the case of a youth rehabilitation order, such a requirement would be required by paragraph 19(3) of Schedule 6 to the Sentencing Code.**]**

(5) Where a magistrates' court has power to make a youth default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.

[F32(6) The following provisions of the Sentencing Code have effect in relation to youth default orders as they have effect in relation to youth rehabilitation orders, but subject to the modifications contained in Schedule 7 to this Act—

(a) sections 186(2), (10) and (11), 188, 190 to 192, 197, 198(3) to (5), **[**F33198A,**]** 397(1), 400 and 403 to 405 (youth rehabilitation orders: responsible officer, interpretation and further provisions),

(b) Parts 3, 5 **[**F34and 7**]** of Schedule 6 (youth rehabilitation orders: requirements),

[F35(ba) Part 17 of that Schedule (electronic monitoring requirements), so far as it applies to electronic compliance monitoring requirements,**]**

(c) Schedule 7 (breach, revocation or amendment of youth rehabilitation order),

(d) Schedule 8 (transfer of youth rehabilitation orders to Northern Ireland), and

(e) paragraph 9 of Schedule 23 (power to amend limits).**]**

(7) Where a youth default order has been made for default in paying any sum—

(a) on payment of the whole sum to any person authorised to receive it, the order ceases to have effect, and

(b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.

(8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

Textual Amendments

F26 Words in s. 39(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(2)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F27 Words in s. 39(2)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(3)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F28 Words in s. 39(2)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(3)(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F29 Words in s. 39(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(3)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F30 S. 39(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(4)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F31 Words in s. 39(4)(a) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(2)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))

F32 S. 39(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 266(5)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F33 Word in s. 39(6)(a) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(a)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))

F34 Words in s. 39(6)(b) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(b)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))

F35 S. 39(6)(ba) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 161, 208(4)(r), **Sch. 17 para. 2(3)(c)**; S.I. 2023/705, regs. 2, 3, 4(1), Sch. (with reg. 4(2))

40 Power to impose attendance centre requirement on fine defaulter

(1) Section 300 of the Criminal Justice Act 2003 (c. 44) (power to impose unpaid work requirement or curfew requirement on fine defaulter) is amended as follows.

(2) In the heading for "or curfew requirement" substitute " curfew requirement or attendance centre requirement ".

(3) In subsection (2), at the end of paragraph (b) insert ", or

(c) in a case where the person is aged under 25, an attendance centre requirement (as defined by section 214)".

Commencement Information

I31 S. 40 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 20**

41 Disclosure of information for enforcing fines

(1) Part 3 of Schedule 5 to the Courts Act 2003 (c. 39) (attachment of earnings orders and applications for benefit deductions) is amended as follows.

(2) After paragraph 9 insert—

9A "**Disclosure of information in connection with application for benefit deductions**

(1) The designated officer for a magistrates' court may make an information request to the Secretary of State for the purpose of facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.

(2) An information request is a request for the disclosure of some or all of the following information—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) P's full name;
(b) P's address (or any of P's addresses);
(c) P's date of birth;
(d) P's national insurance number;
(e) P's benefit status.

(3) On receiving an information request, the Secretary of State may disclose the information requested to—
(a) the officer who made the request, or
(b) a justices' clerk specified in the request.

9B **Restrictions on disclosure**

(1) A person to whom information is disclosed under paragraph 9A(3), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.

(2) A person to whom such information is disclosed commits an offence if the person—
(a) discloses or uses the information, and
(b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.

(3) But it is not an offence under sub-paragraph (2)—
(a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
(b) to disclose any information which has previously been lawfully disclosed to the public.

(4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.

(5) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

9C **Paragraphs 9A and 9B: supplementary**

(1) This paragraph applies for the purposes of paragraphs 9A and 9B.

(2) "Benefit status", in relation to P, means whether or not P is in receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
(a) which benefit it is,
(b) where it is already subject to deductions under any enactment, the nature of the deductions concerned, and
(c) the amount received by P by way of the benefit, after allowing for any such deductions.

(3) "Information" means information held in any form.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) "Prescribed" means prescribed by regulations made by the Lord Chancellor.

(5) Nothing in paragraph 9A or 9B authorises the making of a disclosure which contravenes the Data Protection Act 1998."

Commencement Information
I32 S. 41 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 6**

PART 3

APPEALS

Appeals by defendant

42 Power to dismiss certain appeals following references by the CCRC: England and Wales

After section 16B of the Criminal Appeal Act 1968 (c. 19) insert—

"Appeals following references by the CCRC

16C Power to dismiss certain appeals following references by the CCRC

(1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 9(1)(a), (5) or (6) of the Criminal Appeal Act 1995 or section 1(1) of the Criminal Cases Review (Insanity) Act 1999.

(2) Notwithstanding anything in section 2, 13 or 16 of this Act, the Court of Appeal may dismiss the appeal if—

(a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction, verdict or finding that is the subject of the appeal, and

(b) the condition in subsection (3) is met.

(3) The condition in this subsection is that if—

(a) the reference had not been made, but

(b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,

the Court would not think it appropriate to grant the application by exercising the power conferred by section 18(3)."

Commencement Information
I33 S. 42 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 21**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

43 Power to dismiss certain appeals following references by the CCRC: Northern Ireland

After section 13A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) insert—

"Appeals following references by the CCRC

13B Power to dismiss certain appeals following references by the CCRC

(1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 10(1)(a), (6) or (7) of the Criminal Appeal Act 1995 or section 1(1) of the Criminal Cases Review (Insanity) Act 1999.

(2) Notwithstanding anything in section 2, 12 or 13A of this Act, the Court of Appeal may dismiss the appeal if—

(a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction, verdict or finding that is the subject of the appeal, and

(b) the condition in subsection (3) is met.

(3) The condition in this subsection is that if—

(a) the reference had not been made, but

(b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,

the Court would not think it appropriate to grant the application by exercising the power conferred by section 16(2)."

Commencement Information
I34 S. 43 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 22**

Appeals by prosecution

44 Determination of prosecution appeals: England and Wales

In section 61 of the Criminal Justice Act 2003 (c. 44) (determination of prosecution appeal by Court of Appeal) for subsection (5) substitute—

"(5) But the Court of Appeal may not make an order under subsection (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under subsection (4)(a) or (b)."

Commencement Information
I35 S. 44 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 23**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

45 Determination of prosecution appeals: Northern Ireland

In Article 20 of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I.9)) (determination of prosecution appeal by Court of Appeal) for paragraph (5) substitute—

"(5) But the Court of Appeal may not make an order under paragraph (4)(c) in respect of an offence unless it considers that the defendant could not receive a fair trial if an order were made under paragraph (4)(a) or (b)."

Commencement Information
I36 S. 45 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 24**

Miscellaneous

46 Review of sentence on reference by Attorney General

(1) Section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) is amended as follows.

(2) For subsection (3A) substitute—

"(3A) Where a reference under this section relates to a case in which the judge made an order specified in subsection (3B), the Court of Appeal shall not, in deciding what sentence is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.

(3B) The orders specified in this subsection are—

(a) an order under section 269(2) of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence);

(b) an order under section 82A(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in relation to discretionary life sentences and certain other sentences)."

(3) In subsection (9) after paragraph (b) insert ", and

(c) the reference in subsection (3A) to an order specified in subsection (3B) shall be construed as a reference to an order under Article 5(1) of the Life Sentences (Northern Ireland) Order 2001."

Commencement Information
I37 S. 46(1)(3) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 25**

47 Further amendments relating to appeals in criminal cases

Schedule 8 amends the Criminal Appeal Act 1968 (c. 19), the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) and other Acts relating to appeals in criminal cases.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I38 S. 47 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

Alternatives to prosecution

48 Alternatives to prosecution for offenders under 18

(1) Schedule 9 amends the Crime and Disorder Act 1998 (c. 37)—

(a) to make provision for the giving of youth conditional cautions to children and young persons, [F36]...

[F36](b) . . . . . .

(2) The Secretary of State may by order amend the Crime and Disorder Act 1998 (c. 37), as amended by Schedule 9, so as to vary the provision made by it for the giving of youth conditional cautions to children and young persons under the age of 16 (including doing so by adding or omitting any provision).

Textual Amendments

F36 S. 48(1)(b) and preceding word omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 29** (with s. 135(4)); S.I. 2013/453, art. 4(f)

Commencement Information

I39 S. 48(1)(a) in force at 1.2.2009 by S.I. 2009/140, **art. 2(a)**

I40 S. 48(1)(b) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(a)**

49 Protection for spent cautions under Rehabilitation of Offenders Act 1974

(1) Schedule 10 amends the Rehabilitation of Offenders Act 1974 (c. 53) so as to provide for the protection of spent cautions.

(2) The provisions of Schedule 10 (and this section) extend only to England and Wales.

Commencement Information

I41 S. 49 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(a)**

50 Criminal conviction certificates and criminal record certificates

(1) Part 5 of the Police Act 1997 (c. 50) (certificates of criminal records) is amended as follows.

(2) In section 112 (criminal conviction certificates)—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in the definition of "central records", after "convictions" insert " and conditional cautions ";

(b) after that definition insert—

""conditional caution" means a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) or section 66A of the Crime and Disorder Act 1998, other than one that is spent for the purposes of Schedule 2 to the Rehabilitation of Offenders Act 1974."

(3) In section 113A(6) (criminal record certificates)—

(a) in the definition of "exempted question", after "a question" insert "which—

(") so far as it applies to convictions, is a question";

(b) in that definition, at the end insert "; and—

(") so far as it applies to cautions, is a question to which paragraph 3(3) or (4) of Schedule 2 to that Act has been excluded by an order of the Secretary of State under paragraph 4 of that Schedule;";

(c) in the definition of "relevant matter", after "caution" insert " , including a caution that is spent for the purposes of Schedule 2 to that Act ".

(4) This section extends to England and Wales only.

Commencement Information

I42 S. 50 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(b)**

Bail

51 Bail conditions: electronic monitoring

Schedule 11 makes provision in connection with the electronic monitoring of persons released on bail subject to conditions.

Commencement Information

I43 S. 51 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 7**

52 Bail for summary offences and certain other offences to be tried summarily

Schedule 12—

(a) imposes a duty on a magistrates' court considering whether to withhold or grant bail in relation to a person under 18 accused of an offence mentioned in Schedule 2 to the Magistrates' Courts Act 1980 (c. 43) (offences for which the value involved is relevant to the mode of trial) to consider the value involved in the offence; and

(b) amends Schedule 1 to the Bail Act 1976 (persons entitled to bail: supplementary provisions).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I44 S. 52 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

Proceedings in magistrates' courts

53 Allocation of offences triable either way etc.

Schedule 13 amends Schedule 3 to the Criminal Justice Act 2003 (c. 44) (which makes provision in relation to the allocation and other treatment of offences triable either way, and the sending of cases to the Crown Court).

54 Trial or sentencing in absence of accused in magistrates' courts

(1) Section 11 of the Magistrates' Courts Act 1980 (non-appearance of accused) is amended as follows.

(2) In subsection (1), for "the court may proceed in his absence" substitute "—

(a) if the accused is under 18 years of age, the court may proceed in his absence; and

(b) if the accused has attained the age of 18 years, the court shall proceed in his absence unless it appears to the court to be contrary to the interests of justice to do so.

This is subject to subsections (2), (2A), (3) and (4). "

(3) After subsection (2) insert—

"(2A) The court shall not proceed in the absence of the accused if it considers that there is an acceptable reason for his failure to appear."

(4) In each of subsections (3) and (4), for "A magistrates' court" substitute " In proceedings to which this subsection applies, the court. "

(5) After subsection (3) insert—

"(3A) But where a sentence or order of a kind mentioned in subsection (3) is imposed or given in the absence of the offender, the offender must be brought before the court before being taken to a prison or other institution to begin serving his sentence (and the sentence or order is not to be regarded as taking effect until he is brought before the court)."

(6) After subsection (4) insert—

"(5) Subsections (3) and (4) apply to—

(a) proceedings instituted by an information, where a summons has been issued; and

(b) proceedings instituted by a written charge.

(6) Nothing in this section requires the court to enquire into the reasons for the accused's failure to appear before deciding whether to proceed in his absence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) The court shall state in open court its reasons for not proceeding under this section in the absence of an accused who has attained the age of 18 years; and the court shall cause those reasons to be entered in its register of proceedings."

(7) Section 13(5) of that Act (non-appearance of accused: issue of warrant) ceases to have effect.

Commencement Information

I45 S. 54 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 28**

55 Extension of powers of non-legal staff

(1) Section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) is amended as follows.

(2) In subsection (2) (powers of designated non-legal staff)—

(a) in paragraph (a)(ii), after "trials" insert " of offences triable either way or offences which are punishable with imprisonment in the case of persons aged 21 or over ";

(b) after paragraph (a)(ii) insert—

"(iii) the conduct of applications or other proceedings relating to preventative civil orders;

(iv) the conduct of proceedings (other than criminal proceedings) in, or in connection with, the discharge of functions assigned to the Director under section 3(2)(g) above.";

(c) for paragraph (b) substitute—

"(b) any powers of a Crown Prosecutor that do not involve the exercise of such rights of audience as are mentioned in paragraph (a) above but are exercisable in relation to the conduct of—

(i) criminal proceedings in magistrates' courts, or

(ii) applications or proceedings falling within paragraph (a)(iii) or (iv)."

(3) For subsection (5) (interpretation) substitute—

"(5) In this section—

"bail in criminal proceedings" has the same meaning as in the Bail Act 1976 (see section 1 of that Act);

"preventative civil orders" means—

(a) orders within section 3(2)(fa) to (fe) above;

(b) orders under section 5 or 5A of the Protection from Harassment Act 1997 (restraining orders); or

(c) orders under section 8 of the Crime and Disorder Act 1998 (parenting orders).

(5A) For the purposes of this section a trial begins with the opening of the prosecution case after the entry of a plea of not guilty and ends with the conviction or acquittal of the accused."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Omit subsection (6) (powers not applicable to offences triable only on indictment etc.).

(5) After subsection (7) insert—

"(8) As from 1 May 2011 nothing in this section confers on persons designated under this section—

(a) any rights of audience, or

(b) any right to conduct litigation,

for the purposes of Part 3 of the Legal Services Act 2007 (reserved legal activities).

(9) As from that date the following provisions of that Act accordingly do not apply to persons designated under this section—

(a) paragraph 1(3) of Schedule 3 (exemption for persons with statutory rights of audience), and

(b) paragraph 2(3) of that Schedule (exemption for persons with statutory right to conduct litigation).

(10) The Attorney General may by order make such modifications in the application of any enactment (including this section) in relation to persons designated under this section as the Attorney General considers appropriate in consequence of, or in connection with, the matters provided for by subsections (8) and (9).

(11) The Attorney General may also by order amend subsection (2)(a)(ii) so as to omit the words "or offences which are punishable with imprisonment in the case of persons aged 21 or over".

(12) The power to make an order under subsection (10) or (11) is exercisable by statutory instrument, but a statutory instrument containing such an order may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament."

(6) In section 15 of that Act (interpretation of Part 1) in subsection (4) (provisions for the purposes of which binding over proceedings are to be taken to be criminal proceedings) for "and 7(1)" substitute " , 7(1) and 7A ".

Commencement Information

I46 S. 55 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 29**

Criminal legal aid

[F37]56 Provisional grant of right to representation

. . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F37 Ss. 56-58 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F37 57 Disclosure of information to enable assessment of financial eligibility

. . . . . .

Textual Amendments

F37 Ss. 56-58 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

F37 58 Pilot schemes

. . . . . .

Textual Amendments

F37 Ss. 56-58 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 Pt. 2**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Miscellaneous

59 SFO's pre-investigation powers in relation to bribery and corruption: foreign officers etc.

(1) The Criminal Justice Act 1987 (c. 38) is amended as follows.

(2) After section 2 insert—

"**2A Director's pre-investigation powers in relation to bribery and corruption: foreign officers etc**

(1) The powers of the Director under section 2 are also exercisable for the purpose of enabling him to determine whether to start an investigation under section 1 in a case where it appears to him that conduct to which this section applies may have taken place.

(2) But—

(a) the power under subsection (2) of section 2 is so exercisable only if it appears to the Director that for the purpose of enabling him to make that determination it is expedient to require any person appearing to him to have relevant information to do as mentioned in that subsection, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the power under subsection (3) of that section is so exercisable only if it appears to the Director that for that purpose it is expedient to require any person to do as mentioned in that subsection.

(3) Accordingly, where the powers of the Director under section 2 are exercisable in accordance with subsections (1) and (2) above—

(a) the reference in subsection (2) of that section to the person under investigation or any other person whom the Director has reason to believe has relevant information is to be read as a reference to any such person as is mentioned in subsection (2)(a) above,

(b) the reference in subsection (3) of that section to the person under investigation or any other person is to be read as a reference to any such person as is mentioned in subsection (2)(b) above, and

(c) any reference in subsection (2), (3) or (4) of that section to the investigation is to be read as a reference to the making of any such determination as is mentioned in subsection (1) above.

(4) Any reference in section 2(16) to the carrying out of an investigation by the Serious Fraud Office into serious or complex fraud includes a reference to the making of any such determination as is mentioned in subsection (1) above.

(5) This section applies to any conduct which, as a result of section 108 of the Anti-terrorism, Crime and Security Act 2001 (bribery and corruption: foreign officers etc), constitutes a corruption offence (wherever committed).

(6) The following are corruption offences for the purposes of this section—

(a) any common law offence of bribery;

(b) the offences under section 1 of the Public Bodies Corrupt Practices Act 1889 (corruption in office); and

(c) the offences under section 1 of the Prevention of Corruption Act 1906 (corrupt transactions with agents).”

(3) In section 17 (extent)—

(a) in subsection (2) (provisions of Act extending to Scotland), for “section 2” substitute “ sections 2 and 2A ”; and

(b) in subsection (3) (provisions of Act extending to Northern Ireland), after “sections 2” insert “ , 2A ”.

Commencement Information

I47 S. 59 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 33**

60 Contents of an accused's defence statement

(1) In section 6A(1) of the Criminal Procedure and Investigations Act 1996 (c. 25) (contents of defence statement), after “prosecution,” in paragraph (c) insert—

“(ca) setting out particulars of the matters of fact on which he intends to rely for the purposes of his defence,”.

(2) In section 11(2)(f)(ii) of that Act (faults in disclosure by accused), after “matter” insert “ (or any particular of any matter of fact) ”.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I48 S. 60 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 8** (with art. 3)

61 Compensation for miscarriages of justice

(1) The Criminal Justice Act 1988 (c. 33) has effect subject to the following amendments.

(2) Section 133 (compensation for miscarriages of justice) is amended as follows.

(3) At the end of subsection (2) (compensation only payable if application for compensation is made) insert "before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.

(2A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so."

(4) For subsection (4A) substitute—

"(4A) Section 133A applies in relation to the assessment of the amount of the compensation."

(5) After subsection (5) (meaning of "reversed" in relation to a conviction) insert—

"(5A) But in a case where—

(a) a person's conviction for an offence is quashed on an appeal out of time, and

(b) the person is to be subject to a retrial,

the conviction is not to be treated for the purposes of this section as "reversed" unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial.

(5B) In subsection (5A) above any reference to a retrial includes a reference to proceedings held following the remission of a matter to a magistrates' court by the Crown Court under section 48(2)(b) of the Supreme Court Act 1981."

(6) In subsection (6) (meaning of suffering punishment as a result of conviction) after "this section" insert " and section 133A ".

(7) After section 133 insert—

"**133A Miscarriages of justice: amount of compensation**

(1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 133 for a miscarriage of justice.

(2) In assessing so much of any compensation payable under section 133 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the seriousness of the offence of which the person was convicted and the severity of the punishment suffered as a result of the conviction, and

(b) the conduct of the investigation and prosecution of the offence.

(3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 133 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—

(a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and

(b) any other convictions of the person and any punishment suffered as a result of them.

(4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 133 is to be a nominal amount only.

(5) The total amount of compensation payable to or in respect of a person under section 133 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—

(a) £1 million in a case to which section 133B applies, and

(b) £500,000 in any other case.

(6) The total amount of compensation payable under section 133 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

(7) The Secretary of State may by order made by statutory instrument amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

(8) No order may be made under subsection (7) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

133B Cases where person has been detained for at least 10 years

(1) For the purposes of section 133A(5) this section applies to any case where the person concerned ("P") has been in qualifying detention for a period (or total period) of at least 10 years by the time when—

(a) the conviction is reversed, or

(b) the pardon is given,

as mentioned in section 133(1).

(2) P was "in qualifying detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—

(a) by virtue of a sentence passed in respect of the relevant offence,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) under mental health legislation by reason of P's conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or

(c) as a result of P's having been remanded in custody in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

(3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—

(a) in qualifying detention, and

(b) in excluded concurrent detention.

(4) P was "in excluded concurrent detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—

(a) during the term of a sentence passed in respect of an offence other than the relevant offence,

(b) under mental health legislation by reason of P's conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or

(c) as a result of P's having been remanded in custody in connection with an offence for which P was subsequently convicted other than—

(i) the relevant offence, or

(ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

(5) But P was not "in excluded concurrent detention" at any time by virtue of subsection (4)(a), (b) or (c) if P's conviction of the other offence mentioned in that provision was quashed on appeal, or a pardon was given in respect of it.

(6) In this section—

"mental health legislation" means—

(a) Part 3 of the Mental Health Act 1983,

(b) Part 3 of the Mental Health (Northern Ireland) Order 1986, or

(c) the provisions of any earlier enactment corresponding to Part 3 of that Act or Part 3 of that Order;

"the relevant offence" means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));

"remanded in custody" is to be read in accordance with subsections (8) and (9);

"reversed" has the same meaning as in section 133 of this Act.

(7) If, as a result of the miscarriage of justice—

(a) two or more convictions are reversed, or

(b) a pardon is given in respect of two or more offences,

"the relevant offence" means any of the offences concerned.

(8) In relation to England and Wales, "remanded in custody" has the meaning given by section 242(2) of the Criminal Justice Act 2003, but that subsection applies for the purposes of this section as if any reference there to a provision

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

of the Mental Health Act 1983 included a reference to any corresponding provision of any earlier enactment.

(9) In relation to Northern Ireland, "remanded in custody" means—

(a) remanded in or committed to custody by an order of a court, or

(b) remanded, admitted or removed to hospital under Article 42, 43, 45 or 54 of the Mental Health (Northern Ireland) Order 1986 or under any corresponding provision of any earlier enactment."

(8) In section 172 (extent) in subsection (3) (provisions extending to Northern Ireland as well as England and Wales) for "section 133" substitute " sections 133 to 133B ".

(9) This section extends to England and Wales and Northern Ireland.

Commencement Information

I49 S. 61 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(a)**

62 Annual report on Criminal Justice (Terrorism and Conspiracy) Act 1998

(1) Section 8 of the Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40) (requirement for annual report on working of the Act) ceases to have effect.

(2) The following provisions, namely—

(a) subsection (1), and

(b) the repeal of section 8 of that Act in Part 4 of Schedule 28,

extend to England and Wales and Northern Ireland.

PART 5

CRIMINAL LAW

Pornography etc.

63 Possession of extreme pornographic images

(1) It is an offence for a person to be in possession of an extreme pornographic image.

(2) An "extreme pornographic image" is an image which is both—

(a) pornographic, and

(b) an extreme image.

(3) An image is "pornographic" if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.

(4) Where (as found in the person's possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in subsection (3) is to be determined by reference to—

(a) the image itself, and

(b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) So, for example, where—

(a) an image forms an integral part of a narrative constituted by a series of images, and

(b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal,

the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself.

(6) An "extreme image" is an image which—

(a) falls within subsection (7), and

(b) is grossly offensive, disgusting or otherwise of an obscene character.

(7) An image falls within this subsection if it portrays, in an explicit and realistic way, any of the following—

(a) an act which threatens a person's life,

(b) an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals,

(c) an act which involves sexual interference with a human corpse, or

(d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive),

and a reasonable person looking at the image would think that any such person or animal was real.

(8) In this section "image" means—

(a) a moving or still image (produced by any means); or

(b) data (stored by any means) which is capable of conversion into an image within paragraph (a).

(9) In this section references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery).

(10) Proceedings for an offence under this section may not be instituted—

(a) in England and Wales, except by or with the consent of the Director of Public Prosecutions; or

(b) in Northern Ireland, except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Commencement Information

I50 S. 63 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(a)**

64 Exclusion of classified films etc.

(1) Section 63 does not apply to excluded images.

(2) An "excluded image" is an image which forms part of a series of images contained in a recording of the whole or part of a classified work.

(3) But such an image is not an "excluded image" if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) it is contained in a recording of an extract from a classified work, and

(b) it is of such a nature that it must reasonably be assumed to have been extracted (whether with or without other images) solely or principally for the purpose of sexual arousal.

(4) Where an extracted image is one of a series of images contained in the recording, the question whether the image is of such a nature as is mentioned in subsection (3)(b) is to be determined by reference to—

(a) the image itself, and

(b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images;

and section 63(5) applies in connection with determining that question as it applies in connection with determining whether an image is pornographic.

(5) In determining for the purposes of this section whether a recording is a recording of the whole or part of a classified work, any alteration attributable to—

(a) a defect caused for technical reasons or by inadvertence on the part of any person, or

(b) the inclusion in the recording of any extraneous material (such as advertisements),

is to be disregarded.

(6) Nothing in this section is to be taken as affecting any duty of a designated authority to have regard to section 63 (along with other enactments creating criminal offences) in determining whether a video work is suitable for a classification certificate to be issued in respect of it.

(7) In this section—

"classified work" means (subject to subsection (8)) a video work in respect of which a classification certificate has been issued by a designated authority (whether before or after the commencement of this section);

"classification certificate" and "video work" have the same meanings as in the Video Recordings Act 1984 (c. 39);

"designated authority" means an authority which has been designated by the Secretary of State under section 4 of that Act;

"extract" includes an extract consisting of a single image;

"image" and "pornographic" have the same meanings as in section 63;

"recording" means any disc, tape or other device capable of storing data electronically and from which images may be produced (by any means).

(8) Section 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this section as it applies for the purposes of that Act.

Commencement Information

I51 S. 64 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(b)**

65 Defences: general

(1) Where a person is charged with an offence under section 63, it is a defence for the person to prove any of the matters mentioned in subsection (2).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The matters are—

(a) that the person had a legitimate reason for being in possession of the image concerned;

(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an extreme pornographic image;

(c) that the person—

(i) was sent the image concerned without any prior request having been made by or on behalf of the person, and

(ii) did not keep it for an unreasonable time.

(3) In this section "extreme pornographic image" and "image" have the same meanings as in section 63.

Commencement Information

I52 S. 65 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(c)**

66 Defence: participation in consensual acts

(1) This section applies where—

(a) a person ("D") is charged with an offence under section 63, and

(b) the offence relates to an image that portrays an act or acts within paragraphs (a) to (c) (but none within paragraph (d)) of subsection (7) of that section.

(2) It is a defence for D to prove—

(a) that D directly participated in the act or any of the acts portrayed, and

(b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and

(c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse.

(3) For the purposes of this section harm inflicted on a person is "non-consensual" harm if—

(a) the harm is of such a nature that the person cannot, in law, consent to it being inflicted on himself or herself; or

(b) where the person can, in law, consent to it being so inflicted, the person does not in fact consent to it being so inflicted.

Commencement Information

I53 S. 66 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(d)**

67 Penalties etc. for possession of extreme pornographic images

(1) This section has effect where a person is guilty of an offence under section 63.

(2) Except where subsection (3) applies to the offence, the offender is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine or both.

(3) If the offence relates to an image that does not portray any act within section 63(7)(a) or (b), the offender is liable—

(a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.

(4) In subsection (2)(a) or (3)(a) "the relevant period" means—

(a) in relation to England and Wales, 12 months;

(b) in relation to Northern Ireland, 6 months.

Commencement Information

I54 S. 67 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(e)**

68 Special rules relating to providers of information society services

Schedule 14 makes special provision in connection with the operation of section 63 in relation to persons providing information society services within the meaning of that Schedule.

Commencement Information

I55 S. 68 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(f)**

69 Indecent photographs of children: England and Wales

(1) The Protection of Children Act 1978 (c. 37) is amended as follows.

(2) In section 1B(1)(b) (exception for members of the Security Service)—

(a) after "Security Service" insert " or the Secret Intelligence Service ";

(b) for "the Service" substitute " that Service ".

(3) After section 7(4) (meaning of photograph), insert—

"(4A) References to a photograph also include—

(a) a tracing or other image, whether made by electronic or other means (of whatever nature)—

(i) which is not itself a photograph or pseudo-photograph, but

(ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and subsection (8) applies in relation to such an image as it applies in relation to a pseudo-photograph."

(4) In section 7(9)(b) (meaning of indecent pseudo-photograph), for "a pseudo-photograph" substitute " an indecent pseudo-photograph ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

70 Indecent photographs of children: Northern Ireland

(1) The Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) is amended as follows.

(2) In Article 2(2) (interpretation) in paragraph (b) of the definition of "indecent pseudo-photograph", for "a pseudo-photograph" substitute " an indecent pseudo-photograph ".

(3) After Article 2(2) insert—

"(2A) In this Order, references to a photograph also include—

(a) a tracing or other image, whether made by electronic or other means (of whatever nature)—

(i) which is not itself a photograph or pseudo-photograph, but

(ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and

(b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within paragraph (a);

and paragraph (3)(c) applies in relation to such an image as it applies in relation to a pseudo-photograph."

(4) In article 3A(1)(b) (exception for members of the Security Service)—

(a) after "Security Service" insert " or the Secret Intelligence Service ";

(b) for "the Service" substitute " that Service ".

71 Maximum penalty for publication etc. of obscene articles

In section 2(1)(b) of the Obscene Publications Act 1959 (c. 66) (maximum penalty on indictment for publication etc. of obscene articles) for "three years" substitute " five years ".

Commencement Information

I56 S. 71 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(g)**

Sexual offences

72 Offences committed outside the United Kingdom

(1) For section 72 of the Sexual Offences Act 2003 (c. 42) substitute—

"**72 Offences outside the United Kingdom**

(1) If—

(a) a United Kingdom national does an act in a country outside the United Kingdom, and

(b) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom national is guilty in that part of the United Kingdom of that sexual offence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If—

(a) a United Kingdom resident does an act in a country outside the United Kingdom,

(b) the act constitutes an offence under the law in force in that country, and

(c) the act, if done in England and Wales or Northern Ireland, would constitute a sexual offence to which this section applies,

the United Kingdom resident is guilty in that part of the United Kingdom of that sexual offence.

(3) If—

(a) a person does an act in a country outside the United Kingdom at a time when the person was not a United Kingdom national or a United Kingdom resident,

(b) the act constituted an offence under the law in force in that country,

(c) the act, if done in England and Wales or Northern Ireland, would have constituted a sexual offence to which this section applies, and

(d) the person meets the residence or nationality condition at the relevant time,

proceedings may be brought against the person in that part of the United Kingdom for that sexual offence as if the person had done the act there.

(4) The person meets the residence or nationality condition at the relevant time if the person is a United Kingdom national or a United Kingdom resident at the time when the proceedings are brought.

(5) An act punishable under the law in force in any country constitutes an offence under that law for the purposes of subsections (2) and (3) however it is described in that law.

(6) The condition in subsection (2)(b) or (3)(b) is to be taken to be met unless, not later than rules of court may provide, the defendant serves on the prosecution a notice—

(a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the defendant's opinion met,

(b) showing the grounds for that opinion, and

(c) requiring the prosecution to prove that it is met.

(7) But the court, if it thinks fit, may permit the defendant to require the prosecution to prove that the condition is met without service of a notice under subsection (6).

(8) In the Crown Court the question whether the condition is met is to be decided by the judge alone.

(9) In this section—

"country" includes territory;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981 is a British subject; or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) a British protected person within the meaning of that Act;

"United Kingdom resident" means an individual who is resident in the United Kingdom.

(10) Schedule 2 lists the sexual offences to which this section applies."

(2) Schedule 2 to that Act (list of sexual offences to which section 72 applies) is amended as follows.

(3) In paragraph 1 (offences under the law of England and Wales)—

(a) for paragraphs (a) and (b) substitute—

"(a) an offence under any of sections 5 to 19, 25 and 26 and 47 to 50;

(b) an offence under any of sections 1 to 4, 30 to 41 and 61 where the victim of the offence was under 18 at the time of the offence;";

(b) in paragraph (c), for "16" substitute " 18 "; and

(c) in paragraph (d), omit "in relation to a photograph or pseudo-photograph showing a child under 16".

(4) In paragraph 2 (offences under the law of Northern Ireland)—

(a) in sub-paragraph (1)(c)(iv), for "17" substitute " 18 "; and

(b) in sub-paragraph (2), for "17" substitute " 18 ".

Commencement Information

I57 S. 72 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 34**

73 Grooming and adoption

Schedule 15—

(a) amends section 15 of the Sexual Offences Act 2003 (c. 42) (meeting a child following sexual grooming etc.),

(b) amends that Act in relation to adoption, and

(c) amends the Adoption Act 1976 (c. 36) in relation to offences under sections 64 and 65 of the Sexual Offences Act 2003.

Commencement Information

I58 S. 73 partly in force; s. 73 not in force at Royal Assent; s. 73 in force for certain purposes at 8.7.2008, see s. 153(2)(e)(3)

I59 S. 73 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 35**

Hatred on the grounds of sexual orientation

74 Hatred on the grounds of sexual orientation

Schedule 16—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) amends Part 3A of the Public Order Act 1986 (c. 64) (hatred against persons on religious grounds) to make provision about hatred against a group of persons defined by reference to sexual orientation, and

(b) makes minor amendments of that Part.

Commencement Information

I60 S. 74 partly in force at Royal Assent, see s. 153(1)(j)(3)

I61 S. 74 in force at 23.3.2010 in so far as not already in force by S.I. 2010/712, **art. 2(a)**

Offences relating to nuclear material and nuclear facilities

75 Offences relating to the physical protection of nuclear material and nuclear facilities

(1) Part 1 of Schedule 17 amends the Nuclear Material (Offences) Act 1983 (c. 18) to create—

(a) further offences relating to the physical protection of nuclear material, and

(b) offences relating to the physical protection of nuclear facilities,

and makes other amendments to that Act.

(2) Part 2 of that Schedule makes related amendments to the Customs and Excise Management Act 1979 (c. 2).

Commencement Information

I62 S. 75 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(i)**

Self-defence etc.

76 Reasonable force for purposes of self-defence etc.

(1) This section applies where in proceedings for an offence—

(a) an issue arises as to whether a person charged with the offence ("D") is entitled to rely on a defence within subsection (2), and

(b) the question arises whether the degree of force used by D against a person ("V") was reasonable in the circumstances.

(2) The defences are—

(a) the common law defence of self-defence; **[**F38and**]**

[F39(aa) the common law defence of defence of property; and**]**

(b) the defences provided by section 3(1) of the Criminal Law Act 1967 (c. 58) or section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.)) (use of force in prevention of crime or making arrest).

(3) The question whether the degree of force used by D was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If D claims to have held a particular belief as regards the existence of any circumstances—

(a) the reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but

(b) if it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection (3), whether or not—

(i) it was mistaken, or

(ii) (if it was mistaken) the mistake was a reasonable one to have made.

(5) But subsection (4)(b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.

[[F40](5A) In a householder case, the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was grossly disproportionate in those circumstances.**]**

(6) **[**[F41]In a case other than a householder case,**]** the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.

[[F42](6A) In deciding the question mentioned in subsection (3), a possibility that D could have retreated is to be considered (so far as relevant) as a factor to be taken into account, rather than as giving rise to a duty to retreat.**]**

(7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—

(a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and

(b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

(8) **[**[F43]Subsection (7) is**][**[F43]Subsections (6A) and (7) are**]** not to be read as preventing other matters from being taken into account where they are relevant to deciding the question mentioned in subsection (3).

[[F44](8A) For the purposes of this section "a householder case" is a case where—

(a) the defence concerned is the common law defence of self-defence,

(b) the force concerned is force used by D while in or partly in a building, or part of a building, that is a dwelling or is forces accommodation (or is both),

(c) D is not a trespasser at the time the force is used, and

(d) at that time D believed V to be in, or entering, the building or part as a trespasser.

(8B) Where—

(a) a part of a building is a dwelling where D dwells,

(b) another part of the building is a place of work for D or another person who dwells in the first part, and

(c) that other part is internally accessible from the first part,

that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is a dwelling.

(8C) Where—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a part of a building is forces accommodation that is living or sleeping accommodation for D,

(b) another part of the building is a place of work for D or another person for whom the first part is living or sleeping accommodation, and

(c) that other part is internally accessible from the first part,

that other part, and any internal means of access between the two parts, are each treated for the purposes of subsection (8A) as a part of a building that is forces accommodation.

(8D) Subsections (4) and (5) apply for the purposes of subsection (8A)(d) as they apply for the purposes of subsection (3).

(8E) The fact that a person derives title from a trespasser, or has the permission of a trespasser, does not prevent the person from being a trespasser for the purposes of subsection (8A).

(8F) In subsections (8A) to (8C)—

"building" includes a vehicle or vessel, and

"forces accommodation" means service living accommodation for the purposes of Part 3 of the Armed Forces Act 2006 by virtue of section 96(1)(a) or (b) of that Act.**]**

(9) This section **[**[F45], except so far as making different provision for householder cases,**]** is intended to clarify the operation of the existing defences mentioned in subsection (2).

(10) In this section—

(a) "legitimate purpose" means—

(i) the purpose of self-defence under the common law, **[**[F46]or**]**

[[F47](ia) the purpose of defence of property under the common law, or**]**

(ii) the prevention of crime or effecting or assisting in the lawful arrest of persons mentioned in the provisions referred to in subsection (2)(b);

(b) references to self-defence include acting in defence of another person; and

(c) references to the degree of force used are to the type and amount of force used.

Textual Amendments

F38 Word in s. 76(2)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(2)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

F39 S. 76(2)(aa) inserted (E.W. and in relation to service offences) (14.5.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(2)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

F40 S. 76(5A) inserted (E.W. and in relation to service offences) (25.4.2013) by Crime and Courts Act 2013 (c. 22), **ss. 43(2)**, 61(11)(b)(15)(16) (with s. 43(6))

F41 Words in s. 76(6) inserted (E.W. and in relation to service offences) (25.4.2013) by Crime and Courts Act 2013 (c. 22), **ss. 43(3)**, 61(11)(b)(15)(16) (with s. 43(6))

F42 S. 76(6A) inserted (E.W. and in relation to service offences) (14.5.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(3)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

F43 Words in s. 76(8) substituted (E.W. and in relation to service offences) (14.5.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(4)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F44 S. 76(8A)-(8F) inserted (E.W. and in relation to service offences) (25.4.2013) by Crime and Courts Act 2013 (c. 22), **ss. 43(4)**, 61(11)(b)(15)(16) (with s. 43(6))

F45 Words in s. 76(9) inserted (E.W. and in relation to service offences) (25.4.2013) by Crime and Courts Act 2013 (c. 22), **ss. 43(5)**, 61(11)(b)(15)(16) (with s. 43(6))

F46 Word in s. 76(10)(a) omitted (E.W. and in relation to service offences) (14.5.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(5)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

F47 S. 76(10)(a)(ia) inserted (E.W. and in relation to service offences) (14.5.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 148(5)**, 151(1) (with ss. 148(6), 152(6)(7)); S.I. 2013/1127, art. 2

Modifications etc. (not altering text)

C2 S. 76(8B)-(8F) applied (with modifications) by Dangerous Dogs Act 1991 (c. 65), s. 3(1B) (as inserted (E.W.) (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 106(2)(b)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 6)

Commencement Information

I63 S. 76 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 36**

Unlawfully obtaining etc. personal data

77 Power to alter penalty for unlawfully obtaining etc. personal data

(1) The Secretary of State may by order provide for a person who is guilty of an offence under section 55 of the Data Protection Act 1998 (c. 29) (unlawful obtaining etc. of personal data) to be liable—

(a) on summary conviction, to imprisonment for a term not exceeding the specified period or to a fine not exceeding the statutory maximum or to both,

(b) on conviction on indictment, to imprisonment for a term not exceeding the specified period or to a fine or to both.

(2) In subsection (1)(a) and (b) "specified period" means a period provided for by the order but the period must not exceed—

(a) in the case of summary conviction, 12 months (or, in Northern Ireland, 6 months), and

(b) in the case of conviction on indictment, two years.

(3) The Secretary of State must ensure that any specified period for England and Wales which, in the case of summary conviction, exceeds 6 months is to be read as a reference to 6 months so far as it relates to an offence committed before the commencement of section 282(1) of the Criminal Justice Act 2003 (c. 44) (increase in sentencing powers of magistrates' courts from 6 to 12 months for certain offences triable either way).

(4) Before making an order under this section, the Secretary of State must consult—

(a) the Information Commissioner,

(b) such media organisations as the Secretary of State considers appropriate, and

(c) such other persons as the Secretary of State considers appropriate.

(5) An order under this section may, in particular, amend the Data Protection Act 1998.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

[F48]78 New defence for purposes of journalism and other special purposes

. . . . . .

Textual Amendments

F48 S. 78 omitted (25.5.2018) by virtue of Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 150(b)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Blasphemy

79 Abolition of common law offences of blasphemy and blasphemous libel

(1) The offences of blasphemy and blasphemous libel under the common law of England and Wales are abolished.

(2) In section 1 of the Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c. 8) (orders for seizure of copies of blasphemous or seditious libel) the words "any blasphemous libel, or" are omitted.

(3) In sections 3 and 4 of the Law of Libel Amendment Act 1888 (c. 64) (privileged matters) the words "blasphemous or" are omitted.

(4) Subsections (2) and (3) (and the related repeals in Schedule 28) extend to England and Wales only.

PART 6

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

Recognition of financial penalties: requests to other member States

80 Requests to other member States: England and Wales

(1) In Schedule 5 to the Courts Act 2003 (c. 39) (collection of fines and other sums imposed on conviction) in paragraph 38 (the range of further steps available against defaulters)—

(a) after sub-paragraph (1)(e) insert—

"(f) subject to sub-paragraph (4), issuing a certificate requesting enforcement under the Framework Decision on financial penalties;", and

(b) after sub-paragraph (3) insert—

"(4) A certificate requesting enforcement under the Framework Decision on financial penalties may only be issued where—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the sum due is a financial penalty within the meaning of section 80 of the Criminal Justice and Immigration Act 2008, and

(b) it appears to the fines officer or the court that P is normally resident, or has property or income, in a member State other than the United Kingdom.

(5) In this paragraph, references to a certificate requesting enforcement under the Framework Decision on financial penalties are to be construed in accordance with section 92(3) of the Criminal Justice and Immigration Act 2008."

(2) The designated officer for a magistrates' court may issue a certificate requesting enforcement under the Framework Decision on financial penalties where—

(a) a person is required to pay a financial penalty,

(b) the penalty is not paid in full within the time allowed for payment,

(c) there is no appeal outstanding in relation to the penalty,

(d) Schedule 5 to the Courts Act 2003 (c. 39) does not apply in relation to the enforcement of the penalty, and

(e) it appears to the designated officer that the person is normally resident in, or has property or income in, a member State other than the United Kingdom.

(3) For the purposes of subsection (2)(c), there is no appeal outstanding in relation to a financial penalty if—

(a) no appeal has been brought in relation to the imposition of the financial penalty within the time allowed for making such an appeal, or

(b) such an appeal has been brought but the proceedings on appeal have been concluded.

(4) Where the person required to pay the financial penalty is a body corporate, subsection (2)(e) applies as if the reference to the person being normally resident in a member State other than the United Kingdom were a reference to the person having its registered office in a member State other than the United Kingdom.

(5) In this section, "financial penalty" means—

(a) a fine imposed by a court in England and Wales on a person's conviction of an offence;

(b) any sum payable under a compensation order (within the meaning of section 130(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6));

(c) a surcharge under section 161A of the Criminal Justice Act 2003 (c. 44);

(d) any sum payable under any such order as is mentioned in paragraphs 1 to 9 of Schedule 9 to the Administration of Justice Act 1970 (c. 31) (orders for payment of costs);

(e) any sum payable by virtue of section 137(1) or (1A) of the Powers of Criminal Courts (Sentencing) Act 2000 (orders requiring parents to pay fines etc.);

(f) any fine or other sum mentioned in section 82(4)(b)(i) to (iv), or any fine imposed by a court in Scotland, which is enforceable in a local justice area in England and Wales by virtue of section 91 of the Magistrates' Courts Act 1980 (c. 43);

(g) any other financial penalty, within the meaning of the Framework Decision on financial penalties, specified in an order made by the Lord Chancellor.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I64 S. 80 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(a)**

81 Procedure on issue of certificate: England and Wales

(1) This section applies where—

(a) a magistrates' court or a fines officer has, under paragraph 39(3)(b) or 40 of Schedule 5 to the Courts Act 2003 (c. 39), issued a certificate requesting enforcement under the Framework Decision on financial penalties, or

(b) the designated officer for a magistrates' court has issued such a certificate under section 80(2) of this Act.

(2) The fines officer (in the case of a certificate issued by the officer) or the designated officer for the magistrates' court (in any other case) must give the Lord Chancellor the certificate, together with a certified copy of the decision requiring payment of the financial penalty.

(3) On receipt of the documents mentioned in subsection (2), the Lord Chancellor must give those documents to the central authority or competent authority of the member State in which the person required to pay the penalty appears to be normally resident or (as the case may be) to have property or income.

(4) Where a certified copy of the decision is given to the central authority or competent authority of a member State in accordance with subsection (3), no further steps to enforce the decision may be taken in England and Wales except in accordance with provision made by order by the Lord Chancellor.

(5) Where the person required to pay the financial penalty is a body corporate, subsection (3) applies as if the reference to the member State in which the person appears to be normally resident were a reference to the member State in which the person appears to have its registered office.

Commencement Information
I65 S. 81 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(b)**

82 Requests to other member States: Northern Ireland

(1) A designated officer of the **[**[F49]Department of Justice**]** may issue a certificate requesting enforcement under the Framework Decision on financial penalties where—

(a) a person is required to pay a financial penalty,

(b) the penalty is not paid in full within the time allowed for payment,

(c) there is no appeal outstanding in relation to the penalty, and

(d) it appears to the designated officer that the person is normally resident in, or has property or income in, a member State other than the United Kingdom.

(2) For the purposes of subsection (1)(c), there is no appeal outstanding in relation to a financial penalty if—

(a) no appeal has been brought in relation to the imposition of the financial penalty within the time allowed for making such an appeal, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) such an appeal has been brought but the proceedings on appeal have been concluded.

(3) Where the person required to pay the financial penalty is a body corporate, subsection (1)(d) applies as if the reference to the person being normally resident in a member State other than the United Kingdom were a reference to the person having its registered office in a member State other than the United Kingdom.

(4) In this section—

(a) "designated officer of the **[**F50Department of Justice**]**" means a **[**F51civil servant in the Department of Justice**]** designated by the **[**F52Department of Justice**]** for the purposes of this section;

(b) "financial penalty" means—

(i) a fine imposed by a court in Northern Ireland on a person's conviction of an offence;

(ii) any sum payable under a compensation order (within the meaning of Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I.1994/2795 (N.I.15));

(iii) any sum payable under an order made under section 2(1), 4(1) or 5(1) of the Costs in Criminal Cases Act (Northern Ireland) 1968 (N.I. 10) or section 41(1) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47);

(iv) any sum payable by virtue of Article 35 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9) (orders requiring parents to pay fines etc.);

(v) any fine or other sum mentioned in section 80(5)(a) to (e), or any fine imposed by a court in Scotland, which is enforceable in a petty sessions district in Northern Ireland by virtue of Article 96 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26));

(vi) any other financial penalty, within the meaning of the Framework Decision on financial penalties, specified in an order made by the **[**F53Department of Justice**]** .

Textual Amendments

F49 Words in s. 82(1) substituted (12.4.2010) by The Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 (S.R. 2010/133), art. 1, **Sch. para. 12(2)** (with arts. 5-7)

F50 Words in s. 82(4)(a) substituted (12.4.2010) by The Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 (S.R. 2010/133), art. 1, **Sch. para. 12(3)(a)** (with arts. 5-7)

F51 Words in s. 82(4)(a) substituted (12.4.2010) by The Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 (S.R. 2010/133), art. 1, **Sch. para. 12(3)(b)** (with arts. 5-7)

F52 Words in s. 82(4)(a) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 84** (with arts. 28-31)

F53 Words in s. 82(4)(b)(vi) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 84** (with arts. 28-31)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I66 S. 82 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(c)**

83 Procedure on issue of certificate: Northern Ireland

(1) This section applies where a designated officer has issued a certificate under section 82(1).

F54(2) . . . . . .

(3) **[**F55The Department of Justice must give the documents mentioned in subsection (3A)**]** to the central authority or competent authority of the member State in which the person required to pay the penalty appears to be normally resident or (as the case may be) to have property or income.

[F56(3A) The documents are—

(a) the certificate;

(b) a certified copy of the decision requiring payment of the financial penalty.**]**

(4) Where a certified copy of the decision is given to the central authority or competent authority of a member State in accordance with subsection (3), no further steps to enforce the decision may be taken in Northern Ireland except in accordance with provision made by order by the **[**F57Department of Justice**]** .

(5) Where the person required to pay the financial penalty is a body corporate, subsection (3) applies as if the reference to the member State in which the person appears to be normally resident were a reference to the member State in which the person appears to have its registered office.

Textual Amendments

F54 S. 83(2) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 85(a)** (with arts. 28-31)

F55 Words in s. 83(3) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 85(b)** (with arts. 28-31)

F56 S. 83(3A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 85(c)** (with arts. 28-31)

F57 Words in s. 83(4) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 85(d)** (with arts. 28-31)

Commencement Information

I67 S. 83 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(d)**

Recognition of financial penalties: requests from other member States

84 Requests from other member States: England and Wales

(1) This section applies where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

(ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and

(b) the financial penalty is suitable for enforcement in England and Wales (see section 91(1)).

(2) If the certificate states that the person required to pay the financial penalty is normally resident in England and Wales, the Lord Chancellor must give the documents mentioned in subsection (1)(a) to the designated officer for the local justice area in which it appears that the person is normally resident.

(3) Otherwise, the Lord Chancellor must give the documents mentioned in subsection (1)(a) to the designated officer for such local justice area as appears appropriate.

(4) Where the Lord Chancellor acts under subsection (2) or (3), the Lord Chancellor must also give the designated officer a notice—

(a) stating whether the Lord Chancellor thinks that any of the grounds for refusal apply (see section 91(2)), and

(b) giving reasons for that opinion.

(5) Where the person required to pay the financial penalty is a body corporate, subsection (2) applies as if the reference to the local justice area in which it appears that the person is normally resident were a reference to the local justice area in which it appears that the person has its registered office.

(6) Where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in subsection (1)(a), and

(b) without taking any action to enforce the financial penalty in Scotland, the central authority for Scotland gives the documents to the Lord Chancellor,

this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.

[[F58](7) Where the documents mentioned in subsection (1)(a) are given to the Lord Chancellor by the Department of Justice under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.**]**

Textual Amendments

F58 S. 84(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 86** (with arts. 28-31)

Commencement Information

I68 S. 84 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(e)**

85 Procedure on receipt of certificate by designated officer

(1) This section applies where the Lord Chancellor gives the designated officer for a local justice area—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a certificate requesting enforcement under the Framework Decision on financial penalties,

(b) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and

(c) a notice under section 84(4).

(2) The designated officer must refer the matter to a magistrates' court acting for that area.

(3) The magistrates' court must decide whether it is satisfied that any of the grounds for refusal apply (see section 91(2)).

(4) The designated officer must inform the Lord Chancellor of the decision of the magistrates' court.

(5) Subsection (6) applies unless the magistrates' court is satisfied that one or more of the grounds for refusal apply.

(6) The enactments specified in subsection (7) apply in relation to the financial penalty as if it were a sum adjudged to be paid by a conviction of the magistrates' court on the date when the court made the decision mentioned in subsection (4).

(7) The enactments specified in this subsection are—

(a) Part 3 of the Magistrates' Courts Act 1980 (c. 43) (satisfaction and enforcement);

(b) Schedules 5 and 6 to the Courts Act 2003 (c. 39) (collection of fines etc. and discharge of fines etc. by unpaid work);

(c) any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made under the enactments specified in paragraphs (a) and (b).

(8) If the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid, the reference in subsection (6) to the financial penalty is to be read as a reference to such part of the penalty as remains unpaid.

Commencement Information

I69 S. 85 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(f)**

86 Modification of Magistrates' Courts Act 1980

(1) Section 90 of the Magistrates' Courts Act 1980 is modified as follows in its application to financial penalties by virtue of section 85(6) of this Act.

(2) Subsection (1) applies as if for the words from "he is residing" to the end of that subsection there were substituted "he is residing, or has property or a source of income, in any petty sessions district in Northern Ireland—

(a) the court or the fines officer (as the case may be) may order that payment of the sum shall be enforceable in that petty sessions district, and

(b) if such an order is made, the court or the fines officer must notify the Lord Chancellor."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I70 S. 86 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(g)**

87 Requests from other member States: Northern Ireland

(1) This section applies where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the **[**[F59]Department of Justice**]** —

(i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

(ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and

(b) the financial penalty is suitable for enforcement in Northern Ireland (see section 91(1)).

(2) If the certificate states that the person required to pay the financial penalty is normally resident in Northern Ireland, the **[**[F60]Department of Justice**]** must give the documents mentioned in subsection (1)(a) to the clerk of petty sessions for the petty sessions district in which it appears that the person is normally resident.

(3) Otherwise, the **[**[F61]Department of Justice**]** must give the documents mentioned in subsection (1)(a) to the clerk of petty sessions for such petty sessions district as appears appropriate.

(4) Where the **[**[F62]Department of Justice**]** acts under subsection (2) or (3), the **[**[F62]Department of Justice**]** must also give the clerk of petty sessions a notice—

(a) stating whether the **[**[F62]Department of Justice**]** thinks that any of the grounds for refusal apply (see section 91(2)), and

(b) giving reasons for that opinion.

(5) Where the person required to pay the financial penalty is a body corporate, subsection (2) applies as if the reference to the petty sessions district in which it appears that the person is normally resident were a reference to the petty sessions district in which it appears that the person has its registered office.

(6) Where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in subsection (1)(a), and

(b) without taking any action to enforce the financial penalty in Scotland, the central authority for Scotland gives the documents to the **[**[F63]Department of Justice**]** ,

this section applies as if the competent authority or central authority of the other member State gave the documents to the **[**[F63]Department of Justice**]**

[[F64](7) Where the documents mentioned in subsection (1)(a) are given to the Department of Justice by the Lord Chancellor under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Department of Justice.**]**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F59 Words in s. 87(1) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(a)** (with arts. 28-31)

F60 Words in s. 87(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(a)** (with arts. 28-31)

F61 Words in s. 87(3) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(a)** (with arts. 28-31)

F62 Words in s. 87(4) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(a)** (with arts. 28-31)

F63 Words in s. 87(6) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(a)** (with arts. 28-31)

F64 S. 87(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 87(b)** (with arts. 28-31)

Commencement Information

I71 S. 87 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(h)**

88 Procedure on receipt of certificate by clerk of petty sessions

(1) This section applies where the **[**[F65]Department of Justice**]** gives the clerk of petty sessions for a petty sessions district—

(a) a certificate requesting enforcement under the Framework Decision on financial penalties,

(b) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and

(c) a notice under section 87(4).

(2) The clerk must refer the matter to a magistrates' court acting for the petty sessions district.

(3) The magistrates' court must decide whether it is satisfied that any of the grounds for refusal apply (see section 91(2)).

(4) The clerk must inform the **[**[F66]Department of Justice**]** of the decision of the magistrates' court.

(5) Subsection (6) applies unless the magistrates' court is satisfied that one or more of the grounds for refusal apply.

(6) Part 9 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)), and any instrument made under that Part, apply in relation to the financial penalty as if it were a sum adjudged to be paid by a conviction of the magistrates' court on the date when the court made the decision mentioned in subsection (4).

(7) If the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid, the reference in subsection (6) to the financial penalty is to be read as a reference to such part of the penalty as remains unpaid.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F65 Words in s. 88(1) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 88** (with arts. 28-31)

F66 Words in s. 88(4) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 88** (with arts. 28-31)

Commencement Information

I72 S. 88 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(i)**

89 Modification of Magistrates' Courts (Northern Ireland) Order 1981

(1) Part 9 of the Magistrates' Courts (Northern Ireland) Order 1981 is modified as follows in its application to financial penalties by virtue of section 88(6) of this Act.

(2) Article 92 applies in relation to any financial penalty for an amount exceeding £20,000 as if for paragraph (5) there were substituted—

"(5) The period for which a person may be committed to prison under this Article in default of payment or levy of any sum or part of such sum shall not exceed the maximum period which the Crown Court could have fixed under section 35(1)(c) of the Criminal Justice Act (Northern Ireland) 1945 had the financial penalty been a fine imposed by the Crown Court."

(3) For the purposes of subsection (2), if the amount of a financial penalty is specified in a currency other than sterling, that amount must be converted to sterling by reference to the London closing exchange rate on the relevant date.

(4) In subsection (3), the "relevant date" means the date on which the decision imposing the financial penalty was made.

(5) Article 95 applies as if for the words from "he is residing" in paragraph (1) to the end of that paragraph there were substituted "he is residing, or has property or a source of income, in any local justice area in England and Wales—

(a) the court may order that payment of the sum shall be enforceable in that local justice area, and

(b) if such an order is made, the court must notify the **[**F67Department of Justice**]** ."

Textual Amendments

F67 Words in s. 89(5) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 89** (with arts. 28-31)

Commencement Information

I73 S. 89 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(j)**

90 Transfer of certificates to central authority for Scotland

(1) This section applies where—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor **[**F68or the Department of Justice**]** —

(i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

(ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, but

[F69(b) the financial penalty is not suitable for enforcement in England and Wales or Northern Ireland for the purposes of section 84(1) or 87(1).**]**

(2) If the certificate states that the person is normally resident or has property or a source of income in Scotland, the **[**F70documents must be given to the central authority for Scotland—

(a) in a case to which paragraph 6 of Schedule 18 applies, by the Lord Chancellor;

(b) in a case to which paragraph 7 of Schedule 18 applies, by the Department of Justice;

(c) in any other case, by whoever was given the documents by the competent authority or central authority of the other member State**]**

Textual Amendments

F68 Words in s. 90(1)(a) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 90(a)** (with arts. 28-31)

F69 S. 90(1)(b) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 90(b)** (with arts. 28-31)

F70 Words in s. 90(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 90(c)** (with arts. 28-31)

Commencement Information

I74 S. 90 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(k)**

[F71**90A Transfer of certificates by Department of Justice to Lord Chancellor and vice versa**

(1) Subsection (2) applies where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the Department of Justice—

(i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

(ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or

(b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Department of Justice.

(2) The Department of Justice must give the documents to the Lord Chancellor if—

(a) it is a case to which paragraph 6 of Schedule 18 applies, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in England and Wales for the purposes of section 84(1).

(3) Subsection (4) applies where—

(a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—

(i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

(ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or

(b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Lord Chancellor.

(4) The Lord Chancellor must give the documents to the Department of Justice if—

(a) it is a case to which paragraph 7 of Schedule 18 applies, or

(b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in Northern Ireland for the purposes of section 87(1).**]**

Textual Amendments

F71 S. 90A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 91** (with arts. 28-31)

Recognition of financial penalties: miscellaneous

91 Recognition of financial penalties: general

(1) Schedule 18 specifies when a financial penalty is suitable for enforcement in England and Wales for the purposes of section 84(1) and when a financial penalty is suitable for enforcement in Northern Ireland for the purposes of section 87(1).

(2) Schedule 19 specifies the grounds for refusal for the purposes of sections 84(4)(a), 85(3) and (5), 87(4)(a) and 88(3) and (5).

(3) The Lord Chancellor may by order make further provision for or in connection with giving effect to the Framework Decision on financial penalties.

(4) An order under section 81(4), 83(4) or subsection (3) of this section may in particular modify, amend, repeal or revoke any provision of—

(a) any Act (including this Act and any Act passed in the same Session as this Act);

(b) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act;

(c) Northern Ireland legislation passed, or made, before the passing of this Act;

(d) any instrument made, before the passing of this Act, under Northern Ireland legislation.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F72(5) In the application of this section to Northern Ireland, in subsection (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.**]**

Textual Amendments

F72 S. 91(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 92(2)** (with arts. 28-31)

Commencement Information

I75 S. 91 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(l)**

92 Interpretation of sections 80 to 91 etc.

(1) In sections 80 to 91 and Schedules 18 and 19—

"central authority", in relation to a member State other than the United Kingdom, means an authority designated by the State as a central authority for the purposes of the Framework Decision on financial penalties;

"central authority for Scotland" means the person or body which, by virtue of an order under section 56 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (recognition of EU financial penalties), acts as the central authority in relation to Scotland for the purposes of the Framework Decision;

"competent authority", in relation to a member State, means an authority designated by the State as a competent authority for the purposes of that Decision;

[F73"Department of Justice" means the Department of Justice in Northern Ireland;**]**

"the Framework Decision on financial penalties" means the Framework Decision of the Council of the European Union made on 24 February 2005 on the application of the principle of mutual recognition to financial penalties (2005/214/JHA).

(2) In sections 84 to 91 and Schedules 18 and 19—

"decision" has the meaning given by Article 1 of the Framework Decision on financial penalties (except in sections 85(4) and 88(4));

"financial penalty" has the meaning given by that Article.

(3) References in sections 80 to 91 to a certificate requesting enforcement under the Framework Decision on financial penalties are references to such a certificate as is provided for by Article 4 of that Decision.

Textual Amendments

F73 Words in s. 92(1) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 93** (with arts. 28-31)

Commencement Information

I76 S. 92 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(m)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Repatriation of prisoners

93 Delivery of prisoner to place abroad for purposes of transfer out of the United Kingdom

In section 2(1) of the Repatriation of Prisoners Act 1984 (c. 47) (transfer out of the UK), for subsection (1) substitute—

"(1) The effect of a warrant under section 1 providing for the transfer of the prisoner out of the United Kingdom shall be to authorise—

(a) the taking of the prisoner to any place in any part of the United Kingdom, his delivery at a place of departure from the United Kingdom into the custody of an appropriate person and his removal by that person from the United Kingdom to a place outside the United Kingdom; or

(b) the taking of the prisoner to any place in any part of the United Kingdom, his removal from the United Kingdom and his delivery, at the place of arrival from the United Kingdom, into the custody of an appropriate person.

(1A) In subsection (1) "appropriate person" means a person representing the appropriate authority of the country or territory to which the prisoner is to be transferred."

Commencement Information

I77 S. 93 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 37**

94 Issue of warrant transferring responsibility for detention and release of an offender to or from the relevant Minister

After section 4 of the Repatriation of Prisoners Act 1984 (transfer into the United Kingdom) insert—

"Transfer of responsibility for detention and release of offender present outside the country or territory in which he is required to be detained

4A Issue of warrant transferring responsibility for detention and release of offender

(1) This section enables responsibility for the detention and release of a person to whom subsection (2) or (3) applies to be transferred between the relevant Minister in the United Kingdom and the appropriate authority in a country or territory outside the British Islands.

(2) A person falls within this subsection if that person—

(a) is a person to whom section 1(7) applies by virtue of—

(i) an order made in the course of the exercise by a court or tribunal in any part of the United Kingdom of its criminal jurisdiction; or

(ii) any of the provisions of this Act or any similar provisions of the law of any part of the United Kingdom; and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) is present in a country or territory outside the British Islands.

(3) A person falls within this subsection if that person—

(a) is a person to whom section 1(7) applies by virtue of —

(i) an order made in the course of the exercise by a court or tribunal in a country or territory outside the British Islands of its criminal jurisdiction; or

(ii) any provisions of the law of such a country or territory which are similar to any of the provisions of this Act; and

(b) is present in the United Kingdom.

(4) Terms used in subsection (2)(a) and (3)(a) have the same meaning as in section 1(7).

(5) Subject to the following provisions of this section, where—

(a) the United Kingdom is a party to international arrangements providing for the transfer between the United Kingdom and a country or territory outside the British Islands of responsibility for the detention and release of persons to whom subsection (2) or (3) applies,

(b) the relevant Minister and the appropriate authority of that country or territory have each agreed to the transfer under those arrangements of responsibility for the detention and release of a particular person to whom subsection (2) or (3) applies (in this Act referred to as "the relevant person"), and

(c) in a case in which the terms of those arrangements provide for the transfer of responsibility to take place only with the relevant person's consent, that consent has been given,

the relevant Minister shall issue a warrant providing for the transfer of responsibility for the detention and release of the relevant person from that Minister (where subsection (2) applies) or to that Minister (where subsection (3) applies).

(6) The relevant Minister shall not issue a warrant under this section providing for the transfer of responsibility for the detention and release of a person to the relevant Minister unless—

(a) that person is a British citizen;

(b) the transfer appears to the relevant Minister to be appropriate having regard to any close ties which that person has with the United Kingdom.

