Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Policing and Crime Act 2009

2009 CHAPTER 26

PART 1

POLICE REFORM

Public accountability

1 Duty of police authorities in relation to public accountability

(1) In section 6(2) of the Police Act 1996 (c. 16) (matters to which police authorities must have regard in discharging their functions) after paragraph (a) insert—

"(aa) the views of people in the authority's area about policing in that area,".

(2) In section 54(2A) of that Act (inspection and report powers of inspectors of constabulary) after "with" insert " the requirement to have regard to the views of people in its area about policing in that area and its compliance with ".

Commencement Information

I1 S. 1 in force at 15.3.2010 by S.I. 2010/125, **art. 4**

VALID FROM 19/04/2010

Appointment of senior officers

VALID FROM 01/09/2010

2 Police Senior Appointments Panel

(1) In the Police Act 1996 (c. 16) after section 53A insert—

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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"Police Senior Appointments Panel

53B Police Senior Appointments Panel

(1) There shall be a Police Senior Appointments Panel constituted in accordance with arrangements made by the Secretary of State.

(2) The arrangements shall provide for the panel to consist of—
  (a) a chair and other members appointed by the Secretary of State, and
  (b) representative members.

(3) The representative members shall consist of—
  (a) persons nominated by the Secretary of State,
  (b) persons nominated by the Association of Police Authorities, and
  (c) persons nominated by the Association of Chief Police Officers.

(4) A person may be nominated as a representative member for a particular meeting, for a particular period or otherwise.

(5) Arrangements under subsection (1) may, in particular, include provision about—
  (a) the panel's proceedings;
  (b) annual or other reports.

(6) Before making (or revising) arrangements under subsection (1) the Secretary of State shall consult—
  (a) the Association of Police Authorities, and
  (b) the Association of Chief Police Officers.

(7) The Secretary of State may make staff available to the panel; and arrangements under subsection (1) may include provision about staff.

(8) The Secretary of State may—
  (a) pay fees to the chair and members of the panel appointed by the Secretary of State;
  (b) defray expenses incurred by the panel.

53C Functions

(1) The Police Senior Appointments Panel shall advise the Secretary of State on any matter about which it is consulted by the Secretary of State in connection with—
  (a) the appointment of a senior officer, or
  (b) the giving of consent under section 12A(4) or under section 25 of the City of London Police Act 1839.

(2) The panel shall advise the Secretary of State and police authorities about—
  (a) ways to increase the pool of potential candidates for appointment as a senior officer, and
  (b) the training and development needs of potential candidates for such appointment.

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(3) The Secretary of State may refer any report made by Her Majesty's Inspectors of Constabulary to the panel.

(4) Following such a referral the panel shall consider the report and advise the Secretary of State and police authorities on any matters which it thinks appropriate in connection with—
  (a) the training and development needs of senior officers;
  (b) other matters relating to senior officers.

(5) In discharging its functions under subsections (2) and (4) the panel may give advice to police authorities in general or to any one or more police authorities.

(6) In this section "senior officer" means—
  (a) a member of a police force holding a rank above that of chief superintendent;
  (b) the Commissioner of Police for the City of London.

53D Power to confer additional functions

(1) The Secretary of State may by order confer additional functions on the Police Senior Appointments Panel.

(2) An order under subsection (1) may, in particular, confer advisory or other functions on the panel in connection with the appointment of senior officers (within the meaning of section 53C(6)).

(3) An order under this section may make transitional, consequential, incidental and supplemental provision or savings.

(4) Before making an order under this section the Secretary of State shall consult the panel.

(5) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 54 (appointment and functions of inspectors of constabulary) omit subsection (3A) (delegation of Secretary of State's functions relating to approval of appointments, etc).

(3) In Part 2 of Schedule 1A to the Race Relations Act 1976 (c. 74) (persons subject to general statutory duty) insert at the appropriate place—

"The Police Senior Appointments Panel."

(4) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities) insert at the appropriate place—

"The Police Senior Appointments Panel".

3 Regulations about senior officers

In section 50 of the Police Act 1996 (c. 16) (regulations for police forces) after subsection (6) insert—

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"(6A) Without prejudice to the powers conferred by this section, regulations under this section may make provision with respect to—

(a) steps to be taken in connection with the appointment of senior officers;

(b) payments to senior officers who cease to hold office before the end of a fixed term appointment.

(6B) In subsection (6A) "senior officer" means—

(a) a member of a police force holding a rank above that of chief superintendent;

(b) the Commissioner of Police for the City of London."

4 Metropolitan police force appointments

(1) The Police Act 1996 is amended as follows.

(2) In section 9F (Assistant Commissioners of Police of the Metropolis) for subsection (2) substitute—

"(2) Any appointment of an Assistant Commissioner shall be made, in accordance with regulations under section 50, by the Metropolitan Police Authority.

(2A) Before appointing an Assistant Commissioner the Metropolitan Police Authority shall—

(a) consult the Commissioner of Police of the Metropolis, and

(b) obtain the approval of the Secretary of State."

(3) In section 9FA (Deputy Assistant Commissioners of Police of the Metropolis) for subsection (2) substitute—

"(2) Any appointment of a Deputy Assistant Commissioner shall be made, in accordance with regulations under section 50, by the Metropolitan Police Authority.

(2A) Before appointing a Deputy Assistant Commissioner the Metropolitan Police Authority shall—

(a) consult the Commissioner of Police of the Metropolis, and

(b) obtain the approval of the Secretary of State."

(4) In section 9G (Commanders in the metropolitan police force) for subsection (2) substitute—

"(2) Any appointment of a Commander in the metropolitan police force shall be made, in accordance with regulations under section 50, by the Metropolitan Police Authority.

(2A) Before appointing a Commander in the metropolitan police force the Metropolitan Police Authority shall—

(a) consult the Commissioner of Police of the Metropolis, and

(b) obtain the approval of the Secretary of State."

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Police co-operation

5 Police collaboration

For section 23 of the Police Act 1996 substitute—

"23 Police force collaboration agreements

(1) The chief officers of two or more police forces may make an agreement about the discharge of functions by members of any of their forces.

(2) An agreement may, in particular, provide—
  (a) for the joint discharge of functions by members of police forces;
  (b) for members of a police force to discharge functions in another force's area;
  (c) for members of a police force to be provided to another force.

(3) An agreement may include provision about the discharge of functions by a police authority employee (a "civilian employee") who is under the direction and control of a chief officer who is a party to the agreement.

(4) An agreement may provide for a member of a police force, or a civilian employee, to be under the direction and control of a chief officer specified in or determined in accordance with the agreement.

(5) A chief officer may make an agreement only if the chief officer thinks that the agreement is in the interests of the efficiency or effectiveness of one or more police forces.

(6) A chief officer may make an agreement only with the approval of the police authority responsible for maintaining the chief officer's force.

(7) In this section a reference to the members of a police force includes a reference to the special constables appointed for the area for which the force is maintained.

(8) An agreement under this section is referred to in this Part as a police force collaboration agreement.

23A Police authority collaboration agreements

(1) Two or more police authorities may make an agreement about the provision of support—
  (a) for any of those police authorities;
  (b) for any of the police forces maintained by them.

(2) An agreement may, in particular, provide—
  (a) for support to be provided jointly by two or more authorities;
  (b) for support to be provided for two or more authorities or forces jointly;
  (c) for an authority to provide support to another authority or to a force maintained by another authority.

(3) In this section references to the provision of support include, in particular, the provision of—

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(a) premises;
(b) equipment;
(c) staff;
(d) services;
(e) facilities.

(4) A police authority may make an agreement which includes provision about the discharge of functions by employees who are under the direction and control of a chief officer only with the approval of that chief officer.

(5) A police authority may make an agreement only if it thinks that the agreement is in the interests of the efficiency or effectiveness of one or more police authorities or police forces.

(6) Before making an agreement a police authority must consult the chief officer of the police force maintained by the authority.

(7) An agreement under this section is referred to in this Part as a police authority collaboration agreement.

23B Collaboration agreements: payments

(1) A collaboration agreement may provide for payments between relevant police authorities.

(2) Provision under subsection (1) may, in particular—
(a) specify the authorities by which and to which a payment is to be made or the manner in which those authorities are to be determined;
(b) specify the amount of any payment or the manner in which it is to be determined.

(3) A relevant police authority must make any payments required by provision made under subsection (1).

(4) "Relevant police authority"—
(a) in relation to a police force collaboration agreement, means a police authority maintaining a police force whose chief officer is a party to the agreement, and
(b) in relation to a police authority collaboration agreement, means a police authority which is a party to the agreement.

(5) In this Part "collaboration agreement" means—
(a) a police force collaboration agreement, or
(b) a police authority collaboration agreement.

23C Collaboration agreements: consultation and supplemental

(1) A person must consult the Secretary of State before making a collaboration agreement to which there are 6 or more other parties.

(2) A collaboration agreement must be in writing.

(3) A collaboration agreement may make different provision for different cases or circumstances.

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(4) A collaboration agreement may be varied by a subsequent collaboration agreement.

(5) A collaboration agreement may be brought to an end by agreement between the parties to it; and section 23(6) or, as the case may be, section 23A(6) applies to an agreement under this subsection.

23D Collaboration agreements: accountability

(1) Where a chief officer makes a police force collaboration agreement, the police authority responsible for maintaining the force shall hold the chief officer to account for the discharge of functions by anyone who—
  (a) is acting under the terms of the agreement, and
  (b) while so acting, is under the direction and control of the chief officer.

(2) Before approving an agreement as mentioned in section 23(6), a police authority must notify the chief officer of the arrangements that it proposes to make for the discharge of its functions under this section in connection with the agreement.

(3) When deciding what arrangements to make, the police authority shall, in particular, consider making arrangements for those functions to be discharged jointly with another police authority responsible for maintaining a force whose chief officer is a party to the agreement.

(4) The functions conferred on a police authority under this section do not affect any other function of holding a chief officer to account.

23E Collaboration agreements: publication

(1) A person who makes a collaboration agreement must—
  (a) publish the agreement, or
  (b) publish the fact that the agreement has been made and such other details about it as the person thinks appropriate.

(2) In the case of a police force collaboration agreement, information notified to a chief officer under section 23D(2) must be published by the chief officer with the information under subsection (1).

23F Collaboration agreements: guidance

(1) The Secretary of State may give chief officers or police authorities guidance about collaboration agreements or related matters.

(2) In discharging their functions, chief officers and police authorities must have regard to the guidance.

23G Collaboration agreements: directions

(1) The Secretary of State may give chief officers or police authorities directions about collaboration agreements or related matters.

(2) A direction may be given to—

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(a) one or more chief officers;
(b) one or more police authorities.

(3) A person to whom a direction is given must comply with it.

(4) A direction may, in particular—
(a) require two or more persons to make, or prohibit them from making, a collaboration agreement;
(b) require two or more persons to vary, or prohibit them from varying, a collaboration agreement;
(c) require two or more persons to consider making a collaboration agreement of a specified description;
(d) specify terms to be included, or not to be included, in collaboration agreements.

(5) A direction may relate to—
(a) a particular agreement,
(b) agreements of a particular description, or
(c) agreements in general.

(6) Before giving a direction under this section the Secretary of State must consult the person or persons to whom it is to be given.

23H Collaboration agreements: termination by Secretary of State

(1) The Secretary of State may terminate a collaboration agreement by notice to the parties to the agreement.

(2) A notice under this section may provide for the termination of the agreement with immediate effect or at the end of a specified period.

(3) Before giving a notice under this section the Secretary of State must consult the parties to the agreement.

23I Collaboration agreements: definitions

(1) This section has effect for the purposes of sections 23 to 23H.

(2) "Police force" includes—
(a) the British Transport Police Force, and
(b) the Civil Nuclear Constabulary.

(3) "Chief officer" means—
(a) in relation to the British Transport Police Force, the Chief Constable of the force,
(b) in relation to the Civil Nuclear Constabulary, the chief constable of the Constabulary, and
(c) in relation to any other police force, the chief officer of police of that force.

(4) "Police authority" includes—
(a) the British Transport Police Authority, and
(b) the Civil Nuclear Police Authority."

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Commencement Information

I2 S. 5 in force at 12.3.2010 by S.I. 2010/507, **art. 4(a)**

6 Authorisations to interfere with property etc

(1) Section 93 of the Police Act 1997 (c. 50) (rules for grant of authorisations) is amended as follows.

(2) In subsection (3) after "application made—" insert—

"(za) if the authorising officer is within subsection (5)(a) to (c)—

(i) by a member of the officer's police force; or

(ii) in a case where the chief officer of police of that force ("the authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces, by a member of a collaborative force;".

(3) In subsection (3)(a), for "subsection (5)(a)" substitute " subsection (5)(d) ".

(4) After subsection (3) insert—

"(3A) For the purposes of subsection (3)(za)(ii)—

(a) a police force is a collaborative force if—

(i) its chief officer of police is a party to the agreement mentioned in that provision; and

(ii) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer of the authorising force; and

(b) a reference to a police force is to the following—

(i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(ii) the metropolitan police force; and

(iii) the City of London police force."

(5) In subsection (6)—

(a) in paragraph (a), after "subsection (5)" insert " to whom an application is made by virtue of subsection (3)(za)(i) ";

(b) after paragraph (a) insert—

"(aa) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(ii), means the area in England and Wales—

(i) for which any collaborative force (within the meaning of subsection (3A)) is maintained; and

(ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(za)(ii);"; and

(c) in paragraph (b), for "that subsection" substitute " subsection (5) ".

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Commencement Information

I3 S. 6 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(a)**

7 Authorisations for obtaining and disclosing communications data

(1) The Regulation of Investigatory Powers Act 2000 (c. 23) is amended as follows.

(2) In section 22 (obtaining and disclosing communications data) after subsection (3) insert—

"(3A) Subsection (3B) applies if—

(a) a person is the designated person by reference to an office, rank or position with a police force; and

(b) the chief officer of police of that force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces.

(3B) The designated person may grant an authorisation for persons holding offices, ranks or positions with a collaborative force to engage in any conduct to which this Chapter applies.

(3C) For the purposes of subsection (3B) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be granted authorisations by the designated person.

(3D) A reference in subsections (3A) to (3C) to a police force is to the following—

(a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(b) the metropolitan police force; and

(c) the City of London police force.

(3E) Subsection (3F) applies if—

(a) a person is the designated person by reference to an office, rank or position with a Scottish police force; and

(b) the chief constable of that force has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces.

(3F) The designated person may grant an authorisation for persons holding offices, ranks or positions with a collaborative force to engage in any conduct to which this Chapter applies.

(3G) For the purposes of subsection (3F) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3E)(b); and

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(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be granted authorisations by the designated person.

(3H) A reference in subsections (3E) to (3G) to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967.

(3I) Subsections (3B) and (3F) are subject to subsection (5).”

(3) In section 23 (form and duration of authorisations and notices), in subsection (3) at the end insert “ (subject to subsections (3A) and (3D)) ”.

(4) In that section, after subsection (3) insert—

“(3A) The provisions of a notice under section 22(4) may specify or otherwise identify a person for the purposes of subsection (3)(b) above if—

(a) the person giving the notice holds an office, rank or position with a police force (“notifying force”);

(b) the chief officer of police of the notifying force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces; and

(c) the person specified in or otherwise identified in the notice holds an office, rank or position with a collaborative force.

(3B) For the purposes of subsection (3A) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be specified or otherwise identified in notices under section 22(4) given by a person holding an office, rank or position with the notifying force.

(3C) A reference in subsections (3A) and (3B) to a police force is to the following—

(a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(b) the metropolitan police force; and

(c) the City of London police force.

(3D) The provisions of a notice under section 22(4) may also specify or otherwise identify a person for the purposes of subsection (3)(b) above if—

(a) the person giving the notice holds an office, rank or position with a Scottish police force (“Scottish notifying force”);

(b) the chief constable of the Scottish notifying force has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces; and

(c) the person specified in or otherwise identified in the notice holds an office, rank or position with a collaborative force.

(3E) For the purposes of subsection (3D) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3D)(b); and

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(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be specified or otherwise identified in notices under section 22(4) given by a person holding an office, rank or position with the Scottish notifying force.

(3F) A reference in subsections (3D) and (3E) to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

Commencement Information

I4 S. 7 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(b)**

8 Authorisations of covert human intelligence sources: conditions

(1) Section 29 of the Regulation of Investigatory Powers Act 2000 (c. 23) (authorisation of covert human intelligence sources) is amended as follows.

(2) In subsection (2) for paragraph (c) substitute—

"(c) that arrangements exist for the source's case that satisfy—

(i) the requirements of subsection (4A), in the case of a source of a relevant collaborative unit;

(ii) the requirements of subsection (4B), in the case of a source of a relevant Scottish collaborative unit;

(iii) the requirements of subsection (5), in the case of any other source;

and that satisfy such other requirements as may be imposed by order made by the Secretary of State."

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)—

(a) a relevant collaborative unit is a unit consisting of two or more police forces whose chief officers of police have made an agreement under section 23(1) of the Police Act 1996 which relates to the discharge by persons holding offices, ranks or positions with any of the forces of functions in connection with the conduct or use of the source; and

(b) a relevant Scottish collaborative unit is a unit consisting of two or more Scottish police forces whose chief constables have made an agreement under section 12(1) of the Police (Scotland) Act 1967 which relates to the discharge by persons holding offices, ranks or positions with any of the forces of functions in connection with the conduct or use of the source."

(4) After subsection (4) insert—

"(4A) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare;

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(b) that there will at all times be another qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a qualifying person who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by virtue of paragraph (c) will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by virtue of paragraph (c) that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

(4B) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a Scottish qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare;

(b) that there will at all times be another Scottish qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a Scottish qualifying person who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by virtue of paragraph (c) will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by virtue of paragraph (c) that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons."

(5) After subsection (7) insert—

"(7A) For the purposes of subsection (4A) a person is a qualifying person if—

(a) the person holds an office, rank or position with a police force whose chief officer of police is a party to the agreement mentioned in subsection (2A)(a); and

(b) persons holding offices, ranks or positions with that force are permitted by the terms of the agreement to have the responsibility mentioned in paragraph (a) or (c) of subsection (4A) or the general oversight mentioned in paragraph (b) of that subsection (as the case may require).

(7B) For the purposes of subsection (4B), a person is a Scottish qualifying person if—

(a) the person holds an office, rank or position with a Scottish police force whose chief constable is a party to the agreement mentioned in subsection (2A)(b); and

(b) persons holding offices, ranks or positions with that force are permitted by the terms of the agreement to have the responsibility

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mentioned in paragraph (a) or (c) of subsection (4B) or the general oversight mentioned in paragraph (b) of that subsection (as the case may require)."

(6) After subsection (9) insert—

"(10) For the purposes of this section—

(a) references to a police force are to the following—

(i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(ii) the metropolitan police force; and

(iii) the City of London police force; and

(b) references to a Scottish police force are to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

Commencement Information

I5 S. 8 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(c)**

9 Authorisations for surveillance etc

(1) Section 33 of the Regulation of Investigatory Powers Act 2000 (c. 23) (rules for grant of authorisations) is amended as follows.

(2) In subsection (1), at the end insert " (subject to subsections (1ZB) and (1ZE)) ".

(3) After subsection (1), insert—

"(1ZA) Subsection (1ZB) applies if the chief officer of police of a police force ("the authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief office of police of one or more other police forces.

(1ZB) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with the authorising force may grant an authorisation under that section on an application made by a member of a collaborative force.

(1ZC) For the purposes of subsection (1ZB) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (1ZA); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations under section 28 or 29 to a person who is a designated person for the purposes of that section by reference to an office, rank or position with the authorising force.

(1ZD) Subsection (1ZE) applies if the chief constable of a Scottish police force ("the Scottish authorising force") has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces.

(1ZE) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with the Scottish authorising force may

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grant an authorisation under that section on an application made by a member of a collaborative force.

(1ZF) For the purposes of subsection (1ZE) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (1ZD); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations under section 28 or 29 to a person who is a designated person for the purposes of that section by reference to an office, rank or position with the Scottish authorising force."

(4) In subsection (3), at the beginning insert " "Subject to subsections (3ZB) and (3ZE)," ".

(5) After subsection (3) insert—

"(3ZA) Subsection (3ZB) applies if—

(a) the chief officer of police of a police force ("the surveillance authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief office of police of one or more other police forces; and

(b) an application for an authorisation for the carrying out of intrusive surveillance is made by a member of a collaborative force.

(3ZB) A person who is a senior authorising officer by reference to the surveillance authorising force may—

(a) grant the authorisation;

(b) in a case where the authorisation is for the carrying out of intrusive surveillance in relation to any residential premises, grant the authorisation only in relation to premises in the area which is—

(i) the area of operation of a collaborative force; and

(ii) specified in relation to members of that force in the agreement mentioned in subsection (3ZA).

(3ZC) For the purposes of subsections (3ZA) and (3ZB) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3ZA); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who is a senior authorising officer by reference to the surveillance authorising force.

(3ZD) Subsection (3ZE) applies if—

(a) the chief constable of a Scottish police force ("the Scottish surveillance authorising force") has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces; and

(b) an application for an authorisation for the carrying out of intrusive surveillance is made by a member of a collaborative force.

(3ZE) A person who is a senior authorising officer by reference to the Scottish surveillance authorising force may—

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(a) grant the authorisation;

(b) in a case where the authorisation is for the carrying out of intrusive surveillance in relation to any residential premises, grant the authorisation only in relation to premises in the area which is—

(i) the area of operation of a collaborative force; and

(ii) specified in relation to members of that force in the agreement mentioned in subsection (3ZD).

(3ZF) For the purposes of subsections (3ZD) and (3ZE) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3ZD); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who is a senior authorising officer by reference to the Scottish surveillance authorising force."

(6) After subsection (5) insert—

"(5A) In subsections (1ZA) to (1ZC) and (3ZA) to (3ZC) a reference to a police force is to the following—

(a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(b) the metropolitan police force; and

(c) the City of London police force.

(5B) In subsections (1ZD) to (1ZF) and (3ZD) to (3ZF) a reference to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

Commencement Information

I6 S. 9 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(d)**

10 Police officers engaged on service outside their force etc

(1) After section 97 of the Police Act 1996 (c. 16) insert—

"**97A Power to amend section 97**

(1) The Secretary of State may by order amend the definition of "relevant service" in section 97(1).

(2) An order under this section may make transitional, consequential, incidental and supplemental provision or savings.

(3) The provision that may be made under subsection (2) includes provision amending any enactment.

(4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) After section 11 of the Police Pensions Act 1976 (c. 35) insert—

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"**11A Power to amend**

(1) The Secretary of State may by order amend section 11 for the purpose of altering the descriptions of service to which subsection (1) applies.

(2) An order under this section may make transitional, consequential, incidental and supplemental provision or savings.

(3) The provision that may be made under subsection (2) includes provision amending any enactment.

(4) An order under this section shall be made by statutory instrument.

(5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In section 63(3) of the Police Act 1996 (consultation of Police Advisory Board for England and Wales)—

(a) after paragraph (c) insert "or

(d) an order under section 97A, or

(e) an order under section 11A of the Police Pensions Act 1976 (power to amend kinds of service),", and

(b) for "draft of the regulations or rules" substitute " draft of the regulations, rules or order ".

Commencement Information

I7 S. 10 in force at 29.1.2010 by S.I. 2010/125, **art. 2(a)**

11 Police equipment

(1) Section 53 of the Police Act 1996 (regulations as to standard of equipment) is amended as follows.

(2) In subsection (1A)—

(a) in paragraphs (a), (b), (c) and (e) for "all police forces in England and Wales" substitute " one or more police forces ", and

(b) in paragraph (d) for "police forces in England and Wales" substitute " one or more police forces ".

(3) In subsection (1B) for "generally of the police forces maintained for police areas in England and Wales" substitute " of one or more police forces ".

(4) In subsection (2C) before paragraph (a) insert—

"(za) software;".

Commencement Information

I8 S. 11 in force at 29.1.2010 by S.I. 2010/125, **art. 2(b)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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12 Police procedures and practices

(1) Section 53A of the Police Act 1996 (c. 16) (regulation of procedures and practices) is amended as follows.

(2) In subsection (1) for "all police forces in England and Wales" substitute " one or more police forces ".

(3) In subsection (7)(a) after "in order to" insert "—

(i) promote the efficiency and effectiveness of a police force, or

(ii)".

Commencement Information

I9 S. 12 in force at 29.1.2010 by S.I. 2010/125, **art. 2(c)**

13 Police facilities and services

In section 57(3) of the Police Act 1996 (regulations requiring police forces to use specified facilities or services) for "all police forces in England and Wales" substitute " one or more police forces ".

Commencement Information

I10 S. 13 in force at 29.1.2010 by S.I. 2010/125, **art. 2(d)**

PART 2

SEXUAL OFFENCES AND SEX ESTABLISHMENTS

Prostitution

14 Paying for sexual services of a prostitute subjected to force etc: England and Wales

After section 53 of the Sexual Offences Act 2003 (c. 42) insert—

"**53A Paying for sexual services of a prostitute subjected to force etc.**

(1) A person (A) commits an offence if—

(a) A makes or promises payment for the sexual services of a prostitute (B),

(b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and

(c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).

(2) The following are irrelevant—

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(a) where in the world the sexual services are to be provided and whether those services are provided,

(b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.

(3) C engages in exploitative conduct if—

(a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or

(b) C practises any form of deception.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale."

Commencement Information

I11 S. 14 in force at 1.4.2010 by S.I. 2010/507, **art. 5(a)**

15 Paying for sexual services of a prostitute subjected to force etc: Northern Ireland

After Article 64 of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2)) insert—

"64A **Paying for sexual services of a prostitute subjected to force etc.**

(1) A person (A) commits an offence if—

(a) A makes or promises payment for the sexual services of a prostitute (B),

(b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and

(c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).

(2) The following are irrelevant—

(a) where in the world the sexual services are to be provided and whether those services are provided,

(b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.

(3) C engages in exploitative conduct if—

(a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or

(b) C practises any form of deception.

(4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale."

Commencement Information

I12 S. 15 in force at 1.4.2010 by S.I. 2010/507, **art. 5(b)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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16 Amendment to offence of loitering etc for purposes of prostitution

(1) The Street Offences Act 1959 (c. 57) is amended as follows.

(2) In subsection (1) of section 1 (loitering or soliciting for purposes of prostitution)—

(a) for "common prostitute" substitute " person ", and

(b) after "female)" insert " persistently ".

(3) In subsection (4) of that section after "section" insert "—

(a) conduct is persistent if it takes place on two or more occasions in any period of three months;

(b) any reference to a person loitering or soliciting for the purposes of prostitution is a reference to a person loitering or soliciting for the purposes of offering services as a prostitute;

(c)".

(4) Omit section 2 (application to court by person cautioned for loitering or soliciting).

(5) In determining for the purposes of section 1 of the Street Offences Act 1959 (c. 57) (as amended by this section) whether a person's conduct is persistent, any conduct that takes place before the commencement of this section is to be disregarded.

Commencement Information

I13 S. 16 in force at 1.4.2010 by S.I. 2010/507, **art. 5(c)**

17 Orders requiring attendance at meetings

(1) The Street Offences Act 1959 is amended as follows.

(2) In section 1 (loitering or soliciting for purposes of prostitution) after subsection (2) insert—

"(2A) The court may deal with a person convicted of an offence under this section by making an order requiring the offender to attend three meetings with the person for the time being specified in the order ("the supervisor") or with such other person as the supervisor may direct.

(2B) The purpose of an order under subsection (2A) is to assist the offender, through attendance at those meetings, to—

(a) address the causes of the conduct constituting the offence, and

(b) find ways to cease engaging in such conduct in the future.

(2C) Where the court is dealing with an offender who is already subject to an order under subsection (2A), the court may not make a further order under that subsection unless it first revokes the existing order.

(2D) If the court makes an order under subsection (2A) it may not impose any other penalty in respect of the offence."

(3) After section 1 insert—

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"**1A Orders under section 1(2A): supplementary**

(1) This section applies to an order under section 1(2A).

(2) The order may not be made unless a suitable person has agreed to act as supervisor in relation to the offender.

(3) In subsection (2) "suitable person" means a person appearing to the court to have appropriate qualifications or experience for helping the offender to make the best use of the meetings for the purpose mentioned in section 1(2B).