(7) The relevant Minister shall not issue a warrant under this section where, after the duty in subsection (5) has arisen, circumstances arise or are brought to his attention which in his opinion make it inappropriate that the transfer of responsibility should take place.

(8) The relevant Minister shall not issue a warrant under this section (other than one superseding an earlier warrant) unless he is satisfied that all reasonable steps have been taken to inform the relevant person in writing in his own language—

(a) of the substance, so far as relevant to the case, of the international arrangements in accordance with which it is proposed to transfer responsibility for his detention and release;

(b) of the effect in relation to the relevant person of the warrant which it is proposed to issue under this section;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) in the case of a person to whom subsection (2) applies, of the effect in relation to his case of so much of the law of the country or territory concerned as has effect with respect to transfers under those arrangements of responsibility for his detention and release;

(d) in the case of a person to whom subsection (3) applies, of the effect in relation to his case of the law relating to his detention under that warrant and subsequent release (including the effect of any enactment or instrument under which he may be released earlier than provided for by the terms of the warrant); and

(e) of the powers of the relevant Minister under section 6;

and the relevant Minister shall not issue a warrant superseding an earlier warrant under this section unless the requirements of this subsection were fulfilled in relation to the earlier warrant.

(9) A consent given for the purposes of subsection (5)(c) shall not be capable of being withdrawn after a warrant under this section has been issued in respect of the relevant person; and, accordingly, a purported withdrawal of that consent after that time shall not affect the validity of the warrant, or of any provision which by virtue of section 6 subsequently supersedes provisions of that warrant, or of any direction given in relation to the prisoner under section 4B(3).

(10) In this section "relevant Minister" means—

(a) the Scottish Ministers in a case where the person who is the subject of the proposed transfer of responsibility is—

(i) a person to whom subsection (2) applies who is for the time being required to be detained at a place in Scotland; or

(ii) a person to whom subsection (3) applies, if it is proposed that he will be detained at a place in Scotland;

(b) the Secretary of State, in any other case.

4B Transfer of responsibility from the United Kingdom

(1) The effect of a warrant under section 4A relating to a person to whom subsection (2) of that section applies shall be to transfer responsibility for the detention and release of that person from the relevant Minister (as defined in section 4A(10)) to the appropriate authority of the country or territory in which he is present.

(2) Subject to subsections (3) to (6), the order by virtue of which the relevant person is required to be detained at the time such a warrant is issued in respect of him shall continue to have effect after the transfer of responsibility so as to apply to him if he comes to be in the United Kingdom at any time when under that order he is to be, or may be, detained.

(3) If, at any time after the transfer of responsibility, it appears to the relevant Minister appropriate to do so in order that effect may be given to the international arrangements in accordance with which the transfer took place, the relevant Minister may give a direction—

(a) varying the order referred to in subsection (2); or

(b) providing for the order to cease to have effect.

(4) In subsection (3) "relevant Minister" means—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the Scottish Ministers, where Scotland is the part of the United Kingdom in which the order referred to in subsection (2) has effect; and

(b) the Secretary of State in any other case.

(5) The power by direction under subsection (3) to vary the order referred to in subsection (2) includes power by direction—

(a) to provide for how any period during which the detention and release of the relevant person is, by virtue of a warrant under section 4A, the responsibility of a country or territory outside the United Kingdom is to be treated for the purposes of the order; and

(b) to provide for the relevant person to be treated as having been released or discharged as mentioned in any paragraph of section 2(4)(b).

(6) Except in relation to any period during which a restriction order is in force in respect of the relevant person, subsection (2) shall not apply in relation to a hospital order; and, accordingly, a hospital order shall cease to have effect in relation to that person—

(a) at the time of the transfer of responsibility, if no restriction order is in force in respect of him at that time; and

(b) if at that time a restriction order is in force in respect of him, as soon after the transfer of responsibility as the restriction order ceases to have effect.

(7) In subsection (6) "hospital order" and "restriction order" have the same meaning as in section 2(6).

(8) References in this section to the order by virtue of which a person is required to be detained at the time a warrant under section 4A is issued in respect of him include references to any order by virtue of which he is required to be detained after the order by virtue of which he is required to be detained at that time ceases to have effect.

4C Transfer of responsibility to the United Kingdom

(1) The effect of a warrant under section 4A relating to a person to whom subsection (3) of that section applies shall be to transfer responsibility for the detention and release of that person to the relevant Minister (as defined in section 4A(10)) and to authorise—

(a) the taking of that person in custody to such place in any part of the United Kingdom as may be specified in the warrant, being a place at which effect may be given to the provisions contained in the warrant by virtue of paragraph (b); and

(b) the detention of that person in any part of the United Kingdom in accordance with such provisions as may be contained in the warrant, being provisions appearing to the relevant Minister to be appropriate for giving effect to the international arrangements in accordance with which responsibility for that person is transferred.

(2) A provision shall not be contained by virtue of subsection (1)(b) in a warrant under section 4A unless it satisfies the following two conditions, that is to say—

(a) it is a provision with respect to the detention of a person in a prison, a hospital or any other institution; and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) it is a provision which at the time the warrant is issued may be contained in an order made either—

(i) in the course of the exercise of its criminal jurisdiction by a court in the part of the United Kingdom in which the person is to be detained; or

(ii) otherwise than by a court but for the purpose of giving effect to an order made as mentioned in sub-paragraph (i).

(3) Section 3(3) applies for determining for the purposes of paragraph (b) of subsection (1) above what provisions are appropriate for giving effect to the international arrangements mentioned in that paragraph in a relevant person's case as it applies for the purposes of section 3(1)(c) in the case of a prisoner who is to be transferred into the United Kingdom.

(4) Subject to subsection (6) and Part 2 of the Schedule to this Act, a provision contained by virtue of subsection (1)(b) in a warrant under section 4A shall for all purposes have the same effect as the same provision contained in an order made as mentioned in sub-paragraph (i) or, as the case may be, sub-paragraph (ii) of subsection (2)(b).

(5) A provision contained by virtue of subsection (1)(b) in a warrant under section 4A shall take effect with the delivery of the relevant person to the place specified in the warrant for the purposes of subsection (1)(a).

(6) Subsection (4) shall not confer any right of appeal on the relevant person against provisions contained by virtue of subsection (1)(b) in a warrant under this section.

(7) Part 2 of the Schedule to this Act shall have effect with respect to the operation of certain enactments in relation to provisions contained by virtue of subsection (1)(b) in a warrant under section 4A.

(8) For the purposes of determining whether at any particular time any such order as is mentioned in subsection (2)(b) could have been made as so mentioned, there shall be disregarded both—

(a) any requirement that certain conditions must be satisfied before the order is made; and

(b) any restriction on the minimum period in respect of which the order may be made."

Commencement Information

I78 S. 94 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 38**

95 Powers to arrest and detain persons believed to fall within section 4A(3) of Repatriation of Prisoners Act 1984

After section 4C of the Repatriation of Prisoners Act 1984 (c. 47) (as inserted by section 94) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"Persons believed to fall within section 4A(3): powers of arrest and detention

4D Arrest and detention with a view to establishing whether a person falls within section 4A(3) etc.

(1) The Secretary of State or the Scottish Ministers may issue a certificate stating that the issuing authority—

(a) considers that there are reasonable grounds for believing that a person in the United Kingdom is a person falling within section 4A(3), and

(b) has requested written confirmation from the country or territory concerned of the details of that person's case.

(2) The issuing authority may send the certificate (with any other documents appearing to the authority to be relevant) to the appropriate judge with a view to obtaining the issue of a warrant under subsection (3).

(3) The appropriate judge may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the judge is satisfied that there are reasonable grounds for believing that the person falls within section 4A(3).

(4) The warrant may be executed anywhere in the United Kingdom by any designated person (and it is immaterial whether or not he is in possession of the warrant or a copy of it).

(5) A person arrested under this section shall, as soon as is practicable—

(a) be given a copy of the warrant for his arrest; and

(b) be brought before the appropriate judge.

(6) The appropriate judge may order that a person before him who is the subject of a certificate under this section is to be detained from the time the order is made until the end of the period of seven days beginning with the day after that on which the order is made.

(7) The purpose of an order under subsection (6) is to secure the detention of the person concerned while—

(a) written confirmation is obtained from a representative of the country or territory concerned of the details of his case;

(b) it is established whether he is a person falling within section 4A(3); and

(c) any application for an order under section 4E(6) is made in respect of him.

(8) Subject to subsection (9), a person detained under such an order may be released at any time during the period mentioned in subsection (6) and shall be released at the end of that period (if not released sooner).

(9) Subsection (8) ceases to apply to the detained person if, during that period, an order under section 4E is made in respect of him.

(10) It is immaterial for the purposes of subsection (6) whether or not the person concerned has previously been arrested under this section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

4E Arrest and detention with a view to determining whether to issue a warrant under section 4A

(1) The Secretary of State or the Scottish Ministers may issue a certificate stating that the issuing authority—

(a) considers that a person in the United Kingdom is a person falling within section 4A(3), and

(b) has received written confirmation from a representative of the country or territory concerned of the details of that person's case;

and it is immaterial for the purposes of this section whether or not the person concerned has been previously arrested or detained under section 4D.

(2) The issuing authority may send the certificate (with a copy of the written confirmation mentioned in subsection (1)(b) and any other documents appearing to that authority to be relevant) to the appropriate judge with a view to obtaining the issue of a warrant under subsection (3).

(3) The appropriate judge may, on receiving the certificate, issue a warrant for the arrest of the person concerned if the judge is satisfied that there are reasonable grounds for believing that the person falls within section 4A(3).

(4) The warrant may be executed anywhere in the United Kingdom by any designated person (and it is immaterial whether or not that person is in possession of the warrant or a copy of it).

(5) A person arrested under this section shall, as soon as is practicable—

(a) be given a copy of the warrant for his arrest; and

(b) be brought before the appropriate judge.

(6) The appropriate judge may, on the application of the Secretary of State or the Scottish Ministers, order that a person before the judge who—

(a) is the subject of a certificate under this section, and

(b) the judge is satisfied is a person falling within section 4A(3),

shall be detained from the time the order is made until the end of the period of fourteen days beginning with the day after that on which the order is made.

(7) The purpose of an order under subsection (6) is to secure the detention of the person concerned until—

(a) it is determined whether to issue a warrant under section 4A; and

(b) if so determined, such a warrant is issued.

(8) Subject to subsection (9), a person detained under such an order may be released at any time during the period mentioned in subsection (6) and shall be released at the end of that period (if not released sooner).

(9) Subsection (8) ceases to apply to the detained person if, during that period, a warrant under section 4A is issued in respect of him.

(10) It is immaterial for the purposes of subsection (6) whether or not the person concerned has previously been arrested or detained under section 4D or arrested under this section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

4F Sections 4D and 4E: supplementary provisions

(1) This section has effect for the purposes of sections 4D and 4E.

(2) A "designated person" is a person designated by the Secretary of State or the Scottish Ministers.

(3) The appropriate judge is—

(a) in England and Wales, any District Judge (Magistrates' Courts) who is designated for those purposes by the Lord Chief Justice after consulting the Lord Chancellor;

(b) in Scotland, the sheriff of Lothian and Borders; and

(c) in Northern Ireland, any county court judge or resident magistrate who is designated for those purposes by the Lord Chief Justice of Northern Ireland after consulting the Lord Chancellor.

(4) A designation under subsection (2) or (3)(a) or (c) may be made—

(a) for the purposes of section 4D or 4E (or both); and

(b) for all cases or only for cases (or cases of a description) specified in the designation.

(5) A designated person shall have all the powers, authority, protection and privileges of a constable in any part of the United Kingdom in which a person who may be arrested under section 4D or 4E is for the time being."

Commencement Information

I79 S. 95 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 39**

96 Amendments relating to Scotland

(1) The amendments of section 1 of the Repatriation of Prisoners Act 1984 (c. 47) made by section 44(2) and (3) of the Police and Justice Act 2006 (c. 48) (which amend the requirement for the prisoner's consent to any transfer to or from the United Kingdom) apply in relation to cases in which the relevant Minister for the purposes of section 1 is the Scottish Ministers as they apply in other cases.

(2) In section 2(6) of the Repatriation of Prisoners Act 1984 (transfer out of the United Kingdom) in the definition of "hospital order", after "1986" insert " or a compulsion order under section 57A of the Criminal Procedure (Scotland) Act 1995 ".

(3) In section 8(1) (interpretation etc.), before the definition of "international arrangements" insert—

""enactment" includes an enactment comprised in, or in an instrument under, an Act of the Scottish Parliament;".

Commencement Information

I80 S. 96 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 40**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Mutual legal assistance in revenue matters

97 Power to transfer functions under Crime (International Co-operation) Act 2003 in relation to direct taxation

(1) In section 27(1) of the Crime (International Co-operation) Act 2003 (c. 32) (exercise of powers by others)—

(a) in paragraph (a), for "Commissioners of Customs and Excise" substitute " Commissioners for Revenue and Customs "; and

(b) in paragraph (b), for "a customs officer" substitute " an officer of Revenue and Customs ".

(2) Paragraph 14 of Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (power under section 27(1) not applicable to former inland revenue matters etc.) ceases to have effect.

Commencement Information

I81 S. 97 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 41**

PART 7

VIOLENT OFFENDER ORDERS

Violent offender orders

98 Violent offender orders

(1) A violent offender order is an order made in respect of a qualifying offender which—

(a) contains such prohibitions, restrictions or conditions authorised by section 102 as the court making the order considers necessary for the purpose of protecting the public from the risk of serious violent harm caused by the offender, and

(b) has effect for such period of not less than 2, nor more than 5, years as is specified in the order (unless renewed or discharged under section 103).

(2) For the purposes of this Part any reference to protecting the public from the risk of serious violent harm caused by a person is a reference to protecting—

(a) the public in the United Kingdom, or

(b) any particular members of the public in the United Kingdom,

from a current risk of serious physical or psychological harm caused by that person committing one or more specified offences.

(3) In this Part "specified offence" means—

(a) manslaughter;

(b) an offence under section 4 of the Offences against the Person Act 1861 (c. 100) (soliciting murder);

(c) an offence under section 18 of that Act (wounding with intent to cause grievous bodily harm);

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) an offence under section 20 of that Act (malicious wounding);

(e) attempting to commit murder or conspiracy to commit murder; or

(f) a relevant service offence.

(4) The following are relevant service offences—

(a) any offence under—

(i) section 70 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18),

(ii) section 70 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19), or

(iii) section 42 of the Naval Discipline Act 1957 (c. 53),

of which the corresponding civil offence (within the meaning of the section in question) is an offence within any of paragraphs (a) to (e) of subsection (3) above; and

(b) any offence under section 42 of the Armed Forces Act 2006 (c. 52) as respects which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence within any of those paragraphs.

(5) Section 48 of the Armed Forces Act 2006 (c. 52) (attempts, conspiracy etc.) applies for the purposes of subsection (4)(b) as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (4)(b).

[[F74](6) The Secretary of State may by order—

(a) amend subsection (3);

(b) make consequential amendments to subsection (4).**]**

Textual Amendments

F74 S. 98(6) inserted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 119(1)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 9

Commencement Information

I82 S. 98 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(a)**

99 Qualifying offenders

(1) In this Part "qualifying offender" means a person aged 18 or over who is within subsection (2) or (4).

(2) A person is within this subsection if (whether before or after the commencement of this Part)—

(a) the person has been convicted of a specified offence and either—

(i) a custodial sentence of at least 12 months was imposed for the offence, or

(ii) a hospital order was made in respect of it (with or without a restriction order),

(b) the person has been found not guilty of a specified offence by reason of insanity and subsection (3) applies, or

(c) the person has been found to be under a disability and to have done the act charged in respect of a specified offence and subsection (3) applies.

(3) This subsection applies in the case of a person within (2)(b) or (2)(c) if the court made in respect of the offence—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a hospital order (with or without a restriction order), or

(b) a supervision order.

(4) A person is within this subsection if, under the law in force in a country outside England and Wales (and whether before or after the commencement of this Part)—

(a) the person has been convicted of a relevant offence and either—

(i) a sentence of imprisonment or other detention for at least 12 months was imposed for the offence, or

(ii) an order equivalent to that mentioned in subsection (3)(a) was made in respect of it,

(b) a court exercising jurisdiction under that law has made in respect of a relevant offence a finding equivalent to a finding that the person was not guilty by reason of insanity, and has made in respect of the offence an order equivalent to one mentioned in subsection (3), or

(c) such a court has, in respect of a relevant offence, made a finding equivalent to a finding that the person was under a disability and did the act charged in respect of the offence, and has made in respect of the offence an order equivalent to one mentioned in subsection (3).

(5) In subsection (4) "relevant offence" means an act which—

(a) constituted an offence under the law in force in the country concerned, and

(b) would have constituted a specified offence**[**[F75], or the offence of murder,**]** if it had been done in England and Wales.

(6) An act punishable under the law in force in a country outside England and Wales constitutes an offence under that law for the purposes of subsection (5) however it is described in that law.

(7) Subject to subsection (8), on an application under section 100 the condition in subsection (5)(b) (where relevant) is to be taken as met in relation to the person to whom the application relates ("P") unless, not later than rules of court may provide, P serves on the applicant a notice—

(a) denying that, on the facts as alleged with respect to the act in question, the condition is met,

(b) giving the reasons for denying that it is met, and

(c) requiring the applicant to prove that it is met.

(8) If the court thinks fit, it may permit P to require the applicant to prove that the condition is met even though no notice has been served under subsection (7).

Textual Amendments

F75 Words in s. 99(5)(b) inserted (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 119(3)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 9

Commencement Information

I83 S. 99 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(b)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

100 Applications for violent offender orders

(1) A chief officer of police may by complaint to a magistrates' court apply for a violent offender order to be made in respect of a person—

(a) who resides in the chief officer's police area, or

(b) who the chief officer believes is in, or is intending to come to, that area,

if it appears to the chief officer that the conditions in subsection (2) are met.

(2) The conditions are—

(a) that the person is a qualifying offender, and

(b) that the person has, since the appropriate date, acted in such a way as to give reasonable cause to believe that it is necessary for a violent offender order to be made in respect of the person.

(3) An application under this section may be made to any magistrates' court whose commission area includes—

(a) any part of the applicant's police area, or

(b) any place where it is alleged that the person acted in such a way as is mentioned in subsection (2)(b).

(4) The Secretary of State may by order make provision—

(a) for applications under this section to be made by such persons or bodies as are specified or described in the order;

(b) specifying cases or circumstances in which applications may be so made;

(c) for provisions of this Part to apply, in relation to the making of applications (or cases where applications are made) by any such persons or bodies, with such modifications as are specified in relation to them in the order.

(5) In this Part "the appropriate date" means the date (or, as the case may be, the first date) on which the person became a person within any of paragraphs (a) to (c) of section 99(2) or (4), whether that date fell before or after the commencement of this Part.

Commencement Information

I84 S. 100 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(c)**

101 Making of violent offender orders

(1) This section applies where an application is made to a magistrates' court under section 100 in respect of a person ("P").

(2) After hearing—

(a) the applicant, and

(b) P, if P wishes to be heard,

the court may make a violent offender order in respect of P if it is satisfied that the conditions in subsection (3) are met.

(3) The conditions are—

(a) that P is a qualifying offender, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) that P has, since the appropriate date, acted in such a way as to make it necessary to make a violent offender order for the purpose of protecting the public from the risk of serious violent harm caused by P.

(4) When deciding whether it is necessary to make such an order for that purpose, the court must have regard to whether P would, at any time when such an order would be in force, be subject under any other enactment to any measures that would operate to protect the public from the risk of such harm.

(5) A violent offender order may not be made so as to come into force at any time when P—

(a) is subject to a custodial sentence imposed in respect of any offence,

(b) is on licence for part of the term of such a sentence, or

(c) is subject to a hospital order or a supervision order made in respect of any offence.

(6) But such an order may be applied for, and made, at such a time.

Commencement Information

I85 S. 101 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(d)**

102 Provisions that orders may contain

(1) A violent offender order may contain prohibitions, restrictions or conditions preventing the offender—

(a) from going to any specified premises or any other specified place (whether at all, or at or between any specified time or times);

(b) from attending any specified event;

(c) from having any, or any specified description of, contact with any specified individual.

(2) Any of the prohibitions, restrictions or conditions contained in a violent offender order may relate to conduct in Scotland or Northern Ireland (as well as to conduct in England or Wales).

(3) The Secretary of State may by order amend subsection (1).

(4) In this section "specified" means specified in the violent offender order concerned.

Commencement Information

I86 S. 102 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(e)**

103 Variation, renewal or discharge of violent offender orders

(1) A person within subsection (2) may by complaint apply to the appropriate magistrates' court—

(a) for an order varying or discharging a violent offender order;

(b) for an order (a "renewal order") renewing a violent offender order for such period of not more than 5 years as is specified in the renewal order.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The persons are—

(a) the offender,

(b) the chief officer of police who applied for the order,

(c) (if different) the chief officer of police for the area in which the offender resides, and

(d) (if different) a chief officer of police who believes that the offender is in, or is intending to come to, his police area.

(3) The "appropriate magistrates' court" means the magistrates' court that made the order or (if different)—

(a) a magistrates' court for the area in which the offender resides, or

(b) where the application under this section is made by a chief officer of police, any magistrates' court whose commission area includes any part of the chief officer's police area.

(4) On an application under this section the appropriate magistrates' court may, after hearing—

(a) the applicant, and

(b) any other persons mentioned in subsection (2) who wish to be heard,

make such order varying, renewing or discharging the violent offender order as the court considers appropriate.

But this is subject to subsections (5) to (7).

(5) A violent offender order may only be—

(a) renewed, or

(b) varied so as to impose additional prohibitions, restrictions or conditions on the offender,

if the court considers that it is necessary to do so for the purpose of protecting the public from the risk of serious violent harm caused by the offender (and any renewed or varied order may contain only such prohibitions, restrictions or conditions as the court considers necessary for this purpose).

(6) References in subsection (5) to prohibitions, restrictions or conditions are to prohibitions, restrictions or conditions authorised by section 102.

(7) The court may not discharge the violent offender order before the end of the period of 2 years beginning with the date on which it comes into force under section 101 unless consent to its discharge is given by the offender and—

(a) where the application under this section is made by a chief officer of police, by that chief officer, or

(b) where the application is made by the offender, by the chief officer of police for the area in which the offender resides.

Commencement Information

I87 S. 103 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(f)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

104 Interim violent offender orders

(1) This section applies where an application under section 100 ("the main application") has not yet been determined.

(2) An application for an order under this section ("an interim violent offender order") may be made—

(a) by the complaint by which the main application is made, or

(b) if the main application has already been made to a court, by means of a further complaint made to that court by the person making the main application.

(3) If it appears to the court—

(a) that the person to whom the main application relates ("P") is a qualifying offender,

(b) that, if the court were determining that application, it would be likely to make a violent offender order in respect of P, and

(c) that it is desirable to act before that application is determined, with a view to securing the immediate protection of the public from the risk of serious violent harm caused by P,

the court may make an interim violent offender order in respect of P that contains such prohibitions, restrictions or conditions as it considers necessary for the purpose of protecting the public from the risk of such harm.

(4) The reference in subsection (3) to prohibitions, restrictions or conditions is to prohibitions, restrictions or conditions authorised by section 102 in the case of a violent offender order.

(5) But an interim violent offender order may not be made so as to come into force at any time when the person—

(a) is subject to a custodial sentence for any offence,

(b) is on licence for part of the term of such a sentence, or

(c) is subject to a hospital order or a supervision order made in respect of any offence.

(6) An interim violent offender order—

(a) has effect only for such period as is specified in the order, and

(b) ceases to have effect (if it has not already done so) at the appropriate time.

(7) "The appropriate time" means—

(a) if the court grants the main application, the time when a violent offender order made in pursuance of it comes into force;

(b) if the court decides not to grant the main application or it is withdrawn, the time when the court so decides or the application is withdrawn.

(8) Section 103 applies in relation to the variation or discharge of an interim violent offender order as it applies in relation to the variation or discharge of a violent offender order, but with the omission of subsection (7).

Commencement Information

I88 S. 104 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(g)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

105 Notice of applications

(1) This section applies to—

(a) any application under section 100 for a violent offender order,

(b) any application under section 104 for an interim violent offender order, and

(c) any application under section 103 for the variation, discharge or renewal of a violent offender order, or for the variation or discharge of an interim violent offender order.

(2) A magistrates' court may not begin hearing such an application unless it is satisfied that the relevant person has been given notice of—

(a) the application, and

(b) the time and place of the hearing,

a reasonable time before the hearing.

(3) In this section "the relevant person" means—

(a) the person to whom the application mentioned in subsection (1)(a) or (b) relates, or

(b) the person in respect of whom the order mentioned in subsection (1)(c) has been made,

as the case may be.

Commencement Information

I89 S. 105 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(h)**

106 Appeals

(1) A person in respect of whom—

(a) a violent offender order, or

(b) an interim violent offender order,

has been made may appeal to the Crown Court against the making of the order.

(2) Such a person may also appeal to the Crown Court against—

(a) the making of an order under section 103, or

(b) any refusal to make such an order.

(3) On an appeal under this section, the Crown Court—

(a) may make such orders as may be necessary to give effect to its determination of the appeal; and

(b) may also make such incidental or consequential orders as appear to it to be just.

(4) For the purposes of section 103(3) an order made by the Crown Court on an appeal made by virtue of subsection (1) or (2) is to be treated as if made by the court from which the appeal was brought.

Commencement Information

I90 S. 106 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(i)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Notification requirements

107 Offenders subject to notification requirements

(1) References in this Part to an offender subject to notification requirements are references to an offender who is for the time being subject to—

(a) a violent offender order, or

(b) an interim violent offender order,

which is in force under this Part.

(2) Subsection (1) has effect subject to section 110(7) (which excludes from section 110 an offender subject to an interim violent offender order).

Commencement Information

I91 S. 107 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(j)**

108 Notification requirements: initial notification

(1) An offender subject to notification requirements must notify the required information to the police within the period of 3 days beginning with the date on which—

(a) the violent offender order, or

(b) the interim violent offender order,

comes into force in relation to the offender ("the relevant date").

(2) The "required information" is the following information about the offender—

(a) date of birth;

(b) national insurance number;

(c) name on the relevant date or, if the offender used two or more names on that date, each of those names;

(d) home address on the relevant date;

(e) name on the date on which the notification is given or, if the offender used two or more names on that date, each of those names;

(f) home address on the date on which the notification is given;

(g) the address of any other premises in the United Kingdom at which on that date the offender regularly resides or stays;

(h) any prescribed information.

(3) In subsection (2)(h) "prescribed" means prescribed by regulations made by the Secretary of State.

(4) When determining the period of 3 days mentioned in subsection (1), there is to be disregarded any time when the offender is—

(a) remanded in or committed to custody by an order of a court or kept in service custody;

(b) serving a sentence of imprisonment or a term of service detention;

(c) detained in a hospital; or

(d) outside the United Kingdom.

(5) In this Part "home address" means in relation to the offender—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the address of the offender's sole or main residence in the United Kingdom, or

(b) if the offender has no such residence, the address or location of a place in the United Kingdom where the offender can regularly be found or, if there is more than one such place, such one of them as the offender selects.

Commencement Information

I92 S. 108 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(k)**

109 Notification requirements: changes

(1) An offender subject to notification requirements must notify to the police—

(a) the required new information, and

(b) the information mentioned in section 108(2),

within the period of 3 days beginning with the date on which any notifiable event occurs.

(2) A "notifiable event" means—

(a) the use by the offender of a name which has not been notified to the police under section 108 or this section;

(b) any change of the offender's home address;

(c) the expiry of any qualifying period during which the offender has resided or stayed at any premises in the United Kingdom the address of which has not been notified to the police under section 108 or this section,

(d) any prescribed change of circumstances, or

(e) the release of the offender from custody pursuant to an order of a court or from imprisonment, service detention or detention in a hospital.

(3) The "required new information" is—

(a) the name referred to in subsection (2)(a),

(b) the new home address (see subsection (2)(b)),

(c) the address of the premises referred to in subsection (2)(c),

(d) the prescribed details, or

(e) the fact that the offender has been released as mentioned in subsection (2)(e),

as the case may be.

(4) A notification under subsection (1) may be given before the notifiable event occurs, but in that case the offender must also specify the date when the event is expected to occur.

(5) If a notification is given in accordance with subsection (4) and the event to which it relates occurs more than 2 days before the date specified, the notification does not affect the duty imposed by subsection (1).

(6) If a notification is given in accordance with subsection (4) and the event to which it relates has not occurred by the end of the period of 3 days beginning with the date specified—

(a) the notification does not affect the duty imposed by subsection (1), and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the offender must, within the period of 6 days beginning with the date specified, notify to the police the fact that the event did not occur within the period of 3 days beginning with the date specified.

(7) Section 108(4) applies to the determination of—

(a) any period of 3 days for the purposes of subsection (1), or

(b) any period of 6 days for the purposes of subsection (6),

as it applies to the determination of the period of 3 days mentioned in section 108(1).

(8) In this section—

(a) "prescribed change of circumstances" means any change—

(i) occurring in relation to any matter in respect of which information is required to be notified by virtue of section 108(2)(h), and

(ii) of a description prescribed by regulations made by the Secretary of State;

(b) "the prescribed details", in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed.

(9) In this section "qualifying period" means—

(a) a period of 7 days, or

(b) two or more periods, in any period of 12 months, which taken together amount to 7 days.

Commencement Information

I93 S. 109 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(l)**

110 Notification requirements: periodic notification

(1) An offender subject to notification requirements must, within the applicable period after each notification date, notify to the police the information mentioned in section 108(2), unless the offender has already given a notification under section 109(1) within that period.

(2) A "notification date" means, in relation to the offender, the date of any notification given by the offender under section 108(1) or 109(1) or subsection (1) above.

(3) Where the applicable period would (apart from this subsection) end while subsection (4) applies, that period is to be treated as continuing until the end of the period of 3 days beginning with the date on which subsection (4) first ceases to apply.

(4) This subsection applies if the offender is—

(a) remanded in or committed to custody by an order of a court or kept in service custody,

(b) serving a sentence of imprisonment or a term of service detention,

(c) detained in a hospital, or

(d) outside the United Kingdom.

(5) In this section "the applicable period" means—

(a) in any case where subsection (6) applies, such period as may be prescribed by regulations made by the Secretary of State, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in any other case, the period of one year.

(6) This subsection applies if the last home address notified by the offender under section 108(1) or 109(1) or subsection (1) above was the address or location of such a place as is mentioned in section 108(5)(b).

(7) Nothing in this section applies to an offender who is subject to an interim violent offender order.

Commencement Information
I94 S. 110 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(m)**

111 Notification requirements: travel outside United Kingdom

(1) The Secretary of State may by regulations make provision with respect to offenders subject to notification requirements, or any description of such offenders—

(a) requiring such persons, before they leave the United Kingdom, to give in accordance with the regulations a notification under subsection (2);

(b) requiring such persons, if they subsequently return to the United Kingdom, to give in accordance with the regulations a notification under subsection (3).

(2) A notification under this subsection must disclose—

(a) the date on which the offender proposes to leave the United Kingdom;

(b) the country (or, if there is more than one, the first country) to which the offender proposes to travel and the proposed point of arrival (determined in accordance with the regulations) in that country;

(c) any other information prescribed by the regulations which the offender holds about the offender's departure from or return to the United Kingdom, or about the offender's movements while outside the United Kingdom.

(3) A notification under this subsection must disclose any information prescribed by the regulations about the offender's return to the United Kingdom.

Commencement Information
I95 S. 111 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(n)**

112 Method of notification and related matters

(1) An offender gives a notification to the police under section 108(1), 109(1) or 110(1) by—

(a) attending at any police station in the offender's local police area, and

(b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.

(2) An offender giving a notification under section 109(1)—

(a) in relation to a prospective change of home address, or

(b) in relation to such premises as are mentioned in section 109(2)(c),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

may also give the notification at a police station that would fall within subsection (1)(a) above if the change of home address had already occurred or (as the case may be) the premises in question were the offender's home address.

(3) Any notification given in accordance with this section must be acknowledged; and the acknowledgement must be—

(a) in writing, and

(b) in such form as the Secretary of State may direct.

(4) Where a notification is given under section 108(1), 109(1) or 110(1), the offender must, if requested to do so by the police officer or other person mentioned in subsection (1)(b) above, allow that officer or person to—

(a) take the offender's fingerprints,

(b) photograph any part of the offender, or

(c) do both of those things,

in order to verify the offender's identity.

(5) In this section—

"local police area", in relation to the offender, means—

(a) the police area in England and Wales in which the home address is situated,

(b) in the absence of a home address in England and Wales, the police area in England and Wales in which the home address last notified is situated, or

(c) in the absence of such a home address and any such notification, the police area in which the court that made the violent offender order (or, as the case may be, the interim violent offender order) is situated;

"photograph" includes any process by means of which an image may be produced.

Commencement Information

I96 S. 112 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(o)**

Supplementary

113 Offences

(1) If a person fails, without reasonable excuse, to comply with any prohibition, restriction or condition contained in—

(a) a violent offender order, or

(b) an interim violent offender order,

the person commits an offence.

(2) If a person fails, without reasonable excuse, to comply with—

(a) section 108(1), 109(1) or (6)(b), 110(1) or 112(4), or

(b) any requirement imposed by regulations made under section 111(1),

the person commits an offence.

(3) If a person notifies to the police, in purported compliance with—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) section 108(1), 109(1) or 110(1), or
(b) any requirement imposed by regulations made under section 111(1),

any information which the person knows to be false, the person commits an offence.

(4) As regards an offence under subsection (2), so far as it relates to non-compliance with—
(a) section 108(1), 109(1) or 110(1), or
(b) any requirement imposed by regulations made under section 111(1),

a person commits such an offence on the first day on which the person first fails, without reasonable excuse, to comply with the provision mentioned in paragraph (a) or (as the case may be) the requirement mentioned in paragraph (b), and continues to commit it throughout any period during which the failure continues.

(5) But a person must not be prosecuted under subsection (2) more than once in respect of the same failure.

(6) A person guilty of an offence under this section is liable—
(a) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both;
(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

(7) In subsection (6)(a) "the relevant period" means—
(a) in relation to England and Wales and Scotland, 12 months;
(b) in relation to Northern Ireland, 6 months.

(8) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.

Commencement Information
I97 S. 113 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(p)**

114 Supply of information to Secretary of State etc.

(1) This section applies to information notified to the police under section 108(1), 109(1) or 110(1).

(2) A chief officer of police may, for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, supply information to which this section applies to—
(a) the Secretary of State, or
(b) a person providing services to the Secretary of State in connection with a relevant function,

for use for the purpose of verifying the information.

(3) In relation to information supplied to any person under subsection (2), the reference to verifying the information is a reference to—
(a) checking its accuracy by comparing it with information held—
(i) where the person is the Secretary of State, by that person in connection with the exercise of a relevant function, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) where the person is within subsection (2)(b), by that person in connection with the provision of services as mentioned there, and

(b) compiling a report of that comparison.

(4) Subject to subsection (5), the supply of information under this section is to be taken not to breach any restriction on the disclosure of information (however arising).

(5) This section does not authorise the doing of anything that contravenes the Data Protection Act 1998 (c. 29).

(6) This section does not affect any power to supply information that exists apart from this section.

(7) In this section "relevant function" means—

(a) a function relating to social security, child support, employment or training,

(b) a function relating to passports, or

(c) a function under Part 3 of the Road Traffic Act 1988 (c. 52).

Commencement Information

I98 S. 114 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(q)**

115 Supply of information by Secretary of State etc.

(1) A report compiled under section 114 may be supplied to a chief officer of police by—

(a) the Secretary of State, or

(b) a person within section 114(2)(b).

(2) Such a report may contain any information held—

(a) by the Secretary of State in connection with the exercise of a relevant function, or

(b) by a person within section 114(2)(b) in connection with the provision of services as mentioned there.

(3) Where such a report contains information within subsection (2), the chief officer to whom it is supplied—

(a) may retain the information, whether or not used for the purposes of the prevention, detection, investigation or prosecution of offences under this Part, and

(b) may use the information for any purpose related to the prevention, detection, investigation or prosecution of offences (whether or not under this Part), but for no other purpose.

(4) Subsections (4) to (7) of section 114 apply in relation to this section as they apply in relation to section 114.

Commencement Information

I99 S. 115 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(r)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

116 Information about release or transfer

(1) This section applies to an offender subject to notification requirements who is—

(a) serving a sentence of imprisonment or a term of service detention, or

(b) detained in a hospital.

(2) The Secretary of State may by regulations make provision requiring the person who is responsible for such an offender to give notice to specified persons—

(a) of the fact that that person has become responsible for the offender; and

(b) of any occasion when—

(i) the offender is released, or

(ii) a different person is to become responsible for the offender.

(3) In subsection (2) "specified persons" means persons specified, or of a description specified, in the regulations.

(4) The regulations may make provision for determining who is to be taken for the purposes of this section as being responsible for an offender.

Commencement Information

I100 S. 116 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(s)**

117 Interpretation of Part 7

(1) In this Part—

"the appropriate date" has the meaning given by section 100(5);

"country" includes territory;

"custodial sentence" means—

(a) a sentence of imprisonment, any other sentence or order mentioned in section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (as in force at any time after the passing of this Act) or any corresponding sentence or order imposed or made under any earlier enactment, or

(b) a relevant service sentence (see subsection (2) below);

"home address" has the meaning given by section 108(5);

"hospital order" means—

(a) an order under section 37 of the Mental Health Act 1983 (c. 20) or section 60 of the Mental Health Act 1959 (c. 72), or

(b) any other order providing for the admission of a person to hospital following a finding of the kind mentioned in section 99(2)(b) or (c) of this Act;

"interim violent offender order" means an order made under section 104;

"kept in service custody" means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (c. 52);

"the offender", in relation to a violent offender order or an interim violent offender order, means the person in respect of whom the order is made;

"qualifying offender" has the meaning given by section 99(1);

"restriction order" means an order under section 41 of the Mental Health Act 1983 or section 65 of the Mental Health Act 1959;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"service detention" has the meaning given by section 374 of the Armed Forces Act 2006;

"specified offence" has the meaning given by section 98(3);

"supervision order" means—

(a) a supervision order within the meaning of Schedule 1A to the Criminal Procedure (Insanity) Act 1964 (c. 84), or

(b) a supervision and treatment order within the meaning of Schedule 2 to that Act;

"violent offender order" has the meaning given by section 98(1).

(2) The following are relevant service sentences—

(a) a sentence of imprisonment passed under the Army Act 1955 (3 & 4 Eliz. 2 c. 18), the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or the Naval Discipline Act 1957 (c. 53);

(b) a sentence of custody for life, or detention, under section 71A of either of those Acts of 1955 or section 43A of that Act of 1957;

(c) a sentence under a custodial order within the meaning of—

(i) section 71AA of, or paragraph 10 of Schedule 5A to, either of those Acts of 1955, or

(ii) section 43AA of, or paragraph 10 of Schedule 4A to, that Act of 1957;

(d) a custodial sentence within the meaning of the Armed Forces Act 2006 (c. 52) (see section 374 of that Act).

(3) References in this Part to protecting the public from the risk of serious violent harm caused by a person are to be read in accordance with section 98(2).

(4) References in this Part to a finding of the kind mentioned in section 99(2)(b) or (c) or (4)(b) or (c) include references to a case where a decision on appeal is to the effect that there should have been such a finding in the proceedings concerned.

(5) References in this Part to an offender subject to notification requirements are to be read in accordance with section 107.

(6) The following expressions have the same meanings as in Part 2 of the Sexual Offences Act 2003 (c. 42) (notifications and orders)—

"detained in a hospital" (see sections 133 and 135 of that Act);

"sentence of imprisonment" (see section 131 of that Act);

and references to a person having been found to be under a disability and to have done the act charged are to be read in accordance with section 135 of that Act.

Commencement Information

I101 S. 117 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(t)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 8

ANTI-SOCIAL BEHAVIOUR

Premises closure orders

[F76]118 Closure orders: premises associated with persistent disorder or nuisance

. . . . . .

Textual Amendments

F76 S. 118 repealed (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 50** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(viii)(hh) (as renumbered (20.10.2014) by S.I. 2014/2754, arts. 1, 3(b))

Nuisance or disturbance on hospital premises

119 Offence of causing nuisance or disturbance on NHS premises

(1) A person commits an offence if—

(a) the person causes, without reasonable excuse and while on NHS premises, a nuisance or disturbance to an NHS staff member who is working there or is otherwise there in connection with work,

(b) the person refuses, without reasonable excuse, to leave the NHS premises when asked to do so by a constable or an NHS staff member, and

(c) the person is not on the NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.

(2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of this section—

(a) a person ceases to be on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself once the person has received the advice, treatment or care, and

(b) a person is not on NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself if the person has been refused the advice, treatment or care during the last 8 hours.

(4) In this section—

"English NHS premises" means—

(a) any hospital vested in, or managed by, a relevant English NHS body,

(b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant English NHS body), and

(c) the hospital grounds,

"hospital grounds" means land in the vicinity of a hospital and associated with it,

"NHS premises" means English NHS premises or Welsh NHS premises,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"NHS staff member" means a person employed by a relevant English NHS body, or a relevant Welsh NHS body, or otherwise working for such a body (whether as or on behalf of a contractor, as a volunteer or otherwise),

"relevant English NHS body" means—

(a) a National Health Service trust (see section 25 of the National Health Service Act 2006 (c. 41)), all or most of whose hospitals, establishments and facilities are situated in England,

(b) F77...

(c) an NHS foundation trust (see section 30 of that Act),

"relevant Welsh NHS body" means—

(a) a National Health Service trust (see section 18 of the National Health Service (Wales) Act 2006 (c. 42)), all or most of whose hospitals, establishments and facilities are situated in Wales, or

(b) a Local Health Board (see section 11 of that Act),

"vehicle" includes an air ambulance,

"Welsh NHS premises" means—

(a) any hospital vested in, or managed by, a relevant Welsh NHS body,

(b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, a relevant Welsh NHS body), and

(c) the hospital grounds.

Textual Amendments

F77 Words in s. 119(4) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 153**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Commencement Information

I102 S. 119(1)-(3) in force at 30.11.2009 in relation to English NHS premises by S.I. 2009/3074, **art. 3(a)**

I103 S. 119(4) in force at 1.1.2009 in relation to English NHS premises by S.I. 2008/3260, **art. 2(2)(a)**

120 Power to remove person causing nuisance or disturbance

(1) If a constable reasonably suspects that a person is committing or has committed an offence under section 119, the constable may remove the person from the NHS premises concerned.

(2) If an authorised officer reasonably suspects that a person is committing or has committed an offence under section 119, the authorised officer may—

(a) remove the person from the NHS premises concerned, or

(b) authorise an appropriate NHS staff member to do so.

(3) Any person removing another person from NHS premises under this section may use reasonable force (if necessary).

(4) An authorised officer cannot remove a person under this section or authorise another person to do so if the authorised officer has reason to believe that—

(a) the person to be removed requires medical advice, treatment or care for himself or herself, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the removal of the person would endanger the person's physical or mental health.

(5) In this section—

"appropriate NHS staff member"—

(a) in relation to English NHS premises, means an English NHS staff member, and

(b) in relation to Welsh NHS premises, means a Welsh NHS staff member,

"authorised officer"—

(a) in relation to English NHS premises, means any English NHS staff member authorised by a relevant English NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of English NHS premises, and

(b) in relation to Welsh NHS premises, means any Welsh NHS staff member authorised by a relevant Welsh NHS body to exercise the powers which are conferred by this section on an authorised officer in respect of Welsh NHS premises,

"English NHS staff member" means a person employed by a relevant English NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise),

"Welsh NHS staff member" means a person employed by a relevant Welsh NHS body or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise).

(6) Terms defined in section 119 have the same meaning in this section as in that section.

Commencement Information

I104 S. 120(1)-(4) in force at 30.11.2009 in relation to English NHS premises by S.I. 2009/3074, **art. 3(b)**

I105 S. 120(5)(6) in force at 1.1.2009 in relation to English NHS premises by S.I. 2008/3260, **art. 2(2)(b)**

121 Guidance about the power to remove etc.

(1) The appropriate national authority may from time to time prepare and publish guidance to relevant NHS bodies and authorised officers about the powers in section 120.

(2) Such guidance may, in particular, relate to—

(a) the authorisation by relevant NHS bodies of authorised officers,

(b) the authorisation by authorised officers of appropriate NHS staff members to remove persons under section 120,

(c) training requirements for authorised officers and persons authorised by them to remove persons under section 120,

(d) matters that may be relevant to a consideration by authorised officers for the purposes of section 120 of whether offences are being, or have been, committed under section 119,

(e) matters to be taken into account by authorised officers in deciding whether there is reason to believe that a person requires medical advice, treatment or care for himself or herself or that the removal of a person would endanger the person's physical or mental health,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(f) the procedure to be followed by authorised officers or persons authorised by them before using the power of removal in section 120,

(g) the degree of force that it may be appropriate for authorised officers or persons authorised by them to use in particular circumstances,

(h) arrangements for ensuring that persons on NHS premises are aware of the offence in section 119 and the powers of removal in section 120, or

(i) the keeping of records.

(3) Before publishing guidance under this section, the appropriate national authority must consult such persons as the authority considers appropriate.

(4) A relevant NHS body and an authorised officer must, when exercising functions under, or in connection with, section 120, have regard to any guidance published by the appropriate national authority under this section.

(5) In this section—

"appropriate national authority"—

(a) in relation to a relevant English NHS body and authorised officers in respect of English NHS premises, means the Secretary of State, and

(b) in relation to a relevant Welsh NHS body and authorised officers in respect of Welsh NHS premises, means the Welsh Ministers,

"appropriate NHS staff member" and "authorised officer" have the same meaning as in section 120,

"relevant NHS body" means a relevant English NHS body or a relevant Welsh NHS body.

(6) Terms defined in section 119 have the same meaning in this section as in that section.

Commencement Information

I106 S. 121(1)-(3)(5)(6) in force at 1.1.2009 in relation to English NHS premises by S.I. 2008/3260, **art. 2(2)(c)**

I107 S. 121(4) in force at 30.11.2009 in relation to English NHS premises by S.I. 2009/3074, **art. 3(c)**

122 Nuisance or disturbance on HSS premises

Schedule 21 makes provision for Northern Ireland corresponding to the provision made for England and Wales by sections 119 to 121.

Commencement Information

I108 S. 122 in force at 22.6.2009 by S.R. 2009/243, **art. 2(a)**

Anti-social behaviour orders etc. in respect of children and young persons

123 Review of anti-social behaviour orders etc.

(1) In Part 1 of the Crime and Disorder Act 1998 (c. 37) (prevention of crime and disorder) after section 1I insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"**1J Review of orders under sections 1, 1B and 1C**

(1) This section applies where—

(a) an anti-social behaviour order,

(b) an order under section 1B, or

(c) an order under section 1C,

has been made in respect of a person under the age of 17.

(2) If—

(a) the person subject to the order will be under the age of 18 at the end of a period specified in subsection (3) (a "review period"), and

(b) the term of the order runs until the end of that period or beyond,

then before the end of that period a review of the operation of the order shall be carried out.

(3) The review periods are—

(a) the period of 12 months beginning with—

(i) the day on which the order was made, or

(ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them);

(b) a period of 12 months beginning with—

(i) the day after the end of the previous review period, or

(ii) if during that period there is a supplemental order (or more than one), the date of the supplemental order (or the last of them).

(4) In subsection (3) "supplemental order" means—

(a) a further order varying the order in question;

(b) an individual support order made in relation to the order in question on an application under section 1AA(1A).

(5) Subsection (2) does not apply in relation to any review period if the order is discharged before the end of that period.

(6) A review under this section shall include consideration of—

(a) the extent to which the person subject to the order has complied with it;

(b) the adequacy of any support available to the person to help him comply with it;

(c) any matters relevant to the question whether an application should be made for the order to be varied or discharged.

(7) Those carrying out or participating in a review under this section shall have regard to any guidance issued by the Secretary of State when considering—

(a) how the review should be carried out;

(b) what particular matters should be dealt with by the review;

(c) what action (if any) it would be appropriate to take in consequence of the findings of the review.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1K Responsibility for, and participation in, reviews under section 1J

(1) A review under section 1J of an anti-social behaviour order or an order under section 1B shall be carried out by the relevant authority that applied for the order.

(2) A review under section 1J of an order under section 1C shall be carried out—

(a) (except where paragraph (b) applies) by the appropriate chief officer of police;

(b) where a relevant authority is specified under section 1C(9ZA), by that authority.

(3) A local authority, in carrying out a review under section 1J, shall act in co-operation with the appropriate chief officer of police; and it shall be the duty of that chief officer to co-operate in the carrying out of the review.

(4) The chief officer of police of a police force, in carrying out a review under section 1J, shall act in co-operation with the appropriate local authority; and it shall be the duty of that local authority to co-operate in the carrying out of the review.

(5) A relevant authority other than a local authority or chief officer of police, in carrying out a review under section 1J, shall act in co-operation with—

(a) the appropriate local authority, and

(b) the appropriate chief officer of police;

and it shall be the duty of that local authority and that chief officer to co-operate in the carrying out of the review.

(6) A chief officer of police or other relevant authority carrying out a review under section 1J may invite the participation in the review of a person or body not required by subsection (3), (4) or (5) to co-operate in the carrying out of the review.

(7) In this section—

"the appropriate chief officer of police" means the chief officer of police of the police force maintained for the police area in which the person subject to the order resides or appears to reside;

"the appropriate local authority" means the council for the local government area (within the meaning given in section 1(12)) in which the person subject to the order resides or appears to reside."

(2) In section 1(1A) of that Act (meaning of "relevant authority") for "1CA, 1E and 1F" substitute " 1C, 1CA, 1E, IF and 1K ".

(3) In section 1C of that Act (orders on conviction in criminal proceedings) after section (9) insert—

"(9ZA) An order under this section made in respect of a person under the age of 17, or an order varying such an order, may specify a relevant authority (other than the chief officer of police mentioned in section 1K(2)(a)) as being responsible for carrying out a review under section 1J of the operation of the order."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I109 S. 123 in force at 1.2.2009 by S.I. 2009/140, **art. 2(b)**

124 Individual support orders

(1) In section 1AA of the Crime and Disorder Act 1998 (c. 37) (individual support orders) for subsection (1) and the words in subsection (2) before paragraph (a) substitute—

"(1) This section applies where a court makes an anti-social behaviour order in respect of a defendant who is a child or young person when that order is made.

(1A) This section also applies where—

(a) an anti-social behaviour order has previously been made in respect of such a defendant;

(b) an application is made by complaint to the court which made that order, by the relevant authority which applied for it, for an order under this section; and

(c) at the time of the hearing of the application—

(i) the defendant is still a child or young person, and

(ii) the anti-social behaviour order is still in force.

(1B) The court must consider whether the individual support conditions are fulfilled and, if satisfied that they are, must make an individual support order.

(2) An individual support order is an order which—".

(2) In subsection (3)(a) of that section, for the words after "the kind of behaviour which led to" substitute "the making of—

(i) the anti-social behaviour order, or

(ii) an order varying that order (in a case where the variation is made as a result of further anti-social behaviour by the defendant);".

(3) In subsection (5) of that section, for "which led to the making of the anti-social behaviour order" substitute " mentioned in subsection (3)(a) above ".

(4) In section 1(1A) of that Act (meaning of "relevant authority") after "and sections" insert " 1AA, ".

(5) In section 1AB of that Act (which makes further provision about individual support orders) after subsection (5) insert—

"(5A) The period specified as the term of an individual support order made on an application under section 1AA(1A) above must not be longer than the remaining part of the term of the anti-social behaviour order as a result of which it is made."

(6) In section 1B of that Act (orders in county court proceedings) after subsection (7) insert—

"(8) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9) In their application by virtue of subsection (8), sections 1AA(1A)(b) and 1AB(6) have effect as if the words "by complaint" were omitted."

(7) In section 1C of that Act (orders on conviction in criminal proceedings) after subsection (9A) insert—

"(9AA) Sections 1AA and 1AB apply in relation to orders under this section, with any necessary modifications, as they apply in relation to anti-social behaviour orders.

(9AB) In their application by virtue of subsection (9AA), sections 1AA(1A)(b) and 1AB(6) have effect as if the words "by complaint" were omitted.

(9AC) In its application by virtue of subsection (9AA), section 1AA(1A)(b) has effect as if the reference to the relevant authority which applied for the anti-social behaviour order were a reference to the chief officer of police, or other relevant authority, responsible under section 1K(2)(a) or (b) for carrying out a review of the order under this section."

Commencement Information
I110 S. 124 in force at 1.2.2009 by S.I. 2009/140, **art. 2(c)**

Parenting contracts and parenting orders

125 Parenting contracts and parenting orders: local authorities

(1) Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities) is amended as follows.

(2) In section 29(1) (interpretation) in the definition of "local authority" for paragraphs (b) and (c) substitute—

"(aa) a district council in England;".

(3) In section 26B (parenting orders: registered social landlords)—

(a) in subsection (8), after "the local authority" insert " (or, if subsection (8A) applies, each local authority) ";

(b) after that subsection insert—

"(8A) This subsection applies if the place where the child or young person resides or appears to reside is within the area of a county council and within the area of a district council.";

(c) in subsection (10)(a), after "the local authority" insert " (or authorities) ".

(4) In section 27 (parenting orders: supplemental) for subsection (3A) substitute—

"(3A) Proceedings for an offence under section 9(7) of the 1998 Act (parenting orders: breach of requirement etc.) as applied by subsection (3)(b) above may be brought by any of the following local authorities—

(a) the local authority that applied for the order, if the child or young person, or the person alleged to be in breach, resides or appears to reside in that authority's area;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the local authority of the child or young person, if that child or young person does not reside or appear to reside in the area of the local authority that applied for the order;

(c) the local authority of the person alleged to be in breach, if that person does not reside or appear to reside in the area of the local authority that applied for the order.

(3B) For the purposes of subsection (3A)(b) and (c)—

(a) an individual's local authority is the local authority in whose area the individual resides or appears to reside; but

(b) if the place where an individual resides or appears to reside is within the area of a county council and within the area of a district council, a reference to that individual's local authority is to be read as a reference to either of those authorities."

Commencement Information

I111 S. 125 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(b)**

PART 9

POLICING

Misconduct procedures etc.

126 Police misconduct and performance procedures

(1) Part 1 of Schedule 22—

(a) amends the Police Act 1996 (c. 16) to make provision for or in connection with disciplinary and other proceedings in respect of the conduct and performance of members of police forces and special constables, and

(b) makes other minor amendments to that Act.

(2) Part 2 of that Schedule makes equivalent amendments to the Ministry of Defence Police Act 1987 (c. 4) for the purposes of the Ministry of Defence Police.

(3) Part 3 of that Schedule makes equivalent amendments to the Railways and Transport Safety Act 2003 (c. 20) for the purposes of the British Transport Police.

Commencement Information

I112 S. 126(1) in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 42**

I113 S. 126(1) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 9**

I114 S. 126(1)(3) in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(c)**

I115 S. 126(2) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(j)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

127 Investigation of complaints of police misconduct etc.

Schedule 23 amends the Police Reform Act 2002 (c. 30) to make further provision about the investigation of complaints of police misconduct and other matters.

Commencement Information

I116 S. 127 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 10**

I117 S. 127 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(d)**

Financial assistance

128 Financial assistance under section 57 of Police Act 1996

(1) After section 57(1) of the Police Act 1996 (common services: power for Secretary of State to provide and maintain etc. organisations, facilities and services which promote the efficiency or effectiveness of police) insert—

"(1A) The power conferred by subsection (1) includes power to give financial assistance to any person in connection with the provision or maintenance of such organisations, facilities and services as are mentioned in that subsection.

(1B) Financial assistance under subsection (1)—

(a) may, in particular, be given in the form of a grant, loan or guarantee or investment in a body corporate; and

(b) may be given subject to terms and conditions determined by the Secretary of State;

but any financial assistance under that subsection other than a grant requires the consent of the Treasury.

(1C) Terms and conditions imposed under subsection (1B)(b) may include terms and conditions as to repayment with or without interest.

(1D) Any sums received by the Secretary of State by virtue of terms and conditions imposed under that subsection are to be paid into the Consolidated Fund."

(2) Any loan made by the Secretary of State by virtue of section 57 of the Police Act 1996 (c. 16) and outstanding on the day on which this Act is passed is to be treated as if it were a loan made in accordance with that section as amended by subsection (1) above.

Inspection

129 Inspection of police authorities

In section 54 of the Police Act 1996 (c. 16) (appointment and functions of inspectors of constabulary) for subsection (2A) substitute—

"(2A) The inspectors of constabulary may carry out an inspection of, and report to the Secretary of State on, a police authority's performance of its functions or of any particular function or functions (including in particular its compliance with the requirements of Part 1 of the Local Government Act 1999 (best value))."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I118 S. 129 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 11**

PROSPECTIVE

PART 10

SPECIAL IMMIGRATION STATUS

Modifications etc. (not altering text)

C3 Pt. 10: power to amend conferred (28.4.2022 for specified purposes, 28.6.2022 in so far as not already in force) by Nationality and Borders Act 2022 (c. 36), **ss.**, 82(2)(k), (3)-(6), 87(1)(4)(i) 82(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 29

130 Designation

(1) The Secretary of State may designate a person who satisfies Condition 1 or 2 (subject to subsections (4) and (5)).

(2) Condition 1 is that the person—

(a) is a foreign criminal within the meaning of section 131, and

(b) is liable to deportation, but cannot be removed from the United Kingdom because of section 6 of the Human Rights Act 1998 (c. 42) (public authority not to act contrary to Convention).

(3) Condition 2 is that the person is a member of the family of a person who satisfies Condition 1.

(4) A person who has the right of abode in the United Kingdom may not be designated.

(5) The Secretary of State may not designate a person if the Secretary of State thinks that an effect of designation would breach—

(a) the United Kingdom's obligations under the Refugee Convention, [F78]...

[F78](b) . . . . . .

Textual Amendments

F78 S. 130(5)(b) and word omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **18(2)**

131 "Foreign criminal"

(1) For the purposes of section 130 "foreign criminal" means a person who—

(a) is not a British citizen, and

(b) satisfies any of the following Conditions.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Condition 1 is that section 72(2)(a) and (b) or (3)(a) to (c) of the Nationality, Immigration and Asylum Act 2002 (c. 41) applies to the person (Article 33(2) of the Refugee Convention: imprisonment for at least two years).

(3) Condition 2 is that—

(a) section 72(4)(a) or (b) of that Act applies to the person (person convicted of specified offence), and

(b) the person has been sentenced to a period of imprisonment.

(4) Condition 3 is that Article 1F of the Refugee Convention applies to the person (exclusions for criminals etc.).

(5) Section 72(6) of that Act (rebuttal of presumption under section 72(2) to (4)) has no effect in relation to Condition 1 or 2.

(6) Section 72(7) of that Act (non-application pending appeal) has no effect in relation to Condition 1 or 2.

132 Effect of designation

(1) A designated person does not have leave to enter or remain in the United Kingdom.

(2) For the purposes of a provision of the Immigration Acts and any other enactment which concerns or refers to immigration or nationality (including any provision which applies or refers to a provision of the Immigration Acts or any other enactment about immigration or nationality) a designated person—

(a) is a person subject to immigration control,

(b) is not to be treated as an asylum-seeker or a former asylum-seeker, and

(c) is not in the United Kingdom in breach of the immigration laws.

(3) Despite subsection (2)(c), time spent in the United Kingdom as a designated person may not be relied on by a person for the purpose of an enactment about nationality.

(4) A designated person—

(a) shall not be deemed to have been given leave in accordance with paragraph 6 of Schedule 2 to the Immigration Act 1971 (c. 77) (notice of leave or refusal), and

(b) may not be granted **[**[F79]immigration bail under Schedule 10 to the Immigration Act 2016.**]**

(5) Sections 134 and 135 make provision about support for designated persons and their dependants.

Textual Amendments

F79 Words in s. 132(4)(b) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 42**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

133 Conditions

(1) The Secretary of State or an immigration officer may by notice in writing impose a condition on a designated person.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A condition may relate to—

(a) residence,

(b) employment or occupation, or

(c) reporting to the police, the Secretary of State or an immigration officer.

[F80(3) If a condition is imposed under this section on a designated person, the person imposing the condition may also impose an electronic monitoring condition within the meaning of Schedule 10 to the Immigration Act 2016 on the designated person.

(3A) Paragraph 4 (electronic monitoring conditions) of that Schedule applies in relation to a condition imposed under subsection (3) as it applies to an electronic monitoring condition imposed under that Schedule.

(4) Paragraph 9(4) and (5) (bail conditions: travelling expenses) of that Schedule applies in relation to conditions imposed under subsection (2)(c) as it applies to conditions imposed under that Schedule.**]**

(5) A person who without reasonable excuse fails to comply with a condition imposed under this section commits an offence.

(6) A person who is guilty of an offence under subsection (5) shall be liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale,

(b) imprisonment for a period not exceeding 51 weeks, or

(c) both.

(7) A provision of the Immigration Act 1971 (c. 77) which applies in relation to an offence under **[**F81any provision of section 24(1)**][**F81section 24**]** of that Act (illegal entry etc.) shall also apply in relation to the offence under subsection (5) above.

(8) In the application of this section to Scotland or Northern Ireland the reference in subsection (6)(b) to 51 weeks shall be treated as a reference to six months.

Textual Amendments

F80 S. 133(3)(3A)(4) substituted for s. 133(3)(4) (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), **Sch. 10 para. 43**; S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

F81 Words in s. 133(7) substituted (28.6.2022 for specified purposes) by Nationality and Borders Act 2022 (c. 36), **ss. 40(9)**, 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 20 (with Sch. 2 para. 7)

134 Support

(1) Part VI of the Immigration and Asylum Act 1999 (c. 33) (support for asylum-seekers) shall apply in relation to designated persons and their dependants as it applies in relation to asylum-seekers and their dependants.

(2) But the following provisions of that Part shall not apply—

(a) section 96 (kinds of support),

(b) section 97(1)(b) (desirability of providing accommodation in well-supplied area),

(c) section 100 (duty to co-operate in providing accommodation),

(d) section 101 (reception zones),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(e) section 108 (failure of sponsor to maintain),

(f) section 111 (grants to voluntary organisations), and

(g) section 113 (recovery of expenditure from sponsor).

(3) Support may be provided under section 95 of the 1999 Act as applied by this section—

(a) by providing accommodation appearing to the Secretary of State to be adequate for a person's needs;

(b) by providing what appear to the Secretary of State to be essential living needs;

(c) in other ways which the Secretary of State thinks necessary to reflect exceptional circumstances of a particular case.

(4) Support by virtue of subsection (3) may not be provided wholly or mainly by way of cash unless the Secretary of State thinks it appropriate because of exceptional circumstances.

(5) Section 4 of the 1999 Act (accommodation) shall not apply in relation to designated persons.

F82(6) . . . . . .

Textual Amendments

F82 S. 134(6) repealed (2.3.2009) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 24, **Sch. 16**; S.I. 2009/415, art. 4(a)

135 Support: supplemental

(1) A reference in an enactment to Part VI of the 1999 Act or to a provision of that Part includes a reference to that Part or provision as applied by section 134 above; and for that purpose—

(a) a reference to section 96 shall be treated as including a reference to section 134(3) above,

(b) a reference to a provision of section 96 shall be treated as including a reference to the corresponding provision of section 134(3), and

(c) a reference to asylum-seekers shall be treated as including a reference to designated persons.

(2) A provision of Part VI of the 1999 Act which requires or permits the Secretary of State to have regard to the temporary nature of support shall be treated, in the application of Part VI by virtue of section 134 above, as requiring the Secretary of State to have regard to the nature and circumstances of support by virtue of that section.

F83(3) . . . . . .

(4) Any F84... instrument under Part VI of the 1999 Act—

(a) may make provision in respect of that Part as it applies by virtue of section 134 above, as it applies otherwise than by virtue of that section, or both, and

(b) may make different provision for that Part as it applies by virtue of section 134 above and as it applies otherwise than by virtue of that section.

(5) In the application of paragraph 9 of Schedule 8 to the 1999 Act (regulations: notice to quit accommodation) the reference in paragraph (2)(b) to the determination of a claim for asylum shall be treated as a reference to ceasing to be a designated person.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The Secretary of State may by order repeal, modify or disapply (to any extent) section 134(4).

F85(7) . . . . . .

Textual Amendments

F83 S. 135(3) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 288(a)** (with Sch. 5)

F84 Word in s. 135(4) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 288(b)** (with Sch. 5)

F85 S. 135(7) repealed (2.3.2009) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 15 para. 25, **Sch. 16**; S.I. 2009/415, art. 4(a)

136 End of designation

(1) Designation lapses if the designated person—

(a) is granted leave to enter or remain in the United Kingdom,

F86(b) . . . . . .

(c) leaves the United Kingdom, or

(d) is made the subject of a deportation order under section 5 of the Immigration Act 1971 (c. 77).