(4) The order must specify—
  (a) a date (not more than six months after the date of the order) by which the meetings required by the order must take place;
  (b) the local justice area in which the offender resides or will reside while the order is in force.

(5) The supervisor must determine—
  (a) the times of the meetings required by the order and their duration, and
  (b) the places at which they are held.

(6) The supervisor must—
  (a) make any arrangements that are necessary to enable the meetings required by the order to take place; and
  (b) once the order has been complied with, notify the court which made the order of that fact.

(7) The court making the order must provide copies of it to the offender and the supervisor.

(8) Subsection (9) applies where—
  (a) the order is made by the Crown Court, or
  (b) the order is made by a magistrates' court but specifies a local justice area for which the court making the order does not act.

(9) The court must provide to a magistrates' court acting for the local justice area specified in the order—
  (a) a copy of the order, and
  (b) any documents and information relating to the case that it considers likely to be of assistance to that court in the exercise of any functions in relation to the order.

(10) The order ceases to be in force (unless revoked earlier under section 1(2C) or under the Schedule to this Act)—
  (a) at the end of the day on which the supervisor notifies the court that the order has been complied with, or
  (b) at the end of the day specified in the order under subsection (4)(a),

  whichever first occurs.

(11) The Schedule to this Act (which relates to failure to comply with orders under section 1(2A) and to the revocation or amendment of such orders) has effect."

(4) At the end of the Act insert the Schedule set out in Schedule 1 to this Act.

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Commencement Information

I14 S. 17 in force at 1.4.2010 by S.I. 2010/507, **art. 5(d)** (with art. 6)

18 Rehabilitation of offenders: orders under section 1(2A) of the Street Offences Act 1959

(1) The Rehabilitation of Offenders Act 1974 (c. 53) is amended as follows.

(2) In section 5 (rehabilitation periods for particular sentences) after subsection (4C) insert—

"(4D) The rehabilitation period applicable to an order under section 1(2A) of the Street Offences Act 1959 shall be six months from the date of conviction for the offence in respect of which the order is made."

(3) In section 6 of that Act (the rehabilitation period applicable to a conviction) after subsection (3) insert—

"(3A) Without prejudice to subsection (2), where—

(a) an order is made under section 1(2A) of the Street Offences Act 1959 in respect of a conviction,

(b) after the end of the rehabilitation period applicable to the conviction the offender is dealt with again for the offence for which that order was made, and

(c) the rehabilitation period applicable to the conviction in accordance with subsection (2) (taking into account any sentence imposed when so dealing with the offender) ends later than the rehabilitation period previously applicable to the conviction,

the offender shall be treated for the purposes of this Act as not having become a rehabilitated person in respect of that conviction, and that conviction shall for those purposes be treated as not having become spent, in relation to any period falling before the end of the new rehabilitation period."

Commencement Information

I15 S. 18 in force at 1.4.2010 by S.I. 2010/507, **art. 5(e)** (with art. 6)

19 Soliciting: England and Wales

Before section 52 of Sexual Offences Act 2003 (c. 42) (but after the italic heading, which becomes "Prostitution") insert—

"51A **Soliciting**

(1) It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B's sexual services as a prostitute.

(2) The reference to a person in a street or public place includes a person in a vehicle in a street or public place.

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(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this section "street" has the meaning given by section 1(4) of the Street Offences Act 1959."

Commencement Information
I16 S. 19 in force at 1.4.2010 by S.I. 2010/507, **art. 5(f)**

20 Soliciting: Northern Ireland

For Articles 60 and 61 of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2)) (kerb-crawling and persistent soliciting) substitute—

"60 **Soliciting**

(1) It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B's sexual services as a prostitute.

(2) The reference to a person in a street or public place includes a person in a vehicle in a street or public place.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale."

Commencement Information
I17 S. 20 in force at 1.4.2010 by S.I. 2010/507, **art. 5(g)**

Closure orders: sexual offences

21 Closure orders

(1) Schedule 2 (which amends the Sexual Offences Act 2003 to make provision about closure orders for premises used for activities related to certain sexual offences) has effect.

(2) For the purposes of sections 136B(3) and (4) and 136D(6) and (7) of the 2003 Act (as inserted by Schedule 2), it does not matter whether the offence or offences were committed before, or on or after, the date on which this section is commenced.

Commencement Information
I18 S. 21 in force at 1.4.2010 for E.W. by S.I. 2010/507, **art. 5(h)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Orders imposed on sex offenders

22 Time limits

(1) The Sexual Offences Act 2003 (c. 42) is amended as follows.

(2) After section 132 insert—

> "**132A Disapplication of time limit for complaints**
>
> Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Part."

(3) In section 136 (modifications for Northern Ireland) after subsection (4) insert—

> "(4A) In section 132A the reference to section 127 of the Magistrates' Courts Act 1980 is to be read as a reference to Article 78 of the Magistrates' Courts (Northern Ireland) Order 1981."

(4) The amendments made by this section apply to a complaint made after the commencement of this section even if the matter of complaint arose more than 6 months before the making of the complaint.

Commencement Information
I19 S. 22 in force at 1.4.2010 by S.I. 2010/507, **art. 5(i)**

23 Foreign travel orders: grounds

(1) In the following provisions of the Sexual Offences Act 2003 for "under 16", wherever occurring, substitute " under 18 "

(a) section 115(2) (definition of "protecting children generally or any child from serious sexual harm from the defendant outside the United Kingdom"), and

(b) section 116(2)(b), (c)(ii) and (iii) and (d) ("qualifying offenders": offences).

(2) The amendments made by this section apply for the purposes of the making, variation, renewal or discharge of orders after the commencement of this section.

Commencement Information
I20 S. 23 in force at 1.4.2010 by S.I. 2010/507, **art. 5(j)**

24 Foreign travel orders: duration

(1) In section 117(1) of the Sexual Offences Act 2003 (foreign travel orders: effect) for "6 months" substitute " 5 years ".

(2) The amendment made by this section applies in relation to orders made, varied or renewed after the commencement of this section.

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Commencement Information
I21 S. 24 in force at 1.4.2010 by S.I. 2010/507, **art. 5(k)**

25 Foreign travel orders: surrender of passports

(1) The Sexual Offences Act 2003 is amended as follows.

(2) After section 117 insert—

"**117A Foreign travel orders: surrender of passports**

(1) This section applies in relation to a foreign travel order which contains a prohibition within section 117(2)(c).

(2) The order must require the defendant to surrender all of the defendant's passports, at a police station specified in the order—
  (a) on or before the date when the prohibition takes effect, or
  (b) within a period specified in the order.

(3) Any passports surrendered must be returned as soon as reasonably practicable after the person ceases to be subject to a foreign travel order containing a prohibition within section 117(2)(c).

(4) Subsection (3) does not apply in relation to—
  (a) a passport issued by or on behalf of the authorities of a country outside the United Kingdom if the passport has been returned to those authorities;
  (b) a passport issued by or on behalf of an international organisation if the passport has been returned to that organisation.

(5) In this section "passport" means—
  (a) a United Kingdom passport within the meaning of the Immigration Act 1971;
  (b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;
  (c) a document that can be used (in some or all circumstances) instead of a passport."

(3) In section 122 (breach of foreign travel order) after subsection (1) insert—

"(1A) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement under section 117A(2)."

(4) The amendment made by subsection (2) applies in relation to orders made, varied or renewed after the commencement of this section.

Commencement Information
I22 S. 25 in force at 1.4.2010 by S.I. 2010/507, **art. 5(l)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Indecent photographs of children

26 Penalty for contravening notice relating to encrypted information

(1) Section 53 of the Regulation of Investigatory Powers Act 2000 (c. 23) (failure to comply with notice relating to encrypted information) is amended as follows.

(2) In subsection (5A)(a) after "case" insert " "or a child indecency case" ".

(3) After subsection (5B) insert—

"(6) In subsection (5A) "a child indecency case" means a case in which the grounds specified in the notice to which the offence relates as the grounds for imposing a disclosure requirement were or included a belief that the imposition of the requirement was necessary for the purpose of preventing or detecting an offence under any of the provisions listed in subsection (7).

(7) Those provisions are—

(a) section 1 of the Protection of Children Act 1978 (showing or taking etc an indecent photograph of a child: England and Wales);

(b) Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (corresponding offence for Northern Ireland);

(c) section 52 or 52A of the Civic Government (Scotland) Act 1982 (showing or taking etc or possessing an indecent photograph of a child: Scotland);

(d) section 160 of the Criminal Justice Act 1988 (possessing an indecent photograph of a child: England and Wales);

(e) Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (corresponding offence for Northern Ireland)."

(4) The amendments made by this section apply in relation to cases in which the section 49 notice was given after the commencement of this section.

Commencement Information

I23 S. 26 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(e)**

Sex establishments

27 Regulation of lap dancing and other sexual entertainment venues etc

(1) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (control of sex establishments) is amended as follows.

(2) In paragraph 2 (meaning of "sex establishment") after "means a" insert " sexual entertainment venue, ".

(3) After paragraph 2 insert—

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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2A "**Meaning of "sexual entertainment venue"**

(1) In this Schedule "sexual entertainment venue" means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph "relevant entertainment" means—
  (a) any live performance; or
  (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—
  (a) sex cinemas and sex shops;
  (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—
    (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
    (ii) no such occasion has lasted for more than 24 hours; and
    (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));
  (c) premises specified or described in an order made by the relevant national authority.

(4) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).

(5) But no order under sub-paragraph (4) may—
  (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
  (b) provide for shorter intervals between such occasions.

(6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.

(7) Any power of the relevant national authority to make an order under this paragraph—
  (a) is exercisable by statutory instrument;
  (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and

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(c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.

(8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.

(10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

(14) In this paragraph—

"audience" includes an audience of one;

"display of nudity" means—

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

"the organiser", in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of—

(a) the relevant entertainment; or

(b) the premises;

"premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

"relevant national authority" means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the Welsh Ministers;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity."

(4) In paragraph 9(1) (duration of licence) after "paragraph 16" insert " or 27A below ".

(5) In paragraph 12(3) (refusal of licences) for paragraph (c) substitute—

"(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application

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is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;".

(6) In paragraph 13 (power to prescribe standard conditions)—

(a) in sub-paragraph (2)(a) after "for" insert " sexual entertainment venues, ",

(b) in sub-paragraph (2)(b) after "of" insert " sexual entertainment venues, ", and

(c) in sub-paragraph (3) for paragraph (d) (as originally enacted) substitute—

"(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned."

(7) In paragraph 19 (fees in relation to applications) after "grant," insert " variation, ".

(8) After paragraph 25 (powers of constables and local authority officers) insert—

"25A

(1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).

(2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.

(3) The authorised officer must provide the record within a reasonable time of the request being made.

(4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything—

(a) produced to the court; and

(b) shown to the satisfaction of the court to relate to the offence;

to be forfeited and dealt with in such manner as the court may order.

(5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).

(6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.

(7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made."

(9) After paragraph 27(10) (appeals) insert—

"(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule."

(10) After paragraph 27 (appeals) insert—

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27A "**Premises which are deemed sexual entertainment venues**

(1) This paragraph applies if—

(a) premises are subject to a licence for a sexual entertainment venue; and

(b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).

(2) This Schedule applies as if—

(a) the premises were a sexual entertainment venue; and

(b) the use or business of the premises was use as, or the business of, such a venue.

(3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.

(4) In this paragraph "premises" has the same meaning as in paragraph 2A."

(11) Schedule 3 (provisions which are transitional on this section) has effect.

Commencement Information

I24 S. 27(11) in force at 2.3.2010 for specified purposes for E. by S.I. 2010/507, **art. 2(1)(a)**(2)

PART 3

ALCOHOL MISUSE

28 Selling alcohol to children

In section 147A(1)(a) of the Licensing Act 2003 (c. 17) (offence of selling alcohol to children on different occasions) for "3 or more different occasions" substitute " 2 or more different occasions ".

Commencement Information

I25 S. 28 in force at 29.1.2010 by S.I. 2010/125, **art. 2(e)**

29 Confiscating alcohol from young persons

(1) Section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (confiscation of alcohol from young persons in a public place etc) is amended as follows.

(2) In subsection (1) omit "and to state his name and address".

(3) After subsection (1) insert—

"(1AA) A constable who imposes a requirement on a person under subsection (1) shall also require the person to state the person's name and address.

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(1AB) A constable who imposes a requirement on a person under subsection (1) may, if the constable reasonably suspects that the person is under the age of 16, remove the person to the person's place of residence or a place of safety."

(4) Subsection (1A) is omitted.

(5) In subsection (3) after "subsection (1)" insert " or (1AA) ".

(6) In subsection (4) after "that subsection" insert " or (1AA) ".

(7) In subsection (6) omit "and (1A)".

Commencement Information
I26 S. 29 in force at 29.1.2010 by S.I. 2010/125, **art. 2(f)**

30 Offence of persistently possessing alcohol in a public place

(1) A person under the age of 18 is guilty of an offence if, without reasonable excuse, the person is in possession of alcohol in any relevant place on 3 or more occasions within a period of 12 consecutive months.

(2) "Relevant place", in relation to a person, means—
- (a) any public place, other than excluded premises, or
- (b) any place, other than a public place, to which the person has unlawfully gained access.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) For the purposes of subsection (2) a place is a public place if at the material time the public or any section of the public has access to it, on payment or otherwise, as of right or by virtue of express or implied permission.

(5) In subsection (2) "excluded premises"—
- (a) in relation to England and Wales, means—
  - (i) premises which may by virtue of Part 3 or 5 of the Licensing Act 2003 (c. 17) (premises licence or permitted temporary activity) be used for the supply of alcohol,
  - (ii) premises which may by virtue of Part 4 of that Act (club premises certificate) be used for the supply of alcohol to members or guests,
- (b) in relation to Northern Ireland, means—
  - (i) licensed premises within the meaning of the 1996 Licensing Order,
  - (ii) premises of a club registered under the Registration of Clubs (Northern Ireland) Order 1996 (S.I. 1996/3159 (N.I. 23)),
  - (iii) premises for which an occasional licence (within the meaning of the 1996 Licensing Order) has been granted.

(6) In this section "alcohol"—
- (a) in relation to England and Wales, has the same meaning as in the Licensing Act 2003,

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(b) in relation to Northern Ireland, has the same meaning as "intoxicating liquor" in the 1996 Licensing Order.

(7) References in this section to the 1996 Licensing Order are to the Licensing (Northern Ireland) Order 1996 (S. I. 1996/3158 (N. I. 22)).

Commencement Information
I27 S. 30 in force at 29.1.2010 by S.I. 2010/125, **art. 2(g)**

31 Directions to individuals who represent a risk of disorder

(1) Section 27 of the Violent Crime Reduction Act 2006 (c. 38) (power to require person to leave a public place etc) is amended as follows.

(2) In subsection (1) for "aged 16 or over" substitute " aged 10 or over ".

(3) After subsection (4) insert—

"(4A) A constable who gives a direction under this section may, if the constable reasonably suspects that the individual to whom it is given is aged under 16, remove the person to a place where the person resides or a place of safety."

Commencement Information
I28 S. 31 in force at 29.1.2010 by S.I. 2010/125, **art. 2(h)**

32 Mandatory licensing conditions relating to alcohol

Schedule 4 (which makes provision about mandatory licensing conditions relating to alcohol) has effect.

Commencement Information
I29 S. 32 in force at 29.1.2010 by S.I. 2010/125, **art. 2(i)**

33 Individual members of licensing authorities to be interested parties

(1) In section 13(3) of the Licensing Act 2003 (meaning of "interested party": premises licences) after paragraph (d) insert—

"(e) a member of the relevant licensing authority."

(2) In section 69(3) of that Act (meaning of "interested party": club premises certificates) after paragraph (d) insert—

"(e) a member of the relevant licensing authority."

Commencement Information
I30 S. 33 in force at 29.1.2010 by S.I. 2010/125, **art. 2(j)**

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VALID FROM 31/01/2011

PART 4

INJUNCTIONS: GANG-RELATED VIOLENCE

Power to grant injunctions

34 Injunctions to prevent gang-related violence

(1) A court may grant an injunction under this section if 2 conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that the respondent has engaged in, or has encouraged or assisted, gang-related violence.

(3) The second condition is that the court thinks it is necessary to grant the injunction for either or both of the following purposes—
- (a) to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence;
- (b) to protect the respondent from gang-related violence.

(4) An injunction under this section may (for either or both of those purposes)—
- (a) prohibit the respondent from doing anything described in the injunction;
- (b) require the respondent to do anything described in the injunction.

(5) In this section "gang-related violence" means violence or a threat of violence which occurs in the course of, or is otherwise related to, the activities of a group that—
- (a) consists of at least 3 people,
- (b) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group, and
- (c) is associated with a particular area.

Contents of injunctions

35 Contents of injunctions

(1) This section applies in relation to an injunction under section 34.

(2) The prohibitions included in the injunction may, in particular, have the effect of prohibiting the respondent from—
- (a) being in a particular place;
- (b) being with particular persons in a particular place;
- (c) being in charge of a particular species of animal in a particular place;
- (d) wearing particular descriptions of articles of clothing in a particular place;
- (e) using the internet to facilitate or encourage violence.

(3) The requirements included in the injunction may, in particular, have the effect of requiring the respondent to—

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(a) notify the person who applied for the injunction of the respondent's address and of any change to that address;
(b) be at a particular place between particular times on particular days;
(c) present himself or herself to a particular person at a place where he or she is required to be between particular times on particular days;
(d) participate in particular activities between particular times on particular days.

(4) A requirement of the kind mentioned in subsection (3)(b) may not be such as to require the respondent to be at a particular place for more than 8 hours in any day.

(5) The prohibitions and requirements included in the injunction must, so far as practicable, be such as to avoid—
(a) any conflict with the respondent's religious beliefs, and
(b) any interference with the times, if any, at which the respondent normally works or attends any educational establishment.

(6) Nothing in subsection (2) or (3) affects the generality of section 34(4).

(7) In subsection (2) "place" includes an area.

36 Contents of injunctions: supplemental

(1) This section applies in relation to an injunction under section 34.

(2) The injunction may not include a prohibition or requirement that has effect after the end of the period of 2 years beginning with the day on which the injunction is granted ("the injunction date").

(3) The court may order the applicant and the respondent to attend one or more review hearings on a specified date or dates.

(4) If any prohibition or requirement in the injunction is to have effect after the end of the period of 1 year beginning with the injunction date, the court must order the applicant and the respondent to attend a review hearing on a specified date within the last 4 weeks of the 1 year period (whether or not the court orders them to attend any other review hearings).

(5) A review hearing is a hearing held for the purpose of considering whether the injunction should be varied or discharged.

(6) The court may attach a power of arrest in relation to—
(a) any prohibition in the injunction, or
(b) any requirement in the injunction, other than one which has the effect of requiring the respondent to participate in particular activities.

(7) If the court attaches a power of arrest, it may specify that the power is to have effect for a shorter period than the prohibition or requirement to which it relates.

Applications

37 Applications for injunctions under section 34

(1) An application for an injunction under section 34 may be made by—

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(a) the chief officer of police for a police area,
(b) the chief constable of the British Transport Police Force, or
(c) a local authority.

(2) In this Part "local authority" means—
(a) in relation to England, a district council, a county council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
(b) in relation to Wales, a county council or a county borough council.

38 Consultation by applicants for injunctions

(1) Before applying for an injunction under section 37, the applicant must comply with the consultation requirement.

(2) The consultation requirement is that the applicant must consult—
(a) any local authority, and any chief police officer, that the applicant thinks it appropriate to consult, and
(b) any other body or individual that the applicant thinks it appropriate to consult.

39 Applications without notice

(1) An application under section 37 may be made without the respondent being given notice.

(2) In this Part, such an application is referred to as an application without notice.

(3) Section 38(1) does not apply in relation to an application without notice.

(4) If an application without notice is made the court must either—
(a) dismiss the application, or
(b) adjourn the proceedings.

(5) If the court acts under subsection (4)(b), the applicant must comply with the consultation requirement before the date of the first full hearing.

(6) In this section "full hearing" means a hearing of which notice has been given to the applicant and respondent in accordance with rules of court.

Interim injunctions

40 Interim injunctions: adjournment of on notice hearing

(1) This section applies if—
(a) the court adjourns the hearing of an application for an injunction under section 34, and
(b) the respondent was notified of the hearing in accordance with rules of court.

(2) The court may grant an interim injunction if it thinks that it is just and convenient to do so.

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(3) An interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

41 Interim injunctions: adjournment of without notice hearing

(1) This section applies if—
- (a) an application without notice is made by virtue of section 39, and
- (b) the proceedings are adjourned (otherwise than at a full hearing within the meaning of that section).

(2) The court may grant an interim injunction if it thinks that it is necessary to do so.

(3) An interim injunction under this section may not have the effect of requiring the respondent to participate in particular activities.

(4) Except as provided by subsection (3), an interim injunction under this section may include any provision which the court has power to include in an injunction granted under section 34 (including a power of arrest).

Variation and discharge

42 Variation or discharge of injunctions

(1) The court may vary or discharge an injunction under this Part if—
- (a) a review hearing is held, or
- (b) an application to vary or discharge the injunction is made.

(2) An application to vary or discharge the injunction may be made by—
- (a) the person who applied for the injunction;
- (b) the respondent.

(3) The power to vary an injunction includes power to—
- (a) include an additional prohibition or requirement in the injunction;
- (b) extend the period for which a prohibition or requirement in the injunction has effect (subject to section 36(2));
- (c) attach a power of arrest or extend the period for which a power of arrest attached to the injunction has effect.

(4) Section 36(4) does not apply where an injunction is varied to include a prohibition or requirement which is to have effect as mentioned in that provision but the variation is made within (or at any time after) the period of 4 weeks mentioned in it.

(5) Before applying for the variation or discharge of an injunction, a person mentioned in subsection (2)(a) must notify the persons consulted under section 38(1) or 39(5).

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Arrest and remand

43 Arrest without warrant

(1) This section applies if a power of arrest is attached to a provision of an injunction under this Part.

(2) A constable may arrest without warrant a person whom the constable has reasonable cause to suspect to be in breach of the provision.

(3) If a constable arrests a person under subsection (2), the constable must inform the person who applied for the injunction.

(4) A person arrested under subsection (2) must be brought before a relevant judge within the period of 24 hours beginning with the time of the arrest.

(5) If the matter is not disposed of when the person is brought before the judge, the judge may remand the person.

(6) In calculating when the period of 24 hours mentioned in subsection (4) ends, Christmas Day, Good Friday and any Sunday are to be disregarded.

(7) In this Part "relevant judge", in relation to an injunction, means—
  (a) where the injunction was granted by the High Court, a judge of that court;
  (b) where the injunction was granted by a county court, a judge or district judge of that or any other county court.

44 Issue of warrant of arrest

(1) This section applies in relation to an injunction under this Part.

(2) If the person who applied for the injunction considers that the respondent is in breach of any of its provisions, the person may apply to a relevant judge for the issue of a warrant for the arrest of the respondent.

(3) A relevant judge may not issue a warrant on an application under subsection (2) unless the judge has reasonable grounds for believing that the respondent is in breach of any provision of the injunction.

(4) If a person is brought before a court by virtue of a warrant under subsection (3), but the matter is not disposed of, the court may remand the person.

45 Remand for medical examination and report

(1) This section applies in relation to a person who is brought before the relevant judge or the court under section 43 or 44.

(2) If the relevant judge or the court has reason to consider that a medical report will be required, the judge or the court may remand the person under section 43(5) or (as the case may be) 44(4) for the purpose of enabling a medical examination to take place and a report to be made.

(3) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.

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(4) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.

(5) If the relevant judge or the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health Act 1983, the judge or the court has the same power to make an order under section 35 of that Act (remand for report on accused's medical condition) as the Crown Court has under that section in the case of an accused person (within the meaning of that section).

46 Further provision about remands

Schedule 5 (which makes further provision about the remand of a person under sections 43(5) and 44(4)) has effect.

Miscellaneous

47 Guidance

(1) The Secretary of State must issue guidance relating to injunctions under this Part.

(2) The Secretary of State may revise any guidance issued under subsection (1).

(3) Before issuing or revising any guidance under this section the Secretary of State must consult the Lord Chief Justice of England and Wales and such other persons as the Secretary of State thinks appropriate.

(4) The Secretary of State must lay any guidance issued or revised under this section before Parliament.

(5) The Secretary of State must publish any guidance issued or revised under this section.

(6) Each of the following must have regard to any guidance published under subsection (5)—
   (a) a chief officer of police for a police area;
   (b) the chief constable of the British Transport Police Force;
   (c) a local authority.

48 Supplemental

(1) Rules of court may provide that any power conferred on a county court to grant, vary or discharge an injunction under this Part may be exercised by a judge or district judge of that court.

(2) Rules of court may provide that an appeal from a decision of the High Court or county court to which this subsection applies may be made without notice being given to the respondent.

(3) Subsection (2) applies to a decision to refuse to grant an interim injunction under section 41.

49 Interpretation

(1) In this Part—

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"application without notice" has the meaning given by section 39(2);

"consultation requirement" has the meaning given by section 38(2);

"court" means the High Court or a county court;

"local authority" has the meaning given by section 37(2);

"relevant judge" has the meaning given by section 43(7);

"respondent" means the person in respect of whom an application for an injunction is made or (as the context requires) the person against whom such an injunction is granted;

"review hearing" has the meaning given by section 36(5);

"specify", in relation to an injunction, means specify in the injunction;

"violence" includes violence against property.

(2) Any reference in this Part to an injunction under this Part includes a reference to an interim injunction.

50 Review of operation of this Part

(1) The Secretary of State must—

(a) review the operation of this Part, and

(b) prepare and publish a report on the outcome of the review.

(2) The report must be published before the end of the period of 3 years beginning with the day on which this Part comes into force.

(3) The Secretary of State must lay the report before Parliament.

PART 5

PROCEEDS OF CRIME

Confiscation

51 Recovery of expenses etc

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 55 (sums received by designated officer in England and Wales) for subsection (7) substitute—

"(7) Subsection (4) does not apply in relation to the remuneration of a receiver if the receiver is a person falling within subsection (8).

(8) The following fall within this subsection—

(a) a constable,

(b) a person employed by a police authority in England and Wales under section 15 of the Police Act 1996 or a member of staff of the City of London police force,

(c) an accredited financial investigator,

(d) a member of staff of the Crown Prosecution Service,

(e) a member of staff of the Serious Fraud Office,

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(f) a member of staff of the Revenue and Customs Prosecutions Office,

(g) a member of staff of the Commissioners for Her Majesty's Revenue and Customs,

(h) a member of staff of SOCA,

(i) a member of staff of any government department not mentioned above.

(9) It is immaterial for the purposes of subsection (7) whether a person falls within subsection (8) by virtue of a permanent or temporary appointment or a secondment from elsewhere.

(10) The reference in subsection (8) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that subsection by the Secretary of State under section 453."

(3) In section 203 (sums received by chief clerk in Northern Ireland) for subsection (7) substitute—

"(7) Subsection (4) does not apply in relation to the remuneration of a receiver if the receiver is a person falling within subsection (8).

(8) The following fall within this subsection—

(a) a constable,

(b) a member of staff of the Northern Ireland Policing Board,

(c) an accredited financial investigator,

(d) a member of staff of the Public Prosecution Service for Northern Ireland,

(e) a member of staff of the Serious Fraud Office,

(f) a member of staff of a Northern Ireland department,

(g) a member of staff of the Commissioners for Her Majesty's Revenue and Customs,

(h) a member of staff of SOCA.

(9) It is immaterial for the purposes of subsection (7) whether a person falls within subsection (8) by virtue of a permanent or temporary appointment or a secondment from elsewhere.

(10) The reference in subsection (8) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that subsection by the Secretary of State under section 453."

Commencement Information

I31 S. 51 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(f)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/06/2015

52 Power to retain seized property: England and Wales

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 41 insert—

"**41A Restraint orders: power to retain seized property etc.**

(1) A restraint order may include provision authorising the detention of any property to which it applies if the property—
  (a) is seized by an appropriate officer under a relevant seizure power, or
  (b) is produced to an appropriate officer in compliance with a production order under section 345.

(2) Provision under subsection (1) may, in particular—
  (a) relate to specified property, to property of a specified description or to all property to which the restraint order applies;
  (b) relate to property that has already been seized or produced or to property that may be seized or produced in future.