(2) After designation lapses support may not be provided by virtue of section 134, subject to the following exceptions.

(3) Exception 1 is that, if designation lapses under subsection (1)(a) F87..., support may be provided in respect of a period which—

(a) begins when the designation lapses, and

(b) ends on a date determined in accordance with an order of the Secretary of State.

(4) Exception 2 is that, if designation lapses under subsection (1)(d), support may be provided in respect of—

(a) any period during which an appeal against the deportation order may be brought (ignoring any possibility of an appeal out of time with permission),

(b) any period during which an appeal against the deportation order is pending, and

(c) after an appeal ceases to be pending, such period as the Secretary of State may specify by order.

Textual Amendments

F86 S. 136(1)(b) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **18(3)(a)**

F87 Words in s. 136(3) omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **18(3)(b)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

137 Interpretation: general

(1) This section applies to sections 130 to 136.

(2) A reference to a designated person is a reference to a person designated under section 130.

(3) "Family" shall be construed in accordance with section 5(4) of the Immigration Act 1971 (c. 77) (deportation: definition of "family").

(4) "Right of abode in the United Kingdom" has the meaning given by section 2 of that Act.

(5) "The Refugee Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol.

(6) "Period of imprisonment" shall be construed in accordance with section 72(11)(b)(i) and (ii) of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(7) A voucher is not cash.

(8) A reference to a pending appeal has the meaning given by section 104(1) of that Act.

(9) A reference in an enactment to the Immigration Acts includes a reference to sections 130 to 136.

PART 11

MISCELLANEOUS

Industrial action by prison officers

138 Amendment of section 127 of Criminal Justice and Public Order Act 1994

(1) Section 127 of the Criminal Justice and Public Order Act 1994 (c. 33) (inducements to prison officers to withhold services or breach discipline) is amended as follows.

(2) In subsection (1), for paragraph (a) substitute—

"(a) to take (or continue to take) any industrial action;".

(3) After subsection (1) insert—

"(1A) In subsection (1) "industrial action" means—

(a) the withholding of services as a prison officer; or

(b) any action that would be likely to put at risk the safety of any person (whether a prisoner, a person working at or visiting a prison, a person working with prisoners or a member of the public)."

(4) In subsection (4), after paragraph (a) insert—

"(aa) holds any post, other than as a chaplain or assistant chaplain, to which he has been appointed for the purposes of section 7 of the Prison Act 1952 (appointment of prison staff),".

(5) In subsection (4), after paragraph (aa) (inserted by subsection (4) above) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(b) holds any post, otherwise than as a medical officer, to which he has been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989;".

Commencement Information

I119 S. 138 partly in force; s. 138(1)-(4) in force at Royal Assent, see s. 153(1)(d)

139 Power to suspend the operation of section 127 of Criminal Justice and Public Order Act 1994

After section 127 of the Criminal Justice and Public Order Act 1994 (c. 33) insert—

"**127A Power to suspend the operation of section 127**

(1) The Secretary of State may make orders suspending, or later reviving, the operation of section 127.

(2) An order under this section may make different provision in relation to different descriptions of prison officer.

(3) The power to make orders under this section is exercisable by statutory instrument.

(4) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament."

Sex offenders

140 Disclosure of information about convictions etc. of child sex offenders to members of the public

(1) After section 327 of the Criminal Justice Act 2003 (c. 44) insert—

"**327A Disclosure of information about convictions etc. of child sex offenders to members of the public**

(1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.

(2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.

(3) The case is where the responsible authority for the area has reasonable cause to believe that—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and

(b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of protecting the particular child or children, or the children of that description, from serious harm caused by the offender.

(4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.

(5) Where the responsible authority makes a disclosure under this section—

(a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and

(b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.

(6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.

(7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.

(8) The record must include the following information—

(a) the reasons for making a decision to disclose information under this section,

(b) the reasons for making a decision not to disclose information under this section, and

(c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.

(9) Nothing in this section requires or authorises the making of a disclosure which contravenes the Data Protection Act 1998.

(10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

327B Section 327A: interpretation

(1) This section applies for the purposes of section 327A.

(2) "Child" means a person under 18.

(3) "Child sex offence" means an offence listed in Schedule 34A, whenever committed.

(4) "Child sex offender" means any person who—

(a) has been convicted of such an offence,

(b) has been found not guilty of such an offence by reason of insanity,

(c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) has been cautioned in respect of such an offence.

(5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—

(a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and

(b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).

(6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).

(7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.

(8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.

(9) In this section "cautioned", in relation to any person and any offence, means—

(a) cautioned after the person has admitted the offence, or

(b) reprimanded or warned within the meaning given by section 65 of the Crime and Disorder Act 1998.

(10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act."

(2) After Schedule 34 to that Act insert the Schedule 34A set out in Schedule 24 to this Act.

Commencement Information

I120 S. 140 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 43**

141 Sexual offences prevention orders: relevant sexual offences

(1) In section 106 of the Sexual Offences Act 2003 (c. 42) (supplemental provisions about sexual offences prevention orders), at the end insert—

"(13) Subsection (14) applies for the purposes of section 104 and this section in their application in relation to England and Wales or Northern Ireland.

(14) In construing any reference to an offence listed in Schedule 3, any condition subject to which an offence is so listed that relates—

(a) to the way in which the defendant is dealt with in respect of an offence so listed or a relevant finding (as defined by section 132(9)), or

(b) to the age of any person,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

is to be disregarded."

F88(2) . . . . . .

Textual Amendments

F88 S. 141(2) repealed (S.) (1.11.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 100(1)**, 206(1); S.S.I. 2011/354, art. 2, Sch.

Commencement Information

I121 S. 141 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 44**

142 Notification requirements: prescribed information

(1) In section 83 of the Sexual Offences Act 2003 (c. 42) (notification requirements: initial notification)—

(a) at the end of subsection (5) insert—

"(h) any prescribed information."; and

(b) after that subsection insert—

"(5A) In subsection (5)(h) "prescribed" means prescribed by regulations made by the Secretary of State."

(2) Section 84 of that Act (notification requirements: changes) is amended as follows.

(3) In subsection (1)—

(a) after "1997," in paragraph (c) insert—

"(ca) any prescribed change of circumstances,"; and

(b) after "the address of those premises" insert " , the prescribed details ".

(4) In subsection (2) after "home address" insert " or the prescribed change of circumstances ".

(5) After subsection (5) insert—

"(5A) In this section—

(a) "prescribed change of circumstances" means any change—

(i) occurring in relation to any matter in respect of which information is required to be notified by virtue of section 83(5)(h), and

(ii) of a description prescribed by regulations made by the Secretary of State;

(b) "the prescribed details", in relation to a prescribed change of circumstances, means such details of the change as may be so prescribed."

(6) Section 85 of that Act (notification requirements: periodic notification) is amended as follows.

(7) In subsection (1), for "the period of one year" substitute " the applicable period ".

(8) In subsection (3), for "the period referred to in subsection (1)" substitute " the applicable period ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9) After subsection (4) insert—

"(5) In this section, "the applicable period" means—

(a) in any case where subsection (6) applies to the relevant offender, such period as may be prescribed by regulations made by the Secretary of State, and

(b) in any other case, the period of one year.

(6) This subsection applies to the relevant offender if the last home address notified by him under section 83(1) or 84(1) or subsection (1) was the address or location of such a place as is mentioned in section 83(7)(b)."

(10) In section 138(2) of that Act (orders and regulations subject to the affirmative resolution procedure), for "86 or 130" substitute " any of sections 83 to 86 or section 130 ".

(11) This section extends to England and Wales and Northern Ireland only.

Commencement Information

I122 S. 142 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 45**

Persistent sales of tobacco to persons under 18

143 Persistent sales of tobacco to persons under 18

(1) The Children and Young Persons Act 1933 (c. 12) is amended as follows.

(2) After section 12 insert—

"Persistent sales of tobacco to persons under 18

12A Restricted premises orders

(1) This section applies where a person ("the offender") is convicted of a tobacco offence ("the relevant offence").

(2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted premises order to be made in respect of the premises in relation to which that offence was committed ("the relevant premises").

(3) A restricted premises order is an order prohibiting the sale on the premises to which it relates of any tobacco or cigarette papers to any person.

(4) The prohibition applies to sales whether made—

(a) by the offender or any other person, or

(b) by means of any machine kept on the premises or any other means.

(5) The order has effect for the period specified in the order, but that period may not exceed one year.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The applicant must, after making reasonable enquiries, give notice of the application to every person appearing to the applicant to be a person affected by it.

(7) The court may make the order if (and only if) it is satisfied that—

(a) on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences in relation to the relevant premises, and

(b) the applicant has complied with subsection (6).

(8) Persons affected by the application may make representations to the court as to why the order should not be made.

(9) If—

(a) a person affected by an application for a restricted premises order was not given notice under subsection (6), and

(b) consequently the person had no opportunity to make representations to the court as to why the order should not be made,

the person may by complaint apply to the court for an order varying or discharging it.

(10) On an application under subsection (9) the court may, after hearing—

(a) that person, and

(b) the applicant for the restricted premises order,

make such order varying or discharging the restricted premises order as it considers appropriate.

(11) For the purposes of this section the persons affected by an application for a restricted premises order in respect of any premises are—

(a) the occupier of the premises, and

(b) any other person who has an interest in the premises.

12B Restricted sale orders

(1) This section applies where a person ("the offender") is convicted of a tobacco offence ("the relevant offence").

(2) The person who brought the proceedings for the relevant offence may by complaint to a magistrates' court apply for a restricted sale order to be made in respect of the offender.

(3) A restricted sale order is an order prohibiting the person to whom it relates—

(a) from selling any tobacco or cigarette papers to any person,

(b) from having any management functions in respect of any premises in so far as those functions relate to the sale on the premises of tobacco or cigarette papers to any person,

(c) from keeping any cigarette machine on any premises for the purpose of selling tobacco or permitting any cigarette machine to be kept on any premises by any other person for that purpose, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) from having any management functions in respect of any premises in so far as those functions relate to any cigarette machine kept on the premises for the purpose of selling tobacco.

(4) The order has effect for the period specified in the order, but that period may not exceed one year.

(5) The court may make the order if (and only if) it is satisfied that, on at least 2 occasions within the period of 2 years ending with the date on which the relevant offence was committed, the offender has committed other tobacco offences.

(6) In this section any reference to a cigarette machine is a reference to an automatic machine for the sale of tobacco.

12C Enforcement

(1) If—

(a) a person sells on any premises any tobacco or cigarette papers in contravention of a restricted premises order, and

(b) the person knew, or ought reasonably to have known, that the sale was in contravention of the order,

the person commits an offence.

(2) If a person fails to comply with a restricted sale order, the person commits an offence.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding £20,000.

(5) A restricted premises order is a local land charge and in respect of that charge the applicant for the order is the originating authority for the purposes of the Local Land Charges Act 1975.

12D Interpretation

(1) In sections 12A and 12B a "tobacco offence" means—

(a) an offence committed under section 7(1) on any premises (which are accordingly "the premises in relation to which the offence is committed"), or

(b) an offence committed under section 7(2) in respect of an order relating to any machine kept on any premises (which are accordingly "the premises in relation to which the offence is committed").

(2) In sections 12A to 12C the expressions "tobacco" and "cigarette" have the same meaning as in section 7.

(3) In sections 12A and 12B "notice" means notice in writing."

(3) In section 102(1) (appeals to the Crown Court), after paragraph (e) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(f) in the case of a restricted premises order under section 12A or a restricted sale order under section 12B, by any person aggrieved."

Commencement Information
I123 S. 143 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(c)**

Penalties for serious contraventions of data protection principles

144 Power to require data controllers to pay monetary penalty

(1) After section 55 of the Data Protection Act 1998 (c. 29) insert—

"Monetary penalties

55A Power of Commissioner to impose monetary penalty

(1) The Commissioner may serve a data controller with a monetary penalty notice if the Commissioner is satisfied that—
  (a) there has been a serious contravention of section 4(4) by the data controller,
  (b) the contravention was of a kind likely to cause substantial damage or substantial distress, and
  (c) subsection (2) or (3) applies.

(2) This subsection applies if the contravention was deliberate.

(3) This subsection applies if the data controller—
  (a) knew or ought to have known —
    (i) that there was a risk that the contravention would occur, and
    (ii) that such a contravention would be of a kind likely to cause substantial damage or substantial distress, but
  (b) failed to take reasonable steps to prevent the contravention.

(4) A monetary penalty notice is a notice requiring the data controller to pay to the Commissioner a monetary penalty of an amount determined by the Commissioner and specified in the notice.

(5) The amount determined by the Commissioner must not exceed the prescribed amount.

(6) The monetary penalty must be paid to the Commissioner within the period specified in the notice.

(7) The notice must contain such information as may be prescribed.

(8) Any sum received by the Commissioner by virtue of this section must be paid into the Consolidated Fund.

(9) In this section—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"data controller" does not include the Crown Estate Commissioners or a person who is a data controller by virtue of section 63(3);

"prescribed" means prescribed by regulations made by the Secretary of State.

55B Monetary penalty notices: procedural rights

(1) Before serving a monetary penalty notice, the Commissioner must serve the data controller with a notice of intent.

(2) A notice of intent is a notice that the Commissioner proposes to serve a monetary penalty notice.

(3) A notice of intent must—

(a) inform the data controller that he may make written representations in relation to the Commissioner's proposal within a period specified in the notice, and

(b) contain such other information as may be prescribed.

(4) The Commissioner may not serve a monetary penalty notice until the time within which the data controller may make representations has expired.

(5) A person on whom a monetary penalty notice is served may appeal to the Tribunal against—

(a) the issue of the monetary penalty notice;

(b) the amount of the penalty specified in the notice.

(6) In this section, "prescribed" means prescribed by regulations made by the Secretary of State.

55C Guidance about monetary penalty notices

(1) The Commissioner must prepare and issue guidance on how he proposes to exercise his functions under sections 55A and 55B.

(2) The guidance must, in particular, deal with—

(a) the circumstances in which he would consider it appropriate to issue a monetary penalty notice, and

(b) how he will determine the amount of the penalty.

(3) The Commissioner may alter or replace the guidance.

(4) If the guidance is altered or replaced, the Commissioner must issue the altered or replacement guidance.

(5) The Commissioner may not issue guidance under this section without the approval of the Secretary of State.

(6) The Commissioner must lay any guidance issued under this section before each House of Parliament.

(7) The Commissioner must arrange for the publication of any guidance issued under this section in such form and manner as he considers appropriate.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) In subsections (5) to (7), "guidance" includes altered or replacement guidance.

55D Monetary penalty notices: enforcement

(1) This section applies in relation to any penalty payable to the Commissioner by virtue of section 55A.

(2) In England and Wales, the penalty is recoverable—

(a) if a county court so orders, as if it were payable under an order of that court;

(b) if the High Court so orders, as if it were payable under an order of that court.

(3) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(4) In Northern Ireland, the penalty is recoverable—

(a) if a county court so orders, as if it were payable under an order of that court;

(b) if the High Court so orders, as if it were payable under an order of that court.

55E Notices under sections 55A and 55B: supplemental

(1) The Secretary of State may by order make further provision in connection with monetary penalty notices and notices of intent.

(2) An order under this section may in particular—

(a) provide that a monetary penalty notice may not be served on a data controller with respect to the processing of personal data for the special purposes except in circumstances specified in the order;

(b) make provision for the cancellation or variation of monetary penalty notices;

(c) confer rights of appeal to the Tribunal against decisions of the Commissioner in relation to the cancellation or variation of such notices;

(d) make provision for the proceedings of the Tribunal in respect of appeals under section 55B(5) or appeals made by virtue of paragraph (c);

(e) make provision for the determination of such appeals;

(f) confer rights of appeal against any decision of the Tribunal in relation to monetary penalty notices or their cancellation or variation.

(3) An order under this section may apply any provision of this Act with such modifications as may be specified in the order.

(4) An order under this section may amend this Act."

(2) In section 67 of that Act (orders, regulations, rules)—

(a) in subsection (4) insert at the appropriate place— " section 55E(1), "; and

(b) in subsection (5) after paragraph (c) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(ca) regulations under section 55A(5) or (7) or 55B(3)(b),".

Commencement Information
I124 S. 144(1) in force at 1.10.2009 for specified purposes by S.I. 2009/2606, **art. 2(n)**
I125 S. 144(1) in force at 6.4.2010 in so far as not already in force by S.I. 2010/712, **art. 4**
I126 S. 144(2) in force at 1.10.2009 by S.I. 2009/2606, **art. 2(o)**

Armed forces legislation

145 Amendments to armed forces legislation

Schedule 25 contains—

(a) amendments to armed forces legislation (which make provision for service courts etc. corresponding to other provisions of this Act); and

(b) transitional provision relating to certain of those amendments.

Commencement Information
I127 S. 145 in force at 31.10.2009 for specified purposes by S.I. 2009/1028, **art. 2**
I128 S. 145 in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(d)**

Automatic deportation of criminals

146 Convention against human trafficking

After section 33(6) of the UK Borders Act 2007 (automatic deportation: exceptions) insert—

"(6A) Exception 6 is where the Secretary of State thinks that the application of section 32(4) and (5) would contravene the United Kingdom's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings (done at Warsaw on 16th May 2005)."

Commencement Information
I129 S. 146 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(d)**

PART 12

GENERAL

147 Orders, rules and regulations

(1) Orders, rules or regulations made by the Secretary of State or the Lord Chancellor under this Act are to be made by statutory instrument.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F89(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.**]**

(2) Any **[**F90orders or regulations falling within subsection (1) or (1A)**]** —

(a) may make provision generally or only for specified cases or circumstances;

(b) may make different provision for different cases, circumstances or areas;

(c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.

(3) Subject to subsection (4), a statutory instrument containing any order or regulations under this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsection (3) does not apply to—

(a) a statutory instrument containing an order under section 153,

(b) a statutory instrument containing an order under paragraph 26(5) of Schedule 1,

(c) a statutory instrument containing an Order in Council under paragraph 9 of Schedule 17, or

(d) a statutory instrument to which subsection (5) applies.

(5) A statutory instrument containing (whether alone or with other provision)—

(a) an order under section 4(3),

(b) an order under section 48(2),

(c) an order under section 77,

(d) an order under section 81(4)F91... or 91(3) which amends or repeals any provision of an Act,

[F92(da) an order under section 98(6),**]**

(e) an order under section 102,

(f) regulations under any of sections 108 to 111,

(g) an order under section 135(6),

(h) an order under section 148(3) which amends or repeals any provision of an Act,

(i) an order under paragraph 27 or 35 of Schedule 1,

(j) an order under paragraph 25 of Schedule 2,

(k) rules under paragraph 2(4)(a) of Schedule 6, or

(l) an order under paragraph 6 of Schedule 7,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

[F93(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.**]**

(6) An order under section 153(5)(b) is to be made by statutory instrument.

(7) An order under section 153(6) is to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

Textual Amendments

F89 S. 147(1A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 94(a)** (with arts. 28-31)

F90 Words in s. 147(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 94(b)** (with arts. 28-31)

F91 Words in s. 147(5)(d) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 94(c)** (with arts. 28-31)

F92 S. 147(5)(da) inserted (E.W.) (13.5.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 119(2)**, 185(1); S.I. 2014/949, art. 3, Sch. para. 9

F93 S. 147(5A)-(5C) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 94(d)** (with arts. 28-31)

148 Consequential etc. amendments and transitional and saving provision

(1) Schedule 26 contains minor and consequential amendments.

(2) Schedule 27 contains transitory, transitional and saving provisions.

(3) The Secretary of State may by order make—

(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision,

as the Secretary of State considers appropriate for the general purposes, or any particular purposes, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(4) An order under subsection (3) may, in particular—

(a) provide for any amendment or other provision made by this Act which comes into force before any other provision (whether made by this or any other Act or by any subordinate legislation) has come into force to have effect, until that other provision has come into force, with specified modifications, and

(b) amend, repeal or revoke any provision of—

(i) any Act (including this Act and any Act passed in the same Session as this Act);

(ii) subordinate legislation made before the passing of this Act;

(iii) Northern Ireland legislation passed, or made, before the passing of this Act; and

(iv) any instrument made, before the passing of this Act, under Northern Ireland legislation.

(5) Nothing in this section limits the power under section 153(8) to include provision for transitory, transitional or saving purposes in an order under that section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) The amendments that may be made by virtue of subsection (4)(b) are in addition to those made by or which may be made under any other provision of this Act.

(7) In this section "subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30).

(8) Her Majesty may by Order in Council extend any provision made by virtue of subsection (4)(b), with such modifications as may appear to Her Majesty to be appropriate, to the Isle of Man or any British overseas territory.

(9) The power under subsection (8) includes power to make supplementary, incidental, consequential, transitory, transitional or saving provision.

(10) Subsection (8) does not apply in relation to amendments of the Armed Forces Act 2006 (c. 52).

Commencement Information

I130 S. 148(1) in force at Royal Assent for specified purposes, see s. 153(1)(a)(k)(3) and in force for further specified purposes at 8.7.2008, see s. 153(2)(b)(c)(3); s. 148(2) in force for specified purposes at 8.7.2008, see s. 153(2)(f)(3); s. 148(3)-(7) in force at Royal Assent, see s. 153(1)(f)

I131 S. 148(1)(2) in force at 9.6.2008 for specified purposes by S.I. 2008/1466, **art. 2(b)**

I132 S. 148(1)(2) in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 46**

I133 S. 148(1) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 12**

I134 S. 148(1)(2) in force at 26.1.2009 for specified purposes by S.I. 2008/2993, **art. 2(2)(h)**

I135 S. 148(1) in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(d)**

I136 S. 148(1) in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **arts. 2(a)**, 3(a)

I137 S. 148(1) in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(e)**

I138 S. 148(1)(2) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(b)**(2)

I139 S. 148(1) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(3)**

I140 S. 148(1)(2) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(k)**

I141 S. 148(1) in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(b)**

I142 S. 148(1) in force at 1.4.2010 for specified purposes by S.I. 2010/712, **art. 3(a)**

I143 S. 148(1) in force at 8.4.2013 by S.I. 2013/616, **art. 2(a)**

I144 S. 148(2) in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(e)**

I145 S. 148(2) in force at 19.12.2008 for specified purposes by S.I. 2008/3260, **art. 2(1)(c)**

I146 S. 148(2) in force at 1.2.2009 for specified purposes by S.I. 2009/140, **art. 2(d)**

I147 S. 148(2) in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(e)**

I148 S. 148(2) in force at 3.8.2009 for specified purposes by S.I. 2009/1842, **art. 2(u)**

I149 S. 148(2) in force at 1.10.2009 for specified purposes by S.I. 2009/2606, **art. 2(p)**

149 Repeals and revocations

Schedule 28 contains repeals and revocations, including repeals of spent enactments.

Commencement Information

I150 S. 149 partly in force; s. 149 in force for specified purposes at Royal Assent, see s. 153(1)(a)(j)(3) and in force for certain further purposes at 8.7.2008, see s. 153(2)(a)(d)(3)

I151 S. 149 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 46**

I152 S. 149 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 13**

I153 S. 149 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(f)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

I154 S. 149 in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(f)**
I155 S. 149 in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(e)**
I156 S. 149 in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(f)**
I157 S. 149 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(l)**
I158 S. 149 in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(c)**

150 Financial provisions

There is to be paid out of money provided by Parliament—

(a) any expenditure incurred by virtue of this Act by a Minister of the Crown; and

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

151 Effect of amendments to criminal justice provisions applied for purposes of service law

(1) In this section "relevant criminal justice provisions" means provisions of, or made under, an Act which—

(a) relate to criminal justice; and

(b) have been applied (with or without modifications) for any purposes of service law by any provision of, or made under, any Act.

(2) Unless the contrary intention appears, any amendment by this Act of relevant criminal justice provisions also amends those provisions as so applied.

(3) Subsection (2) does not apply to any amendments made by Part 1.

(4) In this section "service law" means—

(a) the system of service law established by the Armed Forces Act 2006 (c. 52); or

(b) any of the systems of service law superseded by that Act (namely, military law, air force law and the Naval Discipline Act 1957 (c. 53)).

Commencement Information
I159 S. 151 in force at 31.10.2009 by S.I. 2009/2606, **art. 3(g)**

152 Extent

(1) Subject as follows and to any other provision of this Act, this Act extends to England and Wales only.

(2) The following provisions of this Act extend to England and Wales, Scotland and Northern Ireland—

(a) section 77;

(b) section 96;

(c) section 113 (together with such of the other provisions of Part 7 as relate to the commission of offences under that section);

(d) Part 10;

(e) this Part (subject to subsection (5)).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The following provisions of this Act extend to England and Wales and Northern Ireland—

(a) section 3 and Schedule 3;

(b) section 39(3) and (6)(d) and paragraph 7 of Schedule 7;

(c) sections 63 to 68 and Schedule 14;

(d) section 76;

(e) section 85(6) and (7) (so far as relating to any provision of Part 3 of the Magistrates' Courts Act 1980 which extends to Northern Ireland);

(f) sections 86 and 90 to 92 and Schedules 18 and 19.

(4) The following provisions of this Act extend to Northern Ireland only—

(a) sections 82 and 83;

(b) sections 87 to 89;

(c) section 122 and Schedule 21.

(5) Except as otherwise provided by this Act, an amendment, repeal or revocation of any enactment by any provision of this Act extends to the part or parts of the United Kingdom to which the enactment extends.

(6) The following amendments and repeals also extend to the Channel Islands and the Isle of Man—

(a) the amendments of sections 26 and 70(1) of the Children and Young Persons Act 1969 (c. 54) (transfers between England or Wales and the Channel Islands or Isle of Man) made by Schedule 4, and

(b) the repeals in Part 1 of Schedule 28 relating to those amendments.

(7) In section 7(2) of the Nuclear Material (Offences) Act 1983 (c. 18) (application to Channel Islands, Isle of Man, etc.) the reference to that Act includes a reference to that Act as amended by Schedule 17.

(8) In section 9(4) of the Repatriation of Prisoners Act 1984 (c. 47) (power to extend provisions of that Act to the Channel Islands etc.) the reference to that Act includes a reference to that Act as amended by any provision of this Act.

(9) In section 384 of the Armed Forces Act 2006 (c. 52) (extent to Channel Islands, Isle of Man, etc.) any reference to that Act includes a reference to—

(a) that Act as amended by or under any provision of this Act,

(b) section 151, and

(c) paragraph 34 of Schedule 25.

(10) Nothing in this section restricts the operation of section 76 and paragraph 27 of Schedule 27 in their application in relation to service offences (within the meaning of that paragraph).

153 Commencement

(1) The following provisions of this Act come into force on the day on which this Act is passed—

(a) section 53, Schedule 13, paragraph 77 of Schedule 26 and the repeals in Part 4 of Schedule 28 relating to—

(i) paragraphs 13 and 22 of Schedule 3 to the Criminal Justice Act 2003 (c. 44), and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) Part 4 of Schedule 37 to that Act;

(b) section 77;

(c) section 128;

(d) sections 138(1) to (4) and 139;

(e) section 147;

(f) section 148(3) to (7);

(g) sections 150 and 152;

(h) this section;

(i) section 154;

(j) paragraphs 6(3) and 12 to 16 of Schedule 16 and the repeals in Part 5 of Schedule 28 relating to Part 3A of the Public Order Act 1986 (c. 64);

(k) paragraphs 35 to 39 of Schedule 26.

(2) The following provisions of this Act come into force at the end of the period of 2 months beginning with the day on which it is passed—

(a) section 62 and the related repeal in Part 4 of Schedule 28;

(b) section 69 and paragraph 24 of Schedule 26;

(c) section 70 and paragraph 25 of Schedule 26;

(d) section 79 and the related repeals in Part 5 of Schedule 28;

(e) paragraphs 2 to 7 of Schedule 15;

(f) paragraph 24 of Schedule 27.

(3) Where any particular provision or provisions of a Schedule come into force in accordance with subsection (1) or (2), the section introducing the Schedule also comes into force in accordance with that subsection so far as relating to the particular provision or provisions.

(4) The following provisions come into force on such day as the Lord Chancellor may by order appoint—

(a) section 19;

(b) section 41;

(c) sections 56 to 58;

(d) sections 80 to 92 and Schedules 18 and 19;

(e) paragraph 29 of Schedule 27.

(5) Sections 119 to 121 come into force—

(a) in relation to English NHS premises, on such day as the Secretary of State may by order appoint, and

(b) in relation to Welsh NHS premises, on such day as the Welsh Ministers may by order appoint.

(6) Section 122 and Schedule 21 come into force on such day as the Department of Health, Social Services and Public Safety may by order appoint.

(7) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.

(8) An order under any of subsections (4) to (7) may—

(a) appoint different days for different purposes and in relation to different areas;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) make such provision as the person making the order considers necessary or expedient for transitory, transitional or saving purposes in connection with the coming into force of any provision falling within that subsection.

154 Short title

This Act may be cited as the Criminal Justice and Immigration Act 2008.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Section 1

FURTHER PROVISIONS ABOUT YOUTH REHABILITATION ORDERS

PART 1

PROVISIONS TO BE INCLUDED IN YOUTH REHABILITATION ORDERS

Imposition of requirements

1 Subsection (1) of section 1 has effect subject to the following provisions of Part 2 of this Schedule which relate to particular requirements—

(a) paragraph 8(3) and (4) (activity requirement),
(b) paragraph 10(3) (unpaid work requirement),
(c) paragraph 11(3) and (4) (programme requirement),
(d) paragraph 12(3) (attendance centre requirement),
(e) paragraph 13(2) (prohibited activity requirement),
(f) paragraph 16(2), (4) and (7) (residence requirement),
(g) paragraphs 17(3) and (4) and 19 (local authority residence requirement),
(h) paragraph 20(3) (mental health treatment requirement),
(i) paragraph 22(2) and (4) (drug treatment requirement),
(j) paragraph 23(3) (drug testing requirement),
(k) paragraph 24(2) and (4) (intoxicating substance treatment requirement), and
(l) paragraph 25(4) (education requirement).

Commencement Information
I160 Sch. 1 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Electronic monitoring requirement

2 (1) Sub-paragraph (2) applies to a youth rehabilitation order which—

(a) imposes a curfew requirement (whether by virtue of paragraph 3(4)(b) or otherwise), or
(b) imposes an exclusion requirement.

(2) The order must also impose an electronic monitoring requirement unless—

(a) in the particular circumstances of the case, the court considers it inappropriate for the order to do so, or
(b) the court is prevented by paragraph 26(3) or (6) from including such a requirement in the order.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Subsection (2)(a) of section 1 has effect subject to paragraph 26(3) and (6).

Commencement Information
I161 Sch. 1 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Youth rehabilitation order with intensive supervision and surveillance

3 (1) This paragraph applies where paragraphs (a) to (c) of section 1(4) are satisfied.

(2) The court, if it makes a youth rehabilitation order which imposes an activity requirement, may specify in relation to that requirement a number of days which is more than 90 but not more than 180.

(3) Such an activity requirement is referred to in this Part of this Act as "an extended activity requirement".

(4) A youth rehabilitation order which imposes an extended activity requirement must also impose—

(a) a supervision requirement, and

(b) a curfew requirement (and, accordingly, if so required by paragraph 2, an electronic monitoring requirement).

(5) A youth rehabilitation order which imposes an extended activity requirement (and other requirements in accordance with sub-paragraph (4)) is referred to in this Part of this Act as "a youth rehabilitation order with intensive supervision and surveillance" (whether or not it also imposes any other requirement mentioned in section 1(1)).

Commencement Information
I162 Sch. 1 para. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Youth rehabilitation order with fostering

4 (1) This paragraph applies where paragraphs (a) to (c) of section 1(4) are satisfied.

(2) If the court is satisfied—

(a) that the behaviour which constituted the offence was due to a significant extent to the circumstances in which the offender was living, and

(b) that the imposition of a fostering requirement (see paragraph 18) would assist in the offender's rehabilitation,

it may make a youth rehabilitation order in accordance with section 1 which imposes a fostering requirement.

(3) But a court may not impose a fostering requirement unless—

(a) it has consulted the offender's parents or guardians (unless it is impracticable to do so), and

(b) it has consulted the local authority which is to place the offender with a local authority foster parent.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A youth rehabilitation order which imposes a fostering requirement must also impose a supervision requirement.

(5) This paragraph has effect subject to paragraphs 18(7) and 19 (pre-conditions to imposing fostering requirement).

(6) A youth rehabilitation order which imposes a fostering requirement is referred to in this Part of this Act as "a youth rehabilitation order with fostering" (whatever other requirements mentioned in section 1(1) or (2) it imposes).

Commencement Information
I163 Sch. 1 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Intensive supervision and surveillance and fostering: further provisions

5 (1) A youth rehabilitation order with intensive supervision and surveillance may not impose a fostering requirement.

(2) Nothing in—

(a) section 1(4)(b), or

(b) section 148(1) or (2)(b) of the Criminal Justice Act 2003 (c. 44) (restrictions on imposing community sentences),

prevents a court from making a youth rehabilitation order with intensive supervision and surveillance in respect of an offender if the offender fails to comply with an order under section 161(2) of the Criminal Justice Act 2003 (pre-sentence drug testing).

Commencement Information
I164 Sch. 1 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

PART 2

REQUIREMENTS

Activity requirement

6 (1) In this Part of this Act "activity requirement", in relation to a youth rehabilitation order, means a requirement that the offender must do any or all of the following—

(a) participate, on such number of days as may be specified in the order, in activities at a place, or places, so specified;

(b) participate in an activity, or activities, specified in the order on such number of days as may be so specified;

(c) participate in one or more residential exercises for a continuous period or periods comprising such number or numbers of days as may be specified in the order;

(d) in accordance with paragraph 7, engage in activities in accordance with instructions of the responsible officer on such number of days as may be specified in the order.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to paragraph 3(2), the number of days specified in the order under sub-paragraph (1) must not, in aggregate, be more than 90.

(3) A requirement such as is mentioned in sub-paragraph (1)(a) or (b) operates to require the offender, in accordance with instructions given by the responsible officer, on the number of days specified in the order in relation to the requirement—

(a) in the case of a requirement such as is mentioned in sub-paragraph (1)(a), to present himself or herself at a place specified in the order to a person of a description so specified, or

(b) in the case of a requirement such as is mentioned in sub-paragraph (1)(b), to participate in an activity specified in the order,

and, on each such day, to comply with instructions given by, or under the authority of, the person in charge of the place or the activity (as the case may be).

(4) Where the order requires the offender to participate in a residential exercise, it must specify, in relation to the exercise—

(a) a place, or

(b) an activity.

(5) A requirement to participate in a residential exercise operates to require the offender, in accordance with instructions given by the responsible officer—

(a) if a place is specified under sub-paragraph (4)(a)—

(i) to present himself or herself at the beginning of the period specified in the order in relation to the exercise, at the place so specified to a person of a description specified in the instructions, and

(ii) to reside there for that period,

(b) if an activity is specified under sub-paragraph (4)(b), to participate, for the period specified in the order in relation to the exercise, in the activity so specified,

and, during that period, to comply with instructions given by, or under the authority of, the person in charge of the place or the activity (as the case may be).

Commencement Information

I165 Sch. 1 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Activity requirement: instructions of responsible officer under paragraph 6(1)(d)

7 (1) Subject to sub-paragraph (3), instructions under paragraph 6(1)(d) relating to any day must require the offender to do either of the following—

(a) present himself or herself to a person or persons of a description specified in the instructions at a place so specified;

(b) participate in an activity specified in the instructions.

(2) Any such instructions operate to require the offender, on that day or while participating in that activity, to comply with instructions given by, or under the authority of, the person in charge of the place or, as the case may be, the activity.

(3) If the order so provides, instructions under paragraph 6(1)(d) may require the offender to participate in a residential exercise for a period comprising not more than 7 days, and, for that purpose—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) to present himself or herself at the beginning of that period to a person of a description specified in the instructions at a place so specified and to reside there for that period, or

(b) to participate for that period in an activity specified in the instructions.

(4) Instructions such as are mentioned in sub-paragraph (3)—

(a) may not be given except with the consent of a parent or guardian of the offender, and

(b) operate to require the offender, during the period specified under that sub-paragraph, to comply with instructions given by, or under the authority of, the person in charge of the place or activity specified under sub-paragraph (3)(a) or (b) (as the case may be).

Commencement Information

I166 Sch. 1 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Activity requirement: further provisions

8 (1) Instructions given by, or under the authority of, a person in charge of any place under any of the following provisions—

(a) paragraph 6(3),

(b) paragraph 6(5),

(c) paragraph 7(2), or

(d) paragraph 7(4)(b),

may require the offender to engage in activities otherwise than at that place.

(2) An activity specified—

(a) in an order under paragraph 6(1)(b), or

(b) in instructions given under paragraph 6(1)(d),

may consist of or include an activity whose purpose is that of reparation, such as an activity involving contact between an offender and persons affected by the offences in respect of which the order was made.

(3) A court may not include an activity requirement in a youth rehabilitation order unless—

(a) it has consulted a member of a youth offending team, an officer of a local probation board or an officer of a provider of probation services,

(b) it is satisfied that it is feasible to secure compliance with the requirement, and

(c) it is satisfied that provision for the offender to participate in the activities proposed to be specified in the order can be made under the arrangements for persons to participate in such activities which exist in the local justice area in which the offender resides or is to reside.

(4) A court may not include an activity requirement in a youth rehabilitation order if compliance with that requirement would involve the co-operation of a person other than the offender and the responsible officer, unless that other person consents to its inclusion.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I167 Sch. 1 para. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Supervision requirement

9 In this Part of this Act "supervision requirement", in relation to a youth rehabilitation order, means a requirement that, during the period for which the order remains in force, the offender must attend appointments with the responsible officer or another person determined by the responsible officer, at such times and places as may be determined by the responsible officer.

Commencement Information
I168 Sch. 1 para. 9 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Unpaid work requirement

10 (1) In this Part of this Act "unpaid work requirement", in relation to a youth rehabilitation order, means a requirement that the offender must perform unpaid work in accordance with this paragraph.

(2) The number of hours which a person may be required to work under an unpaid work requirement must be specified in the youth rehabilitation order and must be, in aggregate—

(a) not less than 40, and

(b) not more than 240.

(3) A court may not impose an unpaid work requirement in respect of an offender unless—

(a) after hearing (if the court thinks necessary) an appropriate officer, the court is satisfied that the offender is a suitable person to perform work under such a requirement, and

(b) the court is satisfied that provision for the offender to work under such a requirement can be made under the arrangements for persons to perform work under such a requirement which exist in the local justice area in which the offender resides or is to reside.

(4) In sub-paragraph (3)(a) "an appropriate officer" means a member of a youth offending team, an officer of a local probation board or an officer of a provider of probation services.

(5) An offender in respect of whom an unpaid work requirement of a youth rehabilitation order is in force must perform for the number of hours specified in the order such work at such times as the responsible officer may specify in instructions.

(6) Subject to paragraph 17 of Schedule 2, the work required to be performed under an unpaid work requirement of a youth rehabilitation order must be performed during the period of 12 months beginning with the day on which the order takes effect.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) Unless revoked, a youth rehabilitation order imposing an unpaid work requirement remains in force until the offender has worked under it for the number of hours specified in it.

Commencement Information
I169 Sch. 1 para. 10 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Programme requirement

11 (1) In this Part of this Act "programme requirement", in relation to a youth rehabilitation order, means a requirement that the offender must participate in a systematic set of activities ("a programme") specified in the order at a place or places so specified on such number of days as may be so specified.

(2) A programme requirement may require the offender to reside at any place specified in the order under sub-paragraph (1) for any period so specified if it is necessary for the offender to reside there for that period in order to participate in the programme.

(3) A court may not include a programme requirement in a youth rehabilitation order unless—

(a) the programme which the court proposes to specify in the order has been recommended to the court by—

(i) a member of a youth offending team,

(ii) an officer of a local probation board, or

(iii) an officer of a provider of probation services,

as being suitable for the offender, and

(b) the court is satisfied that the programme is available at the place or places proposed to be specified.

(4) A court may not include a programme requirement in a youth rehabilitation order if compliance with that requirement would involve the co-operation of a person other than the offender and the offender's responsible officer, unless that other person consents to its inclusion.

(5) A requirement to participate in a programme operates to require the offender—

(a) in accordance with instructions given by the responsible officer to participate in the programme at the place or places specified in the order on the number of days so specified, and

(b) while at any of those places, to comply with instructions given by, or under the authority of, the person in charge of the programme.

Commencement Information
I170 Sch. 1 para. 11 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Attendance centre requirement

12 (1) In this Part of this Act "attendance centre requirement", in relation to a youth rehabilitation order, means a requirement that the offender must attend at an

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

attendance centre specified in the order for such number of hours as may be so specified.

(2) The aggregate number of hours for which the offender may be required to attend at an attendance centre—

(a) if the offender is aged 16 or over at the time of conviction, must be—

(i) not less than 12, and

(ii) not more than 36;

(b) if the offender is aged 14 or over but under 16 at the time of conviction, must be—

(i) not less than 12, and

(ii) not more than 24;

(c) if the offender is aged under 14 at the time of conviction, must not be more than 12.

(3) A court may not include an attendance centre requirement in a youth rehabilitation order unless it—

(a) has been notified by the Secretary of State that—

(i) an attendance centre is available for persons of the offender's description, and

(ii) provision can be made at the centre for the offender, and

(b) is satisfied that the attendance centre proposed to be specified is reasonably accessible to the offender, having regard to the means of access available to the offender and any other circumstances.

(4) The first time at which the offender is required to attend at the attendance centre is a time notified to the offender by the responsible officer.

(5) The subsequent hours are to be fixed by the officer in charge of the centre—

(a) in accordance with arrangements made by the responsible officer, and

(b) having regard to the offender's circumstances.

(6) An offender may not be required under this paragraph to attend at an attendance centre—

(a) on more than one occasion on any day, or

(b) for more than three hours on any occasion.

(7) A requirement to attend at an attendance centre for any period on any occasion operates as a requirement—

(a) to attend at the centre at the beginning of the period, and

(b) during that period, to engage in occupation, or receive instruction, under the supervision of and in accordance with instructions given by, or under the authority of, the officer in charge of the centre, whether at the centre or elsewhere.

Commencement Information

I171 Sch. 1 para. 12 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Prohibited activity requirement

13 (1) In this Part of this Act "prohibited activity requirement", in relation to a youth rehabilitation order, means a requirement that the offender must refrain from participating in activities specified in the order—

(a) on a day or days so specified, or

(b) during a period so specified.

(2) A court may not include a prohibited activity requirement in a youth rehabilitation order unless it has consulted—

(a) a member of a youth offending team,

(b) an officer of a local probation board, or

(c) an officer of a provider of probation services.

(3) The requirements that may by virtue of this paragraph be included in a youth rehabilitation order include a requirement that the offender does not possess, use or carry a firearm within the meaning of the Firearms Act 1968 (c. 27).

Commencement Information

I172 Sch. 1 para. 13 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Curfew requirement

14 (1) In this Part of this Act "curfew requirement", in relation to a youth rehabilitation order, means a requirement that the offender must remain, for periods specified in the order, at a place so specified.

(2) A youth rehabilitation order imposing a curfew requirement may specify different places or different periods for different days, but may not specify periods which amount to less than 2 hours or more than **[**F94**]**16**]** hours in any day.

(3) A youth rehabilitation order imposing a curfew requirement may not specify periods which fall outside the period of **[**F95**]**12**]** months beginning with the day on which the requirement first takes effect.

(4) Before making a youth rehabilitation order imposing a curfew requirement, the court must obtain and consider information about the place proposed to be specified in the order (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).

Textual Amendments

F94 Figure in Sch. 1 para. 14(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 81(2)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

F95 Figure in Sch. 1 para. 14(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 81(3)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

Commencement Information

I173 Sch. 1 para. 14 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Exclusion requirement

15 (1) In this Part of this Act "exclusion requirement", in relation to a youth rehabilitation order, means a provision prohibiting the offender from entering a place specified in the order for a period so specified.

(2) The period specified must not be more than 3 months.

(3) An exclusion requirement—

(a) may provide for the prohibition to operate only during the periods specified in the order, and

(b) may specify different places for different periods or days.

(4) In this paragraph "place" includes an area.

Commencement Information

I174 Sch. 1 para. 15 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Residence requirement

16 (1) In this Part of this Act, "residence requirement", in relation to a youth rehabilitation order, means a requirement that, during the period specified in the order, the offender must reside—

(a) with an individual specified in the order, or

(b) at a place specified in the order.

(2) A court may not by virtue of sub-paragraph (1)(a) include in a youth rehabilitation order a requirement that the offender reside with an individual unless that individual has consented to the requirement.

(3) In this paragraph, a residence requirement falling within sub-paragraph (1)(b) is referred to as "a place of residence requirement".

(4) A court may not include a place of residence requirement in a youth rehabilitation order unless the offender was aged 16 or over at the time of conviction.

(5) If the order so provides, a place of residence requirement does not prohibit the offender from residing, with the prior approval of the responsible officer, at a place other than that specified in the order.

(6) Before making a youth rehabilitation order containing a place of residence requirement, the court must consider the home surroundings of the offender.

(7) A court may not specify a hostel or other institution as the place where an offender must reside for the purposes of a place of residence requirement except on the recommendation of—

(a) a member of a youth offending team,

(b) an officer of a local probation board,

(c) an officer of a provider of probation services, or

(d) a social worker of a local authority.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I175 Sch. 1 para. 16 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Local authority residence requirement

17 (1) In this Part of this Act, "local authority residence requirement", in relation to a youth rehabilitation order, means a requirement that, during the period specified in the order, the offender must reside in accommodation provided by or on behalf of a local authority specified in the order for the purposes of the requirement.

(2) A youth rehabilitation order which imposes a local authority residence requirement may also stipulate that the offender is not to reside with a person specified in the order.

(3) A court may not include a local authority residence requirement in a youth rehabilitation order made in respect of an offence unless it is satisfied—
(a) that the behaviour which constituted the offence was due to a significant extent to the circumstances in which the offender was living, and
(b) that the imposition of that requirement will assist in the offender's rehabilitation.

(4) A court may not include a local authority residence requirement in a youth rehabilitation order unless it has consulted—
(a) a parent or guardian of the offender (unless it is impracticable to consult such a person), and
(b) the local authority which is to receive the offender.

(5) A youth rehabilitation order which imposes a local authority residence requirement must specify, as the local authority which is to receive the offender, the local authority in whose area the offender resides or is to reside.

(6) Any period specified in a youth rehabilitation order as a period for which the offender must reside in accommodation provided by or on behalf of a local authority must—
(a) not be longer than 6 months, and
(b) not include any period after the offender has reached the age of 18.

Commencement Information
I176 Sch. 1 para. 17 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Fostering requirement

18 (1) In this Part of this Act "fostering requirement", in relation to a youth rehabilitation order, means a requirement that, for a period specified in the order, the offender must reside with a local authority foster parent.

(2) A period specified in a youth rehabilitation order as a period for which the offender must reside with a local authority foster parent must—
(a) end no later than the end of the period of 12 months beginning with the date on which the requirement first has effect (but subject to paragraphs 6(9), 8(9) and 16(2) of Schedule 2), and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) not include any period after the offender has reached the age of 18.

(3) A youth rehabilitation order which imposes a fostering requirement must specify the local authority which is to place the offender with a local authority foster parent under section **[**F96 22C**]** of the Children Act 1989 (c. 41).

(4) The authority so specified must be the local authority in whose area the offender resides or is to reside.

(5) If at any time during the period specified under sub-paragraph (1), the responsible officer notifies the offender—

(a) that no suitable local authority foster parent is available, and

(b) that the responsible officer has applied or proposes to apply under Part 3 or 4 of Schedule 2 for the revocation or amendment of the order,

the fostering requirement is, until the determination of the application, to be taken to require the offender to reside in accommodation provided by or on behalf of a local authority.

(6) This paragraph does not affect the power of a local authority to place with a local authority foster parent an offender in respect of whom a local authority residence requirement is imposed.

(7) A court may not include a fostering requirement in a youth rehabilitation order unless the court has been notified by the Secretary of State that arrangements for implementing such a requirement are available in the area of the local authority which is to place the offender with a local authority foster parent.

(8) In this paragraph, "local authority foster parent" has the same meaning as it has in the Children Act 1989.

Textual Amendments

F96 Word in Sch. 1 para. 18(3) substituted (1.4.2011 for E.) by Children and Young Persons Act 2008 (c. 23), s. 44(4), **Sch. 1 para. 21**; S.I. 2010/2981, art. 4(a)

Commencement Information

I177 Sch. 1 para. 18 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Pre-conditions to imposing local authority residence requirement or fostering requirement

19 (1) A court may not include a local authority residence requirement or a fostering requirement in a youth rehabilitation order in respect of an offender unless—

(a) the offender was legally represented at the relevant time in court, or

(b) either of the conditions in sub-paragraph (2) is satisfied.

(2) Those conditions are—

(a) **[**F97 that representation was made available to the offender for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 but was withdrawn because of the offender's conduct,**]** or

(b) that the offender has been informed of the right to apply for such representation for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In this paragraph—

"the proceedings" means—

(a) the whole proceedings, or

(b) the part of the proceedings relating to the imposition of the local authority residence requirement or the fostering requirement;

"the relevant time" means the time when the court is considering whether to impose that requirement.

Textual Amendments

F97 Sch. 1 para. 19(2)(a) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 5 para. 69**; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Commencement Information

I178 Sch. 1 para. 19 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Mental health treatment requirement

20 (1) In this Part of this Act "mental health treatment requirement", in relation to a youth rehabilitation order, means a requirement that the offender must submit, during a period or periods specified in the order, to treatment by or under the direction of a registered medical practitioner or a **[**F98registered psychologist**]** (or both, for different periods) with a view to the improvement of the offender's mental condition.

(2) The treatment required during a period specified under sub-paragraph (1) must be such one of the following kinds of treatment as may be specified in the youth rehabilitation order—

(a) treatment as a resident patient in **[**F99a**]** care home within the meaning of the Care Standards Act 2000 (c. 14)**[**F100, an independent hospital**]** or a hospital within the meaning of the Mental Health Act 1983 (c. 20), but not in hospital premises where high security psychiatric services within the meaning of that Act are provided;

(b) treatment as a non-resident patient at such institution or place as may be specified in the order;

(c) treatment by or under the direction of such registered medical practitioner or **[**F101registered psychologist**]** (or both) as may be so specified;

but the order must not otherwise specify the nature of the treatment.

(3) A court may not include a mental health treatment requirement in a youth rehabilitation order unless—

(a) the court is satisfied**F102**... that the mental condition of the offender—

(i) is such as requires and may be susceptible to treatment, but

(ii) is not such as to warrant the making of a hospital order or guardianship order within the meaning of **[**F103the Mental Health Act 1983**]**,

(b) the court is also satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including, where the offender

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

is to be required to submit to treatment as a resident patient, arrangements for the reception of the offender), and

(c) the offender has expressed willingness to comply with the requirement.

(4) While the offender is under treatment as a resident patient in pursuance of a mental health treatment requirement of a youth rehabilitation order, the responsible officer is to carry out the supervision of the offender to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

[F104(4A) In sub-paragraph (2) "independent hospital"—

(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.**]**

F105(5) . . . . . .

[F106(6) In this paragraph and paragraph 21, "registered psychologist" means a person for the time being registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.**]**

Textual Amendments

F98 Words in Sch. 1 para. 20(1) substituted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(9), **Sch. 5 para. 10(a)(i)** (with arts. 9, 10); S.I. 2009/1357, art. 2(1)(d)

F99 Word in Sch. 1 para. 20(2)(a) substituted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **arts. 1(1), 20(a)(i)**

F100 Words in Sch. 1 para. 20(2)(a) inserted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **arts. 1(1), 20(a)(ii)**

F101 Words in Sch. 1 para. 20(2)(c) substituted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(9), **Sch. 5 para. 10(a)(ii)** (with arts. 9, 10); S.I. 2009/1357, art. 2(1)(d)

F102 Words in Sch. 1 para. 20(3)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 82(2)(a)**, 151(1); S.I. 2012/2906, art. 2(a)

F103 Words in Sch. 1 para. 20(3)(a)(ii) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 82(2)(b)**, 151(1); S.I. 2012/2906, art. 2(a)

F104 Sch. 1 para. 20(4A) inserted (1.10.2010) by The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 (S.I. 2010/813), **arts. 1(1), 20(b)**

F105 Sch. 1 para. 20(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 82(3)**, 151(1); S.I. 2012/2906, art. 2(a)

F106 Sch. 1 para. 20(6) substituted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(9), **Sch. 5 para. 10(a)(iii)** (with arts. 9, 10); S.I. 2009/1357, art. 2(1)(d)

Commencement Information

I179 Sch. 1 para. 20 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Mental health treatment at place other than that specified in order

21 (1) Where the registered medical practitioner or **[**[F107]registered psychologist**]** by whom or under whose direction an offender is being treated in pursuance of a mental health treatment requirement is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—

(a) is not specified in the youth rehabilitation order, and

(b) is one in or at which the treatment of the offender will be given by or under the direction of a registered medical practitioner or **[**[F107]registered psychologist**]**,

the medical practitioner or psychologist may make arrangements for the offender to be treated accordingly.

(2) Such arrangements as are mentioned in sub-paragraph (1) may only be made if the offender has expressed willingness for the treatment to be given as mentioned in that sub-paragraph.

(3) Such arrangements as are mentioned in sub-paragraph (1) may provide for part of the treatment to be provided to the offender as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the youth rehabilitation order.

(4) Where any such arrangements as are mentioned in sub-paragraph (1) are made for the treatment of an offender—

(a) the registered medical practitioner or **[**[F108]registered psychologist**]** by whom the arrangements are made must give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out, and

(b) the treatment provided for by the arrangements is deemed to be treatment to which the offender is required to submit in pursuance of the youth rehabilitation order.

Textual Amendments

F107 Words in Sch. 1 para. 21(1) substituted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(9), **Sch. 5 para. 10(b)(i)** (with arts. 9, 10); S.I. 2009/1357, art. 2(1)(d)

F108 Words in Sch. 1 para. 21(4)(a) substituted (1.7.2009) by The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (S.I. 2009/1182), art. 1(9), **Sch. 5 para. 10(b)(ii)** (with arts. 9, 10); S.I. 2009/1357, art. 2(1)(d)

Commencement Information

I180 Sch. 1 para. 21 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Drug treatment requirement

22 (1) In this Part of this Act, "drug treatment requirement", in relation to a youth rehabilitation order, means a requirement that the offender must submit, during a period or periods specified in the order, to treatment, by or under the direction of a person so specified having the necessary qualifications or experience ("the treatment provider"), with a view to the reduction or elimination of the offender's dependency on, or propensity to misuse, drugs.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A court may not include a drug treatment requirement in a youth rehabilitation order unless it is satisfied—

(a) that the offender is dependent on, or has a propensity to misuse, drugs, and

(b) that the offender's dependency or propensity is such as requires and may be susceptible to treatment.

(3) The treatment required during a period specified under sub-paragraph (1) must be such one of the following kinds of treatment as may be specified in the youth rehabilitation order—

(a) treatment as a resident in such institution or place as may be specified in the order, or

(b) treatment as a non-resident at such institution or place, and at such intervals, as may be so specified,

but the order must not otherwise specify the nature of the treatment.

(4) A court may not include a drug treatment requirement in a youth rehabilitation order unless—

(a) the court has been notified by the Secretary of State that arrangements for implementing drug treatment requirements are in force in the local justice area in which the offender resides or is to reside,

(b) the court is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including, where the offender is to be required to submit to treatment as a resident, arrangements for the reception of the offender),

(c) the requirement has been recommended to the court as suitable for the offender by a member of a youth offending team, an officer of a local probation board or an officer of a provider of probation services, and

(d) the offender has expressed willingness to comply with the requirement.

(5) In this paragraph "drug" means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38).

Commencement Information

I181 Sch. 1 para. 22 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Drug testing requirement

23 (1) In this Part of this Act, "drug testing requirement", in relation to a youth rehabilitation order, means a requirement that, for the purpose of ascertaining whether there is any drug in the offender's body during any treatment period, the offender must, during that period, provide samples in accordance with instructions given by the responsible officer or the treatment provider.

(2) In sub-paragraph (1)—

"drug" has the same meaning as in paragraph 22,

"treatment period" means a period specified in the youth rehabilitation order as a period during which the offender must submit to treatment as mentioned in sub-paragraph (1) of that paragraph, and

"the treatment provider" has the meaning given by that sub-paragraph.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A court may not include a drug testing requirement in a youth rehabilitation order unless—

(a) the court has been notified by the Secretary of State that arrangements for implementing drug testing requirements are in force in the local justice area in which the offender resides or is to reside,

(b) the order also imposes a drug treatment requirement, and

(c) the offender has expressed willingness to comply with the requirement.

(4) A youth rehabilitation order which imposes a drug testing requirement—

(a) must specify for each month the minimum number of occasions on which samples are to be provided, and

(b) may specify—

(i) times at which and circumstances in which the responsible officer or treatment provider may require samples to be provided, and

(ii) descriptions of the samples which may be so required.

(5) A youth rehabilitation order which imposes a drug testing requirement must provide for the results of tests carried out otherwise than by the responsible officer on samples provided by the offender in pursuance of the requirement to be communicated to the responsible officer.

Commencement Information

I182 Sch. 1 para. 23 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Intoxicating substance treatment requirement

24 (1) In this Part of this Act, "intoxicating substance treatment requirement", in relation to a youth rehabilitation order, means a requirement that the offender must submit, during a period or periods specified in the order, to treatment, by or under the direction of a person so specified having the necessary qualifications or experience, with a view to the reduction or elimination of the offender's dependency on or propensity to misuse intoxicating substances.

(2) A court may not include an intoxicating substance treatment requirement in a youth rehabilitation order unless it is satisfied—

(a) that the offender is dependent on, or has a propensity to misuse, intoxicating substances, and

(b) that the offender's dependency or propensity is such as requires and may be susceptible to treatment.

(3) The treatment required during a period specified under sub-paragraph (1) must be such one of the following kinds of treatment as may be specified in the youth rehabilitation order—

(a) treatment as a resident in such institution or place as may be specified in the order, or

(b) treatment as a non-resident at such institution or place, and at such intervals, as may be so specified,

but the order must not otherwise specify the nature of the treatment.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) A court may not include an intoxicating substance treatment requirement in a youth rehabilitation order unless—

(a) the court is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including, where the offender is to be required to submit to treatment as a resident, arrangements for the reception of the offender),

(b) the requirement has been recommended to the court as suitable for the offender by a member of a youth offending team, an officer of a local probation board or an officer of a provider of probation services, and

(c) the offender has expressed willingness to comply with the requirement.

(5) In this paragraph "intoxicating substance" means—

(a) alcohol, or

(b) any other substance or product (other than a drug) which is, or the fumes of which are, capable of being inhaled or otherwise used for the purpose of causing intoxication.

(6) In sub-paragraph (5)(b) "drug" means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38).

Commencement Information

I183 Sch. 1 para. 24 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Education requirement

25 (1) In this Part of this Act "education requirement", in relation to a youth rehabilitation order, means a requirement that the offender must comply, during a period or periods specified in the order, with approved education arrangements.

(2) For this purpose, "approved education arrangements" means arrangements for the offender's education—

(a) made for the time being by the offender's parent or guardian, and

(b) approved by the **[**F109local authority**]** specified in the order.

(3) The **[**F109local authority**]** so specified must be the **[**F109local authority**]** for the area in which the offender resides or is to reside.

(4) A court may not include an education requirement in a youth rehabilitation order unless—

(a) it has consulted the **[**F109local authority**]** proposed to be specified in the order with regard to the proposal to include the requirement, and

(b) it is satisfied—

(i) that, in the view of that **[**F109local authority**]** , arrangements exist for the offender to receive efficient full-time education suitable to the offender's age, ability, aptitude and special educational needs (if any), and

(ii) that, having regard to the circumstances of the case, the inclusion of the education requirement is necessary for securing the good conduct of the offender or for preventing the commission of further offences.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Any period specified in a youth rehabilitation order as a period during which an offender must comply with approved education arrangements must not include any period after the offender has ceased to be of compulsory school age.

(6) In this paragraph, "**[**F109local authority**]**" and "parent" have the same meanings as in the Education Act 1996 (c. 56).

Textual Amendments

F109 Words in Sch. 1 para. 25 substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 63(2)(a)**

Commencement Information

I184 Sch. 1 para. 25 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Electronic monitoring requirement

26 (1) In this Part of this Act "electronic monitoring requirement", in relation to a youth rehabilitation order, means a requirement for securing the electronic monitoring of the offender's compliance with other requirements imposed by the order during a period specified in the order or determined by the responsible officer in accordance with the order.

(2) Where an electronic monitoring requirement is required to take effect during a period determined by the responsible officer in accordance with the youth rehabilitation order, the responsible officer must, before the beginning of that period, notify—

(a) the offender,

(b) the person responsible for the monitoring, and

(c) any person falling within sub-paragraph (3)(b),

of the time when the period is to begin.

(3) Where—

(a) it is proposed to include an electronic monitoring requirement in a youth rehabilitation order, but

(b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure that the monitoring takes place,

the requirement may not be included in the order without that person's consent.

(4) A youth rehabilitation order which imposes an electronic monitoring requirement must include provision for making a person responsible for the monitoring.

(5) The person who is made responsible for the monitoring must be of a description specified in an order made by the Secretary of State.

(6) A court may not include an electronic monitoring requirement in a youth rehabilitation order unless the court—

(a) has been notified by the Secretary of State that arrangements for electronic monitoring of offenders are available—

(i) in the local justice area proposed to be specified in the order, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) for each requirement mentioned in the first column of the Table in sub-paragraph (7) which the court proposes to include in the order, in the area in which the relevant place is situated, and

(b) is satisfied that the necessary provision can be made under the arrangements currently available.

(7) For the purposes of sub-paragraph (6), "relevant place", in relation to a requirement mentioned in the first column of the following Table which the court proposes to include in the order, means the place mentioned in relation to it in the second column of the Table.

Proposed requirement of youth rehabilitation order	***Relevant place***
Curfew requirement.	The place which the court proposes to specify in the order for the purposes of that requirement.
Exclusion requirement.	The place (within the meaning of paragraph 15) which the court proposes to specify in the order.
Attendance centre requirement.	The attendance centre which the court proposes to specify in the order.

Commencement Information

I185 Sch. 1 para. 26(1)-(4)(6)(7) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

I186 Sch. 1 para. 26(5) in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(g)**

Power to amend limits

27 (1) The Secretary of State may by order amend—

(a) paragraph 10(2) (unpaid work requirement), or

(b) paragraph 14(2) (curfew requirement),

by substituting, for the maximum number of hours for the time being specified in that provision, such other number of hours as may be specified in the order.

(2) The Secretary of State may by order amend any of the provisions mentioned in sub-paragraph (3) by substituting, for any period for the time being specified in the provision, such other period as may be specified in the order.

(3) Those provisions are—

(a) paragraph 14(3) (curfew requirement);

(b) paragraph 15(2) (exclusion requirement);

(c) paragraph 17(6) (local authority residence requirement);

(d) paragraph 18(2) (fostering requirement).

(4) An order under this paragraph which amends paragraph 18(2) may also make consequential amendments of paragraphs 6(9), 8(9) and 16(2) of Schedule 2.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I187 Sch. 1 para. 27 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

PART 3

PROVISIONS APPLYING WHERE COURT PROPOSES TO MAKE YOUTH REHABILITATION ORDER

Family circumstances

28 Before making a youth rehabilitation order, the court must obtain and consider information about the offender's family circumstances and the likely effect of such an order on those circumstances.

Commencement Information
I188 Sch. 1 para. 28 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Compatibility of requirements, requirement to avoid conflict with religious beliefs, etc.

29 (1) Before making—

(a) a youth rehabilitation order imposing two or more requirements, or

(b) two or more youth rehabilitation orders in respect of associated offences,

the court must consider whether, in the circumstances of the case, the requirements to be imposed by the order or orders are compatible with each other.

(2) Sub-paragraph (1) is subject to paragraphs 2, 3(4) and 4(4).

(3) The court must ensure, as far as practicable, that any requirement imposed by a youth rehabilitation order is such as to avoid—

(a) any conflict with the offender's religious beliefs,

(b) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment, and

(c) any conflict with the requirements of any other youth rehabilitation order to which the offender may be subject.

(4) The Secretary of State may by order provide that sub-paragraph (3) is to have effect with such additional restrictions as may be specified in the order.

Commencement Information
I189 Sch. 1 para. 29 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Date of taking effect and other existing orders

30 (1) Subject to **[**F110 sub-paragraphs (1A) and (2) **]**, a youth rehabilitation order takes effect on F111... the day on which the order is made.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F112(1A) A court making a youth rehabilitation order may order that it is to take effect instead on a later date.**]**

(2) **[**F113 In particular, if **]** a detention and training order is in force in respect of an offender, a court making a youth rehabilitation order in respect of the offender may order that it is to take effect instead—

(a) when the period of supervision begins in relation to the detention and training order in accordance with section 103(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), or

(b) on the expiry of the term of the detention and training order.

(3) In sub-paragraph (2)—

(a) the references to a detention and training order include an order made under section 211 of the Armed Forces Act 2006 (c. 52) (detention and training orders made by service courts); and

(b) the reference to section 103(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000 includes that provision as applied by section 213(1) of the Armed Forces Act 2006.

(4) A court must not make a youth rehabilitation order in respect of an offender at a time when—

(a) another youth rehabilitation order, or

(b) a reparation order made under section 73(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6),

is in force in respect of the offender, unless when it makes the order it revokes the earlier order.

(5) Where the earlier order is revoked under sub-paragraph (4), paragraph 24 of Schedule 2 (provision of copies of orders) applies to the revocation as it applies to the revocation of a youth rehabilitation order.

Textual Amendments

F110 Words in Sch. 1 para. 30(1) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(4)(a)(i)** (with s. 180)

F111 Words in Sch. 1 para. 30(1) repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), Sch. 21 para. 98(4)(a)(ii), **Sch. 23 Pt. 9** (with s. 180)

F112 Sch. 1 para. 30(1A) inserted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(4)(b)** (with s. 180)

F113 Words in Sch. 1 para. 30(2) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(4)(c)** (with s. 180)

Commencement Information

I190 Sch. 1 para. 30 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Concurrent and consecutive orders

31 (1) This paragraph applies where the court is dealing with an offender who has been convicted of two or more associated offences.

(2) If, in respect of one of the offences, the court makes an order of any of the following kinds—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a youth rehabilitation order with intensive supervision and surveillance,
(b) a youth rehabilitation order with fostering, or
(c) any other youth rehabilitation order,

it may not make an order of any other of those kinds in respect of the other offence, or any of the other offences.

(3) If the court makes two or more youth rehabilitation orders with intensive supervision and surveillance, or with fostering, both or all of the orders must take effect at the same time (in accordance with paragraph 30(1) or (2)).

(4) Where the court includes requirements of the same kind in two or more youth rehabilitation orders, it must direct, in relation to each requirement of that kind, whether—
(a) it is to be concurrent with the other requirement or requirements of that kind, or any of them, or
(b) it and the other requirement or requirements of that kind, or any of them, are to be consecutive.

(5) But the court may not direct that two or more fostering requirements are to be consecutive.

(6) Where the court directs that two or more requirements of the same kind are to be consecutive—
(a) the number of hours, days or months specified in relation to one of them is additional to the number of hours, days, or months specified in relation to the other or others, but
(b) the aggregate number of hours, days or months specified in relation to both or all of them must not exceed the maximum number which may be specified in relation to any one of them.

(7) For the purposes of sub-paragraphs (4) and (6), requirements are of the same kind if they fall within the same paragraph of Part 2 of this Schedule.

Commencement Information
I191 Sch. 1 para. 31 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

PART 4

PROVISIONS APPLYING WHERE COURT MAKES YOUTH REHABILITATION ORDER ETC.

Date for compliance with requirements to be specified in order

32 (1) A youth rehabilitation order must specify a date **[**F114(“the end date”)**]**, not more than 3 years after the date on which the order takes effect, by which all the requirements in it must have been complied with.

[F115(2) If a youth rehabilitation order imposes two or more different requirements falling within Part 2 of this Schedule, the order may also specify a date by which each of those requirements must have been complied with; and the last of those dates must be the same as the end date.**]**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In the case of a youth rehabilitation order with intensive supervision and surveillance, the date specified for the purposes of sub-paragraph (1) must not be earlier than 6 months after the date on which the order takes effect.

[F116(4) Subject to paragraph 10(7) (duration of youth rehabilitation order imposing unpaid work requirement), a youth rehabilitation order ceases to be in force on the end date.**]**

Textual Amendments

F114 Words in Sch. 1 para. 32(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(1)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

F115 Sch. 1 para. 32(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(1)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

F116 Sch. 1 para. 32(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(1)(c)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

Commencement Information

I192 Sch. 1 para. 32 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Local justice area to be specified in order

33 A youth rehabilitation order must specify the local justice area in which the offender resides or will reside.

Commencement Information

I193 Sch. 1 para. 33 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Provision of copies of orders

34 (1) The court by which any youth rehabilitation order is made must forthwith provide copies of the order—

(a) to the offender,

(b) if the offender is aged under 14, to the offender's parent or guardian, and

(c) to a member of a youth offending team assigned to the court, to an officer of a local probation board assigned to the court or to an officer of a provider of probation services.

(2) Sub-paragraph (3) applies where a youth rehabilitation order—

(a) is made by the Crown Court, or

(b) is made by a magistrates' court which does not act in the local justice area specified in the order.

(3) The court making the order must—

(a) provide to the magistrates' court acting in the local justice area specified in the order—

(i) a copy of the order, and

(ii) such documents and information relating to the case as it considers likely to be of assistance to a court acting in that area in the exercise of its functions in relation to the order, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) provide a copy of the order to the local probation board acting for that area or (as the case may be) a provider of probation services operating in that area.

(4) Where a youth rehabilitation order imposes any requirement specified in the first column of the following Table, the court by which the order is made must also forthwith provide the person specified in relation to that requirement in the second column of that Table with a copy of so much of the order as relates to that requirement.

Requirement	***Person to whom copy of requirement is to be given***
An activity requirement specifying a place under paragraph 6(1)(a).	The person in charge of that place.
An activity requirement specifying an activity under paragraph 6(1)(b).	The person in charge of that activity.
An activity requirement specifying a residential exercise under paragraph 6(1)(c).	The person in charge of the place or activity specified under paragraph 6(4) in relation to that residential exercise.
An attendance centre requirement.	The officer in charge of the attendance centre specified under paragraph 12(1).
An exclusion requirement imposed for the purpose (or partly for the purpose) of protecting a person from being approached by the offender.	The person intended to be protected.
A residence requirement requiring residence with an individual.	The individual specified under paragraph 16(1)(a).
A place of residence requirement (within the meaning of paragraph 16) relating to residence in an institution.	The person in charge of the institution.
A local authority residence requirement.	The local authority specified under paragraph 17(1).
A mental health treatment requirement.	The person in charge of the institution or place specified under sub-paragraph (2)(a) or (b) of paragraph 20, or the person specified under sub-paragraph (2)(c) of that paragraph.
A drug treatment requirement.	The treatment provider specified under paragraph 22(1).
A drug testing requirement.	The treatment provider specified under paragraph 22(1).
An intoxicating substance treatment requirement	The person specified under paragraph 24(1).
An education requirement.	The **[**F117local authority**]** specified under paragraph 25(2).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

An electronic monitoring requirement.	Any person who by virtue of paragraph 26(4) will be responsible for the electronic monitoring. Any person without whose consent the requirement could not have been included in the order.

Textual Amendments

F117 Words in Sch. 1 para. 34(4) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 63(2)(b)**

Commencement Information

I194 Sch. 1 para. 34 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

Power to provide for court review of orders

35 (1) The Secretary of State may by order—

(a) enable or require a court making a youth rehabilitation order to provide for the order to be reviewed periodically by that or another court,

(b) enable a court to amend a youth rehabilitation order so as to include or remove a provision for review by a court, and

(c) make provision as to the timing and conduct of reviews and as to the powers of the court on a review.

(2) An order under this paragraph may, in particular, make provision in relation to youth rehabilitation orders corresponding to any provision made by sections 191 and 192 of the Criminal Justice Act 2003 (c. 44) (reviews of suspended sentence orders) in relation to suspended sentence orders.

(3) An order under this paragraph may repeal or amend any provision of—

(a) this Part of this Act, or

(b) Chapter 1 of Part 12 of the Criminal Justice Act 2003 (general provisions about sentencing).

Commencement Information

I195 Sch. 1 para. 35 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(g)**

Order made by Crown Court: direction in relation to further proceedings

36 (1) Where the Crown Court makes a youth rehabilitation order, it may include in the order a direction that further proceedings relating to the order be in a youth court or other magistrates' court (subject to paragraph 7 of Schedule 2).

(2) In sub-paragraph (1), "further proceedings", in relation to a youth rehabilitation order, means proceedings—

(a) for any failure to comply with the order within the meaning given by paragraph 1(2)(b) of Schedule 2, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) on any application for amendment or revocation of the order under Part 3 or 4 of that Schedule.

Commencement Information
I196 Sch. 1 para. 36 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(m)**

SCHEDULE 2

Section 2

BREACH, REVOCATION OR AMENDMENT OF YOUTH REHABILITATION ORDERS

Modifications etc. (not altering text)
C4 Sch. 2 modified by Criminal Procedure (Scotland) Act 1995 (c. 46), s. 234(6A) (as inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 44(6)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, art. 2(p)(v))

PART 1

PRELIMINARY

Interpretation

1 (1) In this Schedule, "the offender", in relation to a youth rehabilitation order, means the person in respect of whom the order is made.

(2) In this Schedule—

(a) any reference (however expressed) to an offender's compliance with a youth rehabilitation order is a reference to the offender's compliance with—

(i) the requirement or requirements imposed by the order, and

(ii) if the order imposes an attendance centre requirement, rules made under section 222(1)(d) or (e) of the Criminal Justice Act 2003 (c. 44) ("attendance centre rules"), and

(b) any reference (however expressed) to the offender's failure to comply with the order is a reference to any failure of the offender to comply—

(i) with a requirement imposed by the order, or

(ii) if the order imposes an attendance centre requirement, with attendance centre rules.

(3) For the purposes of this Schedule—

(a) a requirement falling within any paragraph of Part 2 of Schedule 1 is of the same kind as any other requirement falling within that paragraph, and

(b) an electronic monitoring requirement is a requirement of the same kind as any requirement falling within Part 2 of Schedule 1 to which it relates.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I197 Sch. 2 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Orders made on appeal

2 Where a youth rehabilitation order has been made on appeal, for the purposes of this Schedule it is to be treated—

(a) if it was made on an appeal from a magistrates' court, as having been made by a magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, as having been made by the Crown Court.

Commencement Information
I198 Sch. 2 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

PART 2

BREACH OF REQUIREMENT OF ORDER

Duty to give warning

3 (1) If the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with a youth rehabilitation order, the responsible officer must give the offender a warning under this paragraph unless under paragraph 4(1) or (3) the responsible officer causes an information to be laid before a justice of the peace in respect of the failure.

(2) A warning under this paragraph must—

(a) describe the circumstances of the failure,

(b) state that the failure is unacceptable, and

(c) state that the offender will be liable to be brought before a court—

(i) in a case where the warning is given during the warned period relating to a previous warning under this paragraph, if during that period the offender again fails to comply with the order, or

(ii) in any other case, if during the warned period relating to the warning, the offender fails on more than one occasion to comply with the order.

(3) The responsible officer must, as soon as practicable after the warning has been given, record that fact.

(4) In this paragraph, "warned period", in relation to a warning under this paragraph, means the period of 12 months beginning with the date on which the warning was given.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I199 Sch. 2 para. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Breach of order

4 (1) If the responsible officer—

(a) has given a warning ("the first warning") under paragraph 3 to the offender in respect of a youth rehabilitation order,

(b) during the warned period relating to the first warning, has given another warning under that paragraph to the offender in respect of a failure to comply with the order, and

(c) is of the opinion that, during the warned period relating to the first warning, the offender has again failed without reasonable excuse to comply with the order,

the responsible officer must cause an information to be laid before a justice of the peace in respect of the failure mentioned in paragraph (c).

(2) But sub-paragraph (1) does not apply if the responsible officer is of the opinion that there are exceptional circumstances which justify not causing an information to be so laid.

(3) If—

(a) the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with a youth rehabilitation order, and

(b) sub-paragraph (1) does not apply (in a case not within sub-paragraph (2)),

the responsible officer may cause an information to be laid before a justice of the peace in respect of that failure.

(4) In this paragraph, "warned period" has the same meaning as in paragraph 3.

Commencement Information
I200 Sch. 2 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Issue of summons or warrant by justice of the peace

5 (1) If at any time while a youth rehabilitation order is in force it appears on information to a justice of the peace that an offender has failed to comply with a youth rehabilitation order, the justice may—

(a) issue a summons requiring the offender to appear at the place and time specified in it, or

(b) if the information is in writing and on oath, issue a warrant for the offender's arrest.

(2) Any summons or warrant issued under this paragraph must direct the offender to appear or be brought—

(a) if the youth rehabilitation order was made by the Crown Court and does not include a direction under paragraph 36 of Schedule 1, before the Crown Court, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in any other case, before the appropriate court.

(3) In sub-paragraph (2), "appropriate court" means—

(a) if the offender is aged under 18, a youth court acting in the relevant local justice area, and

(b) if the offender is aged 18 or over, a magistrates' court (other than a youth court) acting in that local justice area.

(4) In sub-paragraph (3), "relevant local justice area" means—

(a) the local justice area in which the offender resides, or

(b) if it is not known where the offender resides, the local justice area specified in the youth rehabilitation order.

(5) Sub-paragraphs (6) and (7) apply where the offender does not appear in answer to a summons issued under this paragraph.

(6) If the summons required the offender to appear before the Crown Court, the Crown Court may—

(a) unless the summons was issued under this sub-paragraph, issue a further summons requiring the offender to appear at the place and time specified in it, or

(b) in any case, issue a warrant for the arrest of the offender.

(7) If the summons required the offender to appear before a magistrates' court, the magistrates' court may issue a warrant for the arrest of the offender.

Commencement Information

I201 Sch. 2 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Powers of magistrates' court

6 (1) This paragraph applies where—

(a) an offender appears or is brought before a youth court or other magistrates' court under paragraph 5, and

(b) it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with the youth rehabilitation order.

(2) The court may deal with the offender in respect of that failure in any one of the following ways—

(a) by ordering the offender to pay a fine of an amount not exceeding **[**F118£2,500**]**;

(b) by amending the terms of the youth rehabilitation order so as to impose any requirement which could have been included in the order when it was made—

(i) in addition to, or

(ii) in substitution for,

any requirement or requirements already imposed by the order;

(c) by dealing with the offender, for the offence in respect of which the order was made, in any way in which the court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Sub-paragraph (2)(b) is subject to sub-paragraphs (6) to (9).

(4) In dealing with the offender under sub-paragraph (2), the court must take into account the extent to which the offender has complied with the youth rehabilitation order.

(5) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.

(6) **[**F119Subject to sub-paragraph (6A),**]** any requirement imposed under sub-paragraph (2)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.

[F120(6A) When imposing a requirement under sub-paragraph (2)(b), the court may amend the order to substitute a later date for that specified under paragraph 32(1) of Schedule 1.

(6B) A date substituted under sub-paragraph (6A)—

(a) may not fall outside the period of six months beginning with the date previously specified under paragraph 32(1) of Schedule 1;

(b) subject to that, may fall more than three years after the date on which the order took effect.

(6C) The power under sub-paragraph (6A) may not be exercised in relation to an order if that power or the power in paragraph 8(6A) has previously been exercised in relation to that order.

(6D) A date substituted under sub-paragraph (6A) is to be treated as having been specified in relation to the order under paragraph 32(1) of Schedule 1.**]**

(7) Where—

(a) the court is dealing with the offender under sub-paragraph (2)(b), and

(b) the youth rehabilitation order does not contain an unpaid work requirement,

paragraph 10(2) of Schedule 1 applies in relation to the inclusion of such a requirement as if for "40" there were substituted " 20 ".

(8) The court may not under sub-paragraph (2)(b) impose—

(a) an extended activity requirement, or

(b) a fostering requirement,

if the order does not already impose such a requirement.

(9) Where—

(a) the order imposes a fostering requirement (the "original requirement"), and

(b) under sub-paragraph (2)(b) the court proposes to substitute a new fostering requirement ("the substitute requirement") for the original requirement,

paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.

(10) Where—

(a) the court deals with the offender under sub-paragraph (2)(b), and

(b) it would not otherwise have the power to amend the youth rehabilitation order under paragraph 13 (amendment by reason of change of residence),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

that paragraph has effect as if references in it to the appropriate court were references to the court which is dealing with the offender.

(11) Where the court deals with the offender under sub-paragraph (2)(c), it must revoke the youth rehabilitation order if it is still in force.

(12) Sub-paragraphs (13) to (15) apply where—

(a) the court is dealing with the offender under sub-paragraph (2)(c), and

(b) the offender has wilfully and persistently failed to comply with a youth rehabilitation order.

(13) The court may impose a youth rehabilitation order with intensive supervision and surveillance notwithstanding anything in section 1(4)(a) or (b).

(14) If—

(a) the order is a youth rehabilitation order with intensive supervision and surveillance, and

(b) the offence mentioned in sub-paragraph (2)(c) was punishable with imprisonment,

the court may impose a custodial sentence notwithstanding anything in section 152(2) of the Criminal Justice Act 2003 (c. 44) (general restrictions on imposing discretionary custodial sentences).

(15) If—

(a) the order is a youth rehabilitation order with intensive supervision and surveillance which was imposed by virtue of sub-paragraph (13) or paragraph 8(12), and

(b) the offence mentioned in sub-paragraph (2)(c) was not punishable with imprisonment,

for the purposes of dealing with the offender under sub-paragraph (2)(c), the court is to be taken to have had power to deal with the offender for that offence by making a detention and training order for a term not exceeding 4 months.

(16) An offender may appeal to the Crown Court against a sentence imposed under sub-paragraph (2)(c).

Textual Amendments

F118 Word in Sch. 2 para. 6(2)(a) substituted for Sch. 2 para. 6(2)(a)(i)(ii) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 84(2)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 4)

F119 Words in Sch. 2 para. 6(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(2)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

F120 Sch. 2 para. 6(6A)-(6D) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(2)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

Commencement Information

I202 Sch. 2 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Power of magistrates' court to refer offender to Crown Court

7 (1) Sub-paragraph (2) applies if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the youth rehabilitation order was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and

(b) a youth court or other magistrates' court would (apart from that sub-paragraph) be required, or has the power, to deal with the offender in one of the ways mentioned in paragraph 6(2).

(2) The court may instead—

(a) commit the offender in custody, or

(b) release the offender on bail,

until the offender can be brought or appear before the Crown Court.

(3) Where a court deals with the offender's case under sub-paragraph (2) it must send to the Crown Court—

(a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the youth rehabilitation order in the respect specified in the certificate, and

(b) such other particulars of the case as may be desirable;

and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.

Commencement Information

I203 Sch. 2 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Powers of Crown Court

8 (1) This paragraph applies where—

(a) an offender appears or is brought before the Crown Court under paragraph 5 or by virtue of paragraph 7(2), and

(b) it is proved to the satisfaction of that court that the offender has failed without reasonable excuse to comply with the youth rehabilitation order.

(2) The Crown Court may deal with the offender in respect of that failure in any one of the following ways—

(a) by ordering the offender to pay a fine of an amount not exceeding **[**[F121]£2,500**]**;

(b) by amending the terms of the youth rehabilitation order so as to impose any requirement which could have been included in the order when it was made—

(i) in addition to, or

(ii) in substitution for,

any requirement or requirements already imposed by the order;

(c) by dealing with the offender, for the offence in respect of which the order was made, in any way in which the Crown Court could have dealt with the offender for that offence.

(3) Sub-paragraph (2)(b) is subject to sub-paragraphs (6) to (9).

(4) In dealing with the offender under sub-paragraph (2), the Crown Court must take into account the extent to which the offender has complied with the youth rehabilitation order.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.

(6) **[**[F122]Subject to sub-paragraph (6A),**]** any requirement imposed under sub-paragraph (2)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.

[[F123](6A) When imposing a requirement under sub-paragraph (2)(b), the Crown Court may amend the order to substitute a later date for that specified under paragraph 32(1) of Schedule 1.

(6B) A date substituted under sub-paragraph (6A)—

(a) may not fall outside the period of six months beginning with the date previously specified under paragraph 32(1) of Schedule 1;

(b) subject to that, may fall more than three years after the date on which the order took effect.

(6C) The power under sub-paragraph (6A) may not be exercised in relation to an order if that power or the power in paragraph 6(6A) has previously been exercised in relation to that order.

(6D) A date substituted under sub-paragraph (6A) is to be treated as having been specified in relation to the order under paragraph 32(1) of Schedule 1.**]**

(7) Where—

(a) the court is dealing with the offender under sub-paragraph (2)(b), and

(b) the youth rehabilitation order does not contain an unpaid work requirement,

paragraph 10(2) of Schedule 1 applies in relation to the inclusion of such a requirement as if for "40" there were substituted " 20 ".

(8) The court may not under sub-paragraph (2)(b) impose—

(a) an extended activity requirement, or

(b) a fostering requirement,

if the order does not already impose such a requirement.

(9) Where—

(a) the order imposes a fostering requirement (the "original requirement"), and

(b) under sub-paragraph (2)(b) the court proposes to substitute a new fostering requirement ("the substitute requirement") for the original requirement,

paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.

(10) Where the Crown Court deals with an offender under sub-paragraph (2)(c), it must revoke the youth rehabilitation order if it is still in force.

(11) Sub-paragraphs (12) to (14) apply where—

(a) an offender has wilfully and persistently failed to comply with a youth rehabilitation order; and

(b) the Crown Court is dealing with the offender under sub-paragraph (2)(c).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(12) The court may impose a youth rehabilitation order with intensive supervision and surveillance notwithstanding anything in section 1(4)(a) or (b).

(13) If—

(a) the order is a youth rehabilitation order with intensive supervision and surveillance, and

(b) the offence mentioned in sub-paragraph (2)(c) was punishable with imprisonment,

the court may impose a custodial sentence notwithstanding anything in section 152(2) of the Criminal Justice Act 2003 (c. 44) (general restrictions on imposing discretionary custodial sentences).

(14) If—

(a) the order is a youth rehabilitation order with intensive supervision and surveillance which was imposed by virtue of paragraph 6(13) or sub-paragraph (12), and

(b) the offence mentioned in sub-paragraph (2)(c) was not punishable with imprisonment,

for the purposes of dealing with the offender under sub-paragraph (2)(c), the Crown Court is to be taken to have had power to deal with the offender for that offence by making a detention and training order for a term not exceeding 4 months.

(15) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the youth rehabilitation order is to be determined by the court and not by the verdict of a jury.

Textual Amendments

F121 Word in Sch. 2 para. 8(2)(a) substituted for Sch. 2 para. 8(2)(a)(i)(ii) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 84(3)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 4)

F122 Words in Sch. 2 para. 8(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(3)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

F123 Sch. 2 para. 8(6A)-(6D) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(3)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

Commencement Information

I204 Sch. 2 para. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Restriction of powers in paragraphs 6 and 8 where treatment required

9 (1) Sub-paragraph (2) applies where a youth rehabilitation order imposes any of the following requirements in respect of an offender—

(a) a mental health treatment requirement;

(b) a drug treatment requirement;

(c) an intoxicating substance treatment requirement.

(2) The offender is not to be treated for the purposes of paragraph 6 or 8 as having failed to comply with the order on the ground only that the offender had refused to undergo any surgical, electrical or other treatment required by that requirement

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

if, in the opinion of the court, the refusal was reasonable having regard to all the circumstances.

Commencement Information

I205 Sch. 2 para. 9 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Power to amend amounts of fines

10 (1) The Secretary of State may by order amend any sum for the time being specified in paragraph 6(2)(a)[F124]... or 8(2)(a)[F124]....

(2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.

(3) In sub-paragraph (2), "the relevant date" means—

(a) if the sum specified in paragraph 6(2)(a)[F125]... or 8(2)(a)[F125]... (as the case may be) has been substituted by an order under sub-paragraph (1), the date on which the sum was last so substituted;

(b) otherwise, the date on which **[**[F126]section 84 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force**]**.

(4) An order under sub-paragraph (1) (a "fine amendment order") must not have effect in relation to any youth rehabilitation order made in respect of an offence committed before the fine amendment order comes into force.

Textual Amendments

F124 Words in Sch. 2 para. 10(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 84(4)(a)**, 151(1); S.I. 2012/2906, art. 2(a)

F125 Words in Sch. 2 para. 10(3)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 84(4)(b)(i)**, 151(1); S.I. 2012/2906, art. 2(a)

F126 Words in Sch. 2 para. 10(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 84(4)(b)(ii)**, 151(1); S.I. 2012/2906, art. 2(a)

Commencement Information

I206 Sch. 2 para. 10 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

PART 3

REVOCATION OF ORDER

Revocation of order with or without re-sentencing: powers of appropriate court

11 (1) This paragraph applies where—

(a) a youth rehabilitation order is in force in respect of any offender,

(b) the order—

(i) was made by a youth court or other magistrates' court, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and

(c) the offender or the responsible officer makes an application to the appropriate court under this sub-paragraph.

(2) If it appears to the appropriate court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the appropriate court may—

(a) revoke the order, or

(b) both—

(i) revoke the order, and

(ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the appropriate court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).

(3) The circumstances in which a youth rehabilitation order may be revoked under sub-paragraph (2) include the offender's making good progress or responding satisfactorily to supervision or treatment (as the case requires).

(4) In dealing with an offender under sub-paragraph (2)(b), the appropriate court must take into account the extent to which the offender has complied with the requirements of the youth rehabilitation order.

(5) A person sentenced under sub-paragraph (2)(b) for an offence may appeal to the Crown Court against the sentence.

(6) No application may be made by the offender under sub-paragraph (1) while an appeal against the youth rehabilitation order is pending.

(7) If an application under sub-paragraph (1) relating to a youth rehabilitation order is dismissed, then during the period of three months beginning with the date on which it was dismissed no further such application may be made in relation to the order by any person except with the consent of the appropriate court.

(8) In this paragraph, "the appropriate court" means—

(a) if the offender is aged under 18 when the application under sub-paragraph (1) was made, a youth court acting in the local justice area specified in the youth rehabilitation order, and

(b) if the offender is aged 18 or over at that time, a magistrates' court (other than a youth court) acting in that local justice area.

Commencement Information

I207 Sch. 2 para. 11 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Revocation of order with or without re-sentencing: powers of Crown Court

12 (1) This paragraph applies where—

(a) a youth rehabilitation order is in force in respect of an offender,

(b) the order—

(i) was made by the Crown Court, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) does not contain a direction under paragraph 36 of Schedule 1, and

(c) the offender or the responsible officer makes an application to the Crown Court under this sub-paragraph.

(2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made, the Crown Court may—

(a) revoke the order, or

(b) both—

(i) revoke the order, and

(ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the Crown Court could have dealt with the offender for that offence.

(3) The circumstances in which a youth rehabilitation order may be revoked under sub-paragraph (2) include the offender's making good progress or responding satisfactorily to supervision or treatment (as the case requires).

(4) In dealing with an offender under sub-paragraph (2)(b), the Crown Court must take into account the extent to which the offender has complied with the youth rehabilitation order.

(5) No application may be made by the offender under sub-paragraph (1) while an appeal against the youth rehabilitation order is pending.

(6) If an application under sub-paragraph (1) relating to a youth rehabilitation order is dismissed, then during the period of three months beginning with the date on which it was dismissed no further such application may be made in relation to the order by any person except with the consent of the Crown Court.

Commencement Information

I208 Sch. 2 para. 12 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

PART 4

AMENDMENT OF ORDER

Amendment by appropriate court

13 (1) This paragraph applies where—

(a) a youth rehabilitation order is in force in respect of an offender,

(b) the order—

(i) was made by a youth court or other magistrates' court, or

(ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and

(c) an application for the amendment of the order is made to the appropriate court by the offender or the responsible officer.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If the appropriate court is satisfied that the offender proposes to reside, or is residing, in a local justice area ("the new local justice area") other than the local justice area for the time being specified in the order, the court—

(a) must, if the application under sub-paragraph (1)(c) was made by the responsible officer, or

(b) may, in any other case,

amend the youth rehabilitation order by substituting the new local justice area for the area specified in the order.

(3) Sub-paragraph (2) is subject to paragraph 15.

(4) The appropriate court may by order amend the youth rehabilitation order—

(a) by cancelling any of the requirements of the order, or

(b) by replacing any of those requirements with a requirement of the same kind which could have been included in the order when it was made.

(5) Sub-paragraph (4) is subject to paragraph 16.

(6) In this paragraph, "the appropriate court" means—

(a) if the offender is aged under 18 when the application under sub-paragraph (1) was made, a youth court acting in the local justice area specified in the youth rehabilitation order, and

(b) if the offender is aged 18 or over at that time, a magistrates' court (other than a youth court) acting in that local justice area.

Commencement Information

I209 Sch. 2 para. 13 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Amendment by Crown Court

14 (1) This paragraph applies where—

(a) a youth rehabilitation order is in force in respect of an offender,

(b) the order—

(i) was made by the Crown Court, and

(ii) does not contain a direction under paragraph 36 of Schedule 1, and

(c) an application for the amendment of the order is made to the Crown Court by the offender or the responsible officer.

(2) If the Crown Court is satisfied that the offender proposes to reside, or is residing, in a local justice area ("the new local justice area") other than the local justice area for the time being specified in the order, the court—

(a) must, if the application under sub-paragraph (1)(c) was made by the responsible officer, or

(b) may, in any other case,

amend the youth rehabilitation order by substituting the new local justice area for the area specified in the order.

(3) Sub-paragraph (2) is subject to paragraph 15.

(4) The Crown Court may by order amend the youth rehabilitation order—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) by cancelling any of the requirements of the order, or

(b) by replacing any of those requirements with a requirement of the same kind which could have been included in the order when it was made.

(5) Sub-paragraph (4) is subject to paragraph 16.

Commencement Information

I210 Sch. 2 para. 14 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Exercise of powers under paragraph 13(2) or 14(2): further provisions

15 (1) In sub-paragraphs (2) and (3), "specific area requirement", in relation to a youth rehabilitation order, means a requirement contained in the order which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the local justice area specified in the youth rehabilitation order.

(2) A court may not under paragraph 13(2) or 14(2) amend a youth rehabilitation order which contains specific area requirements unless, in accordance with paragraph 13(4) or, as the case may be, 14(4), it either—

(a) cancels those requirements, or

(b) substitutes for those requirements other requirements which can be complied with if the offender resides in the new local justice area mentioned in paragraph 13(2) or (as the case may be) 14(2).

(3) If—

(a) the application under paragraph 13(1)(c) or 14(1)(c) was made by the responsible officer, and

(b) the youth rehabilitation order contains specific area requirements,

the court must, unless it considers it inappropriate to do so, so exercise its powers under paragraph 13(4) or, as the case may be, 14(4) that it is not prevented by sub-paragraph (2) from amending the order under paragraph 13(2) or, as the case may be, 14(2).

(4) The court may not under paragraph 13(2) or, as the case may be, 14(2) amend a youth rehabilitation order imposing a programme requirement unless the court is satisfied that a programme which—

(a) corresponds as nearly as practicable to the programme specified in the order for the purposes of that requirement, and

(b) is suitable for the offender,

is available in the new local justice area.

Commencement Information

I211 Sch. 2 para. 15 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Exercise of powers under paragraph 13(4) or 14(4): further provisions

16 (1) **[**F127Subject to paragraph 16A,**]** any requirement imposed under paragraph 13(4)(b) or 14(4)(b) must be capable of being complied with before the date specified under paragraph 32(1) of Schedule 1.

(2) Where—

(a) a youth rehabilitation order imposes a fostering requirement (the "original requirement"), and

(b) under paragraph 13(4)(b) or 14(4)(b) a court proposes to substitute a new fostering requirement ("the substitute requirement") for the original requirement,

paragraph 18(2) of Schedule 1 applies in relation to the substitute requirement as if the reference to the period of 12 months beginning with the date on which the original requirement first had effect were a reference to the period of 18 months beginning with that date.

(3) The court may not under paragraph 13(4) or 14(4) impose—

(a) a mental health treatment requirement,

(b) a drug treatment requirement, or

(c) a drug testing requirement,

unless the offender has expressed willingness to comply with the requirement.

(4) If an offender fails to express willingness to comply with a mental health treatment requirement, a drug treatment requirement or a drug testing requirement which the court proposes to impose under paragraph 13(4) or 14(4), the court may—

(a) revoke the youth rehabilitation order, and

(b) deal with the offender, for the offence in respect of which the order was made, in any way in which that court could have dealt with the offender for that offence (had the offender been before that court to be dealt with for it).

(5) In dealing with the offender under sub-paragraph (4)(b), the court must take into account the extent to which the offender has complied with the order.

Textual Amendments

F127 Words in Sch. 2 para. 16(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(4)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

Commencement Information

I212 Sch. 2 para. 16 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

*I*F128*Extension of order*

Textual Amendments

F128 Sch. 2 para. 16A and cross-heading inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 83(5)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 5(2))

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

16A (1) The appropriate court may, on the application of the offender or the responsible officer, amend a youth rehabilitation order by substituting a later date for that specified under paragraph 32(1) of Schedule 1.

(2) A date substituted under sub-paragraph (1)—

(a) may not fall outside the period of six months beginning with the date previously specified under paragraph 32(1) of Schedule 1;

(b) subject to that, may fall more than three years after the date on which the order took effect.

(3) The power under sub-paragraph (1) may not be exercised in relation to an order if it has previously been exercised in relation to that order.

(4) A date substituted under sub-paragraph (1) is to be treated as having been specified in relation to the order under paragraph 32(1) of Schedule 1.

(5) In this paragraph "the appropriate court" means—

(a) if the order was made by a youth court or other magistrates' court, or was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, the court determined under sub-paragraph (6), and

(b) if the order was made by the Crown Court and does not contain a direction under paragraph 36 of Schedule 1, the Crown Court.

(6) The court referred to in sub-paragraph (5)(a) is—

(a) if the offender is aged under 18 when the application is made, a youth court acting in the local justice area specified in the youth rehabilitation order, and

(b) if the offender is aged 18 or over at that time, a magistrates' court (other than a youth court) acting in that local justice area.**]**

Extension of unpaid work requirement

17 Where—

(a) a youth rehabilitation order imposing an unpaid work requirement is in force in respect of an offender, and

(b) on the application of the offender or the responsible officer, it appears to the appropriate court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,

the court may, in relation to the order, extend the period of 12 months specified in paragraph 10(6) of Schedule 1.

Commencement Information
I213 Sch. 2 para. 17 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

PART 5

POWERS OF COURT IN RELATION TO ORDER FOLLOWING SUBSEQUENT CONVICTION

Powers of magistrates' court following subsequent conviction

18 (1) This paragraph applies where—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a youth rehabilitation order is in force in respect of an offender, and

(b) the offender is convicted of an offence (the "further offence") by a youth court or other magistrates' court ("the convicting court").

(2) Sub-paragraphs (3) and (4) apply where—

(a) the youth rehabilitation order—

(i) was made by a youth court or other magistrates' court, or

(ii) was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and

(b) the convicting court is dealing with the offender for the further offence.

(3) The convicting court may revoke the order.

(4) Where the convicting court revokes the order under sub-paragraph (3), it may deal with the offender, for the offence in respect of which the order was made, in any way in which it could have dealt with the offender for that offence (had the offender been before that court to be dealt with for the offence).

(5) The convicting court may not exercise its powers under sub-paragraph (3) or (4) unless it considers that it would be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made.

(6) In dealing with an offender under sub-paragraph (4), the sentencing court must take into account the extent to which the offender has complied with the order.

(7) A person sentenced under sub-paragraph (4) for an offence may appeal to the Crown Court against the sentence.

(8) Sub-paragraph (9) applies where—

(a) the youth rehabilitation order was made by the Crown Court and contains a direction under paragraph 36 of Schedule 1, and

(b) the convicting court would, but for that sub-paragraph, deal with the offender for the further offence.

(9) The convicting court may, instead of proceeding under sub-paragraph (3)—

(a) commit the offender in custody, or

(b) release the offender on bail,

until the offender can be brought before the Crown Court.

(10) Sub-paragraph (11) applies if the youth rehabilitation order was made by the Crown court and does not contain a direction under paragraph 36 of Schedule 1.

(11) The convicting court may—

(a) commit the offender in custody, or

(b) release the offender on bail,

until the offender can be brought or appear before the Crown Court.

(12) Where the convicting court deals with an offender's case under sub-paragraph (9) or (11), it must send to the Crown Court such particulars of the case as may be desirable.

Commencement Information

I214 Sch. 2 para. 18 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Powers of Crown Court following subsequent conviction

19 (1) This paragraph applies where—

(a) a youth rehabilitation order is in force in respect of an offender, and

(b) the offender—

(i) is convicted by the Crown Court of an offence, or

(ii) is brought or appears before the Crown Court by virtue of paragraph 18(9) or (11) or having been committed by the magistrates' court to the Crown Court for sentence.

(2) The Crown Court may revoke the order.

(3) Where the Crown Court revokes the order under sub-paragraph (2), the Crown Court may deal with the offender, for the offence in respect of which the order was made, in any way in which the court which made the order could have dealt with the offender for that offence.

(4) The Crown Court must not exercise its powers under sub-paragraph (2) or (3) unless it considers that it would be in the interests of justice to do so, having regard to circumstances which have arisen since the youth rehabilitation order was made.

(5) In dealing with an offender under sub-paragraph (3), the Crown Court must take into account the extent to which the offender has complied with the order.

(6) If the offender is brought or appears before the Crown Court by virtue of paragraph 18(9) or (11), the Crown Court may deal with the offender for the further offence in any way which the convicting court could have dealt with the offender for that offence.

(7) In sub-paragraph (6), "further offence" and "the convicting court" have the same meanings as in paragraph 18.

Commencement Information

I215 Sch. 2 para. 19 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

PART 6

SUPPLEMENTARY

Appearance of offender before court

20 (1) Subject to sub-paragraph (2), where, otherwise than on the application of the offender, a court proposes to exercise its powers under Part 3, 4 or 5 of this Schedule, the court—

(a) must summon the offender to appear before the court, and

(b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.

(2) Sub-paragraph (1) does not apply where a court proposes to make an order—

(a) revoking a youth rehabilitation order,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) cancelling, or reducing the duration of, a requirement of a youth rehabilitation order, or

(c) substituting a new local justice area or place for one specified in a youth rehabilitation order.

Commencement Information

I216 Sch. 2 para. 20 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Warrants

21 (1) Sub-paragraph (2) applies where an offender is arrested in pursuance of a warrant issued by virtue of this Schedule and cannot be brought immediately before the court before which the warrant directs the offender to be brought ("the relevant court").

(2) The person in whose custody the offender is—

(a) may make arrangements for the offender's detention in a place of safety for a period of not more than 72 hours from the time of the arrest, and

(b) must within that period bring the offender before a magistrates' court.

(3) In the case of a warrant issued by the Crown Court, section 81(5) of the Supreme Court Act 1981 (c. 54) (duty to bring person before magistrates' court) does not apply.

(4) A person who is detained under arrangements made under sub-paragraph (2)(a) is deemed to be in legal custody.

(5) In sub-paragraph (2)(a) "place of safety" has the same meaning as in the Children and Young Persons Act 1933.

(6) Sub-paragraphs (7) to (10) apply where, under sub-paragraph (2), the offender is brought before a court ("the alternative court") which is not the relevant court.

(7) If the relevant court is a magistrates' court—

(a) the alternative court may—

(i) direct that the offender be released forthwith, or

(ii) remand the offender, and

(b) for the purposes of paragraph (a), section 128 of the Magistrates' Courts Act 1980 (c. 43) (remand in custody or on bail) has effect as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the relevant court.

(8) If the relevant court is the Crown Court, section 43A of that Act (functions of magistrates' court where a person in custody is brought before it with a view to appearance before the Crown Court) applies as if, in subsection (1)—

(a) the words "issued by the Crown Court" were omitted, and

(b) the reference to section 81(5) of the Supreme Court Act 1981 were a reference to sub-paragraph (2)(b).

(9) Any power to remand the offender in custody which is conferred by section 43A or 128 of the Magistrates' Courts Act 1980 is to be taken to be a power—

(a) if the offender is aged under 18, to remand the offender to accommodation provided by or on behalf of a local authority, and

(b) in any other case, to remand the offender to a prison.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(10) Where the court remands the offender to accommodation provided by or on behalf of a local authority, the court must designate, as the authority which is to receive the offender, the local authority for the area in which it appears to the court that the offender resides.

Commencement Information
I217 Sch. 2 para. 21 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Adjournment of proceedings

22 (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in any proceedings under this Schedule.

(2) The court may adjourn the hearing, and, where it does so, may—
(a) direct that the offender be released forthwith, or
(b) remand the offender.

(3) Where the court remands the offender under sub-paragraph (2)—
(a) it must fix the time and place at which the hearing is to be resumed, and
(b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.

(4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
(a) it may fix the time and place at which the hearing is to be resumed, but
(b) if it does not do so, must not resume the hearing unless it is satisfied that the offender, the responsible officer and, if the offender is aged under 14, a parent or guardian of the offender have had adequate notice of the time and place of the resumed hearing.

(5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980 (c. 43).

(6) This paragraph—
(a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
(b) is not to be taken to affect the application of that section to hearings of any other description.

Commencement Information
I218 Sch. 2 para. 22 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Restrictions on imposition of intensive supervision and surveillance or fostering

23 Subsection (4), and the provisions mentioned in subsection (6), of section 1 apply in relation to a power conferred by paragraph 6(2)(b), 8(2)(b), 13(4)(b) or 14(4)(b) to impose a requirement as they apply in relation to any power conferred by section 1

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

or Part 1 of Schedule 1 to make a youth rehabilitation order which includes such a requirement.

Commencement Information
I219 Sch. 2 para. 23 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Provision of copies of orders etc.

24 (1) Where a court makes an order under this Schedule revoking or amending a youth rehabilitation order, the proper officer of the court must forthwith—

(a) provide copies of the revoking or amending order to the offender and, if the offender is aged under 14, to the offender's parent or guardian,

(b) provide a copy of the revoking or amending order to the responsible officer,

(c) in the case of an amending order which substitutes a new local justice area, provide copies of the amending order to—

(i) the local probation board acting for that area or (as the case may be) a provider of probation services operating in that area, and

(ii) the magistrates' court acting in that area,

(d) in the case of an amending order which imposes or cancels a requirement specified in the first column of the Table in paragraph 34(4) of Schedule 1, provide a copy of so much of the amending order as relates to that requirement to the person specified in relation to that requirement in the second column of that Table,

(e) in the case of an order which revokes a requirement specified in the first column of that Table, provide a copy of the revoking order to the person specified in relation to that requirement in the second column of that Table, and

(f) if the court is a magistrates' court acting in a local justice area other than the area specified in the youth rehabilitation order, provide a copy of the revoking or amending order to a magistrates' court acting in the local justice area specified in the order.

(2) Where under sub-paragraph (1)(c) the proper officer of the court provides a copy of an amending order to a magistrates' court acting in a different area, the officer must also provide to that court such documents and information relating to the case as appear likely to be of assistance to a court acting in that area in the exercise of its functions in relation to the order.

(3) In this paragraph "proper officer" means—

(a) in relation to a magistrates' court, the designated officer for the court, and

(b) in relation to the Crown Court, the appropriate officer.

Commencement Information
I220 Sch. 2 para. 24 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Power to amend maximum period of fostering requirement

25 The Secretary of State may by order amend paragraph 6(9), 8(9) or 16(2) by substituting, for—

(a) the period of 18 months specified in the provision, or

(b) any other period which may be so specified by virtue of a previous order under this paragraph,

such other period as may be specified in the order.

Commencement Information

I221 Sch. 2 para. 25 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(n)**

SCHEDULE 3

Section 3

TRANSFER OF YOUTH REHABILITATION ORDERS TO NORTHERN IRELAND

PART 1

MAKING OR AMENDMENT OF A YOUTH REHABILITATION ORDER WHERE OFFENDER RESIDES OR PROPOSES TO RESIDE IN NORTHERN IRELAND

Making of youth rehabilitation order where offender resides or will reside in Northern Ireland

1 (1) This paragraph applies where a court considering the making of a youth rehabilitation order is satisfied that the offender—

(a) resides in Northern Ireland, or

(b) will reside there when the order takes effect.

(2) The court may not make a youth rehabilitation order in respect of the offender unless it appears to the court that—

(a) in the case of an order imposing a requirement mentioned in sub-paragraph (6), the conditions in sub-paragraphs (3), (4) and (5) are satisfied, or

(b) in any other case, that the conditions in sub-paragraphs (3) and (4) are satisfied.

(3) The condition in this sub-paragraph is satisfied if the number of hours, days or months in respect of which any requirement of the order is imposed is no greater than the number of hours, days or months which may be imposed by a court in Northern Ireland in respect of a similar requirement in the order which the court proposes to specify as the corresponding order under paragraph 3(b).

(4) The condition in this sub-paragraph is satisfied if suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland or any other body designated by the Secretary of State by order.

(5) The condition in this sub-paragraph is satisfied in relation to an order imposing a requirement mentioned in sub-paragraph (6) if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) arrangements exist for persons to comply with such a requirement in the petty sessions district in Northern Ireland in which the offender resides, or will be residing when the order takes effect, and

(b) provision can be made for the offender to comply with the requirement under those arrangements.

(6) The requirements referred to in sub-paragraphs (2)(a) and (5) are—

(a) an activity requirement (including an extended activity requirement);

(b) an unpaid work requirement;

(c) a programme requirement;

(d) an attendance centre requirement;

(e) a mental health treatment requirement;

(f) a drug treatment requirement;

(g) a drug testing requirement;

(h) an education requirement;

(i) an electronic monitoring requirement.

(7) The court may not by virtue of this paragraph require a local authority residence requirement or a fostering requirement to be complied with in Northern Ireland.

Commencement Information

I222 Sch. 3 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Amendment of youth rehabilitation order where offender resides or proposes to reside in Northern Ireland

2 (1) This paragraph applies where the appropriate court for the purposes of paragraph 13(2) of Schedule 2 (amendment by reason of change of residence) or the Crown Court is satisfied that an offender in respect of whom a youth rehabilitation order is in force is residing or proposes to reside in Northern Ireland.

(2) The power of the court to amend the order under Part 4 of Schedule 2 includes power to amend it by requiring it to be complied with in Northern Ireland if it appears to the court that—

(a) in the case of an order which once amended will impose a requirement mentioned in sub-paragraph (6), that the conditions in sub-paragraphs (3), (4) and (5) are satisfied, or

(b) in any other case, that the conditions in sub-paragraphs (3) and (4) are satisfied.

(3) The condition in this sub-paragraph is satisfied if the number of hours, days or months in respect of which any requirement of the order is imposed is no greater than the number of hours, days or months which may be imposed by a court in Northern Ireland in respect of a similar requirement in the order which the court proposes to specify as the corresponding order under paragraph 3(b).

(4) The condition in this sub-paragraph is satisfied if suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland or any other body designated by the Secretary of State by order.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) The condition in this sub-paragraph is satisfied in relation to an order that will impose a requirement mentioned in sub-paragraph (6) if—

(a) arrangements exist for persons to comply with such a requirement in the petty sessions district in Northern Ireland in which the offender resides, or will be residing when the amendment to the order takes effect, and

(b) provision can be made for the offender to comply with the requirement under those arrangements.

(6) The requirements referred to in sub-paragraphs (2)(a) and (5) are—

(a) an activity requirement (including an extended activity requirement);

(b) an unpaid work requirement;

(c) a programme requirement;

(d) an attendance centre requirement;

(e) a mental health treatment requirement;

(f) a drug treatment requirement;

(g) a drug testing requirement;

(h) an education requirement;

(i) an electronic monitoring requirement.

(7) The court may not by virtue of this paragraph require a local authority residence requirement or a fostering requirement to be complied with in Northern Ireland.

Commencement Information

I223 Sch. 3 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Further provisions regarding the making or amending of youth rehabilitation orders under paragraph 1 or 2

3 A youth rehabilitation order made or amended in accordance with paragraph 1 or 2 must—

(a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment takes effect, and

(b) specify as the corresponding order for the purposes of this Schedule an order that may be made by a court in Northern Ireland,

and paragraph 33 of Schedule 1 (local justice area to be specified in order) does not apply in relation to an order so made or amended.

Commencement Information

I224 Sch. 3 para. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

4 (1) Before making or amending a youth rehabilitation order in accordance with paragraph 1 or 2, the court must explain to the offender in ordinary language—

(a) the requirements of the legislation in Northern Ireland relating to the order to be specified under paragraph 3(b),

(b) the powers of the home court under that legislation, as modified by Part 2 of this Schedule, and

(c) its own powers under Part 2 of this Schedule.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The court which makes or amends the order must—

(a) provide the persons mentioned in sub-paragraph (3) with a copy of the order as made or amended, and

(b) provide the home court with such other documents and information relating to the case as it considers likely to be of assistance to that court;

and sub-paragraphs (1) to (3) of paragraph 34 of Schedule 1 (provision of copies of orders) do not apply.

(3) The persons referred to in sub-paragraph (2)(a) are—

(a) the offender,

(b) where the offender is aged under 14—

(i) the offender's parent or guardian, or

(ii) if an authority in Northern Ireland has parental responsibility for, and is looking after, the offender, the authority,

(c) the body which is to make suitable arrangements for the offender's supervision under the order, and

(d) the home court.

(4) In sub-paragraph (3)(b)(ii)—

(a) "authority" has the meaning given by Article 2 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),

(b) references to an offender who is looked after by an authority are to be construed in accordance with Article 25 of that Order, and

(c) "parental responsibility" has the same meaning as in that Order.

(5) In this paragraph, "home court" has the meaning given by paragraph 8.

Commencement Information

I225 Sch. 3 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Modifications to Part 1

5 (1) Where a court is considering the making or amendment of a youth rehabilitation order by virtue of paragraph 1 or 2, Part 1 of this Act (youth rehabilitation orders) has effect subject to the following modifications.

(2) The following provisions of Schedule 1 are omitted—

(a) in paragraph 8(3)(a) (activity requirement: further provisions), the words "a member of a youth offending team or",

(b) paragraphs 8(3)(c), 10(3)(b) and 12(3)(a) (availability of arrangements in local area: activity requirement, unpaid work requirement and attendance centre requirement),

(c) paragraph 16(7) (residence requirement: restriction on requiring residence at hostel or institution), and

(d) paragraphs 18(7), 22(4)(a), 23(3)(a) and 26(6) and (7) (availability of arrangements in local area: fostering requirement, drug treatment and testing requirements and electronic monitoring requirement).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In paragraph 12 of Schedule 1 (attendance centre requirement) any reference to an attendance centre has effect as a reference to an attendance centre as defined by Article 50(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)).

(4) In paragraph 20 of that Schedule (mental health treatment requirement), for sub-paragraph (2)(a) there is substituted—

"(a) treatment as a resident patient at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)), approved by the Department of Health, Social Services and Public Safety for the purposes of paragraph 4(3) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));".

[[F129](5) The references to a local authority in paragraph 25 of that Schedule (education requirement) (except in sub-paragraph (6) of that paragraph) have effect as references to an Education and Library Board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986 (SI 1986/594 (NI 3)).**]**

(6) In paragraph 26 of that Schedule (electronic monitoring requirements: common provisions) sub-paragraph (5) is omitted.

[[F130](6A) The reference in the second column of the Table in paragraph 34(4) of that Schedule (additional persons to whom court must give a copy of the order) to the local authority specified under paragraph 25(2) of that Schedule has effect as a reference to the Education and Library Board specified under that paragraph.**]**

(7) Paragraph 36 of that Schedule has effect as if it required the Crown Court, where it makes a direction under that paragraph, to specify the youth court or other magistrates' court in England and Wales which is to be the relevant court in England or Wales for the purposes of Part 2 of this Schedule.

(8) Any reference to the responsible officer has effect as a reference to the person who is to be responsible for the offender's supervision under the order.

Textual Amendments

F129 Sch. 3 para. 5(5) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 63(3)**

F130 Sch. 3 para. 5(6A) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 63(4)**

Commencement Information

I226 Sch. 3 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Meaning of "supervision"

6 In this Part of this Schedule "supervision", in relation to a youth rehabilitation order which a court is considering making or amending in accordance with paragraph 1 or 2, means the performance of supervisory, enforcement and other related functions conferred by the legislation which has effect in Northern Ireland relating

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

to corresponding orders of the kind which the court proposes to specify under paragraph 3(b).

Commencement Information
I227 Sch. 3 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

PART 2

PROVISIONS RELATING TO AN ORDER MADE OR AMENDED UNDER PART 1

Application of this Part

7 This Part of this Schedule applies where a youth rehabilitation order is made or amended in accordance with Part 1 of this Schedule.

Commencement Information
I228 Sch. 3 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Interpretation

8 In this Part of this Schedule, in relation to the youth rehabilitation order—

"corresponding order" means the order specified under paragraph 3(b);

"home court" means—

(a) the court of summary jurisdiction acting for the petty sessions district in Northern Ireland in which the offender resides or proposes to reside, or

(b) where the youth rehabilitation order was made or amended by the Crown Court and the Crown Court in Northern Ireland has not made a direction under paragraph 11, the Crown Court in Northern Ireland;

"supervision" means the performance of supervisory, enforcement and other related functions conferred by the legislation which has effect in Northern Ireland relating to the corresponding order;

"the relevant court in England or Wales" means—

(a) the court in England and Wales which made or which last amended the order, or

(b) if the order was made by the Crown Court and includes a direction under paragraph 36 of Schedule 1, such youth court or other magistrates' court as may be specified in the order;

"the relevant officer" means the person responsible for the offender's supervision under the order.

Commencement Information
I229 Sch. 3 para. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Effect of the youth rehabilitation order in Northern Ireland

9 (1) The youth rehabilitation order is to be treated in Northern Ireland as if it were a corresponding order and the legislation which has effect in Northern Ireland in relation to such orders applies accordingly.

(2) Sub-paragraph (1) is subject to paragraphs 12 to 16.

Commencement Information
I230 Sch. 3 para. 9 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Duty of offender to keep in touch with relevant officer

10 In section 5(5) (duty of offender to keep in touch with responsible officer), references to the responsible officer are to be read as references to the relevant officer.

Commencement Information
I231 Sch. 3 para. 10 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Direction by Crown Court in Northern Ireland that proceedings in Northern Ireland be before a court of summary jurisdiction

11 Where the youth rehabilitation order was made or amended by the Crown Court, the Crown Court in Northern Ireland may direct that any proceedings in Northern Ireland in relation to the order be before the court of summary jurisdiction acting for the petty sessions district in which the offender resides or proposes to reside.

Commencement Information
I232 Sch. 3 para. 11 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Powers of the home court in respect of the youth rehabilitation order

12 The home court may exercise in relation to the youth rehabilitation order any power which it could exercise in relation to a corresponding order made by a court in Northern Ireland, by virtue of the legislation relating to such orders which has effect there, except the following—

(a) any power to discharge or revoke the order (other than a power to revoke the order where the offender has been convicted of a further offence and the court has imposed a custodial sentence),

(b) any power to deal with the offender for the offence in respect of which the order was made, and

(c) in the case of a youth rehabilitation order imposing a curfew requirement, any power to vary the order by substituting for the period specified in it any longer period than the court which made the order could have specified.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I233 Sch. 3 para. 12 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

13 (1) The home court may require the offender to appear before the relevant court in England or Wales if sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies where it appears to the home court upon a complaint being made to a lay magistrate acting for the petty sessions district for the time being specified in the order that the offender has failed to comply with one or more requirements of the order.

(3) This sub-paragraph applies where it appears to the home court, on the application of the offender or the relevant officer, that it would be in the interests of justice for a power conferred by any of paragraphs 11 to 14 of Schedule 2 to be exercised.

Commencement Information
I234 Sch. 3 para. 13 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

14 Where an offender is required by virtue of paragraph 13 to appear before the relevant court in England or Wales—

(a) the home court must send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable, and

(b) a certificate purporting to be signed by the clerk of the home court (or, if the home court is the Crown Court in Northern Ireland, by the chief clerk) is admissible as evidence of the failure before the relevant court in England or Wales.

Commencement Information
I235 Sch. 3 para. 14 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Powers of court in England or Wales before which the offender is required to appear

15 Where an offender is required by virtue of paragraph 13 to appear before the relevant court in England or Wales, that court may—

(a) issue a warrant for the offender's arrest, and

(b) exercise any power which it could exercise in respect of the youth rehabilitation order if the offender resided in England or Wales,

and any enactment relating to the exercise of such powers has effect accordingly, and with any reference to the responsible officer being read as a reference to the relevant officer.

Commencement Information
I236 Sch. 3 para. 15 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

16 (1) Paragraph 15(b) does not enable the relevant court in England or Wales to amend the youth rehabilitation order unless it appears to the court that the conditions in paragraph 2(2)(a) and (b) are satisfied in relation to any requirement to be imposed.

(2) The preceding paragraphs of this Schedule have effect in relation to the amendment of the youth rehabilitation order by virtue of paragraph 15(b) as they have effect in relation to the amendment of such an order by virtue of paragraph 2(2).

Commencement Information
I237 Sch. 3 para. 16 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

Power to amend provisions of Schedule in consequence of changes to the law in Northern Ireland

17 (1) This paragraph applies where a change is made to the law in Northern Ireland adding further descriptions of orders to the kinds of orders which a court in that jurisdiction may impose in dealing with an offender aged under 18 at the time of conviction.

(2) The Secretary of State may by order make such amendments to any of the preceding provisions of this Schedule as appear expedient in consequence of the change.

Commencement Information
I238 Sch. 3 para. 17 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(o)**

SCHEDULE 4

Section 6

YOUTH REHABILITATION ORDERS: CONSEQUENTIAL AND RELATED AMENDMENTS

PART 1

CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c. 12)

1 The Children and Young Persons Act 1933 has effect subject to the following amendments.

Commencement Information
I239 Sch. 4 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(i)**

2 (1) Section 34 (attendance at court of parent of child or young person charged with an offence, etc.) is amended as follows.

(2) In subsection (7), omit "section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 or".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) After subsection (7A) insert—

"(7B) If it appears that at the time of his arrest a youth rehabilitation order, as defined in Part 1 of the Criminal Justice and Immigration Act 2008, is in force in respect of him, the responsible officer, as defined in section 4 of that Act, shall also be informed as described in subsection (3) above as soon as it is reasonably practicable to do so."

Commencement Information
I240 Sch. 4 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(i)**

3 (1) Section 49 (restrictions on reports of proceedings in which children or young persons are concerned) is amended as follows.

(2) In subsection (2), for paragraphs (c) and (d) substitute—

"(c) proceedings in a magistrates' court under Schedule 2 to the Criminal Justice and Immigration Act 2008 (proceedings for breach, revocation or amendment of youth rehabilitation orders);

(d) proceedings on appeal from a magistrates' court arising out of any proceedings mentioned in paragraph (c) (including proceedings by way of case stated)."

(3) In subsection (4A), omit paragraph (d) (but not the word "or" immediately following it).

(4) In subsection (10), for the words from "Schedule 7" to "supervision orders)" substitute the words " Schedule 2 to the Criminal Justice and Immigration Act 2008 (proceedings for breach, revocation or amendment of youth rehabilitation orders) ".

(5) In subsection (13), omit paragraph (c)(i).

Commencement Information
I241 Sch. 4 para. 3(1)(2)(4) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(ii)**

Criminal Appeal Act 1968 (c. 19)

4 In section 10(2) of the Criminal Appeal Act 1968 (appeal against sentence in other cases dealt with at assizes or quarter sessions), for paragraph (b) substitute—

"(b) having been given a suspended sentence or made the subject of—

(i) an order for conditional discharge,

(ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, or

(iii) a community order within the meaning of Part 12 of the Criminal Justice Act 2003,

appears or is brought before the Crown Court to be further dealt with for the offence."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I242 Sch. 4 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Firearms Act 1968 (c. 27)

5 The Firearms Act 1968 has effect subject to the following amendments.

Commencement Information
I243 Sch. 4 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

6 In section 21(3ZA)(a) (possession of firearms by persons previously convicted of crime), after "2003", insert " , or a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, ".

Commencement Information
I244 Sch. 4 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

7 In section 52(1A)(a) (forfeiture and disposal of firearms; cancellation of certificate by convicting court), after "2003", insert " , or a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008, ".

Commencement Information
I245 Sch. 4 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Health Services and Public Health Act 1968 (c. 46)

8 The Health Services and Public Health Act 1968 has effect subject to the following amendments.

Commencement Information
I246 Sch. 4 para. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

9 In section 64(3)(a) (financial assistance by the Secretary of State to certain voluntary organisations)—

(a) in paragraph (xxi) of the definition of "the relevant enactments", for "sections 63 to 66 and 92 of, and Schedules 6 and 7 to," substitute " section 92 of ", and

(b) after that paragraph, insert—

"(xxii) Part 1 of the Criminal Justice and Immigration Act 2008;".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I247 Sch. 4 para. 9 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

10 In section 65(3)(b) (financial and other assistance by local authorities to certain voluntary organisations), for paragraph (xxii) of the definition of "relevant enactments" substitute—

"(xxii) Part 1 of the Criminal Justice and Immigration Act 2008;".

Commencement Information
I248 Sch. 4 para. 10 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Social Work (Scotland) Act 1968 (c. 49)

11 The Social Work (Scotland) Act 1968 has effect subject to the following amendments.

Commencement Information
I249 Sch. 4 para. 11 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

12 In section 86(3) (adjustments between authority providing accommodation etc, and authority of area of residence) after "supervision order" insert " , youth rehabilitation order ".

Commencement Information
I250 Sch. 4 para. 12 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

13 In section 94(1) (interpretation)—

(a) for the definition of "probation order" substitute—

""probation order", in relation to an order imposed by a court in Northern Ireland, has the same meaning as in the Criminal Justice (Northern Ireland) Order 1996,",

(b) in the definition of "supervision order", omit "the Powers of Criminal Courts (Sentencing) Act 2000 or", and

(c) at the end insert—

""youth rehabilitation order" means an order made under section 1 of the Criminal Justice and Immigration Act 2008."

Commencement Information
I251 Sch. 4 para. 13 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Children and Young Persons Act 1969 (c. 54)

14 The Children and Young Persons Act 1969 has effect subject to the following amendments.

Commencement Information
I252 Sch. 4 para. 14 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

15 Omit section 25 (transfers between England or Wales and Northern Ireland).

Commencement Information
I253 Sch. 4 para. 15 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

16 (1) Section 26 (transfers between England or Wales and the Channel Islands or Isle of Man) is amended as follows.

(2) In subsection (1)(c), for the words from "supervision order" to "2000" substitute " youth rehabilitation order imposing a local authority residence requirement ".

(3) In subsection (2), for the words from "supervision order" to "2000" substitute " youth rehabilitation order imposing a local authority residence requirement ".

Commencement Information
I254 Sch. 4 para. 16 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

17 (1) Section 32 (detention of absentees) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (a), for "paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000" substitute " paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ", and

(b) for paragraph (b) substitute—

"(b) from local authority accommodation—

(i) in which he is required to live by virtue of a youth rehabilitation order imposing a local authority residence requirement (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008); or

(ii) to which he has been remanded under paragraph 21 of Schedule 2 to that Act; or

(iii) to which he has been remanded or committed under section 23(1) of this Act,".

(3) For subsection (1C) substitute—

"(1C) In this section "the responsible person" means, as the case may be—

(a) the person who made the arrangements under paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008;

(b) the authority specified under paragraph 17(5) of Schedule 1 to that Act;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) the authority designated under paragraph 21(10) of Schedule 2 to that Act; or

(d) the authority designated under section 23 of this Act."

(4) After subsection (1C) insert—

"(1D) If a child or young person—

(a) is required to reside with a local authority foster parent by virtue of a youth rehabilitation order with fostering, and

(b) is absent, without the consent of the responsible officer (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008), from the place in which he is required to reside,

he may be arrested by a constable anywhere in the United Kingdom without a warrant.

(1E) A person so arrested shall be conducted to—

(a) the place where he is required to reside, or

(b) such other place as the local authority specified under paragraph 18(3) of Schedule 1 to the Criminal Justice and Immigration Act 2008 may direct,

at that local authority's expense."

(5) In subsection (2), for "or (1A)" substitute " , (1A) or (1D) ".

(6) In subsection (2A), for the words from "mentioned in subsection" to "this section is in premises" substitute " mentioned in subsection (1), (1A)(a) or (b)(i) or (ii) or (1D) of this section is in premises ".

(7) In subsection (2B)—

(a) after "subsection (1A)" insert " or (1D) ", and

(b) at the end insert " or the responsible officer, as the case may be. "

(8) In subsection (3), for "or (1A)" substitute " , (1A) or (1D) ".

(9) In subsection (4), after "(1A)" insert " , (1D) ".

Commencement Information

I255 Sch. 4 para. 17 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

18 In section 70(1) (interpretation)—

(a) omit the definition of "supervision order",

(b) after the definition of "local authority accommodation" insert—

""local authority residence requirement" has the same meaning as in Part 1 of the Criminal Justice and Immigration Act 2008;", and

(c) after the definition of "youth offending team" insert—

""youth rehabilitation order" and "youth rehabilitation order with fostering" have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 1 of that Act);".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I256 Sch. 4 para. 18 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

19 In section 73(4)(a) (provisions of section 32 extending to Scotland) for "to (1C)" substitute " to (1E) ".

Commencement Information
I257 Sch. 4 para. 19 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Rehabilitation of Offenders Act 1974 (c. 53)

20 The Rehabilitation of Offenders Act 1974 has effect subject to the following amendments.

Commencement Information
I258 Sch. 4 para. 20 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

F131 21 . . . . . .