(3) "Appropriate officer" means—
  (a) an accredited financial investigator;
  (b) a constable;
  (c) an officer of Revenue and Customs;
  (d) a member of staff of SOCA;
  (e) a member of staff of the relevant director (within the meaning of section 352(5A)).

(4) "Relevant seizure power" means a power to seize property which is conferred by or by virtue of—
  (a) section 47C,
  (b) section 352, or
  (c) Part 2 or 3 of the Police and Criminal Evidence Act 1984 (including as applied by order under section 114(2) of that Act).

(5) The Secretary of State may by order amend the definition of "relevant seizure power"."

(3) After section 44 insert—

"**44A Detention of property pending appeal**

(1) This section applies where—
  (a) a restraint order includes provision under section 41A authorising the detention of property, and
  (b) the restraint order is discharged under section 42(5) or 43(3)(b).

(2) This section also applies where—

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(a) a restraint order includes provision under section 41A authorising the detention of property, and

(b) the restraint order is varied under section 42(5) or 43(3)(b) so as to omit any such provision.

(3) The property may be detained until there is no further possibility of an appeal against—

(a) the decision to discharge or vary the restraint order, or

(b) any decision made on an appeal against that decision."

VALID FROM 01/06/2015

53 Power to retain seized property: Scotland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 120 insert—

"120A **Restraint orders: power to retain seized property etc.**

(1) A restraint order may include provision authorising the detention of any property to which it applies if the property—

(a) is seized by an appropriate officer under a relevant seizure power, or

(b) is produced to an appropriate officer in compliance with a production order under section 380.

(2) Provision under subsection (1) may, in particular—

(a) relate to specified property, to property of a specified description or to all property to which the restraint order applies;

(b) relate to property that has already been seized or produced or to property that may be seized or produced in future.

(3) "Appropriate officer" means—

(a) a constable;

(b) an officer of Revenue and Customs;

(c) a member of staff of SOCA.

(4) "Relevant seizure power" means a power to seize property conferred by or by virtue of—

(a) section 127C or 387,

(b) a warrant granted under any other enactment or any rule of law, or

(c) any other enactment, or any rule of law, under which the authority of a warrant is not required."

(3) After section 122 insert—

"**122A Detention of property pending appeal**

(1) This section applies where—

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(a) a restraint order includes provision under section 120A authorising the detention of property, and
(b) the restraint order is recalled under section 121(7).

(2) This section also applies where—
(a) a restraint order includes provision under section 120A authorising the detention of property, and
(b) the restraint order is varied under section 121(7) so as to omit any such provision.

(3) The property may be detained until there is no further possibility of an appeal against (or review of)—
(a) the decision to recall or vary the restraint order, or
(b) any decision made on an appeal against (or review of) that decision."

VALID FROM 01/03/2016

54 Power to retain seized property: Northern Ireland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 190 insert—

"190A **Restraint orders: power to retain seized property**

(1) A restraint order may include provision authorising the detention of any property to which it applies if the property—
(a) is seized by an appropriate officer under a relevant seizure power, or
(b) is produced to an appropriate officer in compliance with a production order under section 345.

(2) Provision under subsection (1) may, in particular—
(a) relate to specified property, to property of a specified description or to all property to which the restraint order applies;
(b) relate to property that has already been seized or produced or to property that may be seized or produced in future.

(3) "Appropriate officer" means—
(a) an accredited financial investigator;
(b) a constable;
(c) an officer of Revenue and Customs;
(d) a member of staff of SOCA;
(e) a member of staff of the relevant director (within the meaning of section 352(5A)).

(4) "Relevant seizure power" means a power to seize property conferred by or by virtue of—
(a) section 195C,
(b) section 352, or

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(c) Part 3 or 4 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (including as applied by order under Article 85(1) of that Order).

(5) The Secretary of State may by order amend the definition of "relevant seizure power"."

(3) After section 193 insert—

"**193A Detention of property pending appeal**

(1) This section applies where—
(a) a restraint order includes provision under section 190A authorising the detention of property, and
(b) the restraint order is discharged under section 191(5) or 192(3)(b).

(2) This section also applies where—
(a) a restraint order includes provision under section 190A authorising the detention of property, and
(b) the restraint order is varied under section 191(5) or 192(3)(b) so as to omit any such provision.

(3) The property may be detained until there is no further possibility of an appeal against—
(a) the decision to discharge or vary the restraint order, or
(b) any decision made on an appeal against that decision."

VALID FROM 22/11/2014

55 Search and seizure of property: England and Wales

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 47 insert—

"Search and seizure powers

47A Sections 47B to 47S: meaning of "appropriate officer"

(1) In sections 47B to 47S "appropriate officer" means—
(a) an officer of Revenue and Customs,
(b) a constable, or
(c) an accredited financial investigator.

(2) In subsection (1)(c) the reference to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that provision by the Secretary of State under section 453.

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47B Conditions for exercise of powers

(1) An appropriate officer may exercise the power conferred by section 47C if satisfied that any of the following conditions is met.

(2) The first condition is that—

(a) a criminal investigation has been started in England and Wales with regard to an indictable offence,

(b) a person has been arrested for the offence,

(c) proceedings for the offence have not yet been started against the person in England and Wales,

(d) there is reasonable cause to believe that the person has benefited from conduct constituting the offence, and

(e) a restraint order is not in force in respect of any realisable property.

(3) The second condition is that—

(a) a criminal investigation has been started in England and Wales with regard to an indictable offence,

(b) a person has been arrested for the offence,

(c) proceedings for the offence have not yet been started against the person in England and Wales, and

(d) a restraint order is in force in respect of any realisable property.

(4) The third condition is that—

(a) proceedings for an indictable offence have been started in England and Wales and have not been concluded,

(b) there is reasonable cause to believe that the defendant has benefited from conduct constituting the offence, and

(c) a restraint order is not in force in respect of any realisable property.

(5) The fourth condition is that—

(a) proceedings for an indictable offence have been started in England and Wales and have not been concluded, and

(b) a restraint order is in force in respect of any realisable property.

(6) The fifth condition is that—

(a) an application by the prosecutor has been made under section 19, 20, 27 or 28 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the defendant has benefited from criminal conduct.

(7) The sixth condition is that—

(a) an application by the prosecutor has been made under section 21 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the defendant's benefit exceeds the relevant amount (as defined in that section).

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(8) The seventh condition is that—
- (a) an application by the prosecutor has been made under section 22 and not concluded, or the officer believes that such an application is to be made, and
- (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the available amount exceeds the relevant amount (as defined in that section).

(9) The third or fourth condition is not met if the officer believes that—
- (a) there has been undue delay in continuing the proceedings, or
- (b) the prosecutor does not intend to proceed.

(10) If an application mentioned in the fifth, sixth or seventh condition has been made the condition is not met if the officer believes that—
- (a) there has been undue delay in continuing the application, or
- (b) the prosecutor does not intend to proceed.

(11) In relation to the first or second condition references in sections 47C to 47S to the defendant are to the person mentioned in that condition.

(12) In relation to the first or second condition section 77(9) has effect as if proceedings for the offence had been started against the defendant when the investigation was started.

47C Power to seize property

(1) On being satisfied as mentioned in section 47B(1) an appropriate officer may seize any realisable property if the officer has reasonable grounds for suspecting that—
- (a) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the defendant, or
- (b) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.

(2) But the officer may not seize—
- (a) cash, or
- (b) exempt property.

(3) “Cash” has the same meaning as in section 289.

(4) “Exempt property” means—
- (a) such tools, books, vehicles and other items of equipment as are necessary to the defendant for use personally in the defendant's employment, business or vocation;
- (b) such clothing, bedding, furniture, household equipment, provisions or other things as are necessary for satisfying the basic domestic needs of the defendant and the defendant's family.

(5) In relation to realisable property which is free property held by the recipient of a tainted gift, references in subsection (4) to the defendant are to be read as references to the recipient of that gift.

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Section 47B(11) is subject to this subsection.

(6) The power conferred by this section—

(a) may be exercised only with the appropriate approval under section 47G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power, and

(b) is exercisable by an officer of Revenue and Customs only if the officer has reasonable grounds for suspecting that conduct constituting the relevant offence relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979).

(7) "Relevant offence" means—

(a) in a case where the officer is satisfied that the first, second, third or fourth condition in section 47B is met, the offence mentioned in that condition,

(b) in a case where the officer is satisfied that any of the other conditions in section 47B is met, the offence (or any of the offences) concerned.

47D Search power: premises

(1) If an appropriate officer is lawfully on any premises the officer may search the premises for the purpose of finding any property which—

(a) the officer has reasonable grounds for suspecting may be found there, and

(b) if found there, the officer intends to seize under section 47C.

(2) The power conferred by this section may be exercised only with the appropriate approval under section 47G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

(3) "Premises" has the meaning given by section 23 of the Police and Criminal Evidence Act 1984.

47E Search power: people

(1) An appropriate officer may exercise the following powers if the officer has reasonable grounds for suspecting that a person is carrying property that may be seized under section 47C.

(2) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under that section, require the person—

(a) to permit a search of any article with the person,

(b) to permit a search of the person.

(3) An officer exercising a power under subsection (2) may detain the person for so long as is necessary for its exercise.

(4) A power conferred by this section may be exercised only with the appropriate approval under section 47G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

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(5) This section does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979).

47F Search power: vehicles

(1) The powers specified in subsection (4) are exercisable if—
  (a) an appropriate officer has reasonable grounds for suspecting that a vehicle contains property that may be seized under section 47C, and
  (b) it appears to the officer that the vehicle is under the control of a person who is in or in the vicinity of the vehicle.

(2) The powers are exercisable only if the vehicle is—
  (a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or
  (b) in any other place to which at that time people have ready access but which is not a dwelling.

(3) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the officer may exercise the powers under subsection (4) only if the officer has reasonable grounds for believing—
  (a) that the person does not reside in the dwelling, and
  (b) that the vehicle is not in the place in question with the express or implied permission of another who resides in the dwelling.

(4) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under section 47C, require the person to—
  (a) permit entry to the vehicle,
  (b) permit a search of the vehicle.

(5) An officer exercising a power under subsection (4) may detain the vehicle for so long as is necessary for its exercise.

(6) A power conferred by this section may be exercised only with the appropriate approval under section 47G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

47G "Appropriate approval"

(1) This section has effect for the purposes of sections 47C, 47D, 47E and 47F.

(2) The appropriate approval, in relation to the exercise of a power by an appropriate officer, means the approval of a justice of the peace or (if that is not practicable in any case) the approval of a senior officer.

(3) A senior officer means—
  (a) in relation to the exercise of a power by an officer of Revenue and Customs, an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,

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(b) in relation to the exercise of a power by a constable, a senior police officer,

(c) in relation to the exercise of a power by an accredited financial investigator, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.

(4) A senior police officer means a police officer of at least the rank of inspector.

47H Exercise of powers without judicial approval

(1) An appropriate officer must give a written report to the appointed person in any case where—

(a) the officer seizes property under section 47C without the approval of a justice of the peace, and

(b) any of the property seized is not detained for more than 48 hours.

(2) An appropriate officer must also give a written report to the appointed person in any case where—

(a) the officer exercises any of the powers conferred by sections 47D, 47E and 47F without the approval of a justice of the peace, and

(b) no property is seized under section 47C.

(3) A report under this section must give particulars of the circumstances which led the officer to believe that—

(a) the powers were exercisable, and

(b) it was not practicable to obtain the approval of a justice of the peace.

(4) The appointed person means a person appointed for the purposes of this subsection by the Secretary of State.

(5) The appointed person must not be a person employed under or for the purposes of a government department; and the terms and conditions of appointment, including any remuneration or expenses to be paid, are to be determined by the Secretary of State.

(6) The period of 48 hours mentioned in subsection (1)(b) is to be calculated in accordance with subsection (7).

(7) In calculating a period of 48 hours in accordance with this subsection, no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday, or

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.

47I Report by appointed person on exercise of powers

(1) As soon as possible after the end of each financial year, the person appointed under section 47H(4) must prepare a report for that year.

(2) "Financial year" means—

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(a) the period beginning with the day on which section 55 of the Policing and Crime Act 2009 comes into force and ending with the next 31 March (which is the first financial year), and

(b) each subsequent period of twelve months beginning with 1 April.

(3) The report must give the appointed person's opinion as to the circumstances and manner in which the powers conferred by sections 47C, 47D, 47E and 47F are being exercised in cases where the officer who exercised them is required to give a report under section 47H.

(4) The report may make any recommendations the appointed person considers appropriate.

(5) The appointed person must send a copy of the report to the Secretary of State.

(6) The Secretary of State must—

(a) publish any report received under subsection (5), and

(b) lay a copy before Parliament.

(7) Before acting under subsection (6) the Secretary of State must exclude from the report any matter which the Secretary of State thinks is likely to prejudice any criminal investigation or criminal proceedings.

(8) If the Secretary of State excludes any matter from the report the Secretary of State must comply with subsection (6) in relation to the whole of the report as soon as the Secretary of State thinks that the excluded matter is no longer likely to prejudice any criminal investigation or criminal proceedings.

47J Initial detention of seized property

(1) This section applies if an appropriate officer seizes property under section 47C.

(2) The property may be detained initially for a period of 48 hours.

(3) The period of 48 hours is to be calculated in accordance with section 47H(7).

47K Further detention pending making of restraint order

(1) This section applies if—

(a) property is detained under section 47J, and

(b) no restraint order is in force in respect of the property.

(2) If within the period mentioned in section 47J an application is made for a restraint order which includes provision under section 41A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against—

(a) the decision to refuse the application, or

(b) any decision made on an appeal against that decision.

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(4) In subsection (2) the reference to the period mentioned in section 47J includes that period as extended by any order under section 47M.

47L Further detention pending variation of restraint order

(1) This section applies if—
- (a) property is detained under section 47J,
- (b) a restraint order is in force in respect of the property, and
- (c) the order does not include provision under section 41A authorising the detention of the property.

(2) If within the period mentioned in section 47J an application is made for the order to be varied so as to include provision under section 41A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against—
- (a) the decision to refuse the application, or
- (b) any decision made on an appeal against that decision.

47M Further detention in other cases

(1) This section applies if—
- (a) property is detained under section 47J,
- (b) no restraint order is in force in respect of the property, and
- (c) no application has been made for a restraint order which includes provision under section 41A authorising detention of the property.