Textual Amendments
F131 Sch. 4 para. 21 repealed (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

Commencement Information
I259 Sch. 4 para. 21 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

22 In section 7(2) (limitations on rehabilitation under Act, etc.) for paragraph (d) substitute—

"(d) in any proceedings relating to the variation or discharge of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008, or on appeal from any such proceedings;".

Commencement Information
I260 Sch. 4 para. 22 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Bail Act 1976 (c. 63)

23 In section 4(3) of the Bail Act 1976 (general right to bail of accused persons and others)—

(a) omit the words "to be dealt with", and

(b) for paragraph (a), substitute—

"(a) Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach, revocation or amendment of youth rehabilitation orders), or".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I261 Sch. 4 para. 23 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(iii)**

Magistrates' Courts Act 1980 (c. 43)

24 In Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143), omit the entries relating to Schedules 3, 5 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

Commencement Information
I262 Sch. 4 para. 24 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(p)(iv)**

PROSPECTIVE

Contempt of Court Act 1981 (c. 49)

25 In section 14 of the Contempt of Court Act 1981 (proceedings in England and Wales), omit the subsection (2A) inserted by the Criminal Justice Act 1982 (c. 48).

Criminal Justice Act 1982

26 Part 3 of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements for transfer of community service orders from Northern Ireland) has effect subject to the following amendments.

Commencement Information
I263 Sch. 4 para. 26 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

27 (1) Paragraph 7 (transfer to England and Wales) is amended as follows.

(2) In sub-paragraph (1), in Article 13(4)(b) inserted by that provision, for "such orders" substitute " an unpaid work requirement of a community order under section 177 of the Criminal Justice Act 2003 or youth rehabilitation order under section 1 of the Criminal Justice and Immigration Act 2008 ".

(3) In sub-paragraph (2)(b)—
(a) after "a community order" insert " or a youth rehabilitation order ", and
(b) omit "(within the meaning of Part 12 of the Criminal Justice Act 2003)".

(4) In sub-paragraph (3)—
(a) for "A community service order" substitute " An adult community service order ", and
(b) in paragraph (b)—
(i) omit "within the meaning of Part 12 of the Criminal Justice Act 2003", and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) for "by that Part of that Act" substitute " by Part 12 of the Criminal Justice Act 2003 ".

(5) After sub-paragraph (3) insert—

"(4) A youth community service order made or amended in accordance with this paragraph shall—

(a) specify the local justice area in England or Wales in which the offender resides or will be residing when the order or the amendment comes into force; and

(b) require—

(i) the local probation board for that area established under section 4 of the Criminal Justice and Court Services Act 2000 or (as the case may be) a provider of probation services operating in that area, or

(ii) a youth offending team established under section 39 of the Crime and Disorder Act 1998 by a local authority for the area in which the offender resides or will be residing when the order or amendment comes into force,

to appoint a person who will discharge in respect of the order the functions in respect of youth rehabilitation orders conferred on responsible officers by Part 1 of the Criminal Justice and Immigration Act 2008.

(5) The person appointed under sub-paragraph (4)(b) must be—

(a) where the appointment is made by a local probation board, an officer of that board;

(b) where the appointment is made by a provider of probation services, an officer of that provider;

(c) where the appointment is made by a youth offending team, a member of that team."

Commencement Information

I264 Sch. 4 para. 27 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

28 (1) Paragraph 9 (general provision) is amended as follows.

(2) In sub-paragraph (3)—

(a) in paragraph (a)—

(i) for "a community service order" substitute " an adult community service order ";

(ii) omit "under section 177 of the Criminal Justice Act 2003";

(iii) for "of that Act" substitute " of the Criminal Justice Act 2003 ", and

(b) before "and" at the end of that paragraph insert—

"(aa) a youth community service order made or amended in the circumstances specified in paragraph 7 above shall be treated as if it were a youth rehabilitation order made in England and Wales and the provisions of Part 1 of the Criminal Justice and Immigration Act 2008 shall apply accordingly;".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In sub-paragraph (4)(a)—

(a) after "community orders" insert " or youth rehabilitation orders ", and

(b) omit "(within the meaning of Part 12 of the Criminal Justice Act 2003)".

(4) In sub-paragraph (5)—

(a) after "community order" insert " or youth rehabilitation order ", and

(b) omit "(within the meaning of Part 12 of the Criminal Justice Act 2003)".

(5) In sub-paragraph (6)—

(a) after "community orders" insert " or youth rehabilitation orders ",

(b) omit "(within the meaning of Part 12 of the Criminal Justice Act 2003)", and

(c) in paragraph (b)(i), after "2003" insert " or, as the case may be, Part 1 of the Criminal Justice and Immigration Act 2008 ".

Commencement Information

I265 Sch. 4 para. 28 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

29 After that paragraph insert—

"Community service orders relating to persons residing in England and Wales: interpretation

10 In paragraphs 7 and 9 above—

"adult community service order" means a community service order made in respect of an offender who was aged at least 18 when convicted of the offence in respect of which the order is made;

"community order" means an order made under section 177 of the Criminal Justice Act 2003;

"youth community service order" means a community service order made in respect of an offender who was aged under 18 when convicted of the offence in respect of which the order is made;

"youth rehabilitation order" means an order made under section 1 of the Criminal Justice and Immigration Act 2008."

Commencement Information

I266 Sch. 4 para. 29 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Mental Health Act 1983 (c. 20)

30 In section 37(8) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship)—

(a) in paragraph (a), after "Criminal Justice Act 2003)" insert " or a youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008) ", and

(b) in paragraph (c), omit the words "a supervision order (within the meaning of that Act) or".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I267 Sch. 4 para. 30 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Child Abduction Act 1984 (c. 37)

31 In paragraph 2(1) of the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases)—

(a) in paragraph (a), for "paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000" substitute " paragraph 21(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ", and

(b) in paragraph (b), after "1969" insert " or paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 ".

Commencement Information
I268 Sch. 4 para. 31 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Prosecution of Offences Act 1985 (c. 23)

32 (1) Section 19 of the Prosecution of Offences Act 1985 (provision for orders as to costs in other circumstances) is amended as follows.

(2) In subsection (3B)(b)(i), for the words from "in a community order" to "that Act" substitute " a mental health treatment requirement in a community order or youth rehabilitation order ".

(3) After subsection (3B) insert—

"(3C) For the purposes of subsection (3B)(b)(i)—

"community order" has the same meaning as in Part 12 of the Criminal Justice Act 2003;

"mental health treatment requirement" means—

(a) in relation to a community order, a mental health treatment requirement under section 207 of the Criminal Justice Act 2003, and

(b) in relation to a youth rehabilitation order, a mental health treatment requirement under paragraph 20 of Schedule 1 to the Criminal Justice and Immigration Act 2008;

"youth rehabilitation order" has the same meaning as in Part 1 of the Criminal Justice and Immigration Act 2008."

Commencement Information
I269 Sch. 4 para. 32 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Children Act 1989 (c. 41)

33 The Children Act 1989 has effect subject to the following amendments.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I270 Sch. 4 para. 33 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

34 (1) Section 21 (provision of accommodation for children in police protection or detention or on remand, etc.) is amended as follows.

(2) In subsection (2)(c)—

(a) in sub-paragraph (i), omit "paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or" and "or" at the end of that sub-paragraph, and

(b) for sub-paragraph (ii), substitute—

"(ii) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 21 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach etc. of youth rehabilitation orders); or

(iii) the subject of a youth rehabilitation order imposing a local authority residence requirement or a youth rehabilitation order with fostering,".

(3) After subsection (2) insert—

"(2A) In subsection (2)(c)(iii), the following terms have the same meanings as in Part 1 of the Criminal Justice and Immigration Act 2008 (see section 7 of that Act)—

"local authority residence requirement";

"youth rehabilitation order";

"youth rehabilitation order with fostering"."

Commencement Information
I271 Sch. 4 para. 34 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

35 In section 31(7)(b) (care and supervision orders), for sub-paragraph (ii) substitute—

"(ii) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008; or".

Commencement Information
I272 Sch. 4 para. 35 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

36 In section 105(6) (interpretation)—

(a) in paragraph (b), omit from the words "or an" to the end of the paragraph, and

(b) after that paragraph insert—

"(ba) in accordance with the requirements of a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008; or".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I273 Sch. 4 para. 36 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

37 (1) Part 3 of Schedule 3 (education supervision orders) is amended as follows.

(2) In paragraph 13(2), for paragraph (c) substitute—

"(c) a youth rehabilitation order made under Part 1 of the Criminal Justice and Immigration Act 2008 with respect to the child, while the education supervision order is in force, may not include an education requirement (within the meaning of that Part);".

(3) In paragraph 14—

(a) in sub-paragraph (1), for "order under section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000" substitute " youth rehabilitation order (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008) ", and

(b) in sub-paragraph (2), after "direction" (in the second place it occurs) insert " or instruction ".

Commencement Information
I274 Sch. 4 para. 37 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

38 In paragraph 3 of Schedule 8 (privately fostered children) for paragraph (a) substitute—

"(a) a youth rehabilitation order made under section 1 of the Criminal Justice and Immigration Act 2008;".

Commencement Information
I275 Sch. 4 para. 38 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Criminal Justice Act 1991 (c. 53)

39 Part 3 of Schedule 3 to the Criminal Justice Act 1991 (transfer of probation orders from Northern Ireland to England and Wales) has effect subject to the following amendments.

Commencement Information
I276 Sch. 4 para. 39 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

40 (1) Paragraph 10 is amended as follows.

(2) In sub-paragraph (2)(b), for the words from "the local probation board" to the end substitute "—

(i) the local probation board for the area which contains the local justice area in which he resides or will reside or (as the case may be) a provider of probation services operating in the local justice area in which he resides or will reside, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) a youth offending team established by a local authority for the area in which he resides or will reside,", and

(3) In sub-paragraph (3)(a), for the words from "an officer of a local probation board" to the end substitute "—

(i) an officer of a local probation board assigned to the local justice area in England and Wales in which the offender resides or will be residing when the order or amendment comes into force or (as the case may be) an officer of a provider of probation services acting in the local justice area in which the offender resides or will then be residing, or

(ii) a member of a youth offending team established by a local authority for the area in England and Wales in which the offender resides or will then be residing;".

Commencement Information

I277 Sch. 4 para. 40 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

41 (1) Paragraph 11 is amended as follows.

(2) In sub-paragraph (2)—

(a) for "a probation order" substitute " an adult probation order ",

(b) in paragraph (a), omit "under section 177 of the Criminal Justice Act 2003", and

(c) in paragraph (b), for "of that Act" substitute " of the Criminal Justice Act 2003 ".

(3) After that sub-paragraph insert—

"(2A) Where a youth probation order is made or amended in any of the circumstances specified in paragraph 10 above then, subject to the following provisions of this paragraph—

(a) the order shall be treated as if it were a youth rehabilitation order made in England and Wales, and

(b) the provisions of Part 1 of the Criminal Justice and Immigration Act 2008 shall apply accordingly."

(4) In sub-paragraph (3)—

(a) for paragraph (a) substitute—

"(a) the requirements of the legislation relating to community orders or, as the case may be, youth rehabilitation orders;";

(b) in paragraph (b), for "Schedule 8 to that Act" substitute " that legislation ".

(5) In sub-paragraph (4)—

(a) after "a community order" insert " or, as the case may be, a youth rehabilitation order ",

(b) omit "under section 177 of the Criminal Justice Act 2003", and

(c) for "to that Act" substitute " to the Criminal Justice Act 2003 or by paragraph 6(2)(c) or 11(2) of Schedule 2 to the Criminal Justice and Immigration Act 2008 ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In sub-paragraph (5)—

(a) after "2003" insert " or, as the case may be, Part 1 of the Criminal Justice and Immigration Act 2008 ",

(b) for "(2) above" substitute " (2) or (2A) (as the case may be) ", and

(c) in paragraph (b) for the words from "of the" to "board" substitute "of—

(i) the offender, or

(ii) the officer of a local probation board, officer of a provider of probation services or member of a youth offending team (as the case may be),".

(7) In sub-paragraph (8)—

(a) after "In this paragraph" insert—

""adult probation order" means a probation order made in respect of an offender who was aged at least 18 when convicted of the offence in respect of which the order is made;

"community order" means an order made under section 177 of the Criminal Justice Act 2003;";

(b) at the end insert—

""youth probation order" means a probation order made in respect of an offender who was aged under 18 when convicted of the offence in respect of which the order is made;

"youth rehabilitation order" means an order made under section 1 of the Criminal Justice and Immigration Act 2008."

Commencement Information

I278 Sch. 4 para. 41 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

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

42 In section 136 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement: execution of warrants), in subsection (7A), after "youth offender panel)" insert " or under Schedule 2 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders: breach etc.) ".

Commencement Information

I279 Sch. 4 para. 42 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Criminal Procedure (Scotland) Act 1995 (c. 46)

F132 43 . . . . . .

Textual Amendments

F132 Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 2 para. 53**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I280 Sch. 4 para. 43 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

F132 44 . . . . . .

Textual Amendments
F132 Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 2 para. 53**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

Commencement Information
I281 Sch. 4 para. 44 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

F132 45 . . . . . .

Textual Amendments
F132 Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 2 para. 53**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

Commencement Information
I282 Sch. 4 para. 45 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

F132 46 . . . . . .

Textual Amendments
F132 Sch. 4 paras. 43-46 repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), s. 206(1), **Sch. 2 para. 53**; S.S.I. 2010/413, art. 2, Sch. (with art. 3(1))

Commencement Information
I283 Sch. 4 para. 46 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Education Act 1996 (c. 56)

47 In section 562(2)(b) of the Education Act 1996 (Act not to apply to persons detained under order of a court), for "community order under section 177 of the Criminal Justice Act 2003" substitute " youth rehabilitation order under section 1 of the Criminal Justice and Immigration Act 2008 ".

Commencement Information
I284 Sch. 4 para. 47 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

Crime and Disorder Act 1998 (c. 37)

48 The Crime and Disorder Act 1998 has effect subject to the following amendments.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I285 Sch. 4 para. 48 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

49 In section 38(4) (local provision of youth justice services)—

(a) in paragraph (f), for ", reparation orders and action plan orders" substitute " and reparation orders ",

(b) after paragraph (f) insert—

"(fa) the provision of persons to act as responsible officers in relation to youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008);

(fb) the supervision of children and young persons sentenced to a youth rehabilitation order under that Part which includes a supervision requirement (within the meaning of that Part);",

(c) omit paragraph (g), and

(d) in paragraph (h), omit "or a supervision order".

Commencement Information
I286 Sch. 4 para. 49 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

50 In Schedule 8 (minor and consequential amendments), in paragraph 13(2), for "that section" substitute " section 10 of that Act ".

Commencement Information
I287 Sch. 4 para. 50 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

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

51 The Powers of Criminal Courts (Sentencing) Act 2000 has effect subject to the following amendments.

Commencement Information
I288 Sch. 4 para. 51 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

52 In section 19(4)(a) (making of referral orders: effect on court's other sentencing powers), for "community sentence" substitute " sentence which consists of or includes a youth rehabilitation order ".

Commencement Information
I289 Sch. 4 para. 52 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

53 In section 73 (reparation orders)—

(a) for subsection (4)(b) substitute—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(b) to make in respect of him a youth rehabilitation order or a referral order."

(b) after subsection (4) insert—

"(4A) The court shall not make a reparation order in respect of the offender at a time when a youth rehabilitation order is in force in respect of him unless when it makes the reparation order it revokes the youth rehabilitation order.

(4B) Where a youth rehabilitation order is revoked under subsection (4A), paragraph 24 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach, revocation or amendment of youth rehabilitation order) applies to the revocation."

Commencement Information
I290 Sch. 4 para. 53 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(v)**

54 In section 74(3)(a) (requirements and provisions of reparation order, and obligations of person subject to it), omit "or with the requirements of any community order or any youth community order to which he may be subject".

Commencement Information
I291 Sch. 4 para. 54 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(p)(vi)**

55 In section 75 (breach, revocation and amendment of reparation orders) omit "action plan orders and" and "so far as relating to reparation orders".

Commencement Information
I292 Sch. 4 para. 55 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(vii)**

56 In section 91(3) (offenders under 18 convicted of certain serious offences: power to detain for specified period), for "a community sentence" substitute " a youth rehabilitation order ".

Commencement Information
I293 Sch. 4 para. 56 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(vii)**

57 In section 137(2) (power to order parent or guardian to pay fine, costs, compensation or surcharge)—

(a) after "under—" insert—

"(za) paragraph 6(2)(a) or 8(2)(a) of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach of youth rehabilitation order),", and

(b) omit paragraphs (a) to (c), and

(c) in paragraph (d) omit "action plan order or".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I294 Sch. 4 para. 57 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(p)(viii)**

58 In section 150(2) (binding over of parent or guardian), for "a community sentence on the offender" substitute " on the offender a sentence which consists of or includes a youth rehabilitation order ".

Commencement Information

I295 Sch. 4 para. 58 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(ix)**

59 In section 159 (execution of process between England and Wales and Scotland)—

(a) after "Schedule 1 to this Act," insert " or ",

(b) omit "paragraph 3(1), 10(6) or 18(1) of Schedule 3 to this Act,",

(c) omit "paragraph 1(1) of Schedule 5 to this Act", and

(d) omit "paragraph 7(2) of Schedule 7 to this Act, or".

Commencement Information

I296 Sch. 4 para. 59(a)(b)(d) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(x)**

60 (1) Section 160 (rules and orders) is amended as follows.

F133(2) . . . . . .

(3) In subsection (3)(a)—

(a) omit "40(2)(a)," and

(b) for "103(2) or paragraph 1(1A) of Schedule 3," substitute " or 103(2) ".

F134(4) . . . . . .

Textual Amendments

F133 Sch. 4 para. 60(2) repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(j)(ii), **Sch. 23 Pt. 4** (with s. 180)

F134 Sch. 4 para. 60(4) repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(j)(ii), **Sch. 23 Pt. 4** (with s. 180)

Commencement Information

I297 Sch. 4 para. 60(1) (3) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xi)**

I298 Sch. 4 para. 60(2)(4) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(p)(xi)** (Sch. 4 para. 60(2)(4) already repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(j)(ii), **Sch. 23 Pt. 4** (with s. 180))

61 In section 163 (general definitions)—

(a) omit the definitions of "action plan order", "affected person", "attendance centre", "attendance centre order", "community sentence", "curfew order", "exclusion order", "supervision order", "supervisor" and "youth community order",

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in the definition of "responsible officer", omit paragraphs (a), (aa) and (f), and

(c) at the end add—

""youth rehabilitation order" has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008."

Commencement Information

I299 Sch. 4 para. 61(a) in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(p)(xii)**

I300 Sch. 4 para. 61(b)(c) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xii)**

62 (1) Schedule 8 (breach, revocation and amendment of action plan orders and reparation orders) is amended as follows.

(2) In the heading to the Schedule omit "action plan orders and".

(3) In the cross-heading before paragraph 2, omit "action plan order or".

(4) In paragraph 2—

(a) in sub-paragraph (1), for "an action plan order or" substitute " a ",

(b) in sub-paragraph (2)—

(i) in paragraph (a), omit sub-paragraphs (ii) and (iii), and

(ii) in each of paragraphs (b) and (c), omit "action plan order or",

(c) in each of sub-paragraphs (5) and (7), omit "action plan order or", and

(d) in sub-paragraph (8), omit "or action plan order" in both places where it occurs.

(5) Omit paragraphs 3 and 4.

(6) In the cross-heading before paragraph 5, omit "action plan order or".

(7) In paragraph 5—

(a) in sub-paragraph (1), for "an action plan order or" substitute " a " and, in paragraph (a), omit "action plan order or", and

(b) in sub-paragraph (3), for "an action plan order or" substitute " a ".

(8) In paragraph 6(9), in each of paragraphs (a), (b) and (c), omit "action plan order or".

(9) In paragraph 7(b), for "an action plan order or" substitute " a ".

Commencement Information

I301 Sch. 4 para. 62 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

63 In Schedule 10 (transitory modifications), omit paragraphs 4 to 6 and 12 to 15.

Commencement Information

I302 Sch. 4 para. 63 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

64 In Schedule 11 (transitional provisions)—

(a) in paragraph 4, omit—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(i) paragraph (a) of sub-paragraph (1),
(ii) sub-paragraph (2), and
(iii) sub-paragraph (3), and

(b) omit paragraph 5.

Commencement Information
I303 Sch. 4 para. 64 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

Child Support, Pensions and Social Security Act 2000 (c. 19)

F135 65 . . . . . .

Textual Amendments
F135 Sch. 4 paras. 65-67 repealed (22.3.2010) by Welfare Reform Act 2009 (c. 24), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

F135 66 . . . . . .

Textual Amendments
F135 Sch. 4 paras. 65-67 repealed (22.3.2010) by Welfare Reform Act 2009 (c. 24), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

F135 67 . . . . . .

Textual Amendments
F135 Sch. 4 paras. 65-67 repealed (22.3.2010) by Welfare Reform Act 2009 (c. 24), s. 61(3), **Sch. 7 Pt. 3**; S.I. 2010/293, art. 2(3)(b) (with art. 2(4))

Criminal Justice and Court Services Act 2000 (c. 43)

68 The Criminal Justice and Court Services Act 2000 has effect subject to the following amendments.

Commencement Information
I304 Sch. 4 para. 68 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

69 In section 1(2)(a) (purposes of Chapter), after "2003)" insert " , youth rehabilitation orders (as defined by section 1 of the Criminal Justice and Immigration Act 2008) ".

Commencement Information
I305 Sch. 4 para. 69 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

70 In section 70 (interpretation, etc.) omit subsection (5).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I306 Sch. 4 para. 70 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

Criminal Justice Act 2003 (c. 44)

71 Part 12 of the Criminal Justice Act 2003 (sentencing) has effect subject to the following amendments.

Commencement Information
I307 Sch. 4 para. 71 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

72 (1) Section 147 (meaning of "community sentence" etc.) is amended as follows.

(2) In subsection (1)—
(a) omit paragraph (b), and
(b) after that paragraph insert—
"(c) a youth rehabilitation order."

(3) Omit subsection (2).

Commencement Information
I308 Sch. 4 para. 72 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

73 (1) Section 148 (restrictions on imposing community sentences) is amended as follows.

(2) In subsection (2)—
(a) omit "which consists of or includes a community order", and
(b) in paragraph (a), after "community order" insert " , or, as the case may be, youth rehabilitation order, comprised in the sentence ".

(3) After that subsection insert—

"(2A) Subsection (2) is subject to paragraph 3(4) of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance)."

(4) Omit subsection (3).

Commencement Information
I309 Sch. 4 para. 73 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

74 In section 149(1) (passing of community sentence on offender remanded in custody) for "youth community order" substitute " youth rehabilitation order ".

Commencement Information
I310 Sch. 4 para. 74 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

75 In section 150 (community sentence not available where sentence fixed by law etc.) for "youth community order" substitute " youth rehabilitation order ".

Commencement Information

I311 Sch. 4 para. 75 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

76 (1) Section 151 (community order for persistent offender previously fined) is amended as follows.

(2) In the title, after "community order" insert " or youth rehabilitation order ".

(3) In subsections (1)(a) and **[**F136 (1A)(b) **]**, for "16" substitute " 18 ".

(4) After subsection (2) insert—

"(2A) Subsection (2B) applies where—

(a) a person aged 16 or 17 is convicted of an offence ("the current offence");

(b) on three or more previous occasions the offender has, on conviction by a court in the United Kingdom of any offence committed by him after attaining the age of 16, had passed on him a sentence consisting only of a fine; and

(c) despite the effect of section 143(2), the court would not (apart from this section) regard the current offence, or the combination of the current offence and one or more offences associated with it, as being serious enough to warrant a youth rehabilitation order.

(2B) The court may make a youth rehabilitation order in respect of the current offence instead of imposing a fine if it considers that, having regard to all the circumstances including the matters mentioned in subsection (3), it would be in the interests of justice to make such an order."

(5) In subsection (3)—

(a) after "(2)" insert " and (2B) "; and

(b) in paragraph (a) for "or **[**F137 (1A)(c) **]**" substitute " **[**F137 (1A)(c) **]** or (2A)(b) ".

(6) In subsections (4), (5) and (6), for "and **[**F138 (1A)(c) **]**" substitute " **[**F138 (1A)(c) **]** and (2A)(b) ".

(7) In section 166 (savings for powers to mitigate etc.), in subsection (1)(a) after "151(2)" insert " or (2B) ".

Textual Amendments

F136 Word in Sch. 4 para. 76(3) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(3)(a)** (with s. 180)

F137 Word in Sch. 4 para. 76(5)(b) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(3)(b)** (with s. 180)

F138 Word in Sch. 4 para. 76(6) substituted (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(h), **Sch. 21 para. 98(3)(b)** (with s. 180)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I312 Sch. 4 para. 76 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

77 (1) Section 156 (pre-sentence reports and other requirements) is amended as follows.

(2) In subsection (1)—

(a) for ", (2)(b) or (3)(b)" substitute " or (2)(b), ", and

(b) after "153(2)," insert " or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders with intensive supervision and surveillance or fostering), ".

(3) In subsection (2) omit "or (3)(a)".

(4) In subsection (3)(b)—

(a) for ", (2)(b) or (3)(b)" substitute " or (2)(b), or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008, ", and

(b) after "community order" insert " or youth rehabilitation order ".

Commencement Information
I313 Sch. 4 para. 77 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

78 In section 161 (pre-sentence drug testing)—

(a) in subsection (1), omit "aged 14 or over", and

(b) omit subsection (7).

Commencement Information
I314 Sch. 4 para. 78 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

79 (1) Section 166 (savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders) is amended as follows.

(2) In subsection (1), after paragraph (d) add—

"(e) paragraph 3 of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance), or

(f) paragraph 4 of Schedule 1 to that Act (youth rehabilitation order with fostering),".

(3) In subsections (3) and (5), for "(d)" substitute " (f) ".

Commencement Information
I315 Sch. 4 para. 79 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

F139 80 . . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F139 Sch. 4 para. 80 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 64(5)(b)**, 151(1); S.I. 2012/2906, art. 2(a)

81 In section 176 (interpretation of Chapter 1)—

(a) omit the definition of "youth community order", and

(b) at the end add—

> ""youth rehabilitation order" has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008;
>
> "youth rehabilitation order with fostering" has the meaning given by paragraph 4 of Schedule 1 to that Act;
>
> "youth rehabilitation order with intensive supervision and surveillance" has the meaning given by paragraph 3 of Schedule 1 to that Act."

Commencement Information

I316 Sch. 4 para. 81 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

82 In section 177(1) (community orders) for "16" substitute " 18 ".

Commencement Information

I317 Sch. 4 para. 82 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

83 In section 197(1)(b) (meaning of "the responsible officer"), omit "the offender is aged 18 or over and".

Commencement Information

I318 Sch. 4 para. 83 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

84 In section 199 (unpaid work requirement)—

(a) in subsection (3), for "appropriate officer" substitute " officer of a local probation board or an officer of a provider of probation services ", and

(b) omit subsection (4).

Commencement Information

I319 Sch. 4 para. 84 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

85 In section 201 (activity requirement), in subsection (3)(a), for sub-paragraphs (i) and (ii) (but not the "and" immediately following sub-paragraph (ii)) substitute " an officer of a local probation board or an officer of a provider of probation services ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I320 Sch. 4 para. 85 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

F140 86 . . . . . .

Textual Amendments
F140 Sch. 4 para. 86 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 70(8)**, 151(1); S.I. 2012/2906, art. 2(a)

87 In section 203(2), for paragraphs (a) and (b) substitute " an officer of a local probation board or an officer of a provider of probation services ".

Commencement Information
I321 Sch. 4 para. 87 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

88 In section 209(2)(c) (drug rehabilitation requirement), for sub-paragraphs (i) and (ii) substitute " by an officer of a local probation board or an officer of a provider of probation services, and ".

Commencement Information
I322 Sch. 4 para. 88 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

89 In section 211 (periodic review of drug rehabilitation requirement), omit subsection (5).

Commencement Information
I323 Sch. 4 para. 89 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

90 In section 214 (attendance centre requirement), after subsection (6) add—

"(7) A requirement to attend at an attendance centre for any period on any occasion operates as a requirement, during that period, to engage in occupation, or receive instruction, under the supervision of and in accordance with instructions given by, or under the authority of, the officer in charge of the centre, whether at the centre or elsewhere."

Commencement Information
I324 Sch. 4 para. 90 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

91 In section 217(1)(b) (requirement to avoid conflict with religious beliefs etc.), for "school or any other" substitute " any ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I325 Sch. 4 para. 91 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiii)**

92 In section 221(2) (provision of attendance centres)—

(a) omit "or" at the end of paragraph (a),

(b) after that paragraph insert—

"(aa) attendance centre requirements of youth rehabilitation orders, within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008,", and

(c) omit paragraph (b).

Commencement Information
I326 Sch. 4 para. 92(b) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xiv)**

93 In section 222(1)(e) (rules), after "attendance centre requirements" insert " , or to attendance centre requirements imposed by youth rehabilitation orders under Part 1 of the Criminal Justice and Immigration Act 2008, ".

Commencement Information
I327 Sch. 4 para. 93 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

94 Omit section 279 (drug treatment and testing requirement in action plan order or supervision order).

Commencement Information
I328 Sch. 4 para. 94 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

95 In section 330(5)(a) (orders subject to the affirmative resolution procedure), omit the entry relating to section 161(7).

Commencement Information
I329 Sch. 4 para. 95 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

96 In Schedule 8 (breach, revocation or amendment of community order), omit paragraphs 12, 15 and 17(5) (powers of magistrates' court in case of offender reaching 18).

Commencement Information
I330 Sch. 4 para. 96 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

97 Omit Schedule 24 (drug treatment and testing requirement in action plan order or supervision order).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I331 Sch. 4 para. 97 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Violent Crime Reduction Act 2006 (c. 38)

98 In section 47 of the Violent Crime Reduction Act 2006 (power to search persons in attendance centres for weapons), in the definition of "relevant person" in subsection (11), for paragraph (b) substitute—

"(b) a youth rehabilitation order under Part 1 of the Criminal Justice and Immigration Act 2008;".

Commencement Information
I332 Sch. 4 para. 98 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)** (with art. 4)

Offender Management Act 2007 (c. 21)

99 In section 1(4) of the Offender Management Act 2007 (meaning of "the probation purposes"), in the definition of "community order"—

(a) after paragraph (a) insert—

"(aa) a youth rehabilitation order within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008 (see section 1 of that Act);", and

(b) after paragraph (b) insert—

"(c) a youth community order within the meaning of that Act (as it applies to offences committed before section 1 of the Criminal Justice and Immigration Act 2008 comes into force)".

Commencement Information
I333 Sch. 4 para. 99 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

PART 2

RELATED AMENDMENTS

Children and Young Persons Act 1933 (c. 12)

100 In section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned), in subsection (13)(g)(ii), for "the Powers of Criminal Courts (Sentencing) Act 2000" substitute " Part 1 or 2 of Schedule 15 to the Criminal Justice Act 2003 ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I334 Sch. 4 para. 100 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Children and Young Persons Act 1969 (c. 54)

101 (1) Section 32 of the Children and Young Persons Act 1969 (detention of absentees) is amended as follows.

(2) In subsection (1A)—

(a) in paragraph (a), after "under" insert " paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ",

(b) in paragraph (b) (as substituted by paragraph 17(2)(b) of this Schedule), in sub-paragraph (ii), after "under" insert " paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ".

(3) In subsection (1C) (as substituted by paragraph 17(3) of this Schedule)—

(a) in paragraph (a), after "under" insert " paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ", and

(b) in paragraph (c), after "under" insert " paragraph 4(6) of Schedule 1 or paragraph 6(8) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ".

Commencement Information
I335 Sch. 4 para. 101 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Bail Act 1976 (c. 63)

102 In section 4(3) of the Bail Act 1976 (general right to bail of accused persons and others), before paragraph (a) (as substituted by paragraph 23(b) of this Schedule) insert—

"(za) Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 (referral orders: referral back to appropriate court),

(zb) Schedule 8 to that Act (breach of reparation order),".

Commencement Information
I336 Sch. 4 para. 102 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Magistrates' Courts Act 1980 (c. 43)

103 In Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143), at the end insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"In Schedule 8, paragraph 2(2)(a)(i) (failure to comply with reparation order)	£1,000".

Commencement Information
I337 Sch. 4 para. 103 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Child Abduction Act 1984 (c. 37)

104 In paragraph 2(1) of the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases)—

(a) in paragraph (a), after "under" insert " paragraph 4(1)(a) of Schedule 1 or paragraph 6(4)(a) of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 or ", and

(b) in paragraph (b), before "or" (as inserted by paragraph 31(b) of this Schedule) insert " , paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

Commencement Information
I338 Sch. 4 para. 104 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Children Act 1989 (c. 41)

105 In section 21(2)(c) of the Children Act 1989 (provision of accommodation for children in police protection or detention or on remand, etc.), after sub-paragraph (i) insert—

"(ia) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 4 of Schedule 1 or paragraph 6 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach etc. of referral orders and reparation orders);".

Commencement Information
I339 Sch. 4 para. 105 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

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

106 The Powers of Criminal Courts (Sentencing) Act 2000 has effect subject to the following amendments.

Commencement Information
I340 Sch. 4 para. 106 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

107 In Schedule 1 (youth offender panels: further court proceedings), after paragraph 9 insert—

"Power to adjourn hearing and remand offender

9ZA (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in proceedings under this Part of this Schedule.

(2) The court may adjourn the hearing, and, where it does so, may—

(a) direct that the offender be released forthwith, or

(b) remand the offender.

(3) Where the court remands the offender under sub-paragraph (2)—

(a) it must fix the time and place at which the hearing is to be resumed, and

(b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.

(4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—

(a) it may fix the time and place at which the hearing is to be resumed, but

(b) if it does not do so, it must not resume the hearing unless it is satisfied that the persons mentioned in sub-paragraph (5) have had adequate notice of the time and place for the resumed hearing.

(5) The persons referred to in sub-paragraph (4)(b) are—

(a) the offender,

(b) if the offender is aged under 14, a parent or guardian of the offender, and

(c) a member of the youth offending team specified under section 18(1)(a) as responsible for implementing the order.

(6) If a local authority has parental responsibility for an offender who is in its care or provided with accommodation by it in the exercise of any social services functions, the reference in sub-paragraph (5)(b) to a parent or guardian of the offender is to be read as a reference to that authority.

(7) In sub-paragraph (6)—

"local authority" has the same meaning as it has in Part 1 of the Criminal Justice and Immigration Act 2008 by virtue of section 7 of that Act,

"parental responsibility" has the same meaning as it has in the Children Act 1989 by virtue of section 3 of that Act, and

"social services functions" has the same meaning as it has in the Local Authority Social Services Act 1970 by virtue of section 1A of that Act.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.

(9) This paragraph—

(a) applies to any hearing in proceedings under this Part of this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but

(b) is not to be taken to affect the application of that section to hearings of any other description."

Commencement Information

I341 Sch. 4 para. 107 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

108 (1) Schedule 8 (breach, revocation and amendment of action plan orders and reparation orders) is amended as follows.

(2) Omit paragraph 1 and the heading before that paragraph.

(3) In paragraph 2(1), for "the appropriate court," substitute—

"(a) a youth court acting in the local justice area in which the offender resides, or

(b) if it is not known where the offender resides, a youth court acting in the local justice area for the time being named in the order in pursuance of section 74(4) of this Act,".

(4) In paragraph 5—

(a) in sub-paragraphs (1) and (3), for "appropriate court" substitute " relevant court ", and

(b) at the end insert—

"(4) In this paragraph, "the relevant court" means—

(a) a youth court acting in the local justice area for the time being named in the order in pursuance of section 74(4) of this Act, or

(b) in the case of an application made both under this paragraph and under paragraph 2(1), the court mentioned in paragraph 2(1)."

(5) In paragraph 6—

(a) in sub-paragraph (1), for "the appropriate court" substitute " a court ",

(b) in sub-paragraph (4), for "the appropriate court" substitute " the court before which the warrant directs the offender to be brought ("the relevant court") ",

(c) in sub-paragraph (5), for "the appropriate court" substitute " the relevant court ", and

(d) in sub-paragraph (7), for "the appropriate court", in each place it occurs, substitute " the relevant court ".

(6) After paragraph 6 insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"Power to adjourn hearing and remand offender

6A (1) This paragraph applies to any hearing relating to an offender held by a youth court in any proceedings under this Schedule.

(2) The court may adjourn the hearing, and, where it does so, may—

(a) direct that the offender be released forthwith, or

(b) remand the offender.

(3) Where the court remands the offender under sub-paragraph (2)—

(a) it must fix the time and place at which the hearing is to be resumed, and

(b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.

(4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—

(a) it may fix the time and place at which the hearing is to be resumed, but

(b) if it does not do so, it must not resume the hearing unless it is satisfied that the persons mentioned in sub-paragraph (5) have had adequate notice of the time and place for the resumed hearing.

(5) The persons referred to in sub-paragraph (4)(b) are—

(a) the offender,

(b) if the offender is aged under 14, a parent or guardian of the offender, and

(c) the responsible officer.

(6) If a local authority has parental responsibility for an offender who is in its care or provided with accommodation by it in the exercise of any social services functions, the reference in sub-paragraph (5)(b) to a parent or guardian of the offender is to be read as a reference to that authority.

(7) In sub-paragraph (6)—

"local authority" has the same meaning as it has in Part 1 of the Criminal Justice and Immigration Act 2008 by virtue of section 7 of that Act,

"parental responsibility" has the same meaning as it has in the Children Act 1989 by virtue of section 3 of that Act, and

"social services functions" has the same meaning as it has in the Local Authority Social Services Act 1970 by virtue of section 1A of that Act.

(8) The powers of a youth court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.

(9) This paragraph—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but

(b) is not to be taken to affect the application of that section to hearings of any other description."

Commencement Information

I342 Sch. 4 para. 108 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Criminal Justice Act 2003 (c. 44)

109 In Schedule 8 to the Criminal Justice Act 2003 (breach, revocation or amendment of community order), after paragraph 25 insert—

"25A (1) This paragraph applies to any hearing relating to an offender held by a magistrates' court in any proceedings under this Schedule.

(2) The court may adjourn the hearing, and, where it does so, may—

(a) direct that the offender be released forthwith, or

(b) remand the offender.

(3) Where the court remands the offender under sub-paragraph (2)—

(a) it must fix the time and place at which the hearing is to be resumed, and

(b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.

(4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—

(a) it may fix the time and place at which the hearing is to be resumed, but

(b) if it does not do so, it must not resume the hearing unless it is satisfied that the offender and the responsible officer have had adequate notice of the time and place for the resumed hearing.

(5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.

(6) This paragraph—

(a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but

(b) is not to be taken to affect the application of that section to hearings of any other description."

Commencement Information

I343 Sch. 4 para. 109 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(p)(xv)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F141SCHEDULE 5

Section 13(2)

OFFENCES SPECIFIED FOR THE PURPOSES OF SECTIONS 225(3A) AND 227(2A) OF CRIMINAL JUSTICE ACT 2003

Textual Amendments

F141 Sch. 5 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(ii)**; S.I. 2012/2906, art. 2(s)

"SCHEDULE 15A

. . . . . .

F142SCHEDULE 6

Section 23

. . . . . .

Textual Amendments

F142 Sch. 6 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(14)(c)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

PROSPECTIVE

SCHEDULE 7

Section 39(6)

YOUTH DEFAULT ORDERS: MODIFICATION OF PROVISIONS APPLYING TO YOUTH REHABILITATION ORDERS

General

1 Any reference to the offender is, in relation to a youth default order, to be read as a reference to the person in default; and any reference to the time when the offender is convicted is to be read as a reference to the time when the order is made.

Unpaid work requirement

2 F143(1) . . . . . .

(2) **[**F144In its application to a youth default order, paragraph 10 (unpaid work requirement) of Schedule 6 to the Sentencing Code has effect as if for paragraphs (a) and (b) of sub-paragraph (3)**]** there were substituted—

"(a) not less than 20, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

Amount	*Number of hours*
An amount not exceeding £200	40
An amount exceeding £200 but not exceeding £500	60
An amount exceeding £500	100".

[F145(3) In its application to a youth default order, subsection (3) of section 198 of the Sentencing Code (when a youth rehabilitation order is in force) has effect subject to section 39(7)(a) of the Criminal Justice and Immigration Act 2008.**]**

Textual Amendments

F143 Sch. 7 para. 2(1) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F144 Words in Sch. 7 para. 2(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F145 Sch. 7 para. 2(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(2)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

C5 Sch. 7 para. 2(1) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1**, 5(2)(3); S.I. 2012/1236, reg. 2

Attendance centre requirement

3 (1) In its application to a youth default order, **[**F146paragraph 14 of Schedule 6 to the Sentencing Code**]** (attendance centre requirement) is modified as follows.

(2) **[**F147Sub-paragraph (3)**]** has effect as if—

(a) in paragraph (a), for the words following "conviction" there were substituted F148"... in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

Amount	*Number of hours*
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	14
An amount exceeding £500	24",

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in paragraph (b), for the words following "conviction" there were substituted [F149]"... in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

Amount	*Number of hours*
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	14
An amount exceeding £500	24",

(c) in paragraph (c), for "must not be more than 12" there were substituted [F150]"... in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

TABLE

Amount	*Number of hours*
An amount not exceeding £250	8
An amount exceeding £250 but not exceeding £500	10
An amount exceeding £500	12".

Textual Amendments

F146 Words in Sch. 7 para. 3(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(3)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F147 Words in Sch. 7 para. 3(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(3)(b)(i)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F148 Words in Sch. 7 para. 3(2)(a) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(3)(b)(ii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F149 Words in Sch. 7 para. 3(2)(b) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(3)(b)(ii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F150 Words in Sch. 7 para. 3(2)(c) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(3)(b)(ii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Modifications etc. (not altering text)

C6 Sch. 7 para. 3(2) modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1**, 5(2)(3); S.I. 2012/1236, reg. 2

Curfew requirement

4 (1) In its application to a youth default order, **[**[F151]paragraph 18 of Schedule 6 to the Sentencing Code**]** (curfew requirement) is modified as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) That paragraph has effect as if after **[**F152sub-paragraph (4)**]** there were inserted—

[F153“(4A)**]** In the case of an amount in default which is specified in the first column of the following Table, the number of days on which the person in default is subject to the curfew requirement must not exceed the number of days set out opposite that amount in the second column.

TABLE

Amount	***Number of days***
An amount not exceeding £200	20
An amount exceeding £200 but not exceeding £500	30
An amount exceeding £500 but not exceeding £1,000	60
An amount exceeding £1,000 but not exceeding £2,000	90
An amount exceeding £2,000	180”.

Textual Amendments

F151 Words in Sch. 7 para. 4(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(4)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F152 Words in Sch. 7 para. 4(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(4)(b)(i)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F153 Word in Sch. 7 para. 4(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(4)(b)(ii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Enforcement, revocation and amendment of youth default order

5 (1) In its application to a youth default order, **[**F154Schedule 7 to the Sentencing Code (breach, revocation or amendment of youth rehabilitation order)**]** is modified as follows.

(2) Any reference to the offence in respect of which the youth rehabilitation order was made is to be read as a reference to the default in respect of which the youth default order was made.

(3) Accordingly, any power of the court to revoke a youth rehabilitation order and deal with the offender for the offence is to be taken to be a power to revoke the youth default order and deal with him in any way in which the court which made the youth default order could deal with him for his default in paying the sum in question.

(4) **[**F155Paragraph 3**]** has effect as if for paragraphs (a) and (b) there were substituted “ as having been made by a magistrates' court ”.

[F156(5) The following provisions are omitted—

(a) in paragraph 6—

(i) sub-paragraph (5)(a),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) the words "add or" in sub-paragraph (5)(b), and
(iii) sub-paragraph (11);

(b) paragraph 9;
(c) paragraph 11;
(d) paragraph 12(8);
(e) paragraph 21(6);
(f) paragraph 23(2)(b).**]**

Textual Amendments

F154 Words in Sch. 7 para. 5(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(5)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F155 Words in Sch. 7 para. 5(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(5)(b)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F156 Sch. 7 para. 5(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(5)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Power to alter amount of money or number of hours or days

6 The Secretary of State may by order amend paragraph 2, 3 or 4 by substituting for any reference to an amount of money or a number of hours or days there specified a reference to such other amount or number as may be specified in the order.

Transfer of youth default order to Northern Ireland

7 (1) In its application to a youth default order, **[**F157Schedule 8 to the Sentencing Code (transfer of youth rehabilitation orders to Northern Ireland)**]** is modified as follows.

(2) **[**F158Paragraph 15**]** has effect as if, after sub-paragraph (2) there were inserted—

"(3) Nothing in sub-paragraph (1) affects the application of section 39(7) **[**F159of the Criminal Justice and Immigration Act 2008**]** to a youth default order made or amended in accordance with **[**F160Part 1 of this Schedule**]**."

[F161(3) Paragraph 16 has effect as if after sub-paragraph (5) there were inserted—

"(5A) The home court may not impose a fine on the offender."**]**

Textual Amendments

F157 Words in Sch. 7 para. 7(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(6)(a)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F158 Words in Sch. 7 para. 7(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(6)(b)(i)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F159 Words in Sch. 7 para. 7(2) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(6)(b)(ii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F160 Words in Sch. 7 para. 7(2) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(6)(b)(iii)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

F161 Sch. 7 para. 7(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 270(6)(c)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 8

Section 47

APPEALS IN CRIMINAL CASES

PART 1

AMENDMENTS OF CRIMINAL APPEAL ACT 1968

1 The Criminal Appeal Act 1968 (c. 19) has effect subject to the following amendments.

Commencement Information
I344 Sch. 8 para. 1 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Time limit on grant of certificates of fitness for appeal

2 In section 1 (appeal against conviction), in subsection (2)(b) after "if" insert " , within 28 days from the date of the conviction, ".

Commencement Information
I345 Sch. 8 para. 2 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

3 In section 11 (supplementary provisions as to appeal against sentence), in subsection (1A)—

(a) after "if" insert " , within 28 days from the date on which the sentence was passed, ", and

(b) for "the sentence" substitute " it ".

Commencement Information
I346 Sch. 8 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

4 In section 12 (appeal against verdict of not guilty on ground of insanity), in subsection (1)(b) after "if" insert " , within 28 days from the date of the verdict, ".

Commencement Information
I347 Sch. 8 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

5 In section 15 (appeal against finding of disability), in subsection (2)(b) after "if" insert " , within 28 days from the date of the finding that the accused did the act or made the omission charged, ".

Commencement Information
I348 Sch. 8 para. 5 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Powers of Court to substitute different sentence

6 (1) Section 4 (sentence when appeal allowed on part of indictment) is amended as follows.

(2) For the heading substitute " Power to re-sentence where appellant remains convicted of related offences ".

(3) For subsection (1) substitute—

"(1) This section applies where—

(a) two or more related sentences are passed,

(b) the Court of Appeal allow an appeal against conviction in respect of one or more of the offences for which the sentences were passed ("the related offences"), but

(c) the appellant remains convicted of one or more of those offences."

(4) In subsection (2)—

(a) for "in respect of any count on which the appellant remains convicted" substitute " in respect of any related offence of which the appellant remains convicted ", and

(b) omit "for the offence of which he remains convicted on that count".

(5) In subsection (3)—

(a) for "on the indictment as a whole" substitute " (taken as a whole) for all the related offences of which he remains convicted ", and

(b) for "for all offences of which he was convicted on the indictment" substitute " for all the related offences ".

(6) After subsection (3) insert—

"(4) For the purposes of subsection (1)(a), two or more sentences are related if—

(a) they are passed on the same day,

(b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or

(c) they are passed on different days but in respect of counts on the same indictment.

(5) Where—

(a) two or more sentences are related to each other by virtue of subsection (4)(a) or (b), and

(b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (4)(c),

all the sentences are to be treated as related for the purposes of subsection (1)(a)."

Commencement Information

I349 Sch. 8 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 4)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Interim hospital orders

7 The following provisions (which relate to the effect of interim hospital orders made by the Court of Appeal) are omitted—

(a) section 6(5) and the definition of interim hospital order in section 6(7),

(b) section 11(6),

(c) section 14(5) and the definition of interim hospital order in section 14(7), and

(d) section 16B(3).

Commencement Information

I350 Sch. 8 para. 7 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 5)

8 Before section 31 (but after the cross-heading preceding it) insert—

Effect of interim hospital orders

"30A(1) This section applies where the Court of Appeal—

(a) make an interim hospital order by virtue of any provision of this Part, or

(b) renew an interim hospital order so made.

(2) The court below shall be treated for the purposes of section 38(7) of the Mental Health Act 1983 (absconding offenders) as the court that made the order."

Commencement Information

I351 Sch. 8 para. 8 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 5)

9 In section 31 (powers of Court which are exercisable by single judge) after subsection (2) insert—

"(2ZA) The power of the Court of Appeal to renew an interim hospital order made by them by virtue of any provision of this Part may be exercised by a single judge in the same manner as it may be exercised by the Court."

Commencement Information

I352 Sch. 8 para. 9 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 5)

Evidence

10 (1) Section 23 (evidence) is amended as follows.

(2) In subsection (1) after "an appeal" insert " , or an application for leave to appeal, ".

(3) In that subsection, for paragraph (b) substitute—

"(b) order any witness to attend for examination and be examined before the Court (whether or not he was called in the proceedings from which the appeal lies); and".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) After subsection (1) insert—

"(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—

(a) the Court;

(b) the appellant;

(c) the respondent."

(5) In subsection (4) after "an appeal" insert " , or an application for leave to appeal, ".

(6) After subsection (5) insert—

"(6) In this section, "respondent" includes a person who will be a respondent if leave to appeal is granted."

Commencement Information

I353 Sch. 8 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Powers of single judge

11 (1) Section 31 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.

(2) In the heading, omit "under Part 1".

(3) After subsection (2C) insert—

"(2D) The power of the Court of Appeal to grant leave to appeal under section 9(11) of the Criminal Justice Act 1987 may be exercised by a single judge in the same manner as it may be exercised by the Court.

(2E) The power of the Court of Appeal to grant leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996 may be exercised by a single judge in the same manner as it may be exercised by the Court."

Commencement Information

I354 Sch. 8 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Appeals against procedural directions

12 In section 31C (appeals against procedural directions), omit subsections (1) and (2).

Commencement Information

I355 Sch. 8 para. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 6)

Detention of defendant pending appeal to Supreme Court

13 (1) Section 37 (detention of defendant on appeal by Crown) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (2) for the words from "may make" to the end substitute "shall make—

(a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 36 above), so long as the appeal is pending, or

(b) an order that he be released without bail."

(3) After subsection (2) insert—

"(2A) The Court may make an order under subsection (2)(b) only if they think that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal."

(4) In subsection (3) for "this section" substitute " subsection (2)(a) ".

(5) In subsection (4) for "this section" (in each place where it occurs) substitute " subsection (2)(a) ".

(6) In subsection (4A) for "this section" (in the first place where it occurs) substitute " subsection (2)(a) ".

(7) For subsection (5) substitute—

"(5) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

(a) the Court of Appeal have made an order under subsection (2)(b), or

(b) the Court have made an order under subsection (2)(a) but the order has ceased to have effect by virtue of subsection (3) or the defendant has been released or discharged by virtue of subsection (4) or (4A)."

Commencement Information

I356 Sch. 8 para. 13 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 714)

PART 2

AMENDMENTS OF CRIMINAL APPEAL (NORTHERN IRELAND) ACT 1980

14 The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) has effect subject to the following amendments.

Commencement Information

I357 Sch. 8 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Time limit on grant of certificates of fitness for appeal

15 In section 1 (appeal against conviction), in paragraph (b) after "if" insert " , within 28 days from the date of the conviction, ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I358 Sch. 8 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

16 In section 12 (appeal against finding of not guilty on ground of insanity), in subsection (1)(b) after "if" insert " , within 28 days from the date of the finding, ".

Commencement Information
I359 Sch. 8 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

17 In section 13A (appeal against finding of unfitness to be tried), in subsection (2)(b) after "if" insert " , within 28 days from the date of the finding that the person did the act or made the omission charged, ".

Commencement Information
I360 Sch. 8 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Powers of Court to substitute different sentence

18 (1) Section 4 (alteration of sentence on appeal against conviction) is amended as follows.

(2) For subsection (1) substitute—

"(1) Subsection (1A) applies where—

(a) two or more related sentences are passed,

(b) the Court of Appeal allows an appeal against conviction in respect of one or more of the offences for which the sentences were passed ("the related offences"), but

(c) the appellant remains convicted of one or more of those offences.

(1A) The Court may, in respect of any related offence of which the appellant remains convicted, pass such sentence, in substitution for the sentence passed thereon at the trial, as it thinks proper and is authorised by law."

(3) After subsection (2) insert—

"(3) For the purposes of subsection (1)(a), two or more sentences are related if—

(a) they are passed on the same day,

(b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence, or

(c) they are passed on different days but in respect of counts on the same indictment.

(4) Where—

(a) two or more sentences are related to each other by virtue of subsection (3)(a) or (b), and

(b) any one or more of those sentences is related to one or more other sentences by virtue of subsection (3)(c),

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

all the sentences are to be treated as related for the purposes of subsection (1)(a).”

Commencement Information
I361 Sch. 8 para. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 8)

Interim hospital orders

19 Section 10(6) (effect of interim hospital orders made by Court of Appeal) is omitted.

Commencement Information
I362 Sch. 8 para. 19 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 9)

20 (1) For the cross-heading preceding section 30 substitute— “ Supplementary ”.

(2) Before section 30 (but after the cross-heading preceding it) insert—

Effect of interim hospital orders

“29A(1) This section applies where the Court of Appeal—

(a) makes an interim hospital order by virtue of any provision of this Part, or

(b) renews an interim hospital order so made.

(2) The Crown Court shall be treated for the purposes of Article 45(6) of the Mental Health Order (absconding offenders) as the court that made the order.”

Commencement Information
I363 Sch. 8 para. 20 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 9)

21 In section 45 (powers of Court which are exercisable by single judge) after subsection (3) insert—

“(3ZA) The power of the Court of Appeal to renew an interim hospital order made by it by virtue of any provision of this Act may be exercised by a single judge in the same manner as it may be exercised by the Court.”

Commencement Information
I364 Sch. 8 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 9)

Evidence

22 (1) Section 25 (evidence) is amended as follows.

(2) In subsection (1) after “an appeal” insert “ , or an application for leave to appeal, ”.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In that subsection, for paragraph (b) substitute—

"(b) order any witness to attend and be examined before the Court (whether or not he was called at the trial); and".

(4) After subsection (1) insert—

"(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—

(a) the Court;

(b) the appellant;

(c) the respondent."

(5) After subsection (3) insert—

"(4) In this section, "respondent" includes a person who will be a respondent if leave to appeal is granted."

Commencement Information

I365 Sch. 8 para. 22 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

23 In section 26 (additional powers of Court), in subsection (1) after "an appeal" insert " , or an application for leave to appeal, ".

Commencement Information

I366 Sch. 8 para. 23 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

Detention of defendant pending appeal to Supreme Court

24 (1) Section 36 (detention of defendant on appeal by Crown) is amended as follows.

(2) In subsection (1) for the words from "may make" to the end substitute "shall make—

(a) an order providing for his detention, or directing that he shall not be released except on bail (which may be granted by the Court as under section 35 above), so long as the appeal is pending, or

(b) an order that he be released without bail."

(3) After subsection (1) insert—

"(1A) The Court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal."

(4) In subsection (2) for "subsection (1)" substitute " subsection (1)(a) ".

(5) In subsection (3) for "this section" (in each place where it occurs) substitute " subsection (1)(a) ".

(6) In subsection (3A) for "this section" (in the first place where it occurs) substitute " subsection (1)(a) ".

(7) For subsection (4) substitute—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(4) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

(a) the Court of Appeal has made an order under subsection (1)(b), or

(b) the Court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (2) or the defendant has been released or discharged by virtue of subsection (3) or (3A)."

Commencement Information

I367 Sch. 8 para. 24 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 1014)

Powers of single judge

25 (1) Section 45 (powers of Court of Appeal which are exercisable by single judge) is amended as follows.

(2) After subsection (3C) insert—

"(3D) The power of the Court of Appeal to grant leave to appeal under Article 8(11) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 may be exercised by a single judge in the same manner as it may be exercised by the Court."

Commencement Information

I368 Sch. 8 para. 25 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26**

PART 3

AMENDMENTS OF OTHER ACTS

Detention of defendant pending appeal from High Court to Supreme Court

26 (1) Section 5 of the Administration of Justice Act 1960 (c. 65) (power to order detention or admission to bail of defendant) is amended as follows.

(2) In subsection (1) for the words from "may make" to the end substitute "shall make—

(a) an order providing for the detention of the defendant, or directing that he shall not be released except on bail (which may be granted by the court as under section 4 above), so long as the appeal is pending, or

(b) an order that the defendant be released without bail."

(3) After subsection (1) insert—

"(1A) The court may make an order under subsection (1)(b) only if it thinks that it is in the interests of justice that the defendant should not be liable to be detained as a result of the decision of the Supreme Court on the appeal."

(4) In subsection (3) for "subsection (1)" substitute " subsection (1)(a) ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In subsection (4) for "the said subsection (1)" substitute " the said subsection (1)(a) ".

(6) In subsection (4A) for "the said subsection (1)" substitute " the said subsection (1)(a) ".

(7) For subsection (5) substitute—

"(5) The defendant shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

(a) the court has made an order under subsection (1)(b), or

(b) the court has made an order under subsection (1)(a) but the order has ceased to have effect by virtue of subsection (3) or the defendant has been released or discharged by virtue of subsection (4) or (4A)."

Commencement Information

I369 Sch. 8 para. 26 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 1114)

Variation of sentences by Crown Court

27 (1) Section 49 of the Judicature (Northern Ireland) Act 1978 (c. 23) (sentences imposed and other decisions made by Crown Court) is amended as follows.

(2) In subsection (2)—

(a) for "28 days" substitute " 56 days ", and

(b) omit the words from "or, where subsection (3) applies," to the end.

(3) After subsection (2) insert—

"(2A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined."

(4) Subsection (3) is omitted.

Commencement Information

I370 Sch. 8 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 12)

28 (1) Section 155 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (alteration of Crown Court sentence) is amended as follows.

(2) In subsection (1)—

(a) for "28 days" substitute " 56 days ", and

(b) omit the words from "or, where subsection (2) below applies," to the end.

(3) After subsection (1) insert—

"(1A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined."

(4) Subsections (2) and (3) are omitted.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I371 Sch. 8 para. 28 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 26** (with Sch. 2 para. 13)

SCHEDULE 9

Section 48

ALTERNATIVES TO PROSECUTION FOR PERSONS UNDER 18

1 The Crime and Disorder Act 1998 (c. 37) has effect subject to the following amendments.

Commencement Information

I372 Sch. 9 para. 1 in force at 1.2.2009 by S.I. 2009/140, **art. 2(e)(i)**

F162 2 . . . . . .

Textual Amendments

F162 Sch. 9 para. 2 omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 30** (with s. 135(4)); S.I. 2013/453, art. 4(f)

3 After section 66 insert—

"Young offenders: youth conditional cautions

66A Youth conditional cautions

(1) An authorised person may give a youth conditional caution to a child or young person ("the offender") if—

(a) the offender has not previously been convicted of an offence, and

(b) each of the five requirements in section 66B is satisfied.

(2) In this Chapter, "youth conditional caution" means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.

(3) The conditions which may be attached to such a caution are those which have one or more of the following objects—

(a) facilitating the rehabilitation of the offender;

(b) ensuring that the offender makes reparation for the offence;

(c) punishing the offender.

(4) The conditions that may be attached to a youth conditional caution include—

(a) (subject to section 66C) a condition that the offender pay a financial penalty;

(b) a condition that the offender attend at a specified place at specified times.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"Specified" means specified by a relevant prosecutor.

(5) Conditions attached by virtue of subsection (4)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.

(6) The Secretary of State may by order amend subsection (5) by substituting a different figure.

(7) In this section, "authorised person" means—

(a) a constable,

(b) an investigating officer, or

(c) a person authorised by a relevant prosecutor for the purposes of this section.

66B The five requirements

(1) The first requirement is that the authorised person has evidence that the offender has committed an offence.

(2) The second requirement is that a relevant prosecutor decides—

(a) that there is sufficient evidence to charge the offender with the offence, and

(b) that a youth conditional caution should be given to the offender in respect of the offence.

(3) The third requirement is that the offender admits to the authorised person that he committed the offence.

(4) The fourth requirement is that the authorised person explains the effect of the youth conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.

(5) If the offender is aged 16 or under, the explanation and warning mentioned in subsection (4) must be given in the presence of an appropriate adult.

(6) The fifth requirement is that the offender signs a document which contains—

(a) details of the offence,

(b) an admission by him that he committed the offence,

(c) his consent to being given the youth conditional caution, and

(d) the conditions attached to the caution.

66C Financial penalties

(1) A condition that the offender pay a financial penalty (a "financial penalty condition") may not be attached to a youth conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.

(2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The amount that may be prescribed in respect of any offence must not exceed £100.

(4) The Secretary of State may by order amend subsection (3) by substituting a different figure.

(5) Where a financial penalty condition is attached to a youth conditional caution, a relevant prosecutor must also specify—

(a) the amount of the penalty, and

(b) the person to whom the financial penalty is to be paid and how it may be paid.

(6) To comply with the condition, the offender must pay the penalty in accordance with the provision specified under subsection (5)(b).

(7) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer.

66D Variation of conditions

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a youth conditional caution by—

(a) modifying or omitting any of the conditions;

(b) adding a condition.

66E Failure to comply with conditions

(1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the youth conditional caution, criminal proceedings may be instituted against the person for the offence in question.

(2) The document mentioned in section 66B(6) is to be admissible in such proceedings.

(3) Where such proceedings are instituted, the youth conditional caution is to cease to have effect.

(4) Section 24A(1) of the Criminal Justice Act 2003 ("the 2003 Act") applies in relation to the conditions attached to a youth conditional caution as it applies in relation to the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

(5) Sections 24A(2) to (9) and 24B of the 2003 Act apply in relation to a person who is arrested under section 24A(1) of that Act by virtue of subsection (4) above as they apply in relation to a person who is arrested under that section for failing to comply with any of the conditions attached to a conditional caution (within the meaning of Part 3 of that Act).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

66F Restriction on sentencing powers where youth conditional caution given

Where a person who has been given a youth conditional caution is convicted of an offence committed within two years of the giving of the caution, the court by or before which the person is so convicted—

(a) may not make an order under section 12(1)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge) in respect of the offence unless it is of the opinion that there are exceptional circumstances relating to the offence or the offender which justify its doing so; and

(b) where it does make such an order, must state in open court that it is of that opinion and why it is.

66G Code of practice on youth conditional cautions

(1) The Secretary of State must prepare a code of practice in relation to youth conditional cautions.

(2) The code may, in particular, make provision as to—

(a) the circumstances in which youth conditional cautions may be given,

(b) the procedure to be followed in connection with the giving of such cautions,

(c) the conditions which may be attached to such cautions and the time for which they may have effect,

(d) the category of constable or investigating officer by whom such cautions may be given,

(e) the persons who may be authorised by a relevant prosecutor for the purposes of section 66A,

(f) the form which such cautions are to take and the manner in which they are to be given and recorded,

(g) the places where such cautions may be given,

(h) the provision which may be made by a relevant prosecutor under section 66C(5)(b),

(i) the monitoring of compliance with conditions attached to such cautions,

(j) the exercise of the power of arrest conferred by section 24A(1) of the Criminal Justice Act 2003 (c. 44) as it applies by virtue of section 66E(4),

(k) who is to decide how a person should be dealt with under section 24A(2) of that Act as it applies by virtue of section 66E(5).

(3) After preparing a draft of the code the Secretary of State—

(a) must publish the draft,

(b) must consider any representations made to him about the draft, and

(c) may amend the draft accordingly,

but he may not publish or amend the draft without the consent of the Attorney General.

(4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) When he has done so he may bring the code into force by order.

(6) The Secretary of State may from time to time revise a code of practice brought into force under this section.

(7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

Interpretation of Chapter 1

66H Interpretation

In this Chapter—

(a) "appropriate adult" has the meaning given by section 65(7);

(b) "authorised person" has the meaning given by section 66A(7);

(c) "investigating officer" means an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or a person designated as an investigating officer under section 38 of the Police Reform Act 2002 (c. 30);

(d) "the offender" has the meaning given by section 66A(1);

(e) "relevant prosecutor" means—

(i) the Attorney General,

(ii) the Director of the Serious Fraud Office,

(iii) the Director of Revenue and Customs Prosecutions,

(iv) the Director of Public Prosecutions,

(v) the Secretary of State, or

(vi) a person who is specified in an order made by the Secretary State as being a relevant prosecutor for the purposes of this Chapter;

(f) "youth conditional caution" has the meaning given by section 66A(2)."