(2) A magistrates' court may by order extend the period for which the property or any part of it may be detained under section 47J if satisfied that—
- (a) any of the conditions in section 47B is met (reading references in that section to the officer as references to the court),
- (b) the property or part is realisable property other than exempt property (within the meaning of section 47C(4)), and
- (c) there are reasonable grounds for suspecting that—
  - (i) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the defendant, or
  - (ii) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.

(3) An application for an order may be made by—
- (a) the Commissioners for Her Majesty's Revenue and Customs,
- (b) a constable,
- (c) an accredited financial investigator, or
- (d) the prosecutor.

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(4) If the property was seized in reliance on the first or second condition in section 47B, "the prosecutor" means a person who is to have conduct of any proceedings for the offence.

(5) An order under this section must provide for notice to be given to persons affected by it.

(6) In this section "part" includes portion.

47N Discharge, variation and lapse of detention order

(1) An order under section 47M may be discharged or varied.

(2) An application for variation or discharge of the order may be made by—
- (a) a person mentioned in section 47M(3), or
- (b) any person affected by the order.

(3) On an application under this section the court must discharge the order if—
- (a) the order was made on the ground that the first or second condition in section 47B was met but proceedings for the offence mentioned in that condition have not been started within a reasonable time,
- (b) the order was made on the ground that the third or fourth condition in section 47B was met but proceedings for the offence mentioned in that condition have now been concluded,
- (c) the order was made on the ground that the fifth, sixth or seventh condition in section 47B was met but the application mentioned in that condition has now been concluded or, as the case may be, has not been made within a reasonable time.

(4) An order made under section 47M lapses if a restraint order is made in respect of the property to which it relates (but provision authorising detention of the property may have been included in the restraint order by virtue of section 41A).

47O Appeals

(1) If on an application for an order under section 47M the magistrates' court decides not to make an order, a person mentioned in subsection (3) of that section may appeal to the Crown Court against the decision.

(2) If an application is made under section 47N in relation to an order the following persons may appeal to the Crown Court in respect of the magistrates' court's decision on the application—
- (a) a person mentioned in section 47M(3), or
- (b) any person affected by the order.

47P Detention of property pending section 47O appeal

(1) This section applies where—
- (a) an application for an order under section 47M is made within the period mentioned in section 47J, and
- (b) the application is refused.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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) This section also applies where—
  (a) an order is made under section 47M extending the period for which property may be detained under section 47J, and
  (b) the order is discharged or varied so that detention of the property is no longer authorised by virtue of the order.

(3) The property may be detained until there is no further possibility of an appeal against the decision to refuse the application or discharge or vary the order (as the case may be).

47Q Hearsay evidence in detention order proceedings

(1) Evidence must not be excluded in detention order proceedings on the ground that it is hearsay (of whatever degree).

(2) Sections 2 to 4 of the Civil Evidence Act 1995 apply in relation to detention order proceedings as those sections apply in relation to civil proceedings.

(3) Detention order proceedings are proceedings—
  (a) for an order under section 47M;
  (b) for the discharge or variation of such an order;
  (c) on an appeal under section 47O.

(4) Hearsay is a statement which is made otherwise than by a person while giving oral evidence in the proceedings and which is tendered as evidence of the matters stated.

(5) Nothing in this section affects the admissibility of evidence which is admissible apart from this section.

47R Release of property

(1) This section applies in relation to property which—
  (a) has been seized by an appropriate officer under section 47C, and
  (b) is detained under or by virtue of any of sections 47J to 47M and 47P.

(2) The property must be released if at any time an appropriate officer decides that the detention condition is no longer met.

(3) The detention condition is met for so long as—
  (a) any of the conditions in section 47B is met, and
  (b) there are reasonable grounds for the suspicion mentioned in section 47C(1).

(4) Nothing in this section requires property to be released if there is a power to detain it otherwise than under or by virtue of sections 47J to 47M and 47P.

(5) Nothing in this section affects the operation of any power or duty to release property that arises apart from this section.

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Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Code of practice about search and seizure and detention of property

47S Codes of practice

(1) The Secretary of State must make a code of practice in connection with—
- (a) the carrying out by appropriate officers of the functions conferred by sections 47C to 47H,
- (b) the carrying out by senior officers of their functions under section 47G, and
- (c) the detention of property under or by virtue of sections 41A, 44A and 47J to 47P.

(2) Where the Secretary of State proposes to issue a code of practice the Secretary of State must—
- (a) publish a draft,
- (b) consider any representations made about the draft,
- (c) if the Secretary of State thinks appropriate, modify the draft in the light of any such representations.

(3) The Secretary of State must lay a draft of the code before Parliament.

(4) When the Secretary of State has laid a draft of the code before Parliament the Secretary of State may bring it into operation by order.

(5) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.

(6) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.

(7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.”

(3) Omit section 45 (seizure).

(4) In section 69 (powers of court and receiver)—
- (a) in subsection (1) after paragraph (b) insert—
  - “(c) the powers conferred on appropriate officers by sections 47C to 47L;
  - (d) the powers conferred on senior officers by section 47G.”
- (b) at the end of the heading insert “ etc. ”.

VALID FROM 22/11/2014

56 Search and seizure of property: Scotland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 127 insert—

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"Search and seizure powers

127A Sections 127B to 127R: meaning of "appropriate officer"

In sections 127B to 127R "appropriate officer" means—

(a) an officer of Revenue and Customs, or

(b) a constable.

127B Conditions for exercise of powers

(1) An appropriate officer may exercise the power conferred by section 127C if satisfied that any of the following conditions is met.

(2) The first condition is that—

(a) a criminal investigation has been started in Scotland with regard to an indictable offence,

(b) a person has been arrested for the offence,

(c) proceedings for the offence have not yet been started against the person in Scotland,

(d) there is reasonable cause to believe that the person has benefited from conduct constituting the offence, and

(e) a restraint order is not in force in respect of any realisable property.

(3) The second condition is that—

(a) a criminal investigation has been started in Scotland with regard to an indictable offence,

(b) a person has been arrested for the offence,

(c) proceedings for the offence have not yet been started against the person in Scotland, and

(d) a restraint order is in force in respect of any realisable property.

(4) The third condition is that—

(a) proceedings for an indictable offence have been started in Scotland and have not been concluded,

(b) there is reasonable cause to believe that the accused has benefited from conduct constituting the offence, and

(c) a restraint order is not in force in respect of any realisable property.

(5) The fourth condition is that—

(a) proceedings for an indictable offence have been started in Scotland and have not been concluded, and

(b) a restraint order is in force in respect of any realisable property.

(6) The fifth condition is that—

(a) an application by the prosecutor has been made under section 104, 105, 111 or 112 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the accused has benefited from criminal conduct.

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(7) The sixth condition is that—

(a) an application by the prosecutor has been made under section 106 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the accused's benefit exceeds the relevant amount (as defined in that section).

(8) The seventh condition is that—

(a) an application by the prosecutor has been made under section 107 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the available amount exceeds the relevant amount (as defined in that section).

(9) The third or fourth condition is not met if the officer believes that—

(a) there has been undue delay in continuing the proceedings, or

(b) the prosecutor does not intend to proceed.

(10) If an application mentioned in the fifth, sixth or seventh condition has been made the condition is not met if the officer believes that—

(a) there has been undue delay in continuing the application, or

(b) the prosecutor does not intend to proceed.

(11) In relation to the first or second condition references in sections 127C to 127R to the accused are to the person mentioned in that condition.

(12) In relation to the first or second condition section 144(8) has effect as if proceedings for the offence had been started against the accused when the investigation was started.

127C Power to seize property

(1) On being satisfied as mentioned in section 127B(1) an appropriate officer may seize any realisable property if the officer has reasonable grounds for suspecting that—

(a) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the accused, or

(b) the value of the property may otherwise be diminished as a result of conduct by the accused or any other person.

(2) But the officer may not seize—

(a) cash, or

(b) exempt property.

(3) “Cash” has the same meaning as in section 289.

(4) “Exempt property” means—

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(a) such tools, books, vehicles and other items of equipment as are necessary to the accused for use personally in the accused's employment, business or vocation;

(b) such clothing, bedding, furniture, household equipment, provisions or other things as are necessary for satisfying the basic domestic needs of the accused and the accused's family.

(5) In relation to realisable property which is free property held by the recipient of a tainted gift, references in subsection (4) to the accused are to be read as references to the recipient of that gift.

Section 127B(11) is subject to this subsection.

(6) The power conferred by this section—

(a) may be exercised only with the appropriate approval under section 127G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power, and

(b) is exercisable by an officer of Revenue and Customs only if the officer has reasonable grounds for suspecting that conduct constituting the relevant offence relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979).

(7) "Relevant offence" means—

(a) in a case where the officer is satisfied that the first, second, third or fourth condition in section 127B is met, the offence mentioned in that condition,

(b) in a case where the officer is satisfied that any of the other conditions in section 127B is met, the offence (or any of the offences) concerned.

127D Search power: premises

(1) If an appropriate officer is lawfully on any premises the officer may search the premises for the purpose of finding any property which—

(a) the officer has reasonable grounds for suspecting may be found there, and

(b) if found there, the officer intends to seize under section 127C.

(2) The power conferred by this section may be exercised only with the appropriate approval under section 127G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

(3) "Premises" has the meaning given by section 23 of the Police and Criminal Evidence Act 1984.

127E Search power: people

(1) An appropriate officer may exercise the following powers if the officer has reasonable grounds for suspecting that a person is carrying property that may be seized under section 127C.

(2) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under that section, require the person—

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(a) to permit a search of any article with the person,
(b) to permit a search of the person.

(3) An officer exercising a power under subsection (2) may detain the person for so long as is necessary for its exercise.

(4) A power conferred by this section may be exercised only with the appropriate approval under section 127G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

(5) This section does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979).

127F Search power: vehicles

(1) The powers specified in subsection (4) are exercisable if—
(a) an appropriate officer has reasonable grounds for suspecting that a vehicle contains property that may be seized under section 127C, and
(b) it appears to the officer that the vehicle is under the control of a person who is in or in the vicinity of the vehicle.

(2) The powers are exercisable only if the vehicle is—
(a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or
(b) in any other place to which at that time people have ready access but which is not a dwelling.

(3) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the officer may exercise the powers under subsection (4) only if the officer has reasonable grounds for believing—
(a) that the person does not reside in the dwelling, and
(b) that the vehicle is not in the place in question with the express or implied permission of another who resides in the dwelling.

(4) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under section 127C, require the person to—
(a) permit entry to the vehicle,
(b) permit a search of the vehicle.

(5) An officer exercising a power under subsection (4) may detain the vehicle for so long as is necessary for its exercise.

(6) A power conferred by this section may be exercised only with the appropriate approval under section 127G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

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127G "Appropriate approval"

(1) This section has effect for the purposes of sections 127C, 127D, 127E and 127F.

(2) The appropriate approval, in relation to the exercise of a power by an appropriate officer, means the approval of the sheriff or (if that is not practicable in any case) the approval of a senior officer.

(3) A senior officer means—
  (a) in relation to the exercise of a power by an officer of Revenue and Customs, an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,
  (b) in relation to the exercise of a power by a constable, a senior police officer.

(4) A senior police officer means a police officer of at least the rank of inspector.

127H Exercise of powers without judicial approval

(1) An appropriate officer must give a written report to the appointed person in any case where—
  (a) the officer seizes property under section 127C without the approval of the sheriff, and
  (b) any of the property seized is not detained for more than 48 hours.

(2) An appropriate officer must also give a written report to the appointed person in any case where—
  (a) the officer exercises any of the powers conferred by sections 127D, 127E and 127F without the approval of the sheriff, and
  (b) no property is seized under section 127C.

(3) A report under this section must give particulars of the circumstances which led the officer to believe that—
  (a) the powers were exercisable, and
  (b) it was not practicable to obtain the approval of the sheriff.

(4) The appointed person means a person appointed for the purposes of this subsection by the Scottish Ministers.

(5) The appointed person must not be a person employed under or for the purposes of the Scottish Administration; and the terms and conditions of appointment, including any remuneration or expenses to be paid, are to be determined by the Scottish Ministers.

(6) The period of 48 hours mentioned in subsection (1)(b) is to be calculated in accordance with subsection (7).

(7) In calculating a period of 48 hours in accordance with this subsection, no account is to be taken of—
  (a) any Saturday or Sunday,
  (b) Christmas Day,

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(c) Good Friday,

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland, or

(e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the power is exercised.

127I Report by appointed person on exercise of powers

(1) As soon as possible after the end of each financial year, the person appointed under section 127H(4) must prepare a report for that year.

(2) "Financial year" means—

(a) the period beginning with the day on which section 56 of the Policing and Crime Act 2009 comes into force and ending with the next 31 March (which is the first financial year), and

(b) each subsequent period of twelve months beginning with 1 April.

(3) The report must give the appointed person's opinion as to the circumstances and manner in which the powers conferred by sections 127C, 127D, 127E and 127F are being exercised in cases where the officer who exercised them is required to give a report under section 127H.

(4) The report may make any recommendations the appointed person considers appropriate.

(5) The appointed person must send a copy of the report to the Scottish Ministers.

(6) The Scottish Ministers must—

(a) publish any report received under subsection (5), and

(b) lay a copy before the Scottish Parliament.

(7) Before acting under subsection (6) the Scottish Ministers must exclude from the report any matter which the Scottish Ministers think is likely to prejudice any criminal investigation or criminal proceedings.

(8) If the Scottish Ministers exclude any matter from the report they must comply with subsection (6) in relation to the whole of the report as soon as they think that the excluded matter is no longer likely to prejudice any criminal investigation or criminal proceedings.

127J Initial detention of seized property

(1) This section applies if an appropriate officer seizes property under section 127C.

(2) The property may be detained initially for a period of 48 hours.

(3) The period of 48 hours is to be calculated in accordance with section 127H(7).

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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127K Further detention pending making of restraint order

(1) This section applies if—
- (a) property is detained under section 127J, and
- (b) no restraint order is in force in respect of the property.

(2) If within the period mentioned in section 127J an application is made for a restraint order which includes provision under section 120A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against (or review of)—
- (a) the decision to refuse the application, or
- (b) any decision made on an appeal against (or review of) that decision.

(4) In subsection (2) the reference to the period mentioned in section 127J includes that period as extended by any order under section 127M.

127L Further detention pending variation of restraint order

(1) This section applies if—
- (a) property is detained under section 127J,
- (b) a restraint order is in force in respect of the property, and
- (c) the order does not include provision under section 120A authorising the detention of the property.

(2) If within the period mentioned in section 127J an application is made for the order to be varied so as to include provision under section 120A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against (or review of)—
- (a) the decision to refuse the application, or
- (b) any decision made on an appeal against (or review of) that decision.

127M Further detention in other cases

(1) This section applies if—
- (a) property is detained under section 127J,
- (b) no restraint order is in force in respect of the property, and
- (c) no application has been made for a restraint order which includes provision under section 120A authorising detention of the property.

(2) The sheriff may by order extend the period for which the property or any part of it may be detained under section 127J if satisfied that—
- (a) any of the conditions in section 127B is met (reading references in that section to the officer as references to the sheriff),

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(b) the property or part is realisable property other than exempt property (within the meaning of section 127C(4)), and

(c) there are reasonable grounds for suspecting that—

(i) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the accused, or

(ii) the value of the property may otherwise be diminished as a result of conduct by the accused or any other person.

(3) An application for an order may be made by—

(a) the Commissioners for Her Majesty's Revenue and Customs,

(b) a constable, or

(c) the prosecutor.

(4) If the property was seized in reliance on the first or second condition in section 127B, "the prosecutor" means a person who is to have conduct of any proceedings for the offence.

(5) An order under this section must provide for notice to be given to persons affected by it.

(6) In this section "part" includes portion.

127N Discharge, variation and lapse of detention order

(1) An order under section 127M may be discharged or varied.

(2) An application for variation or discharge of the order may be made by—

(a) a person mentioned in section 127M(3), or

(b) any person affected by the order.

(3) On an application under this section the sheriff must discharge the order if—

(a) the order was made on the ground that the first or second condition in section 127B was met but proceedings for the offence mentioned in that condition have not been started within a reasonable time,

(b) the order was made on the ground that the third or fourth condition in section 127B was met but proceedings for the offence mentioned in that condition have now been concluded,

(c) the order was made on the ground that the fifth, sixth or seventh condition in section 127B was met but the application mentioned in that condition has now been concluded or, as the case may be, has not been made within a reasonable time.

(4) An order made under section 127M lapses if a restraint order is made in respect of the property to which it relates (but provision authorising detention of the property may have been included in the restraint order by virtue of section 120A).

127O Appeals

(1) If on an application for an order under section 127M the sheriff decides not to make an order, a person mentioned in subsection (3) of that section may appeal to the Court of Session against the decision.

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(2) If an application is made under section 127N in relation to an order the following persons may appeal to the Court of Session in respect of the sheriff's decision on the application—
  (a) a person mentioned in section 127M(3), or
  (b) any person affected by the order.

(3) An appeal under this section must be made before the end of the period of 21 days starting with the day on which the order was made.

(4) On an appeal under this section the Court of Session may—
  (a) make or (as the case may be) discharge the order, or
  (b) vary the order.

127P Detention of property pending section 127O appeal

(1) This section applies where—
  (a) an application for an order under section 127M is made within the period mentioned in section 127J, and
  (b) the application is refused.

(2) This section also applies where—
  (a) an order is made under section 127M extending the period for which property may be detained under section 127J, and
  (b) the order is discharged or varied so that detention of the property is no longer authorised by virtue of the order.

(3) The property may be detained until there is no further possibility of an appeal against the decision to refuse the application or discharge or vary the order (as the case may be).

127Q Release of property

(1) This section applies in relation to property which—
  (a) has been seized by an appropriate officer under section 127C, and
  (b) is detained under or by virtue of any of sections 127J to 127M and 127P.

(2) The property must be released if at any time an appropriate officer decides that the detention condition is no longer met.

(3) The detention condition is met for so long as—
  (a) any of the conditions in section 127B is met, and
  (b) there are reasonable grounds for the suspicion mentioned in section 127C(1).

(4) Nothing in this section requires property to be released if there is a power to detain it otherwise than under or by virtue of sections 127J to 127M and 127P.

(5) Nothing in this section affects the operation of any power or duty to release property that arises apart from this section.

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Guidance about search and seizure and detention of property

127R Guidance by Lord Advocate

(1) The Lord Advocate may issue guidance in connection with—
- (a) the carrying out by appropriate officers of the functions conferred by sections 127C to 127H,
- (b) the carrying out by senior officers of their functions under section 127G, and
- (c) the detention of property under or by virtue of sections 120A, 122A and 127J to 127P.

(2) The Lord Advocate must publish any guidance issued under this section."

(3) Omit section 126 (seizure).

(4) In section 132 (powers of court and administrator)—
- (a) in subsection (1) after paragraph (b) insert—
  - "(c) the powers conferred on appropriate officers by sections 127C to 127L;
  - (d) the powers conferred on senior officers by section 127G."
- (b) at the end of the heading insert " etc ".

VALID FROM 22/11/2014

57 Search and seizure of property: Northern Ireland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 195 insert—

"Search and seizure powers

195A Sections 195B to 195S: meaning of "appropriate officer"

(1) In sections 195B to 195S "appropriate officer" means—
- (a) an officer of Revenue and Customs,
- (b) a constable, or
- (c) an accredited financial investigator.

(2) In subsection (1)(c) the reference to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that provision by the Secretary of State under section 453.

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195B Conditions for exercise of powers

(1) An appropriate officer may exercise the power conferred by section 195C if satisfied that any of the following conditions is met.

(2) The first condition is that—
- (a) a criminal investigation has been started in Northern Ireland with regard to an indictable offence,
- (b) a person has been arrested for the offence,
- (c) proceedings for the offence have not yet been started against the person in Northern Ireland,
- (d) there is reasonable cause to believe that the person has benefited from conduct constituting the offence, and
- (e) a restraint order is not in force in respect of any realisable property.

(3) The second condition is that—
- (a) a criminal investigation has been started in Northern Ireland with regard to an indictable offence,
- (b) a person has been arrested for the offence,
- (c) proceedings for the offence have not yet been started against the person in Northern Ireland, and
- (d) a restraint order is in force in respect of any realisable property.

(4) The third condition is that—
- (a) proceedings for an indictable offence have been started in Northern Ireland and have not been concluded,
- (b) there is reasonable cause to believe that the defendant has benefited from conduct constituting the offence, and
- (c) a restraint order is not in force in respect of any realisable property.

(5) The fourth condition is that—
- (a) proceedings for an indictable offence have been started in Northern Ireland and have not been concluded, and
- (b) a restraint order is in force in respect of any realisable property.

(6) The fifth condition is that—
- (a) an application by the prosecutor has been made under section 169, 170, 177 or 178 and not concluded, or the officer believes that such an application is to be made, and
- (b) there is reasonable cause to believe that the defendant has benefited from criminal conduct.

(7) The sixth condition is that—
- (a) an application by the prosecutor has been made under section 171 and not concluded, or the officer believes that such an application is to be made, and
- (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the defendant's benefit exceeds the relevant amount (as defined in that section).

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(8) The seventh condition is that—

(a) an application by the prosecutor has been made under section 172 and not concluded, or the officer believes that such an application is to be made, and

(b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the available amount exceeds the relevant amount (as defined in that section).

(9) The third or fourth condition is not met if the officer believes that—

(a) there has been undue delay in continuing the proceedings, or

(b) the prosecutor does not intend to proceed.

(10) If an application mentioned in the fifth, sixth or seventh condition has been made the condition is not met if the officer believes that—

(a) there has been undue delay in continuing the application, or

(b) the prosecutor does not intend to proceed.

(11) In relation to the first or second condition references in sections 195C to 195S to the defendant are to the person mentioned in that condition.

(12) In relation to the first or second condition section 225(9) has effect as if proceedings for the offence had been started against the defendant when the investigation was started.

195C Power to seize property

(1) On being satisfied as mentioned in section 195B(1) an appropriate officer may seize any realisable property if the officer has reasonable grounds for suspecting that—

(a) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the defendant, or

(b) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.

(2) But the officer may not seize—

(a) cash, or

(b) exempt property.

(3) “Cash” has the same meaning as in section 289.

(4) “Exempt property” means—

(a) such tools, books, vehicles and other items of equipment as are necessary to the defendant for use personally in the defendant's employment, business or vocation;

(b) such clothing, bedding, furniture, household equipment, provisions or other things as are necessary for satisfying the basic domestic needs of the defendant and the defendant's family.

(5) In relation to realisable property which is free property held by the recipient of a tainted gift, references in subsection (4) to the defendant are to be read as references to the recipient of that gift.

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Section 195B(11) is subject to this subsection.

(6) The power conferred by this section—
  (a) may be exercised only with the appropriate approval under section 195G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power, and
  (b) is exercisable by an officer of Revenue and Customs only if the officer has reasonable grounds for suspecting that conduct constituting the relevant offence relates to an assigned matter (within the meaning of the Customs and Excise Management Act 1979).

(7) "Relevant offence" means—
  (a) in a case where the officer is satisfied that the first, second, third or fourth condition in section 195B is met, the offence mentioned in that condition,
  (b) in a case where the officer is satisfied that any of the other conditions in section 195B is met, the offence (or any of the offences) concerned.

195D Search power: premises

(1) If an appropriate officer is lawfully on any premises the officer may search the premises for the purpose of finding any property which—
  (a) the officer has reasonable grounds for suspecting may be found there, and
  (b) if found there, the officer intends to seize under section 195C.

(2) The power conferred by this section may be exercised only with the appropriate approval under section 195G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

(3) "Premises" has the meaning given by Article 25 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

195E Search power: people

(1) An appropriate officer may exercise the following powers if the officer has reasonable grounds for suspecting that a person is carrying property that may be seized under section 195C.

(2) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under that section, require the person—
  (a) to permit a search of any article with the person,
  (b) to permit a search of the person.

(3) An officer exercising a power under subsection (2) may detain the person for so long as is necessary for its exercise.

(4) A power conferred by this section may be exercised only with the appropriate approval under section 195G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

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(5) This section does not require a person to submit to an intimate search or strip search (within the meaning of section 164 of the Customs and Excise Management Act 1979).

195F Search power: vehicles

(1) The powers specified in subsection (4) are exercisable if—
  (a) an appropriate officer has reasonable grounds for suspecting that a vehicle contains property that may be seized under section 195C, and
  (b) it appears to the officer that the vehicle is under the control of a person who is in or in the vicinity of the vehicle.

(2) The powers are exercisable only if the vehicle is—
  (a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or
  (b) in any other place to which at that time people have ready access but which is not a dwelling.

(3) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the officer may exercise the powers under subsection (4) only if the officer has reasonable grounds for believing—
  (a) that the person does not reside in the dwelling, and
  (b) that the vehicle is not in the place in question with the express or implied permission of another who resides in the dwelling.

(4) The officer may, so far as the officer thinks it necessary or expedient for the purpose of seizing the property under section 195C, require the person to—
  (a) permit entry to the vehicle,
  (b) permit a search of the vehicle.

(5) An officer exercising a power under subsection (4) may detain the vehicle for so long as is necessary for its exercise.

(6) A power conferred by this section may be exercised only with the appropriate approval under section 195G unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

195G "Appropriate approval"

(1) This section has effect for the purposes of sections 195C, 195D, 195E and 195F.

(2) The appropriate approval, in relation to the exercise of a power by an appropriate officer, means the approval of a lay magistrate or (if that is not practicable in any case) the approval of a senior officer.

(3) A senior officer means—
  (a) in relation to the exercise of a power by an officer of Revenue and Customs, an officer of Revenue and Customs of a rank designated

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by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,

(b) in relation to the exercise of a power by a constable, a senior police officer,

(c) in relation to the exercise of a power by an accredited financial investigator, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.

(4) A senior police officer means a police officer of at least the rank of inspector.

195H Exercise of powers without judicial approval

(1) An appropriate officer must give a written report to the appointed person in any case where—

(a) the officer seizes property under section 195C without the approval of a lay magistrate, and

(b) any of the property seized is not detained for more than 48 hours.

(2) An appropriate officer must also give a written report to the appointed person in any case where—

(a) the officer exercises any of the powers conferred by sections 195D, 195E and 195F without the approval of a lay magistrate, and

(b) no property is seized under section 195C.

(3) A report under this section must give particulars of the circumstances which led the officer to believe that—

(a) the powers were exercisable, and

(b) it was not practicable to obtain the approval of a lay magistrate.

(4) The appointed person means a person appointed for the purposes of this subsection by the **[**[F1]Department of Justice**]**.

(5) The appointed person must not be a person employed under or for the purposes of a government department; and the terms and conditions of appointment, including any remuneration or expenses to be paid, are to be determined by the **[**[F2]Department of Justice**]**.

[[F3](5A) "Government department" includes a Northern Ireland department.**]**

(6) The period of 48 hours mentioned in subsection (1)(b) is to be calculated in accordance with subsection (7).

(7) In calculating a period of 48 hours in accordance with this subsection, no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday, or

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in Northern Ireland.

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195I Report by appointed person on exercise of powers

(1) As soon as possible after the end of each financial year, the person appointed under section 195H(4) must prepare a report for that year.

(2) "Financial year" means—

(a) the period beginning with the day on which section 57 of the Policing and Crime Act 2009 comes into force and ending with the next 31 March (which is the first financial year), and

(b) each subsequent period of twelve months beginning with 1 April.

(3) The report must give the appointed person's opinion as to the circumstances and manner in which the powers conferred by sections 195C, 195D, 195E and 195F are being exercised in cases where the officer who exercised them is required to give a report under section 195H.

(4) The report may make any recommendations the appointed person considers appropriate.

(5) The appointed person must send a copy of the report to the **[**[F4]Department of Justice**]**.

(6) The **[**[F5]Department of Justice**]** must—

(a) publish any report received under subsection (5), and

(b) lay a copy before **[**[F6]the Northern Ireland Assembly**]**.

[[F7](6A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6)(b) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.**]**

(7) Before acting under subsection (6) the **[**[F8]Department of Justice**]** must exclude from the report any matter which the **[**[F8]Department of Justice**]** thinks is likely to prejudice any criminal investigation or criminal proceedings.

(8) If the **[**[F8]Department of Justice**]** excludes any matter from the report the **[**[F8]Department of Justice**]** must comply with subsection (6) in relation to the whole of the report as soon as the **[**[F8]Department of Justice**]** thinks that the excluded matter is no longer likely to prejudice any criminal investigation or criminal proceedings.