Commencement Information

I373 Sch. 9 para. 3 in force at 1.2.2009 for specified purposes by S.I. 2009/140, **art. 2(e)(ii)**

I374 Sch. 9 para. 3 in force at 1.4.2009 for specified purposes by S.I. 2009/860, **art. 2(1)(h)**

I375 Sch. 9 para. 3 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(c)**(2)

I376 Sch. 9 para. 3 in force at 8.4.2013 in so far as not already in force by S.I. 2013/616, **art. 2(b)**

4 (1) Section 114 (orders and regulations) is amended as follows.

(2) In subsection (2) (which specifies orders that are subject to annulment in pursuance of a resolution of either House of Parliament), for "or 10(6)" substitute " 10(6), 66C(1) or 66H(e)(vi) ".

(3) After subsection (2) insert—

"(2A) Subsection (2) also applies to a statutory instrument containing—

(a) an order under section 66C(4) unless the order makes provision of the kind mentioned in subsection (3A)(a) below, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) an order under section 66G(5) other than the first such order."

(4) In subsection (3) (which specifies orders that may not be made unless a draft has been approved by a resolution of each House of Parliament) after "41(6)" insert " , 66A(6) ".

(5) After subsection (3) insert—

"(3A) Subsection (3) also applies to—

(a) an order under section 66C(4) which makes provision increasing the figure in section 66C(3) by more than is necessary to reflect changes in the value of money, and

(b) the first order under section 66G(5)."

Commencement Information

I377 Sch. 9 para. 4 in force at 1.2.2009 by S.I. 2009/140, **art. 2(e)(iii)**

SCHEDULE 10

Section 49

PROTECTION FOR SPENT CAUTIONS UNDER REHABILITATION OF OFFENDERS ACT 1974

1 The Rehabilitation of Offenders Act 1974 (c. 53) is amended as follows.

Commencement Information

I378 Sch. 10 para. 1 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(d)**

F163 2 . . . . . .

Textual Amendments

F163 Sch. 10 para. 2 repealed (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

3 After section 8 (defamation actions) there is inserted—

"**8A Protection afforded to spent cautions**

(1) Schedule 2 to this Act (protection for spent cautions) shall have effect.

(2) In this Act "caution" means—

(a) a conditional caution, that is to say, a caution given under section 22 of the Criminal Justice Act 2003 (c. 44) (conditional cautions for adults) or under section 66A of the Crime and Disorder Act 1998 (c. 37) (conditional cautions for children and young persons);

(b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) a reprimand or warning given under section 65 of the Crime and Disorder Act 1998 (reprimands and warnings for persons aged under 18);

(d) anything corresponding to a caution, reprimand or warning falling within paragraphs (a) to (c) (however described) which is given to a person in respect of an offence under the law of a country outside England and Wales."

Commencement Information

I379 Sch. 10 para. 3 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(d)**

4 After section 9 (unauthorised disclosure of spent convictions) insert—

"**9A Unauthorised disclosure of spent cautions**

(1) In this section—

(a) "official record" means a record which—

(i) contains information about persons given a caution for any offence or offences; and

(ii) is kept for the purposes of its functions by any court, police force, Government department or other public authority in England and Wales;

(b) "caution information" means information imputing that a named or otherwise identifiable living person ("the named person") has committed, been charged with or prosecuted or cautioned for any offence which is the subject of a spent caution; and

(c) "relevant person" means any person who, in the course of his official duties (anywhere in the United Kingdom), has or at any time has had custody of or access to any official record or the information contained in it.

(2) Subject to the terms of any order made under subsection (5), a relevant person shall be guilty of an offence if, knowing or having reasonable cause to suspect that any caution information he has obtained in the course of his official duties is caution information, he discloses it, otherwise than in the course of those duties, to another person.

(3) In any proceedings for an offence under subsection (2) it shall be a defence for the defendant to show that the disclosure was made—

(a) to the named person or to another person at the express request of the named person;

(b) to a person whom he reasonably believed to be the named person or to another person at the express request of a person whom he reasonably believed to be the named person.

(4) Any person who obtains any caution information from any official record by means of any fraud, dishonesty or bribe shall be guilty of an offence.

(5) The Secretary of State may by order make such provision as appears to him to be appropriate for excepting the disclosure of caution information derived

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

from an official record from the provisions of subsection (2) in such cases or classes of case as may be specified in the order.

(6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 51 weeks, or to both.

(8) Proceedings for an offence under subsection (2) shall not be instituted except by or on behalf of the Director of Public Prosecutions."

Commencement Information

I380 Sch. 10 para. 4 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(d)**

F164 5 . . . . . .

Textual Amendments

F164 Sch. 10 para. 5 repealed (10.3.2014) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 25 Pt. 2** (with s. 141(1)-(6)); S.I. 2014/423, art. 2(c) (with art. 3)

6 After that Schedule insert—

"SCHEDULE 2

PROTECTION FOR SPENT CAUTIONS

Preliminary

1 (1) For the purposes of this Schedule a caution shall be regarded as a spent caution—

(a) in the case of a conditional caution (as defined in section 8A(2)(a)), at the end of the relevant period for the caution;

(b) in any other case, at the time the caution is given.

(2) In sub-paragraph (1)(a) "the relevant period for the caution" means (subject to sub-paragraph (3)) the period of three months from the date on which the conditional caution was given.

(3) If the person concerned is subsequently prosecuted and convicted of the offence in respect of which a conditional caution was given—

(a) the relevant period for the caution shall end at the same time as the rehabilitation period for the offence; and

(b) if the conviction occurs after the end of the period mentioned in sub-paragraph (1)(a), the caution shall be treated for the purposes of this Schedule as not having become spent in relation to any period before the end of the rehabilitation period for the offence.

2 (1) In this Schedule "ancillary circumstances", in relation to a caution, means any circumstances of the following—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the offence which was the subject of the caution or the conduct constituting that offence;

(b) any process preliminary to the caution (including consideration by any person of how to deal with that offence and the procedure for giving the caution);

(c) any proceedings for that offence which take place before the caution is given (including anything which happens after that time for the purpose of bringing the proceedings to an end);

(d) any judicial review proceedings relating to the caution;

(e) in the case of a warning under section 65 of the Crime and Disorder Act 1998 (c. 37), anything done in pursuance of or undergone in compliance with a requirement to participate in a rehabilitation programme under section 66(2) of that Act;

(f) in the case of a conditional caution, any conditions attached to the caution or anything done in pursuance of or undergone in compliance with those conditions.

(2) Where the caution relates to two or more offences, references in sub-paragraph (1) to the offence which was the subject of the caution include a reference to each of the offences concerned.

(3) In this Schedule "proceedings before a judicial authority" has the same meaning as in section 4.

Protection relating to spent cautions and ancillary circumstances

3 (1) A person who is given a caution for an offence shall, from the time the caution is spent, be treated for all purposes in law as a person who has not committed, been charged with or prosecuted for, or been given a caution for the offence; and notwithstanding the provisions of any other enactment or rule of law to the contrary—

(a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in England and Wales to prove that any such person has committed, been charged with or prosecuted for, or been given a caution for the offence; and

(b) a person shall not, in any such proceedings, be asked and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent caution or any ancillary circumstances.

(2) Nothing in sub-paragraph (1) applies in relation to any proceedings for the offence which are not part of the ancillary circumstances relating to the caution.

(3) Where a question seeking information with respect to a person's previous cautions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority—

(a) the question shall be treated as not relating to spent cautions or to any ancillary circumstances, and the answer may be framed accordingly; and

(b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

or disclose a spent caution or any ancillary circumstances in his answer to the question.

(4) Any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent caution or any ancillary circumstances (whether the caution is his own or another's).

(5) A caution which has become spent or any ancillary circumstances, or any failure to disclose such a caution or any such circumstances, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment.

(6) This paragraph has effect subject to paragraphs 4 to 6.

4 The Secretary of State may by order—

(a) make provision for excluding or modifying the application of either or both of paragraphs (a) or (b) of paragraph 3(3) in relation to questions put in such circumstances as may be specified in the order;

(b) provide for exceptions from the provisions of sub-paragraphs (4) and (5) of paragraph 3, in such cases or classes of case, and in relation to cautions of such a description, as may be specified in the order.

5 Nothing in paragraph 3 affects—

(a) the operation of the caution in question; or

(b) the operation of any enactment by virtue of which, in consequence of any caution, a person is subject to any disqualification, disability, prohibition or other restriction or effect, the period of which extends beyond the rehabilitation period applicable to the caution.

6 (1) Section 7(2), (3) and (4) apply for the purposes of this Schedule as follows.

(2) Subsection (2) (apart from paragraphs (b) and (d)) applies to the determination of any issue, and the admission or requirement of any evidence, relating to a person's previous cautions or to ancillary circumstances as it applies to matters relating to a person's previous convictions and circumstances ancillary thereto.

(3) Subsection (3) applies to evidence of a person's previous cautions and ancillary circumstances as it applies to evidence of a person's convictions and the circumstances ancillary thereto; and for this purpose subsection (3) shall have effect as if—

(a) any reference to subsection (2) or (4) of section 7 were a reference to that subsection as applied by this paragraph; and

(b) the words “or proceedings to which section 8 below applies” were omitted.

(4) Subsection (4) applies for the purpose of excluding the application of paragraph 3(1); and for that purpose subsection (4) shall have effect as if the words “(other than proceedings to which section 8 below applies)” were omitted.

(5) References in the provisions applied by this paragraph to section 4(1) are to be read as references to paragraph 3(1).”

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I381 Sch. 10 para. 6 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(d)**

SCHEDULE 11

Section 51

ELECTRONIC MONITORING OF PERSONS RELEASED ON BAIL SUBJECT TO CONDITIONS

1 The Bail Act 1976 (c. 63) has effect subject to the following amendments.

Commencement Information
I382 Sch. 11 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 15**

2 In section 3 (general provisions) for subsection (6ZAA) substitute—

"(6ZAA) The requirements which may be imposed under subsection (6) include electronic monitoring requirements.

The imposition of electronic monitoring requirements is subject to section 3AA (in the case of a child or young person), section 3AB (in the case of other persons) and section 3AC (in all cases).

(6ZAB) In this section and sections 3AA to 3AC "electronic monitoring requirements" means requirements imposed for the purpose of securing the electronic monitoring of a person's compliance with any other requirement imposed on him as a condition of bail."

Commencement Information
I383 Sch. 11 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 15**

3 (1) Section 3AA (electronic monitoring of compliance with bail conditions) is amended as follows.

(2) In the heading to the section, for "Electronic monitoring of compliance with bail conditions" substitute " Conditions for the imposition of electronic monitoring requirements: children and young persons ".

(3) For subsection (1) substitute—

"(1) A court may not impose electronic monitoring requirements on a child or young person unless each of the following conditions is met."

(4) For subsection (4) substitute—

"(4) The third condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.'"

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In subsection (5), for "such a requirement" substitute " electronic monitoring requirements ".

(6) Subsections (6) to (10) and (12) (which are superseded by section 3AC) are omitted.

Commencement Information
I384 Sch. 11 para. 3 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 15**

4 After section 3AA insert—

"**3AB Conditions for the imposition of electronic monitoring requirements: other persons**

(1) A court may not impose electronic monitoring requirements on a person who has attained the age of seventeen unless each of the following conditions is met.

(2) The first condition is that the court is satisfied that without the electronic monitoring requirements the person would not be granted bail.

(3) The second condition is that the court is satisfied that the necessary provision for dealing with the person concerned can be made under arrangements for the electronic monitoring of persons released on bail that are currently available in each local justice area which is a relevant area.

(4) If the person is aged seventeen, the third condition is that a youth offending team has informed the court that in its opinion the imposition of electronic monitoring requirements will be suitable in his case.

3AC Electronic monitoring: general provisions

(1) Where a court imposes electronic monitoring requirements as a condition of bail, the requirements must include provision for making a person responsible for the monitoring.

(2) A person may not be made responsible for the electronic monitoring of a person on bail unless he is of a description specified in an order made by the Secretary of State.

(3) The Secretary of State may make rules for regulating—
(a) the electronic monitoring of persons on bail;
(b) without prejudice to the generality of paragraph (a), the functions of persons made responsible for such monitoring.

(4) The rules may make different provision for different cases.

(5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.

(6) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) For the purposes of section 3AA or 3AB a local justice area is a relevant area in relation to a proposed electronic monitoring requirement if the court

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.

(8) Nothing in sections 3, 3AA or 3AB is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of persons released on bail."

Commencement Information
I385 Sch. 11 para. 4 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 15**

SCHEDULE 12

Section 52

BAIL FOR SUMMARY OFFENCES AND CERTAIN OTHER OFFENCES TO BE TRIED SUMMARILY

1 The Bail Act 1976 (c. 63) is amended as follows.

Commencement Information
I386 Sch. 12 para. 1 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

2 In section 3(6D)(a) (condition to be imposed on person in relation to whom paragraph 6B(1)(a) to (c) of Part 1 of Schedule 1 to that Act apply), after "apply" insert " (including where P is a person to whom the provisions of Part 1A of Schedule 1 apply) ".

Commencement Information
I387 Sch. 12 para. 2 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

3 After section 9 (offence of agreeing to indemnify sureties in criminal proceedings) insert—

"**9A Bail decisions relating to persons aged under 18 who are accused of offences mentioned in Schedule 2 to the Magistrates' Courts Act 1980**

(1) This section applies whenever—

(a) a magistrates' court is considering whether to withhold or grant bail in relation to a person aged under 18 who is accused of a scheduled offence; and

(b) the trial of that offence has not begun.

(2) The court shall, before deciding whether to withhold or grant bail, consider whether, having regard to any representations made by the prosecutor or the accused person, the value involved does not exceed the relevant sum for the purposes of section 22.

(3) The duty in subsection (2) does not apply in relation to an offence if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) a determination under subsection (4) has already been made in relation to that offence; or

(b) the accused person is, in relation to any other offence of which he is accused which is not a scheduled offence, a person to whom Part 1 of Schedule 1 to this Act applies.

(4) If where the duty in subsection (2) applies it appears to the court clear that, for the offence in question, the amount involved does not exceed the relevant sum, the court shall make a determination to that effect.

(5) In this section—

(a) "relevant sum" has the same meaning as in section 22(1) of the Magistrates' Courts Act 1980 (certain either way offences to be tried summarily if value involved is less than the relevant sum);

(b) "scheduled offence" means an offence mentioned in Schedule 2 to that Act (offences for which the value involved is relevant to the mode of trial); and

(c) "the value involved" is to be construed in accordance with section 22(10) to (12) of that Act."

Commencement Information
I388 Sch. 12 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

4 Schedule 1 (persons entitled to bail: supplementary provisions) is amended as follows.

Commencement Information
I389 Sch. 12 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

5 (1) Paragraph 1 (defendants to whom Part 1 applies) becomes sub-paragraph (1) of that paragraph.

(2) In that sub-paragraph at the beginning insert " Subject to sub-paragraph (2), ".

(3) After that sub-paragraph insert—

"(2) But those provisions do not apply by virtue of sub-paragraph (1)(a) if the offence, or each of the offences punishable with imprisonment, is—

(a) a summary offence; or

(b) an offence mentioned in Schedule 2 to the Magistrates' Courts Act 1980 (offences for which the value involved is relevant to the mode of trial) in relation to which—

(i) a determination has been made under section 22(2) of that Act (certain either way offences to be tried summarily if value involved is less than the relevant sum) that it is clear that the value does not exceed the relevant sum for the purposes of that section; or

(ii) a determination has been made under section 9A(4) of this Act to the same effect."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I390 Sch. 12 para. 5 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

6 After Part 1 insert—

"**PART 1A**

DEFENDANTS ACCUSED OR CONVICTED OF IMPRISONABLE OFFENCES TO WHICH PART 1 DOES NOT APPLY

Defendants to whom Part 1A applies

1 The following provisions of this Part apply to the defendant if—
(a) the offence or one of the offences of which he is accused or convicted is punishable with imprisonment, but
(b) Part 1 does not apply to him by virtue of paragraph 1(2) of that Part.

Exceptions to right to bail

2 The defendant need not be granted bail if—
(a) it appears to the court that, having been previously granted bail in criminal proceedings, he has failed to surrender to custody in accordance with his obligations under the grant of bail; and
(b) the court believes, in view of that failure, that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody.

3 The defendant need not be granted bail if—
(a) it appears to the court that the defendant was on bail in criminal proceedings on the date of the offence; and
(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would commit an offence while on bail.

4 The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not), would commit an offence while on bail by engaging in conduct that would, or would be likely to, cause—
(a) physical or mental injury to any person other than the defendant; or
(b) any person other than the defendant to fear physical or mental injury.

5 The defendant need not be granted bail if the court is satisfied that the defendant should be kept in custody for his own protection or, if he is a child or young person, for his own welfare.

6 The defendant need not be granted bail if he is in custody in pursuance of a sentence of a court or a sentence imposed by an officer under the Armed Forces Act 2006.

7 The defendant need not be granted bail if —

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) having been released on bail in or in connection with the proceedings for the offence, he has been arrested in pursuance of section 7 of this Act; and

(b) the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would fail to surrender to custody, commit an offence while on bail or interfere with witnesses or otherwise obstruct the course of justice (whether in relation to himself or any other person).

8 The defendant need not be granted bail where the court is satisfied that it has not been practicable to obtain sufficient information for the purpose of taking the decisions required by this Part of this Schedule for want of time since the institution of the proceedings against him.

Application of paragraphs 6A to 6C of Part 1

9 Paragraphs 6A to 6C of Part 1 (exception applicable to drug users in certain areas and related provisions) apply to a defendant to whom this Part applies as they apply to a defendant to whom that Part applies."

Commencement Information

I391 Sch. 12 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 27**

SCHEDULE 13

Section 53

ALLOCATION OF CASES TRIABLE EITHER WAY ETC.

1 Schedule 3 to the Criminal Justice Act 2003 (c. 44) (allocation of cases triable either way, and sending cases to the Crown Court etc.) has effect subject to the following amendments.

2 In paragraph 2, in the paragraph set out in sub-paragraph (2), after "committed" insert " for sentence ".

3 In paragraph 6, for subsection (2)(c) of the section set out in that paragraph substitute—

"(c) that if he is tried summarily and is convicted by the court, he may be committed for sentence to the Crown Court under section 3 or (if applicable) section 3A of the Powers of Criminal Courts (Sentencing) Act 2000 if the court is of such opinion as is mentioned in subsection (2) of the applicable section."

4 In paragraph 8, in sub-paragraph (2)(a) for "trial on indictment" substitute " summary trial ".

5 (1) Paragraph 9 is amended as follows.

(2) In sub-paragraph (3) after "(1A)" insert " , (1B) ".

(3) After sub-paragraph (3) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(4) In subsection (3) for "the said Act of 2000" substitute " the Powers of Criminal Courts (Sentencing) Act 2000 "."

6 Paragraph 13 is omitted.

7 Paragraph 22 is omitted.

8 Before paragraph 23 insert—

"22A(1) Section 3 (committal for sentence on summary trial of offence triable either way) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a) for the words from "greater punishment" to the end of the paragraph substitute " the Crown Court should, in the court's opinion, have the power to deal with the offender in any way it could deal with him if he had been convicted on indictment ", and

(b) omit paragraph (b) (and the word "or" immediately preceding it).

(3) In subsection (4), after "section" insert " 17D or ".

(4) In subsection (5), in paragraph (b) omit the words "paragraph (b) and"."

9 In paragraph 23, in subsection (5) of the first of the sections inserted by that paragraph (section 3A), for "a specified offence" substitute " an offender convicted of a specified offence ".

10 In paragraph 24 after sub-paragraph (4) insert—

"(4A) In subsection (2) for "committed" substitute " sent "."

SCHEDULE 14

Section 68

SPECIAL RULES RELATING TO PROVIDERS OF INFORMATION SOCIETY SERVICES

Domestic service providers: extension of liability

1 (1) This paragraph applies where a service provider is established in England and Wales or Northern Ireland (a "domestic service provider").

(2) Section 63(1) applies to a domestic service provider who—

(a) is in possession of an extreme pornographic image in an EEA state other than the United Kingdom, and

(b) is in possession of it there in the course of providing information society services,

as well as to persons (of any description) who are in possession of such images in England and Wales or Northern Ireland.

(3) In the case of an offence under section 63, as it applies to a domestic service provider by virtue of sub-paragraph (2)—

(a) proceedings for the offence may be taken at any place in England and Wales or Northern Ireland, and

(b) the offence may for all incidental purposes be treated as having been committed at any such place.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Nothing in this paragraph is to be read as affecting the operation of any of paragraphs 3 to 5.

Commencement Information
I392 Sch. 14 para. 1 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

Non-UK service providers: restriction on institution of proceedings

2 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a "non-UK service provider").

(2) Proceedings for an offence under section 63 may not be instituted against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is satisfied.

(3) The derogation condition is satisfied where the institution of proceedings—

(a) is necessary for the purposes of the public interest objective;

(b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective; and

(c) is proportionate to that objective.

(4) "The public interest objective" means the pursuit of public policy.

Commencement Information
I393 Sch. 14 para. 2 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

Exceptions for mere conduits

3 (1) A service provider is not capable of being guilty of an offence under section 63 in respect of anything done in the course of providing so much of an information society service as consists in—

(a) the provision of access to a communication network, or

(b) the transmission in a communication network of information provided by a recipient of the service,

if the condition in sub-paragraph (2) is satisfied.

(2) The condition is that the service provider does not—

(a) initiate the transmission,

(b) select the recipient of the transmission, or

(c) select or modify the information contained in the transmission.

(3) For the purposes of sub-paragraph (1)—

(a) the provision of access to a communication network, and

(b) the transmission of information in a communication network,

includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Commencement Information
I394 Sch. 14 para. 3 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

Exception for caching

4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

(2) The service provider is not capable of being guilty of an offence under section 63 in respect of the automatic, intermediate and temporary storage of information so provided, if—

(a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and

(b) the condition in sub-paragraph (3) is satisfied.

(3) The condition is that the service provider—

(a) does not modify the information,

(b) complies with any conditions attached to having access to the information, and

(c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.

(4) This sub-paragraph applies if the service provider obtains actual knowledge that—

(a) the information at the initial source of the transmission has been removed from the network,

(b) access to it has been disabled, or

(c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

Commencement Information
I395 Sch. 14 para. 4 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

Exception for hosting

5 (1) A service provider is not capable of being guilty of an offence under section 63 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if—

(a) the service provider had no actual knowledge when the information was provided that it contained offending material, or

(b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) "Offending material" means material the possession of which constitutes an offence under section 63.

(3) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Commencement Information

I396 Sch. 14 para. 5 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

Interpretation

6 (1) This paragraph applies for the purposes of this Schedule.

(2) "Extreme pornographic image" has the same meaning as in section 63.

(3) "Information society services"—

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

(b) is summarised in recital 17 of the E-Commerce Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service";

and "the E-Commerce Directive" means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

(4) "Recipient", in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.

(5) "Service provider" means a person providing an information society service.

(6) For the purpose of construing references in this Schedule to a service provider who is established in a part of the United Kingdom or in some other EEA state—

(a) a service provider is established in a particular part of the United Kingdom, or in a particular EEA state, if the service provider—

(i) effectively pursues an economic activity using a fixed establishment in that part of the United Kingdom, or that EEA state, for an indefinite period, and

(ii) is a national of an EEA state or a company or firm mentioned in **[**[F165]Article 54 of the Treaty on the Functioning of the European Union**]**;

(b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;

(c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

as provided from the establishment at the centre of the service provider's activities relating to that service.

Textual Amendments

F165 Words in Sch. 14 para. 6(6)(a)(ii) substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

Commencement Information

I397 Sch. 14 para. 6 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(i)**

SCHEDULE 15

Section 73

SEXUAL OFFENCES: GROOMING AND ADOPTION

Meeting a child following sexual grooming

1 In section 15(1) of the Sexual Offences Act 2003 (c. 42) (meeting a child following sexual grooming etc) for paragraphs (a) and (b) substitute—

"(a) A has met or communicated with another person (B) on at least two occasions and subsequently—

(i) A intentionally meets B,

(ii) A travels with the intention of meeting B in any part of the world or arranges to meet B in any part of the world, or

(iii) B travels with the intention of meeting A in any part of the world,

(b) A intends to do anything to or in respect of B, during or after the meeting mentioned in paragraph (a)(i) to (iii) and in any part of the world, which if done will involve the commission by A of a relevant offence,".

Commencement Information

I398 Sch. 15 para. 1 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 35**

Adoption

2 The Sexual Offences Act 2003 (c. 42) has effect subject to the following amendments.

3 In section 27(1)(b) (family relationships) after "but for" insert " section 39 of the Adoption Act 1976 or ".

4 In section 29(1)(b) (sections 25 and 26: sexual relationships which pre-date family relationships) after "if" insert " section 39 of the Adoption Act 1976 or ".

5 (1) Section 64 (sex with an adult relative: penetration) is amended as follows.

(2) In subsection (1) after "(A)" insert " (subject to subsection (3A)) ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In subsection (3) after "In subsection (2)—" insert—

"(za) "parent" includes an adoptive parent;

(zb) "child" includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;".

(4) After that subsection insert—

"(3A) Where subsection (1) applies in a case where A is related to B as B's child by virtue of subsection (3)(zb), A does not commit an offence under this section unless A is 18 or over."

(5) After subsection (5) insert—

"(6) Nothing in—

(a) section 47 of the Adoption Act 1976 (which disapplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or

(b) section 74 of the Adoption and Children Act 2002 (which disapplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),

is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (3)(za) and (zb) above."

6 (1) Section 65 (sex with an adult relative: consenting to penetration) is amended as follows.

(2) In subsection (1) after "(A)" insert " (subject to subsection (3A)) ".

(3) In subsection (3) after "In subsection (2)—" insert—

"(za) "parent" includes an adoptive parent;

(zb) "child" includes an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002;".

(4) After that subsection insert—

"(3A) Where subsection (1) applies in a case where A is related to B as B's child by virtue of subsection (3)(zb), A does not commit an offence under this section unless A is 18 or over."

(5) After subsection (5) insert—

"(6) Nothing in—

(a) section 47 of the Adoption Act 1976 (which disapplies the status provisions in section 39 of that Act for the purposes of this section in relation to adoptions before 30 December 2005), or

(b) section 74 of the Adoption and Children Act 2002 (which disapplies the status provisions in section 67 of that Act for those purposes in relation to adoptions on or after that date),

is to be read as preventing the application of section 39 of the Adoption Act 1976 or section 67 of the Adoption and Children Act 2002 for the purposes of subsection (3)(za) and (zb) above."

7 In section 47(1) of the Adoption Act 1976 (c. 36) (disapplication of section 39 (status conferred by adoption) for the purposes of miscellaneous enactments) for

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"sections 10 and 11 (incest) of the Sexual Offences Act 1956" substitute " or sections 64 and 65 of the Sexual Offences Act 2003 (sex with an adult relative) ".

SCHEDULE 16

Section 74

HATRED ON THE GROUNDS OF SEXUAL ORIENTATION

1 Part 3A of the Public Order Act 1986 (c. 64) (hatred against persons on religious grounds) has effect subject to the following amendments.

Commencement Information
I399 Sch. 16 para. 1 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

2 In the heading for Part 3A at the end insert " OR GROUNDS OF SEXUAL ORIENTATION ".

Commencement Information
I400 Sch. 16 para. 2 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

3 In the italic cross-heading before section 29A at the end insert " *and "hatred on the grounds of sexual orientation"*.

Commencement Information
I401 Sch. 16 para. 3 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

4 After that section insert—

"**29AB Meaning of "hatred on the grounds of sexual orientation"**

In this Part "hatred on the grounds of sexual orientation" means hatred against a group of persons defined by reference to sexual orientation (whether towards persons of the same sex, the opposite sex or both)."

Commencement Information
I402 Sch. 16 para. 4 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

5 In the italic cross-heading before section 29B at the end insert " *or hatred on the grounds of sexual orientation* ".

Commencement Information
I403 Sch. 16 para. 5 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

6 (1) Section 29B (use of words or behaviour or display of written material) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1), after "religious hatred" insert " or hatred on the grounds of sexual orientation ".

(3) Omit subsection (3).

Commencement Information
I404 Sch. 16 para. 6(3) in force at Royal Assent, see s. 153(1)(j)
I405 Sch. 16 para. 6(1) (2) in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

7 In section 29C(1) (publishing or distributing written material), after "religious hatred" insert " or hatred on the grounds of sexual orientation ".

Commencement Information
I406 Sch. 16 para. 7 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

8 In section 29D(1) (public performance of play), after "religious hatred" insert " or hatred on the grounds of sexual orientation ".

Commencement Information
I407 Sch. 16 para. 8 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

9 In section 29E(1) (distributing, showing or playing a recording), after "religious hatred" insert " or hatred on the grounds of sexual orientation ".

Commencement Information
I408 Sch. 16 para. 9 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

10 In section 29F(1) (broadcasting or including programme in programme service), after "religious hatred" insert " or hatred on the grounds of sexual orientation ".

Commencement Information
I409 Sch. 16 para. 10 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

11 In section 29G(1) (possession of inflammatory material), for "religious hatred to be stirred up thereby" substitute " thereby to stir up religious hatred or hatred on the grounds of sexual orientation ".

Commencement Information
I410 Sch. 16 para. 11 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

12 (1) Section 29H (powers of entry and search) is amended as follows.

(2) In subsection (1), omit "in England and Wales".

(3) Omit subsection (2).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

13 (1) Section 29I (power to order forfeiture) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (a), omit "in the case of an order made in proceedings in England and Wales,"; and

(b) omit paragraph (b).

(3) Omit subsection (4).

14 After section 29J insert—

"**29JA Protection of freedom of expression (sexual orientation)**

In this Part, for the avoidance of doubt, the discussion or criticism of sexual conduct or practices or the urging of persons to refrain from or modify such conduct or practices shall not be taken of itself to be threatening or intended to stir up hatred."

15 In section 29K(1) (savings for reports of parliamentary or judicial proceedings), for "or in the Scottish Parliament" substitute " , in the Scottish Parliament or in the National Assembly for Wales ".

16 (1) Section 29L (procedure and punishment) is amended as follows.

(2) In subsections (1) and (2), omit "in England and Wales".

(3) In subsection (3), in paragraph (b), for "six months" substitute " 12 months ".

(4) After that subsection insert—

"(4) In subsection (3)(b) the reference to 12 months shall be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003."

17 In section 29N (interpretation), after the definition of "dwelling" insert—

""hatred on the grounds of sexual orientation" has the meaning given by section 29AB;".

Commencement Information

I411 Sch. 16 para. 17 in force at 23.3.2010 by S.I. 2010/712, **art. 2(d)**

SCHEDULE 17

Section 75

OFFENCES RELATING TO NUCLEAR MATERIAL AND NUCLEAR FACILITIES

PART 1

AMENDMENTS OF NUCLEAR MATERIAL (OFFENCES) ACT 1983

1 The Nuclear Material (Offences) Act 1983 (c. 18) has effect subject to the following amendments.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I412 Sch. 17 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

2 (1) Section 1 (extended scope of certain offences) is amended as follows.

(2) In subsection (1)(b) (offences under certain enactments) for "section 78 of the Criminal Justice (Scotland) Act 1980" substitute " section 52 of the Criminal Law (Consolidation) (Scotland) Act 1995 ".

(3) After subsection (1) insert—

"(1A) If—

(a) a person, whatever his nationality, does outside the United Kingdom an act directed at a nuclear facility, or which interferes with the operation of such a facility,

(b) the act causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material, and

(c) had he done that act in any part of the United Kingdom, it would have made him guilty of an offence mentioned in subsection (1)(a) or (b) above,

the person shall in any part of the United Kingdom be guilty of such of the offences mentioned in subsection (1)(a) and (b) as are offences of which the act would have made him guilty had he done it in that part of the United Kingdom."

(4) Omit subsection (2) (definition of "act").

Commencement Information
I413 Sch. 17 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

3 After section 1 insert—

"**1A Increase in penalties for offences committed in relation to nuclear material etc.**

(1) If—

(a) a person is guilty of an offence to which subsection (2), (3) or (4) applies, and

(b) the penalty provided by this subsection would not otherwise apply,

the person shall be liable, on conviction on indictment, to imprisonment for life.

(2) This subsection applies to an offence mentioned in section 1(1)(a) or (b) where the act making the person guilty of the offence was done in England and Wales or Northern Ireland and either—

(a) the act was done in relation to or by means of nuclear material, or

(b) the act—

(i) was directed at a nuclear facility, or interfered with the operation of such a facility, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(ii) caused death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.

(3) This subsection applies to an offence mentioned in section 1(1)(c) or (d) where the act making the person guilty of the offence—

(a) was done in England and Wales or Northern Ireland, and

(b) was done in relation to or by means of nuclear material.

(4) This subsection applies to an offence mentioned in section 1(1)(a) to (d) where the offence is an offence in England and Wales or Northern Ireland by virtue of section 1(1) or (1A).

1B Offences relating to damage to environment

(1) If a person, whatever his nationality, in the United Kingdom or elsewhere contravenes subsection (2) or (3) he is guilty of an offence.

(2) A person contravenes this subsection if without lawful authority—

(a) he receives, holds or deals with nuclear material, and

(b) he does so either—

(i) intending to cause, or for the purpose of enabling another to cause, damage to the environment by means of that material, or

(ii) being reckless as to whether, as a result of his so receiving, holding or dealing with that material, damage would be caused to the environment by means of that material.

(3) A person contravenes this subsection if without lawful authority—

(a) he does an act directed at a nuclear facility, or which interferes with the operation of such a facility, and

(b) he does so either—

(i) intending to cause, or for the purpose of enabling another to cause, damage to the environment by means of the emission of ionising radiation or the release of radioactive material, or

(ii) being reckless as to whether, as a result of his act, damage would be caused to the environment by means of such an emission or release.

(4) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

1C Offences of importing or exporting etc. nuclear material: extended jurisdiction

(1) If a person, whatever his nationality, outside the United Kingdom contravenes subsection (2) below he shall be guilty of an offence.

(2) A person contravenes this subsection if he is knowingly concerned in—

(a) the unlawful export or shipment as stores of nuclear material from one country to another, or

(b) the unlawful import of nuclear material into one country from another.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) For the purposes of subsection (2)—

(a) the export or shipment as stores of nuclear material from a country, or

(b) the import of nuclear material into a country,

is unlawful if it is contrary to any prohibition or restriction on the export, shipment as stores or import (as the case may be) of nuclear material having effect under or by virtue of the law of that country.

(4) A statement in a certificate issued by or on behalf of the government of a country outside the United Kingdom to the effect that a particular export, shipment as stores or import of nuclear material is contrary to such a prohibition or restriction having effect under or by virtue of the law of that country, shall be evidence (in Scotland, sufficient evidence) that the export, shipment or import was unlawful for the purposes of subsection (2).

(5) In any proceedings a document purporting to be a certificate of the kind mentioned in subsection (4) above shall be taken to be such a certificate unless the contrary is proved.

(6) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years.

(7) In this section "country" includes territory.

1D Offences under section 1C: investigations and proceedings etc.

(1) Where the Commissioners for Her Majesty's Revenue and Customs investigate, or propose to investigate, any matter with a view to determining—

(a) whether there are grounds for believing that an offence under section 1C above has been committed, or

(b) whether a person should be prosecuted for such an offence,

the matter is to be treated as an assigned matter within the meaning of CEMA 1979 (see section 1(1) of that Act).

(2) Section 138 of CEMA 1979 (provisions as to arrest of persons) applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence under section 1C above as it applies to a person who has committed, or whom there are reasonable grounds to suspect of having committed, an offence for which he is liable to be arrested under the customs and excise Acts.

(3) Sections 145 to 148 and 150 to 155 of CEMA 1979 (provisions as to legal proceedings) apply in relation to an offence under section 1C above, and to the penalty and proceedings for the offence, as they apply in relation to offences, penalties and proceedings under the customs and excise Acts.

(4) In this section—

"CEMA 1979" means the Customs and Excise Management Act 1979;

"the customs and excise Acts", "shipment" and "stores" have the same meanings as in CEMA 1979 (see section 1(1) of that Act)."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I414 Sch. 17 para. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

4 For section 2 substitute—

"**2 Offences involving preparatory acts and threats**

(1) If a person, whatever his nationality, in the United Kingdom or elsewhere contravenes subsection (2), (3), (4) or (7) he shall be guilty of an offence.

(2) A person contravenes this subsection if without lawful authority—
(a) he receives, holds or deals with nuclear material, and
(b) he does so either—
(i) intending to cause, or for the purpose of enabling another to cause, relevant injury or damage by means of that material, or
(ii) being reckless as to whether, as a result of his so receiving, holding or dealing with that material, relevant injury or damage would be caused by means of that material.

(3) A person contravenes this subsection if without lawful authority—
(a) he does an act directed at a nuclear facility, or which interferes with the operation of such a facility, and
(b) he does so either—
(i) intending to cause, or for the purpose of enabling another to cause, relevant injury or damage by means of the emission of ionising radiation or the release of radioactive material, or
(ii) being reckless as to whether, as a result of his act, relevant injury or damage would be caused by means of such an emission or release.

(4) A person contravenes this subsection if he—
(a) makes a threat of a kind falling within subsection (5), and
(b) intends that the person to whom the threat is made shall fear that it will be carried out.

(5) A threat falls within this subsection if it is a threat that the person making it or any other person will cause any of the consequences set out in subsection (6) either—
(a) by means of nuclear material, or
(b) by means of the emission of ionising radiation or the release of radioactive material resulting from an act which is directed at a nuclear facility, or which interferes with the operation of such a facility.

(6) The consequences mentioned in subsection (5) are—
(a) relevant injury or damage, or
(b) damage to the environment.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) A person contravenes this subsection if, in order to compel a State, international organisation or person to do, or abstain from doing, any act, he threatens that he or any other person will obtain nuclear material by an act which, whether by virtue of section 1(1) above or otherwise, is an offence mentioned in section 1(1)(c) above.

(8) A person guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for life.

(9) In this section references to relevant injury or damage are references to death or to injury or damage of a type which constitutes an element of any offence mentioned in section 1(1)(a) or (b) above.

2A Inchoate and secondary offences: extended jurisdiction

(1) If a person, whatever his nationality—

(a) does an act outside the United Kingdom, and

(b) his act, if done in any part of the United Kingdom, would constitute an offence falling within subsection (2),

he shall be guilty in that part of the United Kingdom of the offence.

(2) The offences are—

(a) attempting to commit a nuclear offence;

(b) conspiring to commit a nuclear offence;

(c) inciting the commission of a nuclear offence;

(d) aiding, abetting, counselling or procuring the commission of a nuclear offence.

(3) In subsection (2) a "nuclear offence" means any of the following (wherever committed)—

(a) an offence mentioned in section 1(1)(a) to (d) above (other than a blackmail offence), the commission of which is (or would have been) in relation to or by means of nuclear material;

(b) an offence mentioned in section 1(1)(a) or (b) above, the commission of which involves (or would have involved) an act—

(i) directed at a nuclear facility, or which interferes with the operation of such a facility, and

(ii) which causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material;

(c) an offence under section 1B, 1C or 2(1) and (2) or (3) above;

(d) an offence under section 50(2) or (3), 68(2) or 170(1) or (2) of the Customs and Excise Management Act 1979 the commission of which is (or would have been) in connection with a prohibition or restriction relating to the exportation, shipment as stores or importation of nuclear material;

(e) for the purposes of subsection (2)(b) to (d)—

(i) a blackmail offence, the commission of which is in relation to or by means of nuclear material;

(ii) an offence under section 2(1) and (4) or (7) above;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(iii) an offence of attempting to commit an offence mentioned in paragraphs (a) to (d).

(4) In subsection (3) "a blackmail offence" means—

(a) an offence under section 21 of the Theft Act 1968,

(b) an offence under section 20 of the Theft Act (Northern Ireland) 1969, or

(c) an offence of extortion.

(5) In subsection (2)(c) the reference to incitement is—

(a) a reference to incitement under the law of Scotland, or

(b) in relation to any time before the coming into force of Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to England and Wales or Northern Ireland, a reference to incitement under the common law of England and Wales or (as the case may be) of Northern Ireland."

Commencement Information

I415 Sch. 17 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

5 After section 3 (supplemental) insert—

"**3A Application to activities of armed forces**

(1) Nothing in this Act applies in relation to acts done by the armed forces of a country or territory—

(a) in the course of an armed conflict, or

(b) in the discharge of their functions.

(2) If in any proceedings a question arises whether an act done by the armed forces of a country or territory was an act falling within subsection (1), a certificate issued by or under the authority of the Secretary of State and stating that it was, or was not, such an act shall be conclusive of that question.

(3) In any proceedings a document purporting to be such a certificate as is mentioned in subsection (2) shall be taken to be such a certificate unless the contrary is proved."

Commencement Information

I416 Sch. 17 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

6 (1) Section 6 (material to which the Act applies) is amended as follows.

(2) Before subsection (1) insert—

"(A1) This section applies for the purposes of this Act."

(3) In subsection (1), omit "in this Act".

(4) After subsection (1) insert—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(1A) "A nuclear facility" means a facility (including associated buildings and equipment) used for peaceful purposes in which nuclear material is produced, processed, used, handled, stored or disposed of.

(1B) For the purposes of subsections (1) and (1A)—

(a) nuclear material is not used for peaceful purposes if it is used or retained for military purposes, and

(b) a facility is not used for peaceful purposes if it contains any nuclear material which is used or retained for military purposes."

(5) In subsection (2) (question whether or not nuclear material used for peaceful purposes to be determined conclusively by certificate of Secretary of State to that effect) after "material" insert " or facility ".

(6) For subsection (5) substitute—

"(5) "Act" includes omission.

(6) "The Convention" means the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities (formerly the Convention on the Physical Protection of Nuclear Material and renamed by virtue of the Amendment adopted at Vienna on 8th July 2005).

(7) "The environment" includes land, air and water and living organisms supported by any of those media.

(8) "Radioactive material" means nuclear material or any other radioactive substance which—

(a) contains nuclides that undergo spontaneous disintegration in a process accompanied by the emission of one or more types of ionising radiation, such as alpha radiation, beta radiation, neutron particles or gamma rays, and

(b) is capable, owing to its radiological or fissile properties, of—

(i) causing bodily injury to a person,

(ii) causing damage or destruction to property,

(iii) endangering a person's life, or

(iv) causing damage to the environment."

(7) For the sidenote, substitute " Interpretation ".

Commencement Information

I417 Sch. 17 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

7 In section 7 (application to the Channel Islands, Isle of Man etc.) in subsection (2), for "any colony" substitute " any British overseas territory ".

Commencement Information

I418 Sch. 17 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 2

AMENDMENTS OF CUSTOMS AND EXCISE MANAGEMENT ACT 1979

8 (1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.

(2) In section 1 (interpretation) in subsection (1) insert at the appropriate place—

> ""nuclear material" has the same meaning as in the Nuclear Material (Offences) Act 1983 (see section 6 of that Act);".

(3) In section 50 (penalty for improper importation of goods)—

(a) in subsection (4) (penalty for offence) for "or (5B)" substitute " , (5B) or (5C) ";

(b) after subsection (5B) insert—

> "(5C) In the case of an offence under subsection (2) or (3) above in connection with a prohibition or restriction relating to the importation of nuclear material, subsection (4)(b) above shall have effect as if for the words "7 years" there were substituted the words " 14 years "."

(4) In section 68 (offences in relation to exportation of prohibited or restricted goods)—

(a) in subsection (3) (penalty for offence) for "or (4A)" substitute " , (4A) or (4B) ";

(b) after subsection (4A) insert—

> "(4B) In the case of an offence under subsection (2) above in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material, subsection (3)(b) above shall have effect as if for the words "7 years" there were substituted the words " 14 years "."

(5) In section 170 (penalty for fraudulent evasion of duty, etc.)—

(a) in subsection (3) (penalty for offence) for "or (4B)" substitute " , (4B) or (4C) ";

(b) after subsection (4B) insert—

> "(4C) In the case of an offence under subsection (1) or (2) above in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material, subsection (3)(b) above shall have effect as if for the words "7 years" there were substituted the words " 14 years "."

Commencement Information
I419 Sch. 17 para. 8 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

9 (1) Her Majesty may by Order in Council provide for any provisions of section 1, 50, 68 or 170 of the Customs and Excise Management Act 1979 (c. 2) as amended by paragraph 8 to extend, with or without modifications, to any of the Channel Islands or any British overseas territory.

(2) Section 147(2) applies in relation to an Order in Council under sub-paragraph (1) as it applies in relation to an order made by the Secretary of State.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I420 Sch. 17 para. 9 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(q)**

SCHEDULE 18

Section 91(1)

PENALTIES SUITABLE FOR ENFORCEMENT IN ENGLAND AND WALES OR NORTHERN IRELAND

Person residing in England and Wales

1 The financial penalty is suitable for enforcement in England and Wales if the certificate states that the person required to pay the penalty is normally resident in England and Wales.

Commencement Information
I421 Sch. 18 para. 1 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person residing in Northern Ireland

2 The financial penalty is suitable for enforcement in Northern Ireland if the certificate states that the person required to pay the penalty is normally resident in Northern Ireland.

Commencement Information
I422 Sch. 18 para. 2 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in England and Wales

3 The financial penalty is suitable for enforcement in England and Wales if—

(a) the certificate states that the person required to pay the penalty has property or a source of income in England and Wales, and

(b) the certificate does not state—

(i) that the person has property or a source of income in Northern Ireland or Scotland, or

(ii) that the person is normally resident in the United Kingdom.

Commencement Information
I423 Sch. 18 para. 3 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in Northern Ireland

4 The financial penalty is suitable for enforcement in Northern Ireland if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the certificate states that the person required to pay the penalty has property or a source of income in Northern Ireland, and

(b) the certificate does not state—

(i) that the person has property or a source of income in England and Wales or Scotland, or

(ii) that the person is normally resident in the United Kingdom.

Commencement Information

I424 Sch. 18 para. 4 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in England and Wales and Northern Ireland

5 (1) This paragraph applies if—

(a) the certificate states that the person required to pay the financial penalty has property or a source of income in England and Wales,

(b) the certificate also states that the person has property or a source of income in Northern Ireland, and

(c) the certificate does not state—

(i) that the person has property or a source of income in Scotland, or

(ii) that the person is normally resident in the United Kingdom.

(2) **[**[F166]If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the**]** financial penalty is suitable for enforcement in England and Wales unless it is suitable for enforcement in Northern Ireland by virtue of sub-paragraph (3).

(3) The financial penalty is suitable for enforcement in Northern Ireland if the Lord Chancellor thinks that it is more appropriate for the penalty to be enforced in Northern Ireland than in England and Wales.

[[F167](4) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless it is suitable for enforcement in England and Wales by virtue of sub-paragraph (5).

(5) The financial penalty is suitable for enforcement in England and Wales if the Department of Justice thinks that it is more appropriate for the penalty to be enforced in England and Wales than in Northern Ireland.**]**

Textual Amendments

F166 Words in Sch. 18 para. 5(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(2)(a)** (with arts. 28-31)

F167 Sch. 18 para. 5(4)(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(2)(b)** (with arts. 28-31)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I425 Sch. 18 para. 5 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in England and Wales and Scotland

6 (1) This paragraph applies if—

(a) the certificate states that the person required to pay the financial penalty has property or a source of income in England and Wales,

(b) the certificate also states that the person has property or a source of income in Scotland, and

(c) the certificate does not state—

(i) that the person has property or a source of income in Northern Ireland, or

(ii) that the person is normally resident in the United Kingdom.

(2) The financial penalty is suitable for enforcement in England and Wales unless sub-paragraph (3) **[**[F168]or (4)**]** applies.

(3) This sub-paragraph applies if—

(a) the Lord Chancellor was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland **[**[F169]or by the Department of Justice under section 90A**]**), and

(b) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales.

[[F170](4) This sub-paragraph applies if—

(a) the Lord Chancellor was given the certificate by the Department of Justice under section 90A,

(b) the Department of Justice was not given the certificate by the central authority for Scotland, and

(c) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales.**]**

Textual Amendments

F168 Words in Sch. 18 para. 6(2) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(3)(a)** (with arts. 28-31)

F169 Words in Sch. 18 para. 6(3)(a) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(3)(b)** (with arts. 28-31)

F170 Sch. 18 para. 6(4) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(3)(c)** (with arts. 28-31)

Commencement Information

I426 Sch. 18 para. 6 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in Northern Ireland and Scotland

7 (1) This paragraph applies if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the certificate states that the person required to pay the financial penalty has property or a source of income in Northern Ireland,

(b) the certificate also states that the person has property or a source of income in Scotland, and

(c) the certificate does not state —

(i) that the person has property or a source of income in England and Wales, or

(ii) that the person is normally resident in the United Kingdom.

(2) The financial penalty is suitable for enforcement in Northern Ireland unless sub-paragraph (3) **[**F171or (4)**]** applies.

(3) This sub-paragraph applies if—

(a) the **[**F172Department of Justice**]** was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland **[**F173or by the Lord Chancellor under section 90A**]**), and

(b) the **[**F172Department of Justice**]** thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland.

[F174(4) This sub-paragraph applies if—

(a) the Department of Justice was given the certificate by the Lord Chancellor under section 90A,

(b) the Lord Chancellor was not given the certificate by the central authority for Scotland, and

(c) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland.**]**

Textual Amendments

F171 Words in Sch. 18 para. 7(2) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(4)(a)** (with arts. 28-31)

F172 Words in Sch. 18 para. 7(3)(a)(b) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(4)(b)** (with arts. 28-31)

F173 Words in Sch. 18 para. 7(3)(a) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(4)(c)** (with arts. 28-31)

F174 Sch. 18 para. 7(4) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(4)(d)** (with arts. 28-31)

Commencement Information

I427 Sch. 18 para. 7 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Person having property etc. in England and Wales, Scotland and Northern Ireland

8 (1) This paragraph applies if—

(a) the certificate states that the person required to pay the financial penalty has property or a source of income in Northern Ireland,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the certificate also states that the person has property or a source of income in England and Wales and in Scotland, and

(c) the certificate does not state that the person is normally resident in the United Kingdom.

(2) **[**[F175]If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the**]** financial penalty is suitable for enforcement in England and Wales unless—

(a) the penalty is suitable for enforcement in Northern Ireland by virtue of sub-paragraph (3) or (4), or

(b) sub-paragraph (5) applies.

(3) The financial penalty is suitable for enforcement in Northern Ireland if—

(a) the Lord Chancellor was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and

(b) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Northern Ireland than in England and Wales or Scotland.

(4) The financial penalty is suitable for enforcement in Northern Ireland if—

(a) the Lord Chancellor was given the certificate by the central authority for Scotland, and

(b) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Northern Ireland than in England and Wales.

(5) This sub-paragraph applies if—

(a) the Lord Chancellor was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and

(b) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales or Northern Ireland.

[[F176](6) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless—

(a) it is suitable for enforcement in England and Wales by virtue of sub-paragraph (7) or (8), or

(b) sub-paragraph (9) applies.

(7) The financial penalty is suitable for enforcement in England and Wales if—

(a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and

(b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland or Scotland.

(8) The financial penalty is suitable for enforcement in England and Wales if—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the Department of Justice was given the certificate by the central authority for Scotland, and

(b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland.

(9) This sub-paragraph applies if—

(a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and

(b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland or England and Wales.**]**

Textual Amendments

F175 Words in Sch. 18 para. 8(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(5)(a)** (with arts. 28-31)

F176 Sch. 18 para. 8(6)-(9) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 95(5)(b)** (with arts. 28-31)

Commencement Information

I428 Sch. 18 para. 8 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Interpretation

9 Where the person required to pay the financial penalty is a body corporate, this Schedule applies as if—

(a) the reference in paragraph 1 to the person being normally resident in England and Wales were a reference to the person having its registered office in England and Wales,

(b) the reference in paragraph 2 to the person being normally resident in Northern Ireland were a reference to the person having its registered office in Northern Ireland, and

(c) any reference to the person being normally resident in the United Kingdom were a reference to the person having its registered office in the United Kingdom.

Commencement Information

I429 Sch. 18 para. 9 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(q)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 19

Section 91(2)

GROUNDS FOR REFUSAL TO ENFORCE FINANCIAL PENALTIES

PART 1

THE GROUNDS FOR REFUSAL

1 A penalty (of any kind) has been imposed on the liable person in respect of the conduct to which the certificate relates under the law of any part of the United Kingdom (whether or not the penalty has been enforced).

Commencement Information
I430 Sch. 19 para. 1 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

2 A penalty (of any kind) has been imposed on the liable person in respect of that conduct under the law of any member State, other than the United Kingdom and the issuing State, and that penalty has been enforced.

Commencement Information
I431 Sch. 19 para. 2 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

3 (1) The decision was made in respect of conduct—

(a) that is not specified in Part 2 of this Schedule, and

(b) would not constitute an offence under the law of the relevant part of the United Kingdom if it occurred in that part.

(2) In sub-paragraph (1), "the relevant part of the United Kingdom" means—

(a) in the application of this Schedule to England and Wales, England and Wales, and

(b) in the application of this Schedule to Northern Ireland, Northern Ireland.

Commencement Information
I432 Sch. 19 para. 3 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

4 (1) The decision was made in respect of conduct—

(a) that occurred outside the territory of the issuing State, and

(b) would not constitute an offence under the law of the relevant part of the United Kingdom if it occurred outside that part.

(2) In sub-paragraph (1), "the relevant part of the United Kingdom" has the same meaning as in paragraph 3(2).

Commencement Information
I433 Sch. 19 para. 4 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

5 The decision was made in respect of conduct by a person who was under the age of 10 when the conduct took place.

Commencement Information
I434 Sch. 19 para. 5 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

6 The certificate does not confirm that—

(a) if the proceedings in which the decision was made were conducted in writing, the liable person was informed of the right to contest the proceedings and of the time limits that applied to the exercise of that right;

(b) if those proceedings provided for a hearing to take place and the liable person did not attend, the liable person was informed of the proceedings or indicated an intention not to contest them.

Commencement Information
I435 Sch. 19 para. 6 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

7 (1) The financial penalty is for an amount less than 70 euros.

(2) For the purposes of sub-paragraph (1), if the amount of a financial penalty is specified in a currency other than the euro, that amount must be converted to euros by reference to the London closing exchange rate on the date the decision was made.

(3) The Lord Chancellor may by order substitute a different amount for the amount for the time being specified in sub-paragraph (1).

[F177(4) In the application of this Schedule to Northern Ireland, in sub-paragraph (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.**]**

Textual Amendments
F177 Sch. 19 para. 7(4) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 96** (with arts. 28-31)

Commencement Information
I436 Sch. 19 para. 7 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

PART 2

EUROPEAN FRAMEWORK LIST (FINANCIAL PENALTIES)

8 Participation in a criminal organisation.

Commencement Information
I437 Sch. 19 para. 8 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

9 Terrorism.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I438 Sch. 19 para. 9 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

10 Trafficking in human beings.

Commencement Information
I439 Sch. 19 para. 10 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

11 Sexual exploitation of children and child pornography.

Commencement Information
I440 Sch. 19 para. 11 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

12 Illicit trafficking in narcotic drugs and psychotropic substances.

Commencement Information
I441 Sch. 19 para. 12 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

13 Illicit trafficking in weapons, munitions and explosives.

Commencement Information
I442 Sch. 19 para. 13 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

14 Corruption.

Commencement Information
I443 Sch. 19 para. 14 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

15 Fraud, including that affecting the financial interests of **[**F178the European Union**]** within the meaning of the Convention of 26 July 1995 on the protection of **[**F178the European Union**]** ' financial interests.

Textual Amendments
F178 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 4 (with art. 3(2)(3)4(2)6(4)(5))

Commencement Information
I444 Sch. 19 para. 15 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

16 Laundering of the proceeds of crime.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I445 Sch. 19 para. 16 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

17 Counterfeiting currency, including of the euro.

Commencement Information
I446 Sch. 19 para. 17 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

18 Computer-related crime.

Commencement Information
I447 Sch. 19 para. 18 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

19 Environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties.

Commencement Information
I448 Sch. 19 para. 19 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

20 Facilitation of unauthorised entry and residence.

Commencement Information
I449 Sch. 19 para. 20 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

21 Murder, grievous bodily injury.

Commencement Information
I450 Sch. 19 para. 21 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

22 Illicit trade in human organs and tissue.

Commencement Information
I451 Sch. 19 para. 22 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

23 Kidnapping, illegal restraint and hostage-taking.

Commencement Information
I452 Sch. 19 para. 23 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

24 Racism and xenophobia.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I453 Sch. 19 para. 24 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

25 Organised or armed robbery.

Commencement Information
I454 Sch. 19 para. 25 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

26 Illicit trafficking in cultural goods, including antiques and works of art.

Commencement Information
I455 Sch. 19 para. 26 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

27 Swindling.

Commencement Information
I456 Sch. 19 para. 27 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

28 Racketeering and extortion.

Commencement Information
I457 Sch. 19 para. 28 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

29 Counterfeiting and piracy of products.

Commencement Information
I458 Sch. 19 para. 29 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

30 Forgery of administrative documents and trafficking therein.

Commencement Information
I459 Sch. 19 para. 30 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

31 Forgery of means of payment.

Commencement Information
I460 Sch. 19 para. 31 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

32 Illicit trafficking in hormonal substances and other growth promoters.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I461 Sch. 19 para. 32 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

33 Illicit trafficking in nuclear or radioactive materials.

Commencement Information
I462 Sch. 19 para. 33 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

34 Trafficking in stolen vehicles.

Commencement Information
I463 Sch. 19 para. 34 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

35 Rape.

Commencement Information
I464 Sch. 19 para. 35 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

36 Arson.

Commencement Information
I465 Sch. 19 para. 36 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

37 Crimes within the jurisdiction of the International Criminal Court.

Commencement Information
I466 Sch. 19 para. 37 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

38 Unlawful seizure of aircraft or ships.

Commencement Information
I467 Sch. 19 para. 38 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

39 Sabotage.

Commencement Information
I468 Sch. 19 para. 39 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

40 Conduct which infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I469 Sch. 19 para. 40 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

41 Smuggling of goods.

Commencement Information
I470 Sch. 19 para. 41 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

42 Infringement of intellectual property rights.

Commencement Information
I471 Sch. 19 para. 42 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

43 Threats and acts of violence against persons, including violence during sport events.

Commencement Information
I472 Sch. 19 para. 43 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

44 Criminal damage.

Commencement Information
I473 Sch. 19 para. 44 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

45 Theft.

Commencement Information
I474 Sch. 19 para. 45 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

46 Offences created by the issuing State and serving the purpose of implementing obligations arising from instruments adopted **[**[F179]under the Treaty establishing the European Community or Title VI of the Treaty on European Union (as they had effect before 1 December 2009) or under the Treaty on the Functioning of the European Union**]** .

Textual Amendments
F179 Words in Sch. 19 para. 46 substituted (1.8.2012) by The Treaty of Lisbon (Changes in Terminology or Numbering) Order 2012 (S.I. 2012/1809), art. 2(1), **Sch. Pt. 1** (with art. 2(2))

Commencement Information
I475 Sch. 19 para. 46 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 3

INTERPRETATION

47 (1) In this Schedule—

(a) "conduct" includes any act or omission;

(b) "liable person" means the person required to pay the financial penalty to which the certificate relates.

(2) If the decision was made in respect of conduct by a person other than the liable person, the references in paragraph 6 to the liable person are to be read as references to that other person.

Commencement Information

I476 Sch. 19 para. 47 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(r)**

F180SCHEDULE 20

Section 118

CLOSURE ORDERS: PREMISES ASSOCIATED WITH PERSISTENT DISORDER OR NUISANCE

Textual Amendments

F180 Sch. 20 repealed (20.10.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 50** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2590, art. 3(g)(viii)(hh) (as renumbered (20.10.2014) by S.I. 2014/2754, arts. 1, 3(b))

PROSPECTIVE

F180

. . . . . .

SCHEDULE 21

Section 122

NUISANCE OR DISTURBANCE ON HSS PREMISES

Offence of causing nuisance or disturbance on HSS premises

1 (1) A person commits an offence if—

(a) the person causes, without reasonable excuse and while on HSS premises, a nuisance or disturbance to an HSS staff member who is working there or is otherwise there in connection with work,

(b) the person refuses, without reasonable excuse, to leave the HSS premises when asked to do so by a constable or an HSS staff member, and

(c) the person is not on the HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A person who commits an offence under this paragraph is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of this paragraph—

(a) a person ceases to be on HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself once the person has received the advice, treatment or care, and

(b) a person is not on HSS premises for the purpose of obtaining medical advice, treatment or care for himself or herself if the person has been refused the advice, treatment or care during the last 8 hours.

(4) In this paragraph—

"hospital grounds" means land in the vicinity of a hospital and associated with it,

"HSS premises" means—

(a) any hospital vested in, or managed by, an HSS trust,

(b) any building or other structure, or vehicle, associated with the hospital and situated on hospital grounds (whether or not vested in, or managed by, an HSS trust), and

(c) the hospital grounds,

"HSS staff member" means a person employed by an HSS trust or otherwise working for it (whether as or on behalf of a contractor, as a volunteer or otherwise),

"HSS trust" means a Health and Social Services trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)), and

"vehicle" includes an air ambulance.

Commencement Information

I477 Sch. 21 para. 1(1)-(3) in force at 18.10.2010 by S.R. 2010/349, **art. 2**

I478 Sch. 21 para. 1(4) in force at 22.6.2009 by S.R. 2009/243, **art. 2(b)**

Power to remove person causing nuisance or disturbance

2 (1) If a constable reasonably suspects that a person is committing or has committed an offence under paragraph 1, the constable may remove the person from the HSS premises concerned.

(2) If an authorised officer reasonably suspects that a person is committing or has committed an offence under paragraph 1, the authorised officer may—

(a) remove the person from the HSS premises concerned, or

(b) authorise an HSS staff member to do so.

(3) Any person removing another person from HSS premises under this paragraph may use reasonable force (if necessary).

(4) An authorised officer cannot remove a person under this paragraph or authorise another person to do so if the authorised officer has reason to believe that—

(a) the person to be removed requires medical advice, treatment or care for himself or herself, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) the removal of the person would endanger the person's physical or mental health.

(5) In this paragraph—

"authorised officer" means any HSS staff member authorised by an HSS trust to exercise the powers conferred on an authorised officer by this paragraph, and

"HSS premises", "HSS staff member" and "HSS trust" have the same meaning as in paragraph 1.

Commencement Information

I479 Sch. 21 para. 2(1)-(4) in force at 18.10.2010 by S.R. 2010/349, **art. 2**

I480 Sch. 21 para. 2(5) in force at 22.6.2009 by S.R. 2009/243, **art. 2(b)**

Guidance about the power to remove etc.

3 (1) The Department of Health, Social Services and Public Safety may from time to time prepare and publish guidance to HSS trusts and authorised officers about the powers in paragraph 2.

(2) Such guidance may, in particular, relate to—

(a) the authorisation by HSS trusts of authorised officers,

(b) the authorisation by authorised officers of HSS staff members to remove persons under paragraph 2,

(c) training requirements for authorised officers and HSS staff members authorised by them to remove persons under paragraph 2,

(d) matters that may be relevant to a consideration by authorised officers for the purposes of paragraph 2 of whether offences are being, or have been, committed under paragraph 1,

(e) matters to be taken into account by authorised officers in deciding whether there is reason to believe that a person requires medical advice, treatment or care for himself or herself or that the removal of a person would endanger the person's physical or mental health,

(f) the procedure to be followed by authorised officers or persons authorised by them before using the power of removal in paragraph 2,

(g) the degree of force that it may be appropriate for authorised officers or persons authorised by them to use in particular circumstances,

(h) arrangements for ensuring that persons on HSS premises are aware of the offence in paragraph 1 and the powers of removal in paragraph 2, or

(i) the keeping of records.

(3) Before publishing guidance under this paragraph, the Department of Health, Social Services and Public Safety must consult such persons as the Department considers appropriate.

(4) An HSS trust and an authorised officer must have regard to any guidance published under this paragraph when exercising functions under, or in connection with, paragraph 2.

(5) In this paragraph—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"authorised officer" has the same meaning as in paragraph 2, and

"HSS premises", "HSS staff member" and "HSS trust" have the same meaning as in paragraph 1.

Commencement Information

I481 Sch. 21 para. 3(1)-(3)(5) in force at 22.6.2009 by S.R. 2009/243, **art. 2(b)**

I482 Sch. 21 para. 3(4) in force at 18.10.2010 by S.R. 2010/349, **art. 2**

SCHEDULE 22

Section 126

POLICE MISCONDUCT AND PERFORMANCE PROCEDURES

PART 1

AMENDMENTS OF POLICE ACT 1996

1 The Police Act 1996 (c. 16) has effect subject to the following amendments.

Commencement Information

I483 Sch. 22 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 16(a)**

General duty of Secretary of State

2 In section 36(2)(d) (general duty of Secretary of State) for "section 85" substitute " sections 84 and 85 ".

Commencement Information

I484 Sch. 22 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 16(a)**

Regulations for police forces

3 (1) Section 50 (regulations for police forces) is amended as follows.

(2) For subsection (3) substitute—

"(3) Without prejudice to the powers conferred by this section, regulations under this section shall—

(a) establish, or

(b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of members of police forces, including procedures for cases in which such persons may be dealt with by dismissal."

(3) In subsection (4) omit ", subject to subsection (3)(b),".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I485 Sch. 22 para. 3 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 16(b)** (with art. 4)

I486 Sch. 22 para. 3 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(h)(i)** (with art. 3)

Regulations for special constables

4 (1) Section 51 (regulations for special constables) is amended as follows.

(2) In subsection (2)(ba) (conduct of special constables) after "conduct" insert " , efficiency and effectiveness ".

(3) After subsection (2) insert—

"(2A) Without prejudice to the powers conferred by this section, regulations under this section shall—

(a) establish, or

(b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct, efficiency and effectiveness of special constables, including procedures for cases in which such persons may be dealt with by dismissal."

Commencement Information

I487 Sch. 22 para. 4 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 16(b)** (with art. 4)

I488 Sch. 22 para. 4 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(h)(i)** (with art. 3)

Police Federations

5 In section 59(3) (representation only by another member of a police force except in certain circumstances) for "provided by" substitute " provided in regulations made in accordance with ".

Commencement Information

I489 Sch. 22 para. 5 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)** (with art. 3)

Police Advisory Board

6 (1) Section 63(3) (supply of draft regulations to the Police Advisory Board) is amended as follows.

(2) In paragraph (a), for "regulations under section 50 or 52" substitute " regulations or rules under section 50, 52, 84 or 85 ".

(3) After "a draft of the regulations" insert " or rules ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I490 Sch. 22 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 47**

Representation at disciplinary and other proceedings

7 For section 84 substitute—

"**84 Representation etc. at disciplinary and other proceedings**

(1) The Secretary of State shall by regulations make provision for or in connection with—

(a) enabling the officer concerned or a relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A);

(b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.

(2) Regulations under this section may in particular make provision—

(a) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be legally represented (by a relevant lawyer);

(b) specifying the circumstances in which the officer concerned or a relevant authority is entitled to be represented by a person (other than a relevant lawyer) who falls within any prescribed description of persons;

(c) for securing that—

(i) a relevant authority may be legally represented, and

(ii) the panel conducting the proceedings may receive advice from a relevant lawyer,

whether or not the officer concerned is legally represented.

(3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—

(a) for securing that the officer is notified of his right to such representation;

(b) specifying when the officer is to be so notified;

(c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.

(4) In this section—

"the officer concerned", in relation to proceedings within subsection (1)(a), means the member of a police force or special constable to whom the proceedings relate;

"the panel", in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"prescribed" means prescribed by regulations under this section;

"relevant authority" means—

(a) where the officer concerned is a member of a police force (other than a senior officer), or a special constable, the chief officer of police of the police force of which the officer is a member, or for which the officer is appointed as a special constable;

(b) where the officer concerned is a senior officer, the police authority for the police force of which the officer is a member;

"relevant lawyer" means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);

"senior officer" means a member of a police force holding a rank above that of chief superintendent.

(5) But in prescribed circumstances "relevant authority" also includes the Independent Police Complaints Commission.

(6) Regulations under this section may make different provision for different cases and circumstances.

(7) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) Subsection (7) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

(9) A statutory instrument within subsection (8) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament."

Commencement Information

I491 Sch. 22 para. 7 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 16(b)** (with art. 4)

I492 Sch. 22 para. 7 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(h)(i)** (with art. 3)

Appeals against dismissal etc.

8 (1) Section 85 (appeals against dismissal etc.) is amended as follows.

(2) For subsections (1) and (2) substitute—

"(1) The Secretary of State shall by rules make provision specifying the cases in which a member of a police force or a special constable may appeal to a police appeals tribunal.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against."

(3) For subsection (4) substitute—

"(4) Rules made under this section may, in particular, make provision—

(a) for enabling a police appeals tribunal, in such circumstances as are specified in the rules, to determine a case without a hearing;

(b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—

(i) by a relevant lawyer within the meaning of section 84, or

(ii) by a person who falls within any description of persons prescribed by the rules;

(c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,

and rules made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.

(4A) Rules under this section may make different provision for different cases and circumstances."

(4) For subsection (5) substitute—

"(5) A statutory instrument containing rules under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5A) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first rules made under this section after the commencement of paragraph 8 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament."

Commencement Information

I493 Sch. 22 para. 8 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 16(c)** (with art. 4)

I494 Sch. 22 para. 8 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(h)(i)** (with art. 3)

Guidance concerning disciplinary proceedings etc.

9 (1) Section 87 (guidance concerning disciplinary proceedings etc.) is amended as follows.

(2) For subsection (1) substitute—

"(1) The Secretary of State may issue relevant guidance to—

(a) police authorities,

(b) chief officers of police,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) other members of police forces,
(d) special constables, and
(e) persons employed by a police authority who are under the direction and control of the chief officer of police of the police force maintained by that authority.

(1ZA) "Relevant guidance" is guidance as to the discharge of functions under regulations under section 50 or 51 in relation to the matters mentioned in section 50(2)(e) or 51(2)(ba)."

(3) In subsection (1A), after "section 50" insert " or 51 ".

(4) In subsection (5), after "section 50" insert " or 51 ".

Commencement Information
I495 Sch. 22 para. 9 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)** (with art. 3)

PROSPECTIVE

Police officers engaged on service outside their force

10 (1) Section 97 (police officers engaged on service outside their force) is amended as follows.

(2) In subsection (6)—
(a) in paragraph (b), omit "or is required to resign as an alternative to dismissal";
(b) in paragraph (c), omit "or is required to resign as an alternative to dismissal".

(3) In subsection (7), omit ", or required to resign as an alternative to dismissal,".

Police Appeals Tribunals

11 (1) Schedule 6 (appeals to police appeals tribunals) is amended as follows.

(2) In paragraph 1(1) (appeals by senior officers) for paragraphs (b) and (c) substitute—
"(b) one shall be Her Majesty's Chief Inspector of Constabulary appointed under section 54(1) or one of Her Majesty's Inspectors of Constabulary nominated by the Chief Inspector, and
(c) one shall be the permanent secretary to the Home Office or a Home Office director nominated by the permanent secretary."

(3) In paragraph 2 (appeals by other members of police forces) for sub-paragraph (1) substitute—

"(1) In the case of an appeal by a member of a police force (other than a senior officer) or a special constable, the police appeals tribunal shall consist of four members appointed by the relevant police authority, of whom—
(a) one shall be a person chosen from the list referred to in paragraph 1(1)(a),
(b) one shall be a senior officer,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) one shall be a member of the relevant police authority, and

(d) one shall be a retired member of a police force who, at the time of his retirement, was a member of an appropriate staff association."

(4) Omit paragraph 6 (hearings).

(5) In paragraph 7 (effect of orders) for sub-paragraph (1) substitute—

"(1) Where on the determination of an appeal the tribunal makes such an order as is mentioned in section 85(2), the order shall take effect—

(a) by way of substitution for the decision appealed against, and

(b) as from the date of that decision."

(6) In paragraph 10 (interpretation)—

(a) for sub-paragraph (b) substitute—

"(b) "the relevant police authority" means the police authority which maintains—

(i) the police force of which the appellant is a member, or

(ii) the police force for the area for which the appellant is appointed as a special constable,

as the case may be."

(b) for sub-paragraph (c) substitute—

"(c) "appropriate staff association" means—

(i) where the appellant was, immediately before the proceedings from which the appeal is brought, of the rank of chief superintendent or superintendent, the Police Superintendents' Association of England and Wales; and

(ii) in any other case, the Police Federation of England and Wales."

Commencement Information

I496 Sch. 22 para. 11 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)** (with art. 3)

PART 2

AMENDMENTS OF MINISTRY OF DEFENCE POLICE ACT 1987

12 The Ministry of Defence Police Act 1987 (c. 4) has effect subject to the following amendments.

Commencement Information

I497 Sch. 22 para. 12 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(r)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Defence Police Federation

13 In section 3(4) (representation of a member of the Ministry of Defence Police by the Federation) for "on an appeal to the Secretary of State or as provided by" substitute " as provided in regulations made under ".

Commencement Information
I498 Sch. 22 para. 13 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(r)**

Regulations relating to disciplinary matters

14 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.

(2) For subsection (1) substitute—

"(1) The Secretary of State may make regulations with respect to—

(a) the conduct of members of the Ministry of Defence Police and the maintenance of discipline;

(b) the suspension from duty of members of the Ministry of Defence Police.

(1A) Without prejudice to the powers conferred by subsection (1), regulations under this section shall—

(a) establish, or

(b) make provision for the establishment of,

procedures for the taking of disciplinary proceedings in respect of the conduct of members of the Ministry of Defence Police, including procedures for cases in which such persons may be dealt with by dismissal."

(3) For subsection (2) substitute—

"(2) The regulations may provide for decisions which would otherwise fall to be taken by the Secretary of State or the chief constable of the Ministry of Defence Police to be taken instead by—

(a) a person appointed in accordance with the regulations; or

(b) the Ministry of Defence Police Committee."

Commencement Information
I499 Sch. 22 para. 14 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(r)**

Representation etc. at disciplinary proceedings

15 For section 4 substitute—

"**4 Representation etc. at disciplinary proceedings**

(1) The Secretary of State shall by regulations make provision for or in connection with—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) enabling the officer concerned or the relevant authority to be represented in proceedings conducted under regulations made in pursuance of section 3A;

(b) enabling the panel conducting such proceedings to receive advice from a relevant lawyer or another person falling within any prescribed description of persons.

(2) Regulations under this section may in particular make provision—

(a) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a relevant lawyer;

(b) specifying the circumstances in which the officer concerned or the relevant authority is entitled to be represented by a person (other than a relevant lawyer) who falls within any prescribed description of persons;

(c) for securing that—

(i) the relevant authority may be legally represented, and

(ii) the panel conducting the proceedings may receive advice from a relevant lawyer,

whether or not the officer concerned is legally represented.

(3) Without prejudice to the powers conferred by this section, regulations under this section shall, in relation to cases where the officer concerned is entitled to legal or other representation, make provision—

(a) for securing that the officer is notified of his right to such representation;

(b) specifying when the officer is to be so notified;

(c) for securing that proceedings at which the officer may be dismissed are not to take place unless the officer has been notified of his right to such representation.

(4) In this section—

"the officer concerned", in relation to proceedings within subsection (1)(a), means the member of the Ministry of Defence Police to whom the proceedings relate;

"the panel", in relation to proceedings within subsection (1)(a), means the panel of persons, or the person, prescribed for the purpose of conducting the proceedings;

"prescribed" means prescribed by regulations under this section;

"relevant authority" means—

(a) where the officer concerned is a member of the Ministry of Defence Police (other than a senior officer), the chief constable for the Ministry of Defence Police;

(b) where the officer concerned is a senior officer, the Ministry of Defence Police Committee;

"relevant lawyer" means—

(a) in relation to England and Wales, a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act), and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) in relation to Scotland or Northern Ireland, counsel or a solicitor;

"senior officer" means a member of the Ministry of Defence Police holding a rank above that of chief superintendent.

(5) But in prescribed circumstances "relevant authority" also includes—

(a) in relation to England and Wales, the Independent Police Complaints Commission;

(b) in relation to Scotland, the Police Complaints Commissioner for Scotland;

(c) in relation to Northern Ireland, the Police Ombudsman for Northern Ireland.

(6) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Subsection (6) does not apply to a statutory instrument containing (whether alone or with other provision) any regulations under this section coming into force at a time that is the earliest time at which any regulations under this section are to come into force since the commencement of paragraph 15 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

(8) A statutory instrument within subsection (7) may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament."

Commencement Information

I500 Sch. 22 para. 15 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(r)**

Appeals against dismissal etc.

16 For section 4A substitute—

"**4A Appeals against dismissal etc.**

(1) The Secretary of State shall by regulations—

(a) make provision specifying the cases in which a member of the Ministry of Defence Police may appeal to a police appeals tribunal;

(b) make provision equivalent, subject to such modifications as the Secretary of State thinks fit, to that made (or authorised to be made) in relation to police appeals tribunals by any provision of Schedule 6 to the Police Act 1996 (c. 16) or Schedule 3 to the Police (Scotland) Act 1967 (c. 77).

(2) A police appeals tribunal may, on the determination of an appeal under this section, make an order dealing with the appellant in any way in which he could have been dealt with by the person who made the decision appealed against.

(3) The Secretary of State may make regulations as to the procedure on appeals to police appeals tribunals under this section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Regulations under this section may, in particular, make provision—

(a) for enabling a police appeals tribunal, in such circumstances as are specified in the regulations, to determine a case without a hearing;

(b) for the appellant or the respondent to be entitled, in a case where there is a hearing, to be represented—

(i) by a relevant lawyer, or

(ii) by a person who falls within any description of persons prescribed by the regulations;

(c) for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents,

and regulations made in pursuance of paragraph (c) may apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the regulations.

(5) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subsection (5) does not apply to a statutory instrument containing (whether alone or with other provision) the first regulations made under this section after the commencement of paragraph 16 of Schedule 22 to the Criminal Justice and Immigration Act 2008: such an instrument may not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(7) In this section—

"police appeals tribunal" means a tribunal constituted in accordance with regulations under this section;

"relevant lawyer" has the same meaning as in section 4."

Commencement Information
I501 Sch. 22 para. 16 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(r)**

PART 3

AMENDMENTS OF RAILWAYS AND TRANSPORT SAFETY ACT 2003

17 The Railways and Transport Safety Act 2003 (c. 20) has effect subject to the following amendments.

Commencement Information
I502 Sch. 22 para. 17 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)**

Police regulations: general

18 (1) Section 36 (police regulations: general) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1) (power to make regulations about constables) after "conditions" insert " of service ".

(3) For subsection (2) substitute—

"(2) The Authority shall also make regulations similar to the provision made by and under—

(a) sections 84 and 85 of the Police Act 1996 (representation etc. at disciplinary and other proceedings, and appeal), and

(b) Schedule 6 to that Act (appeals to police appeals tribunals)."

Commencement Information

I503 Sch. 22 para. 18 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)**

Police regulations: special constables

19 After section 37(1) (power to make regulations about special constables) insert—

"(1A) The Authority shall also make regulations similar to the provision made by and under—

(a) sections 84 and 85 of the Police Act 1996 (representation etc. at disciplinary and other proceedings, and appeal), and

(b) Schedule 6 to that Act (appeals to police appeals tribunals)."

Commencement Information

I504 Sch. 22 para. 19 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)**

Police regulations by Secretary of State

20 For section 42(3) substitute—

"(3) If regulations under this section make provision for a matter specified in section 50(3) or section 51(2A) of the Police Act 1996 (disciplinary proceedings), they must also make provision similar to that made by and under—

(a) sections 84 and 85 of that Act (representation etc. at disciplinary and other proceedings, and appeal), and

(b) Schedule 6 to that Act (appeals to police appeals tribunals)."

Commencement Information

I505 Sch. 22 para. 20 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)**

Regulations: further appeal

21 Omit section 43 (regulations: further appeal).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I506 Sch. 22 para. 21 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(h)(ii)**

SCHEDULE 23

Section 127

INVESTIGATION OF COMPLAINTS OF POLICE MISCONDUCT ETC.

1 The Police Reform Act 2002 (c. 30) has effect subject to the following amendments.

Commencement Information
I507 Sch. 23 para. 1 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 17(a)**

2 In section 23(2) (regulations) after paragraph (q) insert—

"(r) for enabling representations on behalf of a person to whose conduct an investigation relates to be made to the Commission by a person who is not that person's legal representative but is of a description specified in the regulations."

Commencement Information
I508 Sch. 23 para. 2 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 17(a)**

3 Schedule 3 (handling of complaints and conduct matters etc.) is amended as follows.

Commencement Information
I509 Sch. 23 para. 3 in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 17(a)**

4 In paragraph 6(4) (handling of complaints by appropriate authority: use of local resolution procedures) in each of paragraphs (a)(ii) and (b)(ii), for the words from ", a requirement to resign" to the end substitute " or the giving of a final written warning. "

Commencement Information
I510 Sch. 23 para. 4 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

5 After paragraph 19 insert—

"Special procedure where investigation relates to police officer or special constable

19A Paragraphs 19B to 19E apply to investigations of complaints or recordable conduct matters in cases where the person concerned (see paragraph 19B(11)) is a member of a police force or a special constable.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Assessment of seriousness of conduct under investigation

19B (1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have—

(a) committed a criminal offence, or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the person investigating must certify the investigation as one subject to special requirements.

(2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.

(3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—

(a) as soon as is reasonably practicable after his appointment or designation, or

(b) in the case of a matter recorded in accordance with paragraph 21A(5) or 24B(2), as soon as is reasonably practicable after it is so recorded.

(4) For the purposes of this paragraph a "severity assessment", in relation to conduct, means an assessment as to—

(a) whether the conduct, if proved, would amount to misconduct or gross misconduct, and

(b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.

(5) An assessment under this paragraph may only be made after consultation with the appropriate authority.

(6) On completing an assessment under this paragraph, the person investigating the complaint or matter must give a notification to the person concerned that complies with sub-paragraph (7).

(7) The notification must—

(a) give the prescribed information about the results of the assessment;

(b) give the prescribed information about the effect of paragraph 19C and of regulations under paragraph 19D;

(c) set out the prescribed time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents respectively for the purposes of paragraph 19C(2);

(d) give such other information as may be prescribed.

(8) Sub-paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—

(a) the investigation, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) any other investigation (including, in particular, a criminal investigation).

(9) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.

(10) On revising a severity assessment, the person investigating the complaint or matter must notify the prescribed information about the revised assessment to the person concerned.

(11) In this paragraph and paragraphs 19C to 19E—

"the person concerned"—

(a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph 19B(1);

(b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates;

"relevant document"—

(a) means a document relating to any complaint or matter under investigation, and

(b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;

"relevant statement" means an oral or written statement relating to any complaint or matter under investigation.

Duty to consider submissions from person whose conduct is being investigated

19C (1) This paragraph applies to—

(a) an investigation of a complaint that has been certified under paragraph 19B(1) as one subject to special requirements, or

(b) an investigation of a recordable conduct matter.

(2) If before the expiry of the appropriate time limit notified in pursuance of paragraph 19B(7)(c)—

(a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document, or

(b) any person of a prescribed description provides that person with a relevant document,

that person must consider the statement or document.

Interview of person whose conduct is being investigated

19D (1) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with any interview of the person concerned which is held during the course of an investigation within paragraph 19C(1)(a) or (b) by the person investigating the complaint or matter.

(2) Regulations under this paragraph may, in particular, make provision—

(a) for determining how the time at which an interview is to be held is to be agreed or decided,

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) about the information that must be provided to the person being interviewed,

(c) for enabling that person to be accompanied at the interview by a person of a prescribed description.

Duty to provide certain information to appropriate authority

19E (1) This paragraph applies during the course of an investigation within paragraph 19C(1)(a) or (b).

(2) The person investigating the complaint or matter must supply the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in sub-paragraph (3).

(3) That purpose is determining, in accordance with regulations under section 50 or 51 of the 1996 Act, whether the person concerned should be, or should remain, suspended—

(a) from office as constable, and

(b) where that person is a member of a police force, from membership of that force."

Commencement Information

I511 Sch. 23 para. 5 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 17(b)** (with art. 4)

I512 Sch. 23 para. 5 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(i)(ii)** (with art. 3)

6 (1) Paragraph 20A (accelerated procedure in special cases) is amended as follows.

(2) In sub-paragraph (1) (application of paragraph) for "a person appointed or designated to investigate" substitute " the person investigating ".

(3) In sub-paragraph (6) (investigation to continue after submission of report) for "appointed or designated to investigate" substitute " investigating ".

(4) In sub-paragraph (7) (definition of special conditions)—

(a) for paragraphs (a) and (b) substitute—

"(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct;";

(b) in paragraph (c), for "is the subject matter of the investigation" substitute " it is ".

(5) Omit sub-paragraph (8) (interpretation).

Commencement Information

I513 Sch. 23 para. 6 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

7 (1) Paragraph 20B (investigations managed or carried out by Commission: action by appropriate authority) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) For sub-paragraphs (3) and (4) (action to be taken where special conditions are satisfied) substitute—

"(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—

(a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and

(b) take such steps as are required by those regulations in relation to a case so certified."

(3) Omit sub-paragraph (5) (appropriate authority to notify DPP if special conditions are satisfied).

Commencement Information

I514 Sch. 23 para. 7 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

8 In paragraph 20D(2) (action by Commission on receipt of memorandum) for "appointed under paragraph 18 or designated under paragraph 19" substitute " investigating the complaint or matter ".

Commencement Information

I515 Sch. 23 para. 8 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

9 (1) Paragraph 20E (other investigations: action by appropriate authority) is amended as follows.

(2) For sub-paragraphs (3) and (4) (action to be taken where special conditions are satisfied) substitute—

"(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—

(a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and

(b) take such steps as are required by those regulations in relation to a case so certified."

(3) Omit sub-paragraph (5) (appropriate authority to notify DPP if special conditions are satisfied).

(4) In sub-paragraph (7) (appropriate authority to notify person investigating if special conditions are not satisfied) for "appointed under paragraph 16 or 17" substitute " investigating the complaint or matter ".

Commencement Information

I516 Sch. 23 para. 9 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

10 Omit paragraph 20G (special cases: Director of Public Prosecutions) and the cross-heading immediately preceding it.

Commencement Information
I517 Sch. 23 para. 10 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

11 (1) Paragraph 21A (procedure where conduct matter is revealed in course of investigation of DSI matter) is amended as follows.

(2) In sub-paragraph (5) (DSI matter is to be recorded as conduct matter) omit the words from "(and the other provisions" to the end.

(3) After sub-paragraph (5) insert—

"(6) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (5)—

(a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) continue the investigation as if appointed or designated to investigate the conduct matter, and

(b) the other provisions of this Schedule shall apply in relation to that matter accordingly."

Commencement Information
I518 Sch. 23 para. 11 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)**

12 (1) Paragraph 22 (final reports on investigations) is amended as follows.

(2) In sub-paragraph (1) (cases where paragraph 22 applies)—

(a) after paragraph (a) insert " or ";

(b) omit paragraph (c).

(3) In sub-paragraph (4) (meaning of appropriate authority in the case of a conduct matter which was formerly a DSI matter) for the words from "a DSI matter" to "or (4)" substitute " a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5) ".

(4) At the end insert—

"(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b)—

(a) to include such matters as are specified in the regulations;

(b) to be accompanied by such documents or other items as are so specified.

(8) A person who has submitted a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.

(9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) considers that the document or item is of relevance to the investigation, and

(b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).

(10) Those purposes are—

(a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;

(b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his."

Commencement Information

I519 Sch. 23 para. 12(1) in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 17(a)**

I520 Sch. 23 para. 12(1)-(3) in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(ii)** (with art. 3)

I521 Sch. 23 para. 12(4) in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 17(b)** (with art. 4)

I522 Sch. 23 para. 12(4) in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(i)(ii)** (with art. 3)

13 (1) Paragraph 23 (action by Commission in response to investigation report) is amended as follows.

(2) In sub-paragraph (2) (action to be taken on receipt of report)—

(a) for paragraph (b) substitute—

"(b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;";

(b) in paragraph (c), for "the report does so indicate" substitute " those conditions are so satisfied ";

(c) in paragraph (d), after "appropriate authority" insert " and the persons mentioned in sub-paragraph (5) ".

(3) After sub-paragraph (2) insert—

"(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(2B) The second condition is that—

(a) the circumstances are such that, in the opinion of the Commission, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or

(b) any matters dealt with in the report fall within any prescribed category of matters."

(4) In sub-paragraph (5) (persons to be notified) for "Those" substitute " The ".

(5) For sub-paragraphs (6) and (7) substitute—

"(6) On receipt of the report, the Commission shall also notify the appropriate authority that it must—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—

(i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and

(ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and

(b) determine what other action (if any) the authority will in its discretion take in respect of those matters."

(7) On receipt of a notification under sub-paragraph (6) the appropriate authority shall make those determinations and submit a memorandum to the Commission which—

(a) sets out the determinations the authority has made, and

(b) if the appropriate authority has decided in relation to any person to whose conduct the investigation related that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding."

(6) In sub-paragraph (8)(a) (action by Commission on receipt of memorandum) for "is proposing to take the action" substitute " has made the determinations under sub-paragraph (6)(a) ".

Commencement Information

I523 Sch. 23 para. 13 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

14 (1) Paragraph 24 (action by the appropriate authority in response to investigation report) is amended as follows.

(2) In sub-paragraph (2) (action to be taken on receipt of report)—

(a) for paragraph (a) substitute—

"(a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;";

(b) in paragraph (b), for "the report does so indicate" substitute " those conditions are so satisfied ";

(c) after paragraph (b) insert "and

(c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b)."

(3) After sub-paragraph (2) insert—

"(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(2B) The second condition is that—

(a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) any matters dealt with in the report fall within any prescribed category of matters."

(4) In sub-paragraph (5) (persons to be notified) for "Those" substitute " The ".

(5) After sub-paragraph (5) insert—

"(5A) In the case of a report falling within sub-paragraph (1)(b) which relates to a recordable conduct matter, the appropriate authority shall also notify the Commission of its determination under sub-paragraph (2)(a).

(5B) On receipt of such a notification that the appropriate authority has determined that the conditions in sub-paragraphs (2A) and (2B) are not satisfied in respect of the report, the Commission—

(a) shall make its own determination as to whether those conditions are so satisfied, and

(b) if it determines that they are so satisfied, shall direct the appropriate authority to notify the Director of Public Prosecutions of the Commission's determination and to send the Director a copy of the report.

(5C) It shall be the duty of the appropriate authority to comply with any direction given to it under sub-paragraph (5B)."

(6) For sub-paragraph (6) substitute—

"(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—

(a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—

(i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and

(ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and

(b) determine what other action (if any) the authority will in its discretion take in respect of those matters."

(7) In sub-paragraph (7) (appropriate authority to give notice on making a determination under sub-paragraph (6)) for "a determination" substitute " the determinations ".

(8) In sub-paragraph (8) (contents of notification authority is required to give of its determination) for paragraphs (b) and (c) substitute—

"(b) the determinations the authority has made under sub-paragraph (6);".

Commencement Information

I524 Sch. 23 para. 14 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

15 In paragraph 24A(2) (final reports on investigations into other DSI matters: obligation to submit report) for the words from "A person appointed" to "paragraph 19" substitute " The person investigating ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I525 Sch. 23 para. 15 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

16 (1) Paragraph 24B (action in response to a report on a DSI matter) is amended as follows.

(2) In sub-paragraph (2) (circumstances in which appropriate authority must record matter as a conduct matter) omit the words from "(and the other provisions" to the end.

(3) After sub-paragraph (2) insert—

"(3) Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (2)—

(a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) investigate the conduct matter as if appointed or designated to do so, and

(b) the other provisions of this Schedule shall apply in relation to that matter accordingly."

Commencement Information
I526 Sch. 23 para. 16 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)**

17 (1) Paragraph 25 (appeals to Commission with respect to an investigation) is amended as follows.

(2) In sub-paragraph (2) (rights of appeal)—

(a) for paragraph (a)(ii) substitute—

"(ii) about any determination of the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report on the investigation;";

(b) for paragraph (c) substitute—

"(ba) a right of appeal against any determination by the appropriate authority that a person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;

(c) a right of appeal against any determination by the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report; and

(d) a right of appeal against any determination by the appropriate authority under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report;".

(3) In sub-paragraph (3) (power of Commission to require appropriate authority to submit memorandum on an appeal)—

(a) before paragraph (a) insert—

"(za) sets out whether the appropriate authority has determined that a person to whose conduct the investigation related

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

has a case to answer in respect of misconduct or gross misconduct or has no case to answer;";

(b) for paragraphs (a) and (b) substitute—

"(a) sets out what action (if any) the authority has determined that it is required to or will, in its discretion, take in respect of the matters dealt with in the report;";

(c) in paragraph (c), for "any person whose conduct is the subject-matter of the report" substitute " a person to whose conduct the investigation related ";

(d) after paragraph (c) insert "and

(d) if the appropriate authority made a determination under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report, sets out the reasons for that determination;".

(4) In sub-paragraph (5) (determinations to be made by Commission on an appeal)—

(a) after "shall determine" insert " such of the following as it considers appropriate in the circumstances ";

(b) for paragraph (c) substitute—

"(c) whether the appropriate authority—

(i) has made such a determination as is mentioned in sub-paragraph (3)(za) that the Commission considers to be appropriate in respect of the matters dealt with in the report, and

(ii) has determined that it is required to or will, in its discretion, take the action (if any) that the Commission considers to be so appropriate; and

(d) whether the conditions set out in paragraph 24(2A) and (2B) are satisfied in respect of the report."

(5) In sub-paragraph (9) (action to be taken by Commission when it determines appropriate authority is not taking appropriate action) for "is not proposing to take the action in consequence of" substitute " has not made a determination as to whether there is a case for a person to whose conduct the investigation related to answer that the Commission considers appropriate or has not determined that it is required to or will, in its discretion, take the action in respect of the matters dealt with in ".

(6) After sub-paragraph (9) insert—

"(9A) If, on an appeal under this paragraph, the Commission determines that the conditions set out paragraph 24(2A) and (2B) are satisfied in respect of the report, it shall direct the appropriate authority—

(a) to notify the Director of Public Prosecutions of the Commission's determination, and

(b) to send the Director a copy of the report."

Commencement Information

I527 Sch. 23 para. 17 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

18 (1) Paragraph 27 (duties with respect to disciplinary proceedings) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In sub-paragraph (1) (application of paragraph) in each of paragraphs (a) and (b), for "proposing to" substitute " required to or will, in its discretion, ".

(3) In sub-paragraph (3) (recommendations that may be made by Commission in certain circumstances)—

(a) before paragraph (a) insert—

"(za) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to his conduct to which the investigation related;";

(b) for paragraph (a) substitute—

"(a) that disciplinary proceedings of the form specified in the recommendation are brought against that person in respect of his conduct to which the investigation related;";

(c) in paragraph (b), for "include such charges" substitute " deal with such aspects of that conduct ".

Commencement Information

I528 Sch. 23 para. 18 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(i)(i)** (with art. 3)

19 After paragraph 28 insert—

"Minor definitions

29 In this Part of this Schedule—

"gross misconduct" means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

"misconduct" means a breach of the Standards of Professional Behaviour;

"the person investigating", in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

"prescribed" means prescribed by regulations made by the Secretary of State;

"the Standards of Professional Behaviour" means the standards so described in, and established by, regulations made by the Secretary of State."

Commencement Information

I529 Sch. 23 para. 19 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 17(b)** (with art. 4)

I530 Sch. 23 para. 19 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, **art. 2(1)(i)(ii)** (with art. 3)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 24

Section 140

SECTION 327A OF CRIMINAL JUSTICE ACT 2003: MEANING OF "CHILD SEX OFFENCE"

Commencement Information

I531 Sch. 24 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 43**

The following is the Schedule to be inserted as Schedule 34A to the Criminal Justice Act 2003 (c. 44)—

"SCHEDULE 34A

CHILD SEX OFFENCES FOR PURPOSES OF SECTION 327A

Offences under provisions repealed by Sexual Offences Act 2003

1 An offence under—

(a) section 5 or 6 of the Sexual Offences Act 1956 (intercourse with girl under 13 or 16), or

(b) section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under 16).

2 An offence under any of—

(a) section 1 of that Act (rape),

(b) section 10 of that Act (incest by a man), and

(c) sections 12 to 16 of that Act (buggery, indecency between men, indecent assault and assault with intent to commit buggery),

where the victim or (as the case may be) the other party was under 18 at the time of the offence.

3 An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14).

4 An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape where the intended offence was an offence against a person under 18.

5 An offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest).

6 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (abuse of position of trust).

Other offences

7 An offence under any of—

(a) sections 5 to 8 of the Sexual Offences Act 2003 (rape and other offences against children under 13),

(b) sections 9 to 15 of that Act (child sex offences),

(c) sections 16 to 19 of that Act (abuse of position of trust),

(d) sections 25 and 26 of that Act (familial child sex offences), and

(e) sections 47 to 50 of that Act (abuse of children through prostitution and pornography).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

8 An offence under any of—

(a) sections 1 to 4 of that Act (rape, assault and causing sexual activity without consent),

(b) sections 30 to 41 of that Act (persons with a mental disorder impeding choice, inducements etc to persons with a mental disorder, and care workers for persons with a mental disorder), and

(c) section 61 of that Act (administering a substance with intent),

where the victim of the offence was under 18 at the time of the offence.

9 An offence under section 62 or 63 of that Act (committing an offence with intent to commit a sexual offence and trespass with intent to commit a sexual offence) where the intended offence was an offence against a person under 18.

10 An offence under section 66 or 67 of that Act (exposure and voyeurism) where the victim or intended victim of the offence was under 18 at the time of the offence.

11 An offence under—

(a) section 1 of the Protection of Children Act 1978 (indecent photographs of children), or

(b) section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child).

12 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles) where the prohibited goods included any indecent photograph showing a person under 18.

13 An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) in relation to an image showing a person under 18.

General

14 A reference in this Schedule to an offence ("offence A") includes—

(a) a reference to an attempt to commit offence A,

(b) a reference to a conspiracy to commit offence A,

(c) a reference to incitement to commit offence A,

(d) a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed, and

(e) a reference to aiding and abetting, counselling or procuring the commission of offence A.

15 A reference in this Schedule to an offence ("offence A") includes—

(a) a reference to an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 as respects which the corresponding civil offence (within the meaning given by the section in question) is offence A, and

(b) a reference to an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is offence A;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and section 48 of that Act (attempts etc. outside England and Wales) applies for the purposes of paragraph (b) as if the reference in subsection (3)(b) to any of the following provisions of that Act were a reference to that paragraph."

SCHEDULE 25

Section 145

AMENDMENTS TO ARMED FORCES LEGISLATION

PART 1

COURTS-MARTIAL (APPEALS) ACT 1968

1 The Courts-Martial (Appeals) Act 1968 (c. 20) has effect subject to the following amendments.

Commencement Information
I532 Sch. 25 para. 1 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

Power to dismiss certain appeals following references by the CCRC

2 After section 25B insert—

"Appeals following references by the CCRC

25C Power to dismiss certain appeals following references by the CCRC

(1) This section applies where there is an appeal under this Part following a reference by the Criminal Cases Review Commission under section 12A(1)(a), (7) or (8) of the Criminal Appeal Act 1995.

(2) Notwithstanding anything in section 12, 21 or 25 of this Act, the Appeal Court may dismiss the appeal if—

(a) the only ground for allowing it would be that there has been a development in the law since the date of the conviction or finding that is the subject of the appeal, and

(b) the condition in subsection (3) is met.

(3) The condition in this subsection is that if—

(a) the reference had not been made, but

(b) the appellant had made (and had been entitled to make) an application for an extension of time within which to seek leave to appeal on the ground of the development in the law,

the Court would not think it appropriate to grant the application by exercising the power conferred by section 9(3)."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I533 Sch. 25 para. 2 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

Interim hospital orders

3 Section 16(5) (effect of interim hospital order made by Appeal Court) is omitted.

Commencement Information
I534 Sch. 25 para. 3 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

4 Section 25B(3) (as substituted by the Armed Forces Act 2006) (effect of interim hospital order made by Appeal Court) is omitted.

Commencement Information
I535 Sch. 25 para. 4 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

5 Before section 36 (but after the cross-heading preceding it) insert—

Effect of interim hospital orders

"35A(1) This section applies where the Appeal Court—

(a) make an interim hospital order by virtue of any provision of this Part, or

(b) renew an interim hospital order so made.

(2) The Court Martial shall be treated for the purposes of section 38(7) of the Mental Health Act 1983 (absconding offenders) as the court that made the order."

Commencement Information
I536 Sch. 25 para. 5 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

6 In section 36 (powers of Court under Part 2 which are exercisable by single judge), in subsection (1) after paragraph (h) insert—

"(ha) to renew an interim hospital order made by them by virtue of any provision of this Part;".

Commencement Information
I537 Sch. 25 para. 6 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

Evidence

7 (1) Section 28 (evidence) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1), at the beginning insert " For the purposes of an appeal or an application for leave to appeal, ".

(3) In that subsection, for paragraph (b) substitute—

"(b) order any witness to attend for examination and be examined before the Court (whether or not he was called in the proceedings from which the appeal lies); and".

(4) After subsection (1) insert—

"(1A) The power conferred by subsection (1)(a) may be exercised so as to require the production of any document, exhibit or other thing mentioned in that subsection to—

(a) the Appeal Court;

(b) the appellant;

(c) the respondent."

(5) In subsection (4), at the beginning insert " For the purposes of an appeal or an application for leave to appeal, ".

(6) After subsection (4) insert—

"(5) In this section, "respondent" includes a person who will be a respondent if leave to appeal is granted."

Commencement Information

I538 Sch. 25 para. 7 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

Appeals against procedural directions

8 In section 36C (appeals against procedural directions), subsections (1) and (2) are omitted.

Commencement Information

I539 Sch. 25 para. 8 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

Detention of accused pending appeal to Supreme Court

9 (1) Section 43 (as amended by the Armed Forces Act 2006) (detention of accused on appeal by Crown) is amended as follows.

(2) In subsection (1) for "may make an order under this section" substitute " shall make one of the orders specified in subsection (1A) ".

(3) In subsection (1A)—

(a) for "An order under this section is" substitute " The orders specified in this subsection are ",

(b) the word "or" at the end of paragraph (a) is omitted, and

(c) after paragraph (b) insert—

"(c) an order that the accused be released without bail."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) After subsection (1B) insert—

"(1C) The Appeal Court may make an order within subsection (1A)(c) only if they think that it is in the interests of justice that the accused should not be liable to be detained as a result of the decision of the Supreme Court on the appeal."

(5) In subsection (2) for "under this section" substitute " within subsection (1A)(a) or (b) ".

(6) For subsection (5) substitute—

"(5) The accused shall not be liable to be detained again as a result of the decision of the Supreme Court on the appeal if—

(a) the Appeal Court have made an order within subsection (1A)(c), or

(b) the Appeal Court have made an order within subsection (1A)(a) or (b) but the order has ceased to have effect by virtue of subsection (2) or the accused has been released or discharged by virtue of subsection (3)."

Commencement Information
I540 Sch. 25 para. 9 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(a)**

PART 2

ARMED FORCES ACT 2006

10 The Armed Forces Act 2006 (c. 52) has effect subject to the following amendments.

Commencement Information
I541 Sch. 25 para. 10 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Consecutive custodial sentences

11 In section 188(4) (consecutive custodial sentences), after "Part 12 of the 2003 Act" insert " or under Part 2 of the Criminal Justice Act 1991 ".

Commencement Information
I542 Sch. 25 para. 11 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Dangerous offenders

12 In section 209 (offenders under 18 convicted of certain serious offences), in subsection (7) for "sections 221, 222 and 227" substitute " section 226(2) of the 2003 Act (as applied by section 221(2) of this Act) and section 227 of this Act ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I543 Sch. 25 para. 12 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

13 (1) Section 219 (dangerous offenders aged 18 or over) is amended as follows.

(2) In subsection (1) for the words from "a person" to the end substitute "—

(a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct),

(b) the corresponding offence under the law of England and Wales is a serious offence, and

(c) the court is of the required opinion (defined by section 223)."

(3) For subsections (2) and (3) substitute—

"(2) Section 225(2) to (4) of the 2003 Act apply in relation to the offender.

(3) In section 225(2) and (3A) of the 2003 Act (as applied by subsection (2)), references to "the offence" are to be read as references to the offence under section 42 of this Act."

(4) For the italic cross-heading before section 219 substitute " *Required or discretionary sentences for particular offences* ".

Commencement Information
I544 Sch. 25 para. 13 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

14 (1) Section 220 (certain violent or sexual offences: offenders aged 18 or over) is amended as follows.

(2) In subsection (1) for the words from "a person" to the end substitute "—

(a) a person aged 18 or over is convicted by the Court Martial of an offence under section 42 (criminal conduct),

(b) the corresponding offence under the law of England and Wales is a specified offence,

(c) the court is of the required opinion (defined by section 223), and

(d) where the corresponding offence under the law of England and Wales is a serious offence, the case is not one in which the court is required by section 225(2) of the 2003 Act (as applied by section 219(2) of this Act) to impose a sentence of imprisonment for life."

(3) For subsection (2) substitute—

"(2) Section 227(2) to (5) of the 2003 Act apply in relation to the offender."

(4) In subsection (3)—

(a) for "section 227" substitute " section 227(2) to (5) ",

(b) before paragraph (a) insert—

"(za) the reference in section 227(2A) to "the offence" is to be read as a reference to the offence under section 42 of this Act;", and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) in paragraph (a) for "subsection (2)(b)" substitute " subsection (2C)(b) ".

(5) After subsection (3) insert—

"(3A) The power conferred by section 227(6) of the 2003 Act includes power to amend section 227(2B) as applied by this section."

Commencement Information
I545 Sch. 25 para. 14 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

15 (1) Section 221 (dangerous offenders aged under 18) is amended as follows.

(2) In subsection (1) for the words from "a person" to the end substitute "—

(a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct),

(b) the corresponding offence under the law of England and Wales is a serious offence, and

(c) the court is of the required opinion (defined by section 223)."

(3) For subsection (2) substitute—

"(2) Section 226(2) to (4) of the 2003 Act apply in relation to the offender."

(4) In subsection (3)—

(a) for the words from the beginning to "is" substitute " In section 226(2) of the 2003 Act (as applied subsection (2)) ", and

(b) in paragraphs (a) and (b) the words "in section 226(2)" are omitted.

(5) Subsection (4) is omitted.

Commencement Information
I546 Sch. 25 para. 15 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

16 (1) Section 222 (offenders aged under 18: certain violent or sexual offences) is amended as follows.

(2) In subsection (1), in paragraph (d) for the words from "section 221" to the end substitute " section 226(2) of the 2003 Act (as applied by section 221(2) of this Act) to impose a sentence of detention for life. "

(3) For subsection (2) substitute—

"(2) Section 228(2) to (5) of the 2003 Act apply in relation to the offender."

(4) In subsection (3)—

(a) for "section 228" substitute " section 228(2) to (5) ", and

(b) in paragraph (a) for "subsection (2)(b)" substitute " subsection (2B)(b) ".

(5) After subsection (3) insert—

"(3A) The power conferred by section 228(7) of the 2003 Act includes power to amend section 228(2A) as applied by this section."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I547 Sch. 25 para. 16 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

17 (1) Section 223 (the required opinion for the purposes of sections 219 to 222) is amended as follows.

(2) In subsection (1) for "219(2), 220(2), 221(2)" substitute " 219(1), 220(1), 221(1) ".

(3) In subsection (2) for "section 229(2) to (4)" substitute " section 229(2) and (2A) ".

(4) In subsection (3) the words "to (4)" are omitted.

Commencement Information
I548 Sch. 25 para. 17 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

18 (1) Section 228 (appeals where previous convictions set aside) is amended as follows.

(2) For subsection (1) substitute—

"(1) Subsection (3) applies where—

(a) a sentence has been imposed on any person under section 225(3) or 227(2) of the 2003 Act (as applied by section 219(2) or 220(2) of this Act),

(b) the condition in section 225(3A) or (as the case may be) 227(2A) of the 2003 Act was met but the condition in section 225(3B) or (as the case may be) 227(2B) of that Act was not, and

(c) any previous conviction of his without which the condition in section 225(3A) or (as the case may be) 227(2A) would not have been met has been subsequently set aside on appeal."

Commencement Information
I549 Sch. 25 para. 18 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

19 In section 237 (purposes of sentencing), in subsection (3)(b)—

(a) for "to 222" substitute " , 221 ", and

(b) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I550 Sch. 25 para. 19 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

20 In section 256 (pre-sentence reports), in subsection (1)(c) for the words from "section" to the end substitute " section 219(1), 220(1), 221(1) or 222(1) (sentences for dangerous offenders). "

Commencement Information
I551 Sch. 25 para. 20 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

21 In section 260 (discretionary custodial sentences: general restrictions), in subsection (1)(b) for the words from "as a result" to the end substitute " under section 225(2) or 226(2) of the 2003 Act (as applied by section 219(2) or 221(2) of this Act) or as a result of any of sections 225 to 227 of this Act. "

Commencement Information
I552 Sch. 25 para. 21 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

22 In section 261 (length of discretionary custodial sentences: general provision)—

(a) in subsection (1) for "falling to be imposed as a result of section 219(2) or 221(2)" substitute " imposed under section 225 or 226 of the 2003 Act (as applied by section 219(2) or 221(2) of this Act) ", and

(b) in subsection (3) for "required minimum sentences" substitute " sentences that may or must be imposed ".

Commencement Information
I553 Sch. 25 para. 22 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

23 In section 273 (review of unduly lenient sentences by Court Martial Appeal Court), in subsection (6)(b) for "section 219, 220, 221, 222, 225, 226 or 227" substitute " section 225(2) or 226(2) of the 2003 Act (as applied by section 219(2) or 221(2) of this Act) or by section 225, 226 or 227 of this Act ".

Commencement Information
I554 Sch. 25 para. 23 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Restrictions on imposing community punishment

PROSPECTIVE

F181 24 . . . . . .

Textual Amendments
F181 Sch. 25 para. 24 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 64(5)(c)**, 151(1); S.I. 2012/2906, art. 2(a)

PROSPECTIVE

25 In section 254(1) (savings for powers to mitigate sentence etc.) for "and 270" substitute " , 270 and 270B ".

26 (1) Section 270 (community punishments: general restrictions etc.) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) After subsection (6) insert—

"(6A) The fact that by virtue of any provision of this section—

(a) a community punishment may be awarded in respect of an offence, or

(b) particular restrictions on liberty may be imposed by a community punishment,

does not require a court to award such a punishment or to impose those restrictions."

F182(3) . . . . . .

F182(4) . . . . . .

Textual Amendments

F182 Sch. 25 para. 26(3)(4) repealed (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), Sch. 3 para. 20(3), **Sch. 5**; S.I. 2012/669, art. 4(d)(f)(i)

Commencement Information

I555 Sch. 25 para. 26(1)(2) in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

PROSPECTIVE

F183 27 . . . . . .

Textual Amendments

F183 Sch. 25 para. 27 repealed (2.4.2012) by Armed Forces Act 2011 (c. 18), s. 32(3), Sch. 3 para. 20(3), **Sch. 5**; S.I. 2012/669, art. 4(d)(f)(i)

Review of sentence on reference by Attorney General

28 In section 273 (reviews of unduly lenient sentencing by Court Martial Appeal Court) for subsection (7) substitute—

"(7) Where a reference under subsection (1) relates to a case in which the Court Martial made an order specified in subsection (7A), the Court Martial Appeal Court may not, in deciding what sentence is appropriate for the case, make any allowance for the fact that the offender is being sentenced for a second time.

(7A) The orders specified in this subsection are—

(a) an order under section 269(2) of the 2003 Act (determination of minimum term in relation to mandatory life sentence);

(b) an order under section 82A(2) of the Sentencing Act (determination of minimum term in relation to discretionary life sentences and certain other sentences)."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I556 Sch. 25 para. 28 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Compensation for miscarriages of justice

29 (1) Section 276 (compensation for miscarriages of justice) is amended as follows.

(2) In subsection (1) for "subsections (2) and (3)" substitute " subsections (2) to (3A) ".

(3) At the end of subsection (3) insert "before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.

(3A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so."

(4) For subsection (6) substitute—

"(6) Section 276A applies in relation to the assessment of the amount of the compensation."

(5) After subsection (7) insert—

"(7A) But in a case where—

(a) a person's conviction for an offence is quashed on an appeal out of time, and

(b) the person is to be subject to a retrial,

the conviction is not to be treated for the purposes of subsection (1) as "reversed" unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial."

Commencement Information
I557 Sch. 25 para. 29 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

30 After section 276 insert—

"**276A Miscarriages of justice: amount of compensation**

(1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 276 for a miscarriage of justice.

(2) In assessing so much of any compensation payable under section 276 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—

(a) the seriousness of the offence of which the person was convicted and the severity of the punishment resulting from the conviction, and

(b) the conduct of the investigation and prosecution of the offence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 276 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—

(a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and

(b) any other convictions of the person and any punishment resulting from them.

(4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 276 is to be a nominal amount only.

(5) The total amount of compensation payable to or in respect of a person under section 276 for a particular miscarriage of justice must not exceed the overall compensation limit. That limit is—

(a) £1 million in a case to which section 276B applies, and

(b) £500,000 in any other case.

(6) The total amount of compensation payable under section 276 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

(7) The Secretary of State may by order amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

276B Cases where person has been detained for at least 10 years

(1) For the purposes of section 276A(5) this section applies to any case where the person concerned ("P") has been in qualifying detention for a period (or total period) of at least 10 years by the time when—

(a) the conviction is reversed, or

(b) the pardon is given,

as mentioned in section 276(1).

(2) P was "in qualifying detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—

(a) by virtue of a sentence passed in respect of the relevant offence,

(b) under mental health legislation by reason of P's conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or

(c) as a result of P's having been ordered to be kept in service custody, or remanded for mental health purposes, in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—

(a) in qualifying detention, and

(b) in excluded concurrent detention.

(4) P was "in excluded concurrent detention" at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—

(a) during the term of a sentence passed in respect of an offence other than the relevant offence,

(b) under mental health legislation by reason of P's conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or

(c) as a result of P's having been ordered to be kept in service custody, or remanded for mental health purposes, in connection with an offence for which P was subsequently convicted other than—

(i) the relevant offence, or

(ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.

(5) But P was not "in excluded concurrent detention" at any time by virtue of subsection (4)(a), (b) or (c) if P's conviction of the other offence mentioned in that provision was quashed on appeal, or a pardon was given in respect of it.

(6) In this section—

"kept in service custody" means—

(a) kept in service custody under section 105(2) of the Armed Forces Act 2006, or

(b) kept in military, air-force or naval custody under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be);

"mental health legislation" means—

(a) Part 3 of the Mental Health Act 1983, or

(b) the provisions of any earlier enactment corresponding to Part 3 of that Act;

"the relevant offence" means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));

"remanded for mental health purposes" means remanded or admitted to hospital under section 35, 36 or 38 of the Mental Health Act 1983 or under any corresponding provision of any earlier enactment;

"reversed" has the same meaning as in section 276 of this Act.

(7) If, as a result of the miscarriage of justice—

(a) two or more convictions are reversed, or

(b) a pardon is given in respect of two or more offences,

"the relevant offence" means any of the offences concerned."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I558 Sch. 25 para. 30 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

31 In section 373 (orders, regulations etc.) in subsection (3)(a), after "113," insert " 276A(7), ".

Commencement Information
I559 Sch. 25 para. 31 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Imposition of unpaid work requirement for breach of service community order or overseas service community order

32 In paragraph 14(b) of Schedule 5 (modifications of Schedule 8 to the Criminal Justice Act 2003 as it applies to overseas community orders), for "(3)" substitute " (3A) ".

Commencement Information
I560 Sch. 25 para. 32 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

Suspended prison sentences: further conviction or breach of requirement

33 In paragraph 9(1)(b) of Schedule 7 (which provides for paragraph 9 of Schedule 12 to the Criminal Justice Act 2003, as it applies to an order under paragraph 8 of that Schedule made by a service court, to have effect with substituted sub-paragraphs (2) and (3))—

(a) in the substituted text of sub-paragraph (2), after "Part 12" insert " of this Act or under Part 2 of the Criminal Justice Act 1991 "; and

(b) in the substituted text of sub-paragraph (3), after "287" insert " of the Armed Forces Act 2006 ".

Commencement Information
I561 Sch. 25 para. 33 in force at 31.10.2009 by S.I. 2009/1028, **art. 2(b)**

PART 3

TRANSITIONAL PROVISIONS

Transitional provisions: compensation for miscarriage of justice

34 (1) Paragraph 29(3) has effect in relation to any application for compensation made in relation to—

(a) a conviction which is reversed, and

(b) a pardon which is given,

on or after the commencement date.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Paragraphs 29(4) and 30 have effect in relation to—

(a) any application for compensation made on or after the commencement date, and

(b) any application for compensation made before that date in relation to which the question whether there is a right to compensation has not been determined before that date by the Secretary of State under section 276(4) of the 2006 Act.

(3) Paragraph 29(5) has effect in relation to any conviction quashed on an appeal out of time in respect of which an application for compensation has not been made before the commencement date.

(4) Paragraph 29(5) so has effect whether a conviction was quashed before, on or after the commencement date.

(5) In the case of—

(a) a conviction which is reversed, or

(b) a pardon which is given,

before the commencement date but in relation to which an application for compensation has not been made before that date, any such application must be made before the end of the period of 2 years beginning with that date.

(6) But the Secretary of State may direct that an application for compensation in relation to a case falling within sub-paragraph (5) which is made after the end of that period is to be treated as if it had been made before the end of that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.

(7) In this paragraph—

"the 2006 Act" means the Armed Forces Act 2006 (c. 52);

"application for compensation" means an application for compensation made under section 276(3) of the 2006 Act;

"the commencement date" means the date on which paragraphs 29 and 30 come into force;

"reversed" has the same meaning as in section 276(1) of the 2006 Act (as amended by paragraph 29(5)).

Commencement Information

I562 Sch. 25 para. 34 in force at 31.10.2009 by S.I. 2009/2606, **art. 3(h)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 26

Section 148

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

FINE DEFAULTERS

PROSPECTIVE

Magistrates' Courts Act 1980 (c. 43)

1 In section 81(3) of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders) for paragraph (a) substitute—

"(a) a youth default order under section 39 of the Criminal Justice and Immigration Act 2008; or".

Criminal Justice Act 2003 (c. 44)

2 (1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 221(2) (provision of attendance centres) after paragraph (b) insert—

"(c) default orders under section 300 of this Act, or

(d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008."

(3) In section 300 (power to impose unpaid work requirement or curfew requirement on fine defaulter)—

(a) in subsection (1)—

(i) for "16" substitute " 18 ", and

(ii) omit paragraph (b), and

(b) in subsection (2), omit from "or, as the case may be" to "young offender)".

(4) In Schedule 31 (modifications of community order provisions for purposes of default order) after paragraph 3 insert—

"Attendance centre requirement

3A In its application to a default order, section 214(2) (attendance centre requirement) is modified by the substitution for "not be less than 12 or more than 36" of "be—

(a) not less than 12, and

(b) in the case of an amount in default which is specified in the first column of the following Table, not more than the number of hours set out opposite that amount in the second column.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

TABLE

Amount	***Number of hours***
An amount not exceeding £200	18 hours
An amount exceeding £200 but not exceeding £500	21 hours
An amount exceeding £500 but not exceeding £1,000	24 hours
An amount exceeding £1,000 but not exceeding £2,500	30 hours
An amount exceeding £2,500	36 hours”.”

(5) In paragraph 4(5)(a) of that Schedule (modifications of community order provisions for purposes of default order) omit “, (5)”.

(6) In paragraph 5 of that Schedule, for “or 3” substitute “ , 3 or 3A ”.

Commencement Information

I563 Sch. 26 para. 2(1)(2)Sch. 26 para. 2(4)-(6) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

PART 2

OTHER AMENDMENTS

Prison Act 1952 (c. 52)

3 In section 43(1)(aa) of the Prison Act 1952 (provision by Secretary of State of young offender institutions), at the end insert “ or other persons who may be lawfully detained there ”.

Commencement Information

I564 Sch. 26 para. 3 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(b)**

Criminal Justice Act 1961 (c. 39)

4 In section 38(3)(c) of the Criminal Justice Act 1961 (construction of references to imprisonment or detention in case of children and young persons) after “in accordance with” insert “ a determination of the Secretary of State or of a person authorised by him, in accordance with arrangements made by the Secretary of State or in accordance with ”.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I565 Sch. 26 para. 4 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(c)**

Children and Young Persons Act 1969 (c. 54)

F184 5 . . . . . .

Textual Amendments

F184 Sch. 26 para. 5 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 12 para. 55**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

6 In section 13A(3) of the Criminal Appeal (Northern Ireland) Act 1980 (grounds for allowing appeal against finding of unfitness to be tried), in paragraph (a) for "the finding" substitute " a finding ".

Commencement Information

I566 Sch. 26 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(d)**

Wildlife and Countryside Act 1981 (c. 69)

7 In section 19XA(1) of the Wildlife and Countryside Act 1981 (constables' powers in connection with samples) for "by this section" substitute " by section 19 ".

Commencement Information

I567 Sch. 26 para. 7 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(e)**

Mental Health Act 1983 (c. 20)

8 In section 37 of the Mental Health Act 1983 (powers of court to order hospital admission or guardianship), in subsection (1A)(c) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information

I568 Sch. 26 para. 8 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(f)**

Repatriation of Prisoners Act 1984 (c. 47)

9 The Repatriation of Prisoners Act 1984 has effect subject to the following amendments.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I569 Sch. 26 para. 9 in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(i)**

10 Before section 1 insert— " Transfer of prisoners to or from the United Kingdom ".

Commencement Information
I570 Sch. 26 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

11 (1) Section 1 (issue of warrant for transfer) is amended as follows.

(2) In subsections (2) and (3) for "warrant under this Act" substitute " warrant under this section ".

(3) In subsection (4)—

(a) for "warrant under this Act" (in both places) substitute " warrant under this section ";

(b) in paragraph (b) omit the words "under this Act".

(4) In subsection (5) (as it applies in cases in which the relevant Minister is the Scottish Ministers and in cases in which the relevant Minister is the Secretary of State) for "warrant under this Act" substitute " warrant under this section ".

(5) In subsection (6) after "warrant" (in the first place it appears) insert " under this section ".

(6) In subsection (7)(b) after "under" insert " any of ".

(7) In subsection (8)—

(a) after "similar to" insert " any of ";

(b) after "respect to" insert "—

(a) "; and

(c) at the end insert "; or

(b) the transfer between different countries and territories (or different parts of a country or territory) of responsibility for the detention and release of persons who are required to be so detained in one of those countries or territories (or parts of a country or territory) but are present in the other country or territory (or part of a country or territory)."

Commencement Information
I571 Sch. 26 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

12 (1 Section 2 (transfer out of the United Kingdom) is amended as follows.

(2) In subsection (1) after "warrant" insert " under section 1 ".

(3) In subsection (4)—

(a) in paragraph (a) for "warrant under this Act" substitute " warrant under section 1 "; and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b in paragraph (b)(i) (as it continues to have effect in relation to prisoners sentenced for offences committed before 4th April 2005) after "33(1)(b)" insert " , (1A) ".

(4) In subsection (7) for "warrant under this Act" substitute " warrant under section 1 ".

Commencement Information

I572 Sch. 26 para. 12(1)(3)(b) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(i)**

I573 Sch. 26 para. 12(2)(3)(a)(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

13 (1) Section 3 (transfer into the United Kingdom) is amended as follows.

(2) In subsection (1), after "a warrant" insert " under section 1 ".

(3) In subsections (2), (4) and (6), for "warrant under this Act" substitute " warrant under section 1 ".

(4) In subsection (7)—

(a) at the beginning insert " Part 1 of "; and

(b) for "warrant under this Act" substitute " warrant under section 1 ".

(5) Subsection (10) is omitted.

Commencement Information

I574 Sch. 26 para. 13 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

14 (1) Section 4 (temporary return) is amended as follows

(2) In subsection (1)—

(a) for "warrant under this Act" substitute " warrant under section 1 ";

(b) in paragraph (a), after "Kingdom" (in the second place it appears) insert " , or from which responsibility for his detention and release has previously been transferred to the United Kingdom, ";

(c) in paragraph (b), after "transferred" insert " , or to which responsibility for his detention and release has previously been transferred, ".

(3) In subsection (2)—

(a) for "a warrant under this Act" substitute " a warrant under section 1 ";

(b) for "earlier warrant under this Act" substitute " earlier warrant under section 1 or section 4A ".

(4) In subsection (3)—

(a) for "issued under this Act" substitute " issued under section 1 ";

(b) after "an earlier warrant" insert " under section 1 or section 4A ".

(5) In subsection (4) for "warrant under this Act" substitute " warrant under section 1 ".

(6) After subsection (5) insert—

"(6) Any reference in subsection (5)(a) to the prisoner having previously been transferred into or from Scotland includes a reference to responsibility for

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

his detention and release having previously been transferred to or from the Scottish Ministers (as the case may be).".

Commencement Information
I575 Sch. 26 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

15 Before section 5 (operation of warrant and retaking prisoners) insert— " Supplementary and general provisions ".

Commencement Information
I576 Sch. 26 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

16 (1) Section 5 (operation of warrant and retaking prisoners) is amended as follows.

(2) In subsection (1)—

(a) for "under this Act" substitute " under section 1 "; and

(b) after "this section" insert " (apart from subsection (9)) ".

(3) After subsection (8) insert—

"(9) Where—

(a) a warrant under section 4A has been issued, and

(b) the relevant person is a person to whom subsection (3) of that section applies,

subsections (2) to (8) above apply for the purposes of that warrant (but with the modifications contained in subsection (10)), except (without prejudice to section 4C(4) or any enactment contained otherwise than in this Act) in relation to any time when the relevant person is required to be detained in accordance with provisions contained in the warrant by virtue of section 4C(1)(b).

(10) In their application for the purposes of a warrant under section 4A those subsections shall have effect as if—

(a) any reference to the warrant under section 1 (however expressed) were a reference to the warrant under section 4A;

(b) any reference to the prisoner were a reference to the relevant person;

(c) in subsection (4)—

(i) in paragraph (a) for "that person" there were substituted " the authorised person "; and

(ii) paragraph (b) were omitted; and

(d) in subsection (8)(a) for "transfer of a prisoner to or from Scotland" there were substituted " transfer of responsibility for the detention and release of the relevant person to the Scottish Ministers "."

Commencement Information
I577 Sch. 26 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

17 (1) Section 6 (revocation etc. of warrants) is amended as follows.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1)—

(a) for "warrant under this Act" (in the first place they appear) substitute " warrant under section 1 ";

(b) in paragraph (b) for "this Act" substitute " that section ".

(3) After subsection (1) insert—

"(1A) Subject to section 4A(8), if at any time it appears to the relevant Minister appropriate, in order that effect may be given to any such arrangements as are mentioned in section 4A(5)(a) for a warrant under section 4A to be revoked or varied, he may as the case may require—

(a) revoke that warrant; or

(b) revoke that warrant and issue a new warrant under section 4A containing provision superseding some or all of the provisions of the previous warrant."

(4) In subsections (2) and (3) after "subsection (1)(b)" insert " or (1A)(b) ".

(5) In subsection (5)(a), for the words from "where" to the end substitute "in a case where—

(i) the warrant was issued under section 1 and provides for the transfer of the prisoner to or from Scotland; or

(ii) the warrant was issued under section 4A and provides for the transfer of responsibility for the detention and release of the relevant person to those Ministers;".

Commencement Information

I578 Sch. 26 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

18 (1) Section 8 is amended as follows.

(2) In subsection (1) after the definition of "the prisoner" insert "; and

"the relevant person" has the meaning given by section 4A(5)(b)."

(3) In subsection (3)—

(a) in paragraph (a) after "section 1(1)(a)" insert " or 4A(5)(a) ";

(b) in paragraph (b) for "such a party" substitute " a party to such international arrangements as are mentioned in section 1(1)(a) ";

(c) after paragraph (b) (but before the "or" after that paragraph) insert—

"(ba) that the appropriate authority of a country or territory which is a party to such international arrangements as are mentioned in section 4A(5)(a) has agreed to the transfer of responsibility for the detention and release of a particular person in accordance with those arrangements,".

Commencement Information

I579 Sch. 26 para. 18 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

19 (1 The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows.

(2) For the cross-heading before paragraph 1 substitute— " Part 1 Warrants under section 1 Application of Part 1 ".

(3) In paragraph 1—

(a) at the beginning insert " This Part of ";

(b) after "under" insert " section 1 of "; and

(c) after "; and in" insert " this Part of ".

(4 In paragraph 2 (as it applies in England and Wales in relation to offences committed before 4 April 2005)—

(a) in sub-paragraph (1A)(a) (which defines the enactments relating to release on licence) after "33(1)(b) insert " , (1A) "; and

(b) after sub-paragraph (2) insert—

"(2A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Part 2 of the Criminal Justice Act 1991 to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner."

(5) In paragraph 2 (as it applies in England and Wales in relation to offences committed on or after 4 April 2005), after sub-paragraph (3) insert—

"(3A) If the warrant specifies that the offence or any of the offences in relation to which a determinate sentence is to be served corresponds to murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003 (specified violent or sexual offences), any reference (however expressed) in Chapter 6 of Part 12 of that Act to a person sentenced for an offence specified in that Schedule is to be read as including a reference to the prisoner."

(6) After paragraph 8 insert—

"PART 2

WARRANTS UNDER SECTION 4A TRANSFERRING RESPONSIBILITY TO THE RELEVANT MINISTER

9 This Part of this Schedule applies where a warrant is issued under section 4A providing for the transfer of responsibility for the detention and release of the relevant person to the relevant Minister (within the meaning of that section).

10 Paragraphs 2 to 8 above apply as they apply where a warrant is issued under section 1, but with the following modifications.

11 Any reference to "the relevant provisions" is to be read as a reference to the provisions contained in the warrant by virtue of section 4C(1)(b).

12 (1) Any reference to the prisoner is to be read as a reference to the relevant person.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Sub-paragraph (1) does not apply to the words "a short-term or long-term prisoner" in paragraph 2(3) (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993).

13 In paragraph 2 (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993) the reference to prisoners repatriated to Scotland is to be read as a reference to any relevant person—

(a) in whose case the warrant under section 4A transfers responsibility for his detention and release from a country or territory outside the British Islands to the Scottish Ministers; and

(b) whose sentence or any of whose sentences in that country or territory were imposed on or after 1 October 1993.

14 The reference in paragraph 7 to the time of the prisoner's transfer into the United Kingdom is to be read as a reference to the time at which the warrant under section 4A was issued."

Commencement Information

I580 Sch. 26 para. 19(1)(4) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(i)** (with art. 4)

I581 Sch. 26 para. 19(2)(3)(5)(6) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

Police and Criminal Evidence Act 1984 (c. 60)

20 (1) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions) in subsection (9) (meaning of caution)—

(a) after paragraph (a) (and before the word "and" immediately following it) insert—

"(aa) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998"; and

(b) in paragraph (b), for "of the Crime and Disorder Act 1998" substitute " of that Act ".

(2) In section 63B of that Act (testing for presence of Class A drugs) in subsection (7) (disclosure of information obtained from drug samples) in paragraph (aa) after "Criminal Justice Act 2003" insert " or a youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998 ".

Commencement Information

I582 Sch. 26 para. 20 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(d)**(2)

Criminal Justice Act 1987 (c. 38)

21 In section 1(17) of the Criminal Justice Act 1987 (application of Serious Fraud Office provisions to Northern Ireland), for "Attorney General for Northern Ireland" substitute " Advocate General for Northern Ireland ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I583 Sch. 26 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(h)**

Criminal Justice Act 1988 (c. 33)

22 The Criminal Justice Act 1988 has effect subject to the following amendments.

Commencement Information
I584 Sch. 26 para. 22 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(i)**

23 In section 36 (reviews of sentencing), in subsection (2)(b)(iii) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I585 Sch. 26 para. 23 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(i)**

24 In section 160(1) (offence of possession of indecent photographs of children) for "Subject to subsection (1A)," substitute " Subject to section 160A, ".

Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))

25 In article 15(5) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (possession of indecent photographs of children) after "Article 2(2)" insert " , (2A) ".

Football Spectators Act 1989 (c. 37)

26 In paragraph 1(c), (k) and (q) of Schedule 1 to the Football Spectators Act 1989 (offences)—

(a) for "Part III" substitute " Part 3 or 3A "; and

(b) for "(racial hatred)" substitute " (hatred by reference to race etc) ".

Commencement Information
I586 Sch. 26 para. 26 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(j)**

Criminal Justice (International Co-operation) Act 1990 (c. 5)

27 In section 6(7) of the Criminal Justice (International Co-operation) Act 1990 (transfer of overseas prisoner to give evidence or assist investigation in the United Kingdom), for the words from "having been" to the end of paragraph (b) substitute "—

(b) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory,".

Commencement Information

I587 Sch. 26 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(k)**

Broadcasting Act 1990 (c. 42)

28 (1) Section 167 of the Broadcasting Act 1990 (power to make copies of recordings) is amended as follows.

(2) In subsection (4)(b), after "section 24" insert " or 29H ".

(3) In subsection (5)(b), after "section 22" insert " or 29F ".

Commencement Information

I588 Sch. 26 para. 28 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(l)**

Criminal Justice Act 1991 (c. 53)

29 (1 The Criminal Justice Act 1991 is amended as follows.

F185(2 . . . . . .

F185(3) . . . . . .

F185(4) . . . . . .

F185(5 . . . . . .

(6) In paragraph 10(3)(d) of Schedule 3 (reciprocal enforcement of certain orders)—

(a) for "references in paragraph 3 to a day centre were references to" substitute " in paragraph 3 "day centre" meant ", and

(b) at the end insert " or an attendance centre provided under section 221 of that Act ".

(7) Sub-paragraph (6) extends to England and Wales and Northern Ireland only.

Textual Amendments

F185 Sch. 26 para. 29(2)-(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(b)**; S.I. 2012/2906, art. 2(n)

Commencement Information

I589 Sch. 26 para. 29(1)(2)(5) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(ii)**

I590 Sch. 26 para. 29(3)(4)(6)(7) in force at 3.11.2008 by S.I. 2008/2712, art. 2, **Sch. para. 18(b)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)

30 In section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to Scotland), after subsection (4) insert—

"(4A) The reference in subsection (4)(b) above to a person who has been transferred to Scotland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in Scotland in pursuance of a warrant issued by the Scottish Ministers under section 4A of that Act (warrant transferring responsibility for detention and release of offender).

(4B) Such a person is to be taken to have been transferred when the warrant under section 4A of that Act was issued in respect of that person."

Commencement Information
I591 Sch. 26 para. 30 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(m)**

Crime (Sentences) Act 1997 (c. 43)

31 The Crime (Sentences) Act 1997 has effect subject to the following amendments.

Commencement Information
I592 Sch. 26 para. 31 in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(iii)**

32 (1) Schedule 1 (transfer of prisoners within the British Islands) is amended as follows.

(2) In paragraph 8(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after "46" insert " , 50A ".

(3) In paragraph 8(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after "46" insert " , 50A ".

(4) Any reference in paragraph 8(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 (c. 44) in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) applies.

(5) In paragraph 9(2)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after "46" insert " , 50A ".

(6) In paragraph 9(4)(a) (as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4th April 2005), after "46" insert " , 50A ".

(7) Any reference in paragraph 9(2)(a) or (4)(a) to section 39 of the 1991 Act is to be read as a reference to section 254(1) of the Criminal Justice Act 2003 in relation to any prisoner to whom paragraph 19 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 applies.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I593 Sch. 26 para. 32 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(n)**

33 (1 Schedule 2 (repatriation of prisoners to the British Islands) is amended as follows.

(2 In paragraph 2(2) (as it continues to have effect in relation to persons to whom it applied before 4th April 2005), in the definition of enactments relating to release on licence, after "33(1)(b)," insert " , (1A), ".

(3 In paragraph 3(2) (as it continues to have effect in relation to persons to whom it applied before 4th April 2005), in the definition of enactments relating to release on licence, after "33(1)(b)," insert " , (1A), ".

(4) In paragraph 5 (which modifies paragraph 2 of the Schedule to the Repatriation of Prisoners Act 1984 (c. 47) in its application to certain descriptions of prisoner), after sub-paragraph (1)(b) insert—

"(c) prisoners detained in Scotland in pursuance of warrants which—

(i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and

(ii) relate to sentences that were imposed before 1 October 1993."

Commencement Information

I594 Sch. 26 para. 33(1)-(3) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(iii)**

I595 Sch. 26 para. 33(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(n)**

Crime and Disorder Act 1998 (c. 37)

34 (1) Section 38(4) of the Crime and Disorder Act 1998 (which defines "youth justice services" for the purposes of sections 38 to 41) is amended as follows.

(2) After paragraph (a) insert—

"(aa) the provision of assistance to persons determining whether reprimands or warnings should be given under section 65 below;".

(3) After paragraph (b) insert—

"(ba) the provision of assistance to persons determining whether youth conditional cautions (within the meaning of Chapter 1 of Part 4) should be given and which conditions to attach to such cautions;

(bb) the supervision and rehabilitation of persons to whom such cautions are given;".

Commencement Information

I596 Sch. 26 para. 34(1)(2) in force at 16.11.2009 by S.I. 2009/2780, **art. 2(3)**

I597 Sch. 26 para. 34(3) in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(d)**(2)

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Youth Justice and Criminal Evidence Act 1999 (c. 23)

35 The Youth Justice and Criminal Evidence Act 1999 has effect subject to the following amendments.

36 (1) Section 35 (child complainants and other child witnesses) is amended as follows.

(2) In subsection (3) (offences to which section applies), in paragraph (a)—

(a) before sub-paragraph (v) insert—

"(iva) any of sections 33 to 36 of the Sexual Offences Act 1956,"; and

(b) in sub-paragraph (vi), at end insert " or any relevant superseded enactment ".

(3) After that subsection insert—

"(3A) In subsection (3)(a)(vi) "relevant superseded enactment" means—

(a) any of sections 1 to 32 of the Sexual Offences Act 1956;

(b) the Indecency with Children Act 1960;

(c) the Sexual Offences Act 1967;

(d) section 54 of the Criminal Law Act 1977."

37 (1) Section 62 (meaning of "sexual offence" and other references to offences) is amended as follows.

(2) In subsection (1) at end insert " or any relevant superseded offence ".

(3) After that subsection insert—

"(1A) In subsection (1) "relevant superseded offence" means—

(a) rape or burglary with intent to rape;

(b) an offence under any of sections 2 to 12 and 14 to 17 of the Sexual Offences Act 1956 (unlawful intercourse, indecent assault, forcible abduction etc.);

(c) an offence under section 128 of the Mental Health Act 1959 (unlawful intercourse with person receiving treatment for mental disorder by member of hospital staff etc.);

(d) an offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards child under 14);

(e) an offence under section 54 of the Criminal Law Act 1977 (incitement of child under 16 to commit incest)."

38 The amendments made by paragraphs 36 and 37 are deemed to have had effect as from 1 May 2004.

39 Where an order under section 61 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (application of Part 2 of Act to service courts) makes provision as regards the application of any provision of section 35 or 62 of that Act which is amended or inserted by paragraph 36 or 37, the order may have effect in relation to times before the making of the order.

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

40 The Powers of Criminal Courts (Sentencing) Act 2000 has effect subject to the following amendments.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I598 Sch. 26 para. 40 in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(iv)**
I599 Sch. 26 para. 40 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(f)**

41 In section 12 (absolute and conditional discharge), in subsection (1) for "section 225, 226, 227 or 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I600 Sch. 26 para. 41 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

42 In section 24(5)(a) (first meeting: duration of contract), after "under paragraph" insert " 9ZD, ".

Commencement Information
I601 Sch. 26 para. 42 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(f)**

43 In section 28(a) (offender etc. referred back to court), for "Part I" substitute " Parts 1 and 1ZA ".

Commencement Information
I602 Sch. 26 para. 43 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(f)**

44 In section 92 (detention under sections 90 and 91: place of detention etc.) omit subsection (3).

Commencement Information
I603 Sch. 26 para. 44 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

45 In section 116 (power to order return to prison where offence committed during original sentence)—

(a) in subsection (1)(b) for "under Part II of the Criminal Justice Act 1991 (early release of prisoners)" substitute " under any provision of Part 2 of the Criminal Justice Act 1991 (early release of prisoners) other than section 33(1A) ", and

(b) in subsection (7), for "section 84 above" substitute " section 265 of the Criminal Justice Act 2003 (restriction on consecutive sentences for released prisoners) ".

Commencement Information
I604 Sch. 26 para. 45(a) in force at 9.6.2008 by S.I. 2008/1466, **art. 2(c)(iv)**
I605 Sch. 26 para. 45(b) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

46 In section 130 (compensation orders), in subsection (2) for "section 225, 226, 227 or 228" substitute " section 225(2) or 226(2) ".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I606 Sch. 26 para. 46 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

47 In section 146 (driving disqualification for any offence), in subsection (2) for "section 225, 226, 227 or 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I607 Sch. 26 para. 47 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

48 In section 164 (further interpretative provisions), in subsection (3)(c) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I608 Sch. 26 para. 48 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(o)**

49 (1) Schedule 1 (youth offender panels: further court proceedings) is amended as follows.

(2) In the heading for Part 1, at the end insert " : REVOCATION OF REFERRAL ORDER ".

(3) In paragraphs 5(3), 9 and 14(2)(b), after "under paragraph" insert " 9ZD, ".

Commencement Information
I609 Sch. 26 para. 49 in force at 27.4.2009 by S.I. 2009/860, **art. 2(2)(f)**

PROSPECTIVE

Criminal Justice and Court Services Act 2000 (c. 43)

50 In section 1 of the Criminal Justice and Court Services Act 2000 (purposes of the Chapter)—

(a) in subsection (1A)(a) for "authorised persons to be given assistance in" substitute " the giving of assistance to persons ", and

(b) in subsection (4) for " "authorised person" and "conditional caution" have" substitute "conditional caution" has ".

Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564) (N.I. 2)

51 In Article 10 of the Life Sentences (Northern Ireland) Order 2001 (life prisoners transferred to Northern Ireland), after paragraph (5) insert—

"(6) The reference in paragraph (4)(b) to a person transferred to Northern Ireland in pursuance of a warrant under the Repatriation of Prisoners Act 1984 includes a person who is detained in Northern Ireland in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender)."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I610 Sch. 26 para. 51 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(p)**

Crime (International Co-operation) Act 2003 (c. 32)

52 In section 48(2)(b) of the Crime (International Co-operation) Act 2003 (transfer of EU etc prisoner to assist UK investigation), for the words from "having been" to the end of paragraph (b) substitute "—

(a) having been transferred there, or responsibility for his detention and release having been transferred there, from the United Kingdom under the Repatriation of Prisoners Act 1984;

(b) having been transferred there, or responsibility for his detention and release having been transferred there, under any similar provision or arrangement from any other country or territory."

Commencement Information
I611 Sch. 26 para. 52 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(g)**

Sexual Offences Act 2003 (c. 42)

53 The Sexual Offences Act 2003 has effect subject to the following amendments.

Commencement Information
I612 Sch. 26 para. 53 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(r)**

54 (1) In section 83(6)(a) (notification requirements: initial notification) after "court" insert " or kept in service custody ".

(2) This paragraph extends to England and Wales and Northern Ireland only.

Commencement Information
I613 Sch. 26 para. 54 in force at 31.10.2009 by S.I. 2009/2606, **art. 3(i)**

55 (1) In section 85(4)(a) (notification requirements: periodic notification) after "court" insert " or kept in service custody ".

(2) This paragraph extends to England and Wales and Northern Ireland only.

Commencement Information
I614 Sch. 26 para. 55 in force at 31.10.2009 by S.I. 2009/2606, **art. 3(i)**

56 (1) Section 133 (interpretation) is amended as follows.

(2) In subsection (1)—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in paragraph (a) of the definition of "cautioned", for "by a police officer" substitute " (or, in Northern Ireland, cautioned by a police officer) ";

(b) at the appropriate place insert—

""kept in service custody" means kept in service custody by virtue of an order under section 105(2) of the Armed Forces Act 2006 (but see also subsection (3));".

(3) After subsection (2) insert—

"(3) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006, "kept in service custody" means being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 or of the Air Force Act 1955 or section 47G(2) of the Naval Discipline Act 1957 (as the case may be)."

(4) This paragraph extends to England and Wales and Northern Ireland only.

Commencement Information

I615 Sch. 26 para. 56(1)(2)(a)(4) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(r)**

I616 Sch. 26 para. 56(2)(b)(3) in force at 31.10.2009 by S.I. 2009/2606, **art. 3(i)**

57 (1) In section 138 (orders and regulations), at the end insert—

"(4) Orders or regulations made by the Secretary of State under this Act may—

(a) make different provision for different purposes;

(b) include supplementary, incidental, consequential, transitional, transitory or saving provisions."

(2) The amendment made by sub-paragraph (1), and the repeals in Part 4 of Schedule 28 of sections 86(4) and 87(6) of the Sexual Offences Act 2003 (which are consequential on that amendment), extend to England and Wales and Northern Ireland only.

Commencement Information

I617 Sch. 26 para. 57 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(r)**

58 (1) Schedule 3 (sexual offences in respect of which offender becomes subject to notification requirements) is amended as follows.

(2) After paragraph 35 insert—

"35A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—

(a) was 18 or over, and

(b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years."

(3) After paragraph 92 insert—

"92A An offence under section 63 of the Criminal Justice and Immigration Act 2008 (possession of extreme pornographic images) if the offender—

(a) was 18 or over, and

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) is sentenced in respect of the offence to imprisonment for a term of at least 2 years."

(4) In paragraphs 93(1) and 93A(1) (service offences) for "35" substitute " 35A ".

(5) This paragraph extends to England and Wales and Northern Ireland only.

Commencement Information

I618 Sch. 26 para. 58 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(j)**

Criminal Justice Act 2003 (c. 44)

59 The Criminal Justice Act 2003 has effect subject to the following amendments.

Commencement Information

I619 Sch. 26 para. 59 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**
I620 Sch. 26 para. 59 in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **arts. 2(b)(i)**, 3(b)(i)
I621 Sch. 26 para. 59 in force at 8.4.2013 for specified purposes by S.I. 2013/616, **art. 2(c)(i)**

60 (1) Section 23A (financial penalties) is amended as follows.

(2) In subsection (5), for paragraphs (b) and (c) substitute—

"(b) the person to whom the financial penalty is to be paid and how it may be paid."

(3) In subsection (6), for "to the specified officer" substitute " in accordance with the provision specified under subsection (5)(b). "

(4) After subsection (6) insert—

"(6A) Where a financial penalty is (in accordance with the provision specified under subsection (5)(b)) paid to a person other than a designated officer for a local justice area, the person to whom it is paid must give the payment to such an officer."

(5) Omit subsections (7) to (9).

Commencement Information

I622 Sch. 26 para. 60 in force at 8.7.2009 by S.I. 2009/1678, **art. 3(b)(ii)**
I623 Sch. 26 para. 60 in force at 8.4.2013 in so far as not already in force by S.I. 2013/616, **art. 2(c)(ii)**

61 After section 23A insert—

"**23B Variation of conditions**

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a conditional caution by—

(a) modifying or omitting any of the conditions;

(b) adding a condition."

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I624 Sch. 26 para. 61 in force at 8.7.2009 by S.I. 2009/1678, **art. 2(b)(ii)**

62 In section 25 (codes of practice) in subsection (2) after paragraph (g) insert—

"(ga) the provision which may be made by a relevant prosecutor under section 23A(5)(b),".

Commencement Information
I625 Sch. 26 para. 62 in force at 8.7.2009 by S.I. 2009/1678, **art. 3(b)(ii)**
I626 Sch. 26 para. 62 in force at 8.4.2013 in so far as not already in force by S.I. 2013/616, **art. 2(c)(ii)**

63 In sections 88(3), 89(9) and 91(5) (days to be disregarded in calculating certain time periods relating to bail and custody under Part 10), before paragraph (a) insert—

"(za) Saturday,".

Commencement Information
I627 Sch. 26 para. 63 in force at 15.7.2008 by S.I. 2008/1586, **art. 2(2)**

64 In section 142 (purposes of sentencing), in subsection (2)(c) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I628 Sch. 26 para. 64 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

65 In section 150 (circumstances in which community sentence not available), in paragraph (d) for "any of sections 225 to 228" to the end substitute " section 225(2) or 226(2) of this Act (requirement to impose sentence of imprisonment for life or detention for life) ".

Commencement Information
I629 Sch. 26 para. 65 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

66 In section 152 (general restrictions on imposing custodial sentences), in subsection (1)(b) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I630 Sch. 26 para. 66 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

67 In section 153 (length of discretionary custodial sentences: general provision), in subsection (1), omit "falling to be".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I631 Sch. 26 para. 67 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

68 In section 163 (general power of Crown Court to fine) for "any of sections 225 to 228" substitute " section 225(2) or 226(2) ".

Commencement Information
I632 Sch. 26 para. 68 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

69 In section 224 (meaning of "specified offence" etc), in subsection (3) the definition of relevant offence is omitted.

Commencement Information
I633 Sch. 26 para. 69 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

70 Section 233 (offences under service law) is omitted.

Commencement Information
I634 Sch. 26 para. 70 in force at 23.3.2010 by S.I. 2010/712, **art. 2(e)**

71 In section 264 (consecutive terms), in subsection (6)(a)(i) after "means" insert " one-half of ".

Commencement Information
I635 Sch. 26 para. 71 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)** (with Sch. 2 para. 2)

72 In section 305 (interpretation of Part 12), in subsection (4)—

(a) for paragraphs (c) and (d) substitute—

"(c) a sentence falls to be imposed under subsection (2) of section 225 if the court is obliged to pass a sentence of imprisonment for life under that subsection;

(d) a sentence falls to be imposed under subsection (2) of section 226 if the court is obliged to pass a sentence of detention for life under that subsection;", and

(b) paragraph (e) is omitted.

Commencement Information
I636 Sch. 26 para. 72 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

73 In section 273 (life prisoners transferred to England and Wales), after subsection (4) insert—

"(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).”

Commencement Information
I637 Sch. 26 para. 73 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

74 (1) Section 325 (arrangements for assessing etc risks posed by certain offenders) is amended as follows.

(2) In subsection (8), for “section 326” substitute “ sections 326 and 327A ”.

(3) After that subsection insert—

“(8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.”

Commencement Information
I638 Sch. 26 para. 74 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

75 In section 326(5)(a) (review of arrangements), for “and this section” substitute “ , this section and section 327A ”.

Commencement Information
I639 Sch. 26 para. 75 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(a)**

F186 76 . . . . . .

Textual Amendments
F186 Sch. 26 para. 76 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 35(b)(iii)**; S.I. 2012/2906, art. 2(s)

77 In Part 4 of Schedule 37, in the entry relating to the Magistrates' Courts Act 1980, in the second column, omit the words “In section 33(1), paragraph (b) and the word “and” immediately preceding it”.

Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950)

78 In paragraph 14 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (saving from certain provisions of the Criminal Justice Act 2003 for sentences of imprisonment of less than 12 months), for “sections 244 to 268” substitute “ sections 244 to 264 and 266 to 268 ”.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I640 Sch. 26 para. 78 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(s)**

Terrorism Act 2006 (c. 11)

79 (1) Schedule 1 to the Terrorism Act 2006 (Convention offences) is amended as follows.

(2) In the cross-heading before paragraph 6 (offences involving nuclear material), after "*material*" add " *or nuclear facilities* ".

(3) In paragraph 6(1), after "section 1(1)" insert " (a) to (d) ".

(4) For paragraph 6(2) and (3) substitute—

"(2) An offence mentioned in section 1(1)(a) or (b) of that Act where the act making the person guilty of the offence (whether done in the United Kingdom or elsewhere)—

(a) is directed at a nuclear facility or interferes with the operation of such a facility, and

(b) causes death, injury or damage resulting from the emission of ionising radiation or the release of radioactive material.

(3) An offence under any of the following provisions of that Act—

(a) section 1B (offences relating to damage to environment);

(b) section 1C (offences of importing or exporting etc. nuclear material: extended jurisdiction);

(c) section 2 (offences involving preparatory acts and threats).

(4) Expressions used in this paragraph and that Act have the same meanings in this paragraph as in that Act."

(5) After paragraph 6 insert—

"6A (1) Any of the following offences under the Customs and Excise Management Act 1979—

(a) an offence under section 50(2) or (3) (improper importation of goods) in connection with a prohibition or restriction relating to the importation of nuclear material;

(b) an offence under section 68(2) (exportation of prohibited or restricted goods) in connection with a prohibition or restriction relating to the exportation or shipment as stores of nuclear material;

(c) an offence under section 170(1) or (2) (fraudulent evasion of duty etc.) in connection with a prohibition or restriction relating to the importation, exportation or shipment as stores of nuclear material.

(2) In this paragraph "nuclear material" has the same meaning as in the Nuclear Material (Offences) Act 1983 (see section 6 of that Act)."

Commencement Information

I641 Sch. 26 para. 79 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(s)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Natural Environment and Rural Communities Act 2006 (c. 16)

80 In paragraph 7 of Schedule 5 to the Natural Environment and Rural Communities Act 2006 (powers of wildlife inspectors extended to certain other Acts) after paragraph (d) insert—

"(da) section 19XB(1) and (4) (offences in connection with enforcement powers);".

Commencement Information
I642 Sch. 26 para. 80 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(t)**

Police and Justice Act 2006 (c. 48)

81 (1) The Police and Justice Act 2006 is amended as follows.

(2) In subsection (1) of section 49 (orders and regulations)—

(a) at the end of paragraph (a) insert " or ";

(b) omit paragraph (c) and the "or" preceding it.

(3) In paragraph 30 of Schedule 1 (National Policing Improvement Agency: inspections) omit sub-paragraph (3).

Commencement Information
I643 Sch. 26 para. 81 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 48(u)**

Armed Forces Act 2006 (c. 52)

82 (1) The Armed Forces Act 2006 has effect subject to the following amendments.

(2) In paragraph 12(ah) of Schedule 2 (offences)—

(a) for "and 18 to 23" substitute " , 18 to 23 and 29B to 29G ", and

(b) for "racial or religious hatred" substitute " hatred by reference to race etc ".

(3) In paragraph 1(2) of Schedule 5 (service community orders: general)—

(a) for "12, 13, 15, 16(5), 17(5) and (6)" substitute " 13, 16(5), 17(6) ", and

(b) after "21" insert " , 25A ".

(4) In paragraph 10(2)(b) of Schedule 5 (overseas community orders: general)—

(a) for "12, 13, 15, 16(5), 17(5) and (6)" substitute " 13, 16(5), 17(6) ", and

(b) for "and 23(1)(a)(ii)" substitute " , 23(1)(a)(ii) and 25A ".

Commencement Information
I644 Sch. 26 para. 82 in force at 31.10.2009 by S.I. 2009/2606, **art. 3(i)**

Offender Management Act 2007 (c. 21)

83 In section 1 of the Offender Management Act 2007 (meaning of "the probation purposes")—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in subsection (1)(b) for "authorised persons to be given assistance in" substitute " the giving of assistance to persons ", and

(b) in subsection (4) for " "authorised person" and "conditional caution" have" substitute "conditional caution" has ".

Commencement Information

I645 Sch. 26 para. 83 in force at 1.4.2010 by S.I. 2010/712, **art. 3(b)**

SCHEDULE 27

Section 148

TRANSITORY, TRANSITIONAL AND SAVING PROVISIONS

PART 1

YOUTH JUSTICE

Abolition of certain youth orders and related amendments

1 (1) Section 1, subsections (1) and (2) of section 6, the amendments in Part 1 of Schedule 4 and the repeals and revocations in Part 1 of Schedule 28 do not have effect in relation to—

(a) any offence committed before they come into force, or

(b) any failure to comply with an order made in respect of an offence committed before they come into force.

(2) So far as an amendment in Part 2 of Schedule 4 relates to any of the following orders, the amendment has effect in relation to orders made before, as well as after, the amendment comes into force—

(a) a referral order made under the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

(b) a reparation order made under that Act;

(c) a community order made under section 177 of the Criminal Justice Act 2003 (c. 44).

Commencement Information

I646 Sch. 27 para. 1 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Reparation orders

2 (1) Sub-paragraph (2) applies if the amendments of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (action plan orders and reparation orders) made by paragraph 108(1) to (5) of Schedule 4 (reparation orders: court before which offender to appear or be brought) come into force before the amendments of Schedule 8 to that Act made by paragraph 62 of that Schedule.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) After paragraph 108(1) to (5) of Schedule 4 comes into force, and until paragraph 62 of that Schedule comes into force, paragraph 3 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 has effect as if—

(a) in sub-paragraph (5)(a) and (c), for "the appropriate court" there were substituted " a youth court ", and

(b) in sub-paragraph (6), for "appropriate" there were substituted " youth ".

(3) Sub-paragraph (4) applies if the amendments of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 (action plan orders and reparation orders) made by paragraph 62 of Schedule 4 come into force before the amendments of Schedule 8 to that Act made by paragraph 108(1) to (5) of that Schedule (reparation orders: court before which offender to appear or be brought).

(4) After paragraph 62 of Schedule 4 comes into force, and until paragraph 108(1) to (5) of that Schedule comes into force, paragraph 1 of Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000 has effect as if—

(a) for "an action plan order or" there were substituted " a ", and

(b) the words "69(8) or, as the case may be," were omitted.

Commencement Information
I647 Sch. 27 para. 2 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Making of youth rehabilitation orders: other existing orders

3 In paragraph 29(3)(c) of Schedule 1 (requirements not to conflict with other obligations), the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (c. 44) (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

Commencement Information
I648 Sch. 27 para. 3 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Instructions: other existing orders

4 In section 5(3)(c) (instructions not to conflict with other obligations), the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

Commencement Information
I649 Sch. 27 para. 4 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Fine default: section 35 of the Crime (Sentences) Act 1997

5 The amendments, repeals and revocations in section 6, Schedule 4 and Part 1 of Schedule 28 of provisions which are necessary to give effect to section 35 of the Crime (Sentences) Act 1997 (c. 43) (fine defaulters) do not have effect in relation to a sum ordered to be paid where—

(a) the sum is treated as adjudged to be paid on conviction, and

(b) the act or omission to which the sum relates occurred, or the order was made, before the commencement of those repeals and amendments.

Commencement Information

I650 Sch. 27 para. 5 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Restrictions on imposing community sentences

6 In subsection (5) of section 148 of the Criminal Justice Act 2003 (restrictions on imposing community sentences), as inserted by section 10 of this Act, the reference to a youth rehabilitation order is to be read as including a reference to any youth community order within the meaning of section 147(2) of the Criminal Justice Act 2003 (as it has effect immediately before the commencement of paragraph 72 of Schedule 4 to this Act).

Commencement Information

I651 Sch. 27 para. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

I652 Sch. 27 para. 6 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

Attendance centre rules

7 The reference in paragraph 1(2)(a)(ii) of Schedule 2 to rules made under subsection (1)(d) or (e) of section 222 of the Criminal Justice Act 2003 includes a reference to rules made, or having effect as if made, before the coming into force of that section under section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (provision, regulation and management of attendance centres).

Commencement Information

I653 Sch. 27 para. 7 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(i)**

PART 2

SENTENCING

Release and recall of prisoners

F187 8 . . . . . .

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F187 Sch. 27 para. 8 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(c)**; S.I. 2012/2906, art. 2(n)

F188 9 . . . . . .

Textual Amendments

F188 Sch. 27 para. 9 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 20(c)**; S.I. 2012/2906, art. 2(n)

10 The amendments made by subsections (3) and (5) of section 28 do not apply in relation to any person who is released on licence under section 36(1) of the Criminal Justice Act 1991 before the commencement of section 28.

Commencement Information

I654 Sch. 27 para. 10 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

11 In section 255A and 255C of the Criminal Justice Act 2003 (which are inserted by section 29) "specified offence prisoner" is to be read as including a prisoner serving a determinate sentence by virtue of having been transferred to the United Kingdom in pursuance of a warrant under section 1 of the Repatriation of Prisoners Act 1984 if—

(a) the warrant was issued before the commencement of section 29; and

(b) the offence or one of the offences for which the prisoner is serving that sentence corresponds to murder or to any offence specified in Schedule 15 to the Criminal Justice Act 2003.

Commencement Information

I655 Sch. 27 para. 11 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

12 The amendment made by subsection (1) of section 32 applies in relation to any person who is recalled under section 254(1) of the Criminal Justice Act 2003 on or after the commencement of section 32 but it is immaterial when the person was released on licence under Part 2 of the Criminal Justice Act 1991.

Commencement Information

I656 Sch. 27 para. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

Fine defaulters

13 (1) Section 39 and Schedule 7 do not apply—

(a) in relation to a sum adjudged to be paid by a conviction if the offence was committed before the commencement of that section, or

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) where a sum ordered to be paid is treated as adjudged to be paid by a conviction, if the act or omission to which the sum relates occurred, or the order was made, before the commencement of that section.

(2) Section 40 and paragraph 2(4) and (6) of Schedule 26 do not apply—

(a) in relation to a sum adjudged to be paid by a conviction if the offence was committed before the commencement of that section, or

(b) where a sum ordered to be paid is treated as adjudged to be paid by a conviction, if the act or omission to which the sum relates occurred, or the order was made, before the commencement of that section.

Commencement Information

I657 Sch. 27 para. 13(2) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

PART 3

APPEALS

Appeals against conviction etc.

14 The amendment made by section 42 applies in relation to an appeal under Part 1 of the Criminal Appeal Act 1968 (c. 19) if the reference by the Criminal Cases Review Commission is made on or after the date on which that section comes into force.

Commencement Information

I658 Sch. 27 para. 14 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

15 The amendment made by section 43 applies in relation to an appeal under Part 1 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) if the reference by the Criminal Cases Review Commission is made on or after the date on which that section comes into force.

Commencement Information

I659 Sch. 27 para. 15 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

Prosecution appeals

16 (1) The amendment made by section 44 applies in relation to an appeal under Part 9 of the Criminal Justice Act 2003 (c. 44) if the proceedings on appeal begin on or after the date on which that section comes into force.

(2) For the purposes of this paragraph, the proceedings on appeal begin—

(a) if the prosecution appeals with leave of the Crown Court judge, on the date the application for leave is served on the Crown Court officer or, in the case of an oral application, on the date the application is made, or

(b) if the prosecution appeals with leave of the Court of Appeal, on the date the application for leave is served on the Crown Court officer.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In this paragraph, references to service on the Crown Court officer are to be read in accordance with the Criminal Procedure Rules 2005 (S.I.2005/384).

Commencement Information
I660 Sch. 27 para. 16 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

17 (1) The amendment made by section 45 applies in relation to an appeal under Part IV of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I.9)) if the proceedings on appeal begin on after the date on which that section comes into force.

(2) For the purposes of this paragraph, the proceedings on appeal begin—

(a) if the prosecution appeals with leave of the Crown Court judge, on the date the application for leave is made,

(b) if the prosecution appeals with leave of the Court of Appeal, on the date the application for leave is served on the proper officer, or

(c) if leave to appeal is not required, on the date the prosecution informs the Crown Court judge that it intends to appeal.

(3) In this paragraph, "the proper officer" has the same meaning as in the Criminal Appeal (Prosecution Appeals) Rules (Northern Ireland) 2005 (S.R (N.I.) 2005/159).

Commencement Information
I661 Sch. 27 para. 17 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

Alternatives to prosecution for offenders under 18

18 The amendments made by Schedule 9 do not apply in relation to offences committed before the commencement of section 48.

Commencement Information
I662 Sch. 27 para. 18 in force at 16.11.2009 for specified purposes by S.I. 2009/2780, **art. 2(1)(e)**(2)

Protection for spent cautions under Rehabilitation of Offenders Act 1974

19 (1) Subject to the following provisions of this paragraph, the Rehabilitation of Offenders Act 1974 (c. 53) (as amended by Schedule 10 to this Act) applies to cautions given before the commencement date as it applies to cautions given on or after that date.

(2) A caution given before the commencement date shall be regarded as a spent caution at a time determined in accordance with sub-paragraphs (3) to (8).

(3) A caution other than a conditional caution (as defined in section 8A(2)(a) of the 1974 Act) shall be regarded as a spent caution on the commencement date.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) If the period of three months from the date on which a conditional caution was given ends on or before the commencement date, the caution shall be regarded as a spent caution on the commencement date unless sub-paragraph (7) applies.

(5) If the period of three months from the date on which a conditional caution was given ends after the commencement date, the caution shall be regarded as a spent caution at the end of that period of three months unless sub-paragraph (7) applies.

(6) Sub-paragraph (7) applies if—

(a) before the date on which the caution would be regarded as a spent caution in accordance with sub-paragraph (4) or (5) ("the relevant date"), the person concerned is convicted of the offence in respect of which the caution was given, and

(b) the rehabilitation period for the offence ends after the relevant date.

(7) The caution shall be regarded as a spent caution at the end of the rehabilitation period for the offence.

(8) If, on or after the date on which the caution becomes regarded as a spent caution in accordance with sub-paragraph (4) or (5), the person concerned is convicted of the offence in respect of which the caution was given—

(a) the caution shall be treated for the purposes of Schedule 2 to the 1974 Act as not having become spent in relation to any period before the end of the rehabilitation period for the offence, and

(b) the caution shall be regarded as a spent caution at the end of that rehabilitation period.

(9) In this paragraph, "the commencement date" means the date on which section 49 comes into force.

Commencement Information
I663 Sch. 27 para. 19 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(e)**

20 In the application of subsection (7) of section 9A of the Rehabilitation of Offenders Act 1974 (as inserted by paragraph 4 of Schedule 10) to offences committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference to 51 weeks is to be read as a reference to 6 months.

Commencement Information
I664 Sch. 27 para. 20 in force at 19.12.2008 by S.I. 2008/3260, **art. 2(1)(e)**

Extension of powers of non-legal staff

21 A designation made under section 7A of the Prosecution of Offences Act 1985 (c. 23) (powers of non-legal staff) which has effect immediately before the date on which section 55 comes into force continues to have effect on and after that date as if made under section 7A as amended by that section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
***Changes to legislation:** Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I665 Sch. 27 para. 21 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

Compensation for miscarriages of justice

22 (1) Section 61(3) has effect in relation to any application for compensation made in relation to—

(a) a conviction which is reversed, and

(b) a pardon which is given,

on or after the commencement date.

(2) Section 61(4), (6) and (7) have effect in relation to—

(a) any application for compensation made on or after the commencement date, and

(b) any application for compensation made before that date in relation to which the question whether there is a right to compensation has not been determined before that date by the Secretary of State under section 133(3) of the 1988 Act.

(3) Section 61(5) has effect in relation to any conviction quashed on an appeal out of time in respect of which an application for compensation has not been made before the commencement date.

(4) Section 61(5) so has effect whether a conviction was quashed before, on or after the commencement date.

(5) In the case of—

(a) a conviction which is reversed, or

(b) a pardon which is given,

before the commencement date but in relation to which an application for compensation has not been made before that date, any such application must be made before the end of the period of 2 years beginning with that date.

(6) But the Secretary of State may direct that an application for compensation in relation to a case falling within sub-paragraph (5) which is made after the end of that period is to be treated as if it had been made before the end of that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.

(7) In this paragraph—

"the 1988 Act" means the Criminal Justice Act 1988 (c. 33);

"application for compensation" means an application for compensation made under section 133(2) of the 1988 Act;

"the commencement date" means the date on which section 61 comes into force;

"reversed" has the same meaning as in section 133 of the 1988 Act (as amended by section 61(5)).

Commencement Information
I666 Sch. 27 para. 22 in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(j)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 5

CRIMINAL LAW

Penalties for possession of extreme pornographic images

23 In section 67(4)(a) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44).

Commencement Information
I667 Sch. 27 para. 23 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(k)**

Indecent photographs of children

24 (1) Section 69(3) applies in relation to things done as mentioned in—

(a) section 1(1) of the Protection of Children Act 1978 (c. 37) (offences relating to indecent photographs of children), or

(b) section 160(1) of the Criminal Justice Act 1988 (c. 33) (offence of possession of indecent photographs of children),

after the commencement of section 69.

(2) Section 70(3) applies in relation to things done as mentioned in—

(a) Article 3(1) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (offences relating to indecent photographs of children), or

(b) Article 15(1) of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (offence of possession of indecent photographs of children),

after the commencement of section 70.

Maximum penalty for publication etc. of obscene articles

25 Section 71 does not apply to offences committed before the commencement of that section.

Commencement Information
I668 Sch. 27 para. 25 in force at 26.1.2009 by S.I. 2008/2993, **art. 2(2)(k)**

Offences relating to nuclear material and nuclear facilities

26 The new section 2 inserted into the Nuclear Material (Offences) Act 1983 (c. 18) by paragraph 4 of Schedule 17 and the repeal in Part 5 of Schedule 28 of section 14 of the Terrorism Act 2006 (c. 11) do not apply in relation to anything done before the date on which Schedule 17 comes into force.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information
I669 Sch. 27 para. 26 in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(ii)**

Reasonable force for purposes of self-defence etc.

27 (1) Section 76 applies whether the alleged offence took place before, or on or after, the date on which that section comes into force.

(2) But that section does not apply in relation to—

(a) any trial on indictment where the arraignment took place before that date, or

(b) any summary trial which began before that date,

or in relation to any proceedings in respect of any trial within paragraph (a) or (b).

(3) Where the alleged offence is a service offence, that section similarly does not apply in relation to—

(a) any proceedings before a court where the arraignment took place before that date, or

(b) any summary proceedings which began before that date,

or in relation to any proceedings in respect of any proceedings within paragraph (a) or (b).

(4) For the purposes of sub-paragraph (3) summary proceedings are to be regarded as beginning when the hearing of the charge, or (as the case may be) the summary trial of the charge, begins.

(5) In this paragraph—

"service offence" means—

(a) any offence against any provision of Part 2 of the Army Act 1955 (3 & 4 Eliz. 2 c. 18), Part 2 of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or Part 1 of the Naval Discipline Act 1957 (c. 53); or

(b) any offence under Part 1 of the Armed Forces Act 2006 (c. 52);

"summary proceedings" means summary proceedings conducted by a commanding officer or appropriate superior authority.

Commencement Information
I670 Sch. 27 para. 27 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

PROSPECTIVE

Unlawfully obtaining etc. personal data: defences

28 The amendment made by section 78 does not apply in relation to an offence committed before the commencement of that section.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 6

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

Mutual recognition of financial penalties

29 (1) The amendments made by subsection (1) of section 80, and subsection (2) of that section, do not apply in relation to financial penalties (within the meaning of that section) imposed before that section comes into force.

(2) Section 82 does not apply in relation to financial penalties (within the meaning of that section) imposed before that section comes into force.

(3) Section 84 does not apply in relation to financial penalties (within the meaning of that section) imposed before that section comes into force.

(4) Section 87 does not apply in relation to financial penalties (within the meaning of that section) imposed before that section comes into force.

Commencement Information
I671 Sch. 27 para. 29 in force at 1.10.2009 by S.I. 2009/2606, **art. 2(s)**

Repatriation of prisoners

30 The amendment made by section 93 does not apply to warrants under section 1 of the Repatriation of Prisoners Act 1984 issued before the commencement of that section.

Commencement Information
I672 Sch. 27 para. 30 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

PART 7

VIOLENT OFFENDER ORDERS

Penalties for offences

31 In section 113(7)(a) in its application in relation to England and Wales the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44).

Commencement Information
I673 Sch. 27 para. 31 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(v)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Service custody and detention

32 (1) In relation to any time before the commencement of section 105(2) of the Armed Forces Act 2006 (c. 52)—

(a) the definition of "kept in service custody" in section 117(1) of this Act does not apply; and

(b) any reference in Part 7 to being kept in service custody is to be read as a reference to being kept in military, air-force or naval custody by virtue of an order made under section 75A(2) of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) or of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) or section 47G(2) of the Naval Discipline Act 1957 (c. 53) (as the case may be).

(2) In relation to any time before the commencement of the definition of "service detention" in section 374 of the Armed Forces Act 2006—

(a) the definition of "service detention" in section 117(1) of this Act does not apply; and

(b) any reference in Part 7 to service detention is to be read as a reference to detention under section 71(1)(e) of the Army Act 1955 or of the Air Force Act 1955 or section 43(1)(e) of the Naval Discipline Act 1957.

Commencement Information
I674 Sch. 27 para. 32 in force at 3.8.2009 by S.I. 2009/1842, **art. 2(v)**

PART 8

ANTI-SOCIAL BEHAVIOUR

Review of anti-social behaviour orders etc.

33 (1) The amendments made by section 123 do not apply in relation to an anti-social behaviour order, or a section 1B or 1C order, made more than 9 months before the day on which that section comes into force, unless the order has been varied by a further order made no more than 9 months before that day.

(2) In sub-paragraph (1) "section 1B or 1C order" means an order under section 1B or section 1C of the Crime and Disorder Act 1998 (c. 37).

Commencement Information
I675 Sch. 27 para. 33 in force at 1.2.2009 by S.I. 2009/140, **art. 2(f)**

Individual support orders

34 (1) The amendments made by section 124 do not apply in relation to an anti-social behaviour order, or a section 1B or 1C order, made more than 9 months before the day on which that section comes into force, unless the order has been varied by a further order made no more than 9 months before that day.

(2) In sub-paragraph (1) "section 1B or 1C order" means an order under section 1B or section 1C of the Crime and Disorder Act 1998 (c. 37).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I676 Sch. 27 para. 34 in force at 1.2.2009 by S.I. 2009/140, **art. 2(f)**

PART 9

POLICE

Police misconduct and performance procedures

35 (1) This paragraph applies if paragraphs 7, 8(3), 15 and 16 of Schedule 22 come into force before the relevant provisions of the Legal Services Act 2007 (c. 29) come into force.

(2) Until the relevant provisions of the Legal Services Act 2007 come into force—

(a) section 84 of the Police Act 1996 (c. 16) (as substituted by paragraph 7 of that Schedule and as referred to in the subsection (4) of section 85 of that Act substituted by paragraph 8(3) of that Schedule) has effect as if, in subsection (4), for the definition of "relevant lawyer" there were substituted—

""relevant lawyer" means counsel or a solicitor;"; and

(b) section 4 of the Ministry of Defence Police Act 1987 (c. 4) (as substituted by paragraph 15 of that Schedule and as referred to in subsection (7) of the section 4A of that Act substituted by paragraph 16 of that Schedule) has effect as if, in subsection (4), for the definition of "relevant lawyer" there were substituted—

""relevant lawyer" means counsel or a solicitor;".

(3) In this paragraph "the relevant provisions of the Legal Services Act 2007" means the provisions of that Act which provide, for the purposes of that Act, for a person to be an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act).

Commencement Information

I677 Sch. 27 para. 35(1)(2)(a)(3) in force at 1.12.2008 by S.I. 2008/2993, **art. 2(1)(j)**

I678 Sch. 27 para. 35(2)(b) in force at 30.11.2009 by S.I. 2009/3074, **art. 2(t)(iii)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

PART 10

SPECIAL IMMIGRATION STATUS

Conditions on designated persons

36 In the application of section 133 to England and Wales in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in section 133(6)(b) to 51 weeks is to be read as a reference to six months.

PART 11

MISCELLANEOUS

Persistent sales of tobacco to persons under 18

37 The new sections 12A and 12B inserted into the Children and Young Persons Act 1933 (c. 12) by section 143 do not apply where any of the offences mentioned in those new sections were committed before the commencement of that section.

Commencement Information
I679 Sch. 27 para. 37 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(i)**

Sexual offences

38 The amendment made by sub-paragraph (1) of paragraph 57 of Schedule 26 is not to be read as affecting the validity of any supplementary, incidental, consequential, transitional, transitory or saving provisions included in orders or regulations made by the Secretary of State under the Sexual Offences Act 2003 (c. 42) before the commencement of that sub-paragraph.

Commencement Information
I680 Sch. 27 para. 38 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 49**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 28

Section 149

REPEALS AND REVOCATIONS

PART 1

YOUTH REHABILITATION ORDERS

Commencement Information
I681 Sch. 28 Pt. 1 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(u)**

Title	*Extent of repeal or revocation*
Children and Young Persons Act 1933 (c. 12)	In section 34(7), the words "section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 or". In section 49— (a) in subsection (4A), paragraph (d) (but not the word "and" immediately following it); (b) in subsection (13)(c), sub-paragraph (i) together with the word "and" immediately following it.
Social Work (Scotland) Act 1968 (c. 49)	In section 94(1), in the definition of "supervision order", the words "the Powers of Criminal Courts (Sentencing) Act 2000 or".
Children and Young Persons Act 1969 (c. 54)	Section 25. In section 70(1), the definition of "supervision order".
Northern Ireland (Modification of Enactments — No. 1) Order 1973 (S.I. 1973/2163)	In Schedule 1, the entry relating to section 25(2) of the Children and Young Persons Act 1969.
Transfer of Functions (Local Government, etc.) (Northern Ireland) Order 1973 (S.R. & O. 1973 No. 256)	In Schedule 2, the entry relating to section 25 of the Children and Young Persons Act 1969.
Bail Act 1976 (c. 63)	In section 4(3), the words "to be dealt with".
Magistrates' Courts Act 1980 (c. 43)	In Schedule 6A, the entries relating to Schedules 3, 5 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
Contempt of Court Act 1981 (c. 49)	In section 14, the subsection (2A) inserted by the Criminal Justice Act 1982 (c. 48).
Criminal Justice Act 1982 (c. 48)	In Schedule 13—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(a) in paragraph 7(2)(b), the words "(within the meaning of Part 12 of the Criminal Justice Act 2003)"; (b) in paragraph 7(3)(b), the words "within the meaning of Part 12 of the Criminal Justice Act 2003"; (c) in paragraph 9(3)(a), the words "under section 177 of the Criminal Justice Act 2003"; (d) in paragraph 9(4)(a), the words "(within the meaning of Part 12 of the Criminal Justice Act 2003)"; (e) in paragraph 9(5), the words "(within the meaning of the Part 12 of the Criminal Justice Act 2003)"; (f) in paragraph 9(6), the words "(within the meaning of Part 12 of the Criminal Justice Act 2003)". In Schedule 14, paragraph 60.
Mental Health Act 1983 (c. 20)	In section 37(8)(c), the words "a supervision order (within the meaning of that Act) or".
Health and Social Services and Social Security Adjudications Act 1983 (c. 41)	In Schedule 2, paragraphs 15(b) and 16.
Children Act 1989 (c. 41)	In section 21(2)(c), in sub-paragraph (i), the words "paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or" and the word "or" at the end of that sub-paragraph. In section 105(6), in paragraph (b), the words from "or an" to the end of that paragraph. In Schedule 13, paragraph 35(3).
Criminal Justice Act 1991 (c. 53)	In paragraph 11 of Schedule 3— (a) in sub-paragraph (2)(a), the words "under section 177 of the Criminal Justice Act 2003"; (b) in sub-paragraph (4), the words "under section 177 of the Criminal Justice Act 2003". In Schedule 11, paragraph 3.
Children (Prescribed Orders — Northern Ireland, Guernsey and Isle of Man) Regulations 1991 (S.I. 1991/ 2032)	In regulation 8(1)— (a) sub-paragraph (a)(ii); (b) sub-paragraph (b)(i), (ii), (iv) and (v); (c) sub-paragraph (c)(ii) and (iii).
Prisoners (Return to Custody) Act 1995 (c. 16)	Section 2(2).
Children (Northern Ireland Consequential Amendments) Order 1995 (S.I. 1995/ 756)	Article 7(2) and (3).
Crime and Disorder Act 1998 (c. 37)	In section 38(4)— (a) paragraph (g);

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(b) in paragraph (h), the words "or a supervision order". In Schedule 8, paragraph 13(1).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	Chapters 1, 2, 4 and 5 of Part 4. In section 74(3)(a), the words "or with the requirements of any community order or any youth community order to which he may be subject". In section 75, the words "action plan orders and" and "so far as relating to reparation orders". In section 137(2)— (a) paragraphs (a) to (c); (b) in paragraph (d), the words "action plan order or". In section 159, the words "paragraph 3(1), 10(6) or 18(1) of Schedule 3 to this Act,", "paragraph 1(1) of Schedule 5 to this Act," and "paragraph 7(2) of Schedule 7 to this Act, or". In section 160— (a) F189... (b) in subsection (3)(a), "40(2)(a)"; (c) F189... In section 163, the definitions of— (a) "action plan order"; (b) "affected person"; (c) "attendance centre"; (d) "attendance centre order"; (e) "community sentence"; (f) "curfew order"; (g) "exclusion order"; (h) "supervision order"; (i) "supervisor"; (j) "youth community order"; and paragraphs (a), (aa) and (f) of the definition of "responsible officer". Schedules 3 and 5 to 7. In Schedule 8— (a) in the heading, the words "action plan orders and"; (b) paragraph 1 and the heading preceding that paragraph; (c) in the cross-heading before paragraph 2, the words "action plan order or"; (d) in paragraph 2— (i) in sub-paragraph (2), in paragraph (a), sub-paragraphs (ii) and (iii) and in paragraphs (b) and (c) the words "action plan order or";

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(ii) in sub-paragraphs (5) and (7), the words "action plan order or"; (iii) in sub-paragraph (8), the words "or action plan order" in both places; (d) paragraphs 3 and 4; (e) in the cross-heading before paragraph 5, the words "action plan order or"; (f) in paragraph 5(1)(a), the words "action plan order or"; (g) in paragraph 6(9)(a), (b) and (c), the words "action plan order or". In Schedule 9, paragraphs 1, 2(2), (3)(a) and (4), 28(2), 33, 34(b), 39, 41, 42, 49, 80, 93(a), 126(b), 127, 129, 131 and 132. In Schedule 10, paragraphs 4 to 6 and 12 to 15. In Schedule 11, paragraphs 4(1)(a), (2) and (3) and 5.
Care Standards Act 2000 (c. 14)	In Schedule 4, paragraph 28(3).
Criminal Justice and Court Services Act 2000 (c. 43)	Section 46. Section 52. Section 70(5). In Schedule 7— (a) in paragraph 4(2), in the entry relating to the Powers of Criminal Courts (Sentencing) Act 2000, the entries beginning "sections 63(1)(b)" and "in section 69"; (b) paragraphs 37(b), 69, 163, 164, 174, 175 and 192; (c) in paragraph 196, paragraphs (a), (b), (c)(i) and (iii) and (d); (d) in paragraph 197— (i) paragraph (a); (ii) paragraph (d); (iii) in paragraph (f), the definitions of "affected person" and "exclusion order"; (iv) paragraph (g)(i); (e) paragraphs 201, 202(2) and 204.
Anti-social Behaviour Act 2003 (c. 38)	Section 88. Schedule 2.
Criminal Justice Act 2003 (c. 44)	In section 147, subsections (1)(b) and (2). In section 148— (a) in subsection (2), the words "which consists of or includes a community order"; (b) subsection (3). In section 156(2), "or (3)(a)".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	In section 161— (a) in subsection (1), the words "aged 14 or over"; (b) subsection (7). In section 176, the definition of "youth community order". In section 197(1)(b), the words "the offender is aged 18 or over and". Section 199(4). Section 211(5). In section 221(2), paragraph (b) together with the word "or" immediately preceding it. Section 279. In section 330(5)(a), the entry relating to section 161(7). In Schedule 8, paragraphs 12, 15 and 17(5). Schedule 24. In Schedule 32, paragraphs 2(2), 8(2)(a), 14, 64(3)(a)(ii), 70(5)(a) and (7), 73, 89(2), 95 to 105, 106(2), 107, 122, 123(3), (5) and (8), 125, 127, 128, 129, 131(3) and 138.

Textual Amendments

F189 Sch. 28 Pt. 1 entries repealed (12.11.2009) by Coroners and Justice Act 2009 (c. 25), s. 182(1)(j)(ii), **Sch. 23 Pt. 4** (with s. 180)

PART 2

SENTENCING

Commencement Information

I682 Sch. 28 Pt. 2 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50** (with Sch. 2 para. 2)
I683 Sch. 28 Pt. 2 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 19(2)**
I684 Sch. 28 Pt. 2 in force at 27.4.2009 for specified purposes by S.I. 2009/860, **art. 2(2)(g)**
I685 Sch. 28 Pt. 2 in force at 31.10.2009 for specified purposes by S.I. 2009/2606, **art. 3(j)**
I686 Sch. 28 Pt. 2 in force at 23.3.2010 for specified purposes by S.I. 2010/712, **art. 2(f)**

Title	*Extent of repeal or revocation*
Criminal Justice Act 1991 (c. 53)	In section 45— (a) in subsection (3), subsection (2) of the substituted text, and (b) subsection (4). Section 46(1). In section 46A— (a) in subsection (1), the words "Subject to subsection (2) below,";

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(b) subsection (2); (c) subsection (8). In section 50(2), the words from "but nothing" to the end.
Crime (Sentences) Act 1997 (c. 43)	In section 31(1), "(1) or (2)". In Schedule 5, in paragraph 7, the words "the corresponding subsection of".
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 17— (a) in subsection (1), paragraph (c) together with the word "and" immediately preceding it; (b) subsection (5). Section 92(3).
Criminal Justice Act 2003 (c. 44)	In section 142(2)(a), the words "at the time of conviction". In section 153(1), the words "falling to be". In section 224(3), the definition of "relevant offence". In section 227(1)(a), the words ", other than a serious offence,". In section 228— (a) in subsection (1)(b)(ii), the words from "or by section 226(3)" to the end, and (b) subsection (3)(a) and the word "and" immediately following it. In section 229— (a) in subsection (2) the words from the beginning to "18", and (b) subsections (3) and (4). Sections 233 and 234. In section 247— (a) in subsection (2), the word "and" (at the end of paragraph (a)) and paragraph (b), and (b) subsections (3), (4), (5) and (6). Section 254(3) to (5). In section 256— (a) in subsection (2), the words "or (b)"; (b) subsections (3) and (5). In section 260— (a) subsections (3) and (3A); (b) in subsection (6), in paragraph (a), the words "or (3)(e)" and paragraph (b). In section 264A(3), the words from "and none" to the end. In section 300— (a) in subsection (1), paragraph (b) together with the word "or" immediately preceding it; (b) in subsection (2)—

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	(a) the words from "or, as the case may be" to "young offender)"; (b) the word "or" at the end of paragraph (a). Section 305(4)(e). Schedules 16 and 17. In Schedule 31, in paragraph 4(5)(a), ", (5)".
Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605)	Regulation 2(2) and (3).
Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950	Paragraph 30 of Schedule 2.
Armed Forces Act 2006 (c. 52)	In section 221— (a) in subsection (3)(a) and (b) the words "in section 226(2)", and (b) subsection (4). In section 223(3), the words "to (4)". In section 270— (a) subsection (7), and (b) in subsection (8), the word "Accordingly". In Schedule 16, paragraphs 218 and 225.

PART 3

APPEALS

Commencement Information

I687 Sch. 28 Pt. 3 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50** (with Sch. 2 paras. 4-6, 9)

Title	*Extent of repeal*
Criminal Appeal Act 1968 (c. 19)	In section 4(2), the words "for the offence of which he remains convicted on that count". In section 6— (a) subsection (5); (b) in subsection (7), the definition of interim hospital order. Section 11(6). In section 14— (a) subsection (5); (b) in subsection (7), the definition of interim hospital order. Section 16B(3). In section 31, in the heading, the words "under Part 1".

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	Section 31C(1) and (2).
Courts-Martial (Appeals) Act 1968 (c. 20)	Section 16(5). Section 25B(3). Section 36C(1) and (2). In section 43(1A), the word "or" at the end of paragraph (a).
Judicature (Northern Ireland) Act 1978 (c. 23)	In section 49— (a) in subsection (2), the words from "or, where subsection (3) applies" to the end; (b) subsection (3).
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	Section 10(6).
Mental Health Act 1983 (c. 20)	In Schedule 4, paragraph 23(d)(ii).
Criminal Justice Act 1988 (c. 33)	In section 36(9), the word "and" at the end of paragraph (ab).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 155— (a) in subsection (1), the words from "or, where subsection (2) below applies" to the end; (b) subsections (2) and (3).
Criminal Justice Act 2003 (c. 44)	Section 272(1).

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

Commencement Information

I688 Sch. 28 Pt. 4 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50**

I689 Sch. 28 Pt. 4 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, **Sch. para. 19(3)**

I690 Sch. 28 Pt. 4 in force at 8.7.2009 for specified purposes by S.I. 2009/1678, **art. 3(c)**

I691 Sch. 28 Pt. 4 in force at 8.4.2013 for specified purposes by S.I. 2013/616, **art. 2(d)**

I692 Sch. 28 Pt. 4 partly in force; Sch. 28 Pt. 4 partly in force at Royal Assent, see s. 153(1)(a) and further in force for certain purposes at 8.7.2008, see s. 153(2)(a)

Title	*Extent of repeal*
Children and Young Persons Act 1969 (c. 54)	Section 23AA(4)(a).
Bail Act 1976 (c. 63)	Section 3AA(6) to (10) and (12).
Magistrates' Courts Act 1980 (c. 43)	Section 13(5). Section 24(1B).
Prosecution of Offences Act 1985 (c. 23)	Section 7A(6).
Criminal Justice (Terrorism and Conspiracy) Act 1998 (c. 40)	Section 8.

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Access to Justice Act 1999 (c. 22)	Section 17A(5).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 3— (a) in subsection (2), paragraph (b) and the word "or" immediately preceding it; (b) in subsection (5), in paragraph (b), the words "paragraph (b) and".
Sexual Offences Act 2003 (c. 42)	Section 86(4). Section 87(6).
Criminal Justice Act 2003 (c. 44)	Section 23A(7) to (9). In Schedule 3, paragraphs 13, 22 and 57(2). In Schedule 36, paragraph 50. In Part 4 of Schedule 37, in the entry relating to the Magistrates' Courts Act 1980, in the second column, the words "In section 33(1), paragraph (b) and the word "and" immediately preceding it".

PART 5

CRIMINAL LAW

Commencement Information

I693 Sch. 28 Pt. 5 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50**

I694 Sch. 28 Pt. 5 in force at 30.11.2009 for specified purposes by S.I. 2009/3074, **art. 2(v)**

I695 Sch. 28 Pt. 5 partly in force at Royal Assent, see s. 153(1)(j) and further in force for certain purposes at 8.7.2008, see s. 153(2)(d)

Title	*Extent of repeal*
Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c. 8)	In section 1, the words "any blasphemous libel, or".
Law of Libel Amendment Act 1888 (c. 64)	In section 3, the words "blasphemous or". In section 4, the words "blasphemous or".
Nuclear Material (Offences) Act 1983 (c. 18)	Section 1(2). In section 6(1), the words "in this Act".
Public Order Act 1986 (c. 64)	Section 29B(3). In section 29H— (a) in subsection (1), the words "in England and Wales"; (b) subsection (2). In section 29I— (a) in subsection (2)(a), the words "in the case of an order made in proceedings in England and Wales,"; (b) subsections (2)(b) and (4).

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

	In section 29L(1) and (2), the words "in England and Wales".
Sexual Offences Act 2003 (c. 42)	In Schedule 2, in paragraph 1(d), the words "in relation to a photograph or pseudo-photograph showing a child under 16".
Terrorism Act 2006 (c. 11)	Section 14.

PART 6

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

Commencement Information
I696 Sch. 28 Pt. 6 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50**

Title	*Extent of repeal*
Commissioners for Revenue and Customs Act 2005 (c. 11)	In Schedule 2, paragraph 14.
Repatriation of Prisoners Act 1984 (c. 47)	In section 1(4)(b) the words "under this Act". Section 3(10). In section 8(1) the word "and" after the definition of "order".
Police and Justice Act 2006 (c. 48)	Section 44(4).

PART 7

ANTI-SOCIAL BEHAVIOUR

Commencement Information
I697 Sch. 28 Pt. 7 in force at 1.4.2009 by S.I. 2009/860, **art. 2(1)(j)**

Title	*Extent of repeal*
Police and Justice Act 2006 (c. 48)	In Schedule 14, paragraph 55(5).

PART 8

POLICING

Commencement Information
I698 Sch. 28 Pt. 8 in force at 14.7.2008 for specified purposes by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 50**
I699 Sch. 28 Pt. 8 in force at 1.12.2008 for specified purposes by S.I. 2008/2993, **art. 2(1)(k)**

Status: *Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Title	***Extent of repeal***
Police Act 1996 (c. 16)	In section 50(4), the words ", subject to subsection (3)(b),". In section 54(2), the words "and the Central Police Training and Development Authority". In section 97— (a) in subsection (6), in each of paragraphs (b) and (c), the words "or is required to resign as an alternative to dismissal"; (b) in subsection (7), the words ", or required to resign as an alternative to dismissal,". In Schedule 6, paragraph 6.
Greater London Authority Act 1999 (c. 29)	In Schedule 27, paragraphs 95 and 107.
Criminal Justice and Police Act 2001 (c. 16)	In section 125— (a) subsections (3) and (4); (b) in subsection (5), paragraph (b), together with the word "and" immediately preceding it.
Police Reform Act 2002 (c. 30)	In Schedule 3— (a) paragraphs 20A(8), 20B(5) and 20E(5); (b) paragraph 20G together with the cross heading immediately preceding it; (c) in paragraphs 21A(5) and 24B(2), the words from "(and the other provisions" to the end; (d) paragraph 22(1)(c) (together with the word "or" immediately preceding it); (e) in paragraph 25, the word "and" immediately after each of sub-paragraphs (2)(b), (3)(b) and (5)(b).
Railways and Transport Safety Act 2003 (c. 20)	Section 43.
Police and Justice Act 2006 (c. 48)	In section 49(1), paragraph (c) together with the word "or" immediately preceding it. In Schedule 1, paragraph 30(3). In Schedule 2, paragraph 19.
Legal Services Act 2007 (c. 29)	In Schedule 21, paragraphs 73 and 119.

Status:
Point in time view as at 20/10/2014. This version of this Act contains provisions that are prospective.

Changes to legislation:
Criminal Justice and Immigration Act 2008 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.