195J Initial detention of seized property

(1) This section applies if an appropriate officer seizes property under section 195C.

(2) The property may be detained initially for a period of 48 hours.

(3) The period of 48 hours is to be calculated in accordance with section 195H(7).

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195K Further detention pending making of restraint order

(1) This section applies if—
- (a) property is detained under section 195J, and
- (b) no restraint order is in force in respect of the property.

(2) If within the period mentioned in section 195J an application is made for a restraint order which includes provision under section 190A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against—
- (a) the decision to refuse the application, or
- (b) any decision made on an appeal against that decision.

(4) In subsection (2) the reference to the period mentioned in section 195J includes that period as extended by any order under section 195M.

195L Further detention pending variation of restraint order

(1) This section applies if—
- (a) property is detained under section 195J,
- (b) a restraint order is in force in respect of the property, and
- (c) the order does not include provision under section 190A authorising the detention of the property.

(2) If within the period mentioned in section 195J an application is made for the order to be varied so as to include provision under section 190A authorising detention of the property, the property may be detained until the application is determined or otherwise disposed of.

(3) If such an application is made within that period and the application is refused, the property may be detained until there is no further possibility of an appeal against—
- (a) the decision to refuse the application, or
- (b) any decision made on an appeal against that decision.

195M Further detention in other cases

(1) This section applies if—
- (a) property is detained under section 195J,
- (b) no restraint order is in force in respect of the property, and
- (c) no application has been made for a restraint order which includes provision under section 190A authorising detention of the property.

(2) A magistrates' court may by order extend the period for which the property or any part of it may be detained under section 195J if satisfied that—
- (a) any of the conditions in section 195B is met (reading references in that section to the officer as references to the court),

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(b) the property or part is realisable property other than exempt property (within the meaning of section 195C(4)), and

(c) there are reasonable grounds for suspecting that—

(i) the property may otherwise be made unavailable for satisfying any confiscation order that has been or may be made against the defendant, or

(ii) the value of the property may otherwise be diminished as a result of conduct by the defendant or any other person.

(3) An application for an order may be made by—

(a) the Commissioners for Her Majesty's Revenue and Customs,

(b) a constable,

(c) an accredited financial investigator, or

(d) the prosecutor.

(4) If the property was seized in reliance on the first or second condition in section 195B, "the prosecutor" means a person who is to have conduct of any proceedings for the offence.

(5) An order under this section must provide for notice to be given to persons affected by it.

(6) In this section "part" includes portion.

195N Discharge, variation and lapse of detention order

(1) An order under section 195N may be discharged or varied.

(2) An application for variation or discharge of the order may be made by—

(a) a person mentioned in section 195M(3), or

(b) any person affected by the order.

(3) On an application under this section the court must discharge the order if—

(a) the order was made on the ground that the first or second condition in section 195B was met but proceedings for the offence mentioned in that condition have not been started within a reasonable time,

(b) the order was made on the ground that the third or fourth condition in section 195B was met but proceedings for the offence mentioned in that condition have now been concluded,

(c) the order was made on the ground that the fifth, sixth or seventh condition in section 195B was met but the application mentioned in that condition has now been concluded or, as the case may be, has not been made within a reasonable time.

(4) An order made under section 195M lapses if a restraint order is made in respect of the property to which it relates (but provision authorising detention of the property may have been included in the restraint order by virtue of section 190A).

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195O Appeals

(1) If on an application for an order under section 195M the court decides not to make one, a person mentioned in subsection (3) of that section may appeal to the county court against the decision.

(2) If an application is made under section 195N in relation to an order the following persons may appeal to the county court in respect of the magistrates' court's decision on the application—
  (a) a person mentioned in section 195M(3), or
  (b) any person affected by the order.

195P Detention of property pending section 195O appeal

(1) This section applies where—
  (a) an application for an order under section 195M is made within the period mentioned in section 195J, and
  (b) the application is refused.

(2) This section also applies where—
  (a) an order is made under section 195M extending the period for which property may be detained under section 195J, and
  (b) the order is discharged or varied so that detention of the property is no longer authorised by virtue of the order.

(3) The property may be detained until there is no further possibility of an appeal against the decision to refuse the application or discharge or vary the order (as the case may be).

195Q Hearsay evidence in detention order proceedings

(1) Evidence must not be excluded in detention order proceedings on the ground that it is hearsay (of whatever degree).

(2) Articles 4 and 5 of the Civil Evidence (Northern Ireland) Order 1997 apply in relation to detention order proceedings as those articles apply in relation to civil proceedings.

(3) Detention order proceedings are proceedings—
  (a) for an order under section 195M;
  (b) for the discharge or variation of such an order;
  (c) on an appeal under section 195O.

(4) Hearsay is a statement which is made otherwise than by a person while giving oral evidence in the proceedings and which is tendered as evidence of the matters stated.

(5) Nothing in this section affects the admissibility of evidence which is admissible apart from this section.

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195R Release of property

(1) This section applies in relation to property which—
  (a) has been seized by an appropriate officer under section 195C, and
  (b) is detained under or by virtue of any of sections 195J to 195M and 195P.

(2) The property must be released if at any time an appropriate officer decides that the detention condition is no longer met.

(3) The detention condition is met for so long as—
  (a) any of the conditions in section 195B is met, and
  (b) there are reasonable grounds for the suspicion mentioned in section 195C(1).

(4) Nothing in this section requires property to be released if there is a power to detain it otherwise than under or by virtue of sections 195J to 195M and 195P.

(5) Nothing in this section affects the operation of any power or duty to release property that arises apart from this section.

Code of practice about search and seizure and detention of property

195S Codes of practice[F9: Secretary of State]

(1) The Secretary of State must make a code of practice in connection with—
  (a) the carrying out by **[**F10officers of Revenue and Customs**]** of the functions conferred by section 195C to 195H,
  (b) the carrying out by senior officers of their functions under section 195G, and
  (c) the detention of property **[**F11by officers of Revenue and Customs and members of staff of SOCA**]** under or by virtue of sections 190A, 193A and 195J to 195P.

[F12(1A) In subsection (1) senior officers means officers of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a police officer of at least the rank of inspector.**]**

(2) Where the Secretary of State proposes to issue a code of practice the Secretary of State must—
  (a) publish a draft,
  (b) consider any representations made about the draft,
  (c) if the Secretary of State thinks appropriate, modify the draft in the light of any such representations.

(3) The Secretary of State must lay a draft of the code before Parliament.

(4) When the Secretary of State has laid a draft of the code before Parliament the Secretary of State may bring it into operation by order.

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(5) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.

(6) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.

(7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

Codes of practice: Department of Justice

(1) The Department of Justice must make a code of practice in connection with —

(a) the carrying out by constables and accredited financial investigators of the functions conferred by sections 195C to 195H,

(b) the carrying out by senior officers of their functions under section 195G, and

(c) the detention of property by—

(i) constables,

(ii) accredited financial investigators, and

(iii) members of staff of the relevant director (within the meaning of section 352(5A)(b)),

under or by virtue of sections 190A, 193A and 195J to 195P.

(2) In subsection (1)(b) senior officers means—

(a) police officers of at least the rank of inspector,

(b) accredited financial investigators who fall within a description specified in an order made for this purpose by the Secretary of State under section 453.

(3) Where the Department of Justice proposes to issue a code of practice the Department of Justice must—

(a) publish a draft,

(b) consider any representations made about the draft,

(c) if the Department of Justice thinks appropriate, modify the draft in the light of any such representations.

(4) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.

(5) When the Department of Justice has laid a draft of the code before the Assembly the Department of Justice may bring it into operation by order.

(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(7) The Department of Justice may revise the whole or any part of the code and issue the code as revised; and subsections (3) to (6) apply to such a revised code as they apply to the original code.

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(8) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.

(9) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.”**]**

(3) Omit section 194 (seizure).

(4) In section 217 (powers of court and receiver)—

(a) in subsection (1) after paragraph (b) insert—

“(c) the powers conferred on appropriate officers by sections 195C to 195L;

(d) the powers conferred on senior officers by section 195G.”

(b) at the end of the heading insert “ etc ”.

[[F14](5) In section 459 (orders and regulations)—

(a) in subsection (7A) after “section” (the second time it appears) insert “195T(5),”,

(b) in subsection (7B) after “section” insert “195T(5),**]**

Textual Amendments

F1 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(a)** (with arts. 24-28)

F2 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(b)** (with arts. 24-28)

F3 Words in s. 57 inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(c)** (with arts. 24-28)

F4 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(d)** (with arts. 24-28)

F5 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(e)** (with arts. 24-28)

F6 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(f)** (with arts. 24-28)

F7 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(g)** (with arts. 24-28)

F8 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(h)** (with arts. 24-28)

F9 Words in s. 57 inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(i)** (with arts. 24-28)

F10 Words in s. 57 substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(j)** (with arts. 24-28)

F11 Words in s. 57 inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(k)** (with arts. 24-28)

F12 Words in s. 57 inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(l)** (with arts. 24-28)

F13 Words in s. 57 inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(m)** (with arts. 24-28)

F14 S. 57(5) inserted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **18(2)(n)** (with arts. 24-28)

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VALID FROM 01/06/2015

58 Power to sell seized personal property: England and Wales

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 67 insert—

"**67A Seized personal property**

(1) This section applies to personal property which is held by a person and which—
  (a) has been seized by an appropriate officer under a relevant seizure power, or
  (b) has been produced to an appropriate officer in compliance with a production order under section 345.

(2) This section applies if the following conditions are satisfied—
  (a) a confiscation order is made against the person by whom the property is held;
  (b) a receiver has not been appointed under section 50 in relation to the property;
  (c) any period allowed under section 11 for payment of the amount ordered to be paid under the confiscation order has ended.

(3) In such a case a magistrates' court may by order authorise an appropriate officer to realise the property.

(4) In this section "appropriate officer" and "relevant seizure power" have the same meaning as in section 41A.

67B Costs of storage and realisation

(1) This section applies if a magistrates' court makes an order under section 67A.

(2) The court may determine an amount which may be recovered by the appropriate officer in respect of reasonable costs incurred in—
  (a) storing or insuring the property since it was seized or produced as mentioned in subsection (1) of that section;
  (b) realising the property.

(3) If the court makes a determination under this section the appropriate officer is entitled to payment of the amount under section 55(4).

(4) A determination under this section may be made on the same occasion as the section 67A order or on any later occasion; and more than one determination may be made in relation to any case.

(5) In this section "appropriate officer" has the same meaning as in section 41A.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

67C Sections 67A and 67B: appeals

(1) If a magistrates' court decides not to make an order under section 67A, an appropriate officer may appeal to the Crown Court.

(2) If a magistrates' court makes an order under section 67A, a person affected by the order may appeal to the Crown Court.

(3) But the person mentioned in section 67A(2)(a) may not appeal.

(4) An appropriate officer may appeal to the Crown Court against—
- (a) a determination made by a magistrates' court under section 67B;
- (b) a decision by a magistrates' court not to make a determination under that section.

(5) In this section "appropriate officer" has the same meaning as in section 41A.

67D Proceeds of realisation

(1) This section applies to sums which—
- (a) are in the hands of an appropriate officer, and
- (b) are the proceeds of the realisation of property under section 67A.

(2) The sums must be applied as follows—
- (a) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;
- (b) second, they must be applied in making any payments directed by the magistrates' court or the Crown Court;
- (c) third, they must be paid to the appropriate designated officer on account of the amount payable under the confiscation order.

(3) If the amount payable under the confiscation order has been fully paid and any sums remain in the appropriate officer's hands, the appropriate officer must distribute them—
- (a) among such persons who held (or hold) interests in the property represented by the proceeds as the magistrates' court or the Crown Court directs, and
- (b) in such proportions as it directs.

(4) Before making a direction under subsection (3) the court must give persons who held (or hold) interests in the property a reasonable opportunity to make representations to it.

(5) If the magistrates' court has made a direction under subsection (2)(b) or (3) in respect of the proceeds of realisation of any property, the Crown Court may not make a direction under either of those provisions in respect of the proceeds of realisation of that property; and vice versa.

(6) In this section—

"appropriate officer" has the same meaning as in section 41A;

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Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"appropriate designated officer" means the designated officer for the magistrates' court which, by virtue of section 35, is responsible for enforcing the confiscation order as if it were a fine."

(3) Accordingly, at the end of the cross-heading immediately above that section insert " and personal property ".

(4) In section 55(3)(b) (payment of sums received by designated officer under section 54 or otherwise: insolvency practitioners' expenses) after "section 54(2)(a)" insert " or 67D(2)(a) ".

(5) In section 55(4) (payment of sums received by designated officer under section 54)—
- (a) after "section 54" insert " or 67D ",
- (b) in paragraph (b) for "the receiver" substitute " any receiver ", and
- (c) after paragraph (b) insert—

"(c) third, in payment to an appropriate officer of any amount to which the officer is entitled by virtue of section 67B."

VALID FROM 01/06/2015

59 Power to sell seized personal property: Scotland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 131 insert—

"Seized personal property

131A Seized personal property

(1) This section applies to moveable property which is held by a person and which—
- (a) has been seized by an appropriate officer under a relevant seizure power, or
- (b) has been produced to an appropriate officer in compliance with a production order under section 380.

(2) This section applies if the following conditions are satisfied—
- (a) a confiscation order is made against the person by whom the property is held;
- (b) an administrator has not been appointed under section 128 in relation to the property;
- (c) any period allowed under section 116 for payment of the amount ordered to be paid under the confiscation order has ended.

(3) In such a case the sheriff may by order authorise an appropriate officer to realise the property.

(4) In this section "appropriate officer" and "relevant seizure power" have the same meaning as in section 120A.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

131B Costs of storage and realisation

(1) This section applies if the sheriff makes an order under section 131A.

(2) The sheriff may determine an amount which may be recovered by the appropriate officer in respect of reasonable costs incurred in—
  (a) storing or insuring the property since it was seized or produced as mentioned in subsection (1) of that section;
  (b) realising the property.

(3) If the sheriff makes a determination under this section the appropriate officer is entitled to payment of the amount under section 131(5A).

(4) A determination under this section may be made on the same occasion as the section 131A order or on any later occasion; and more than one determination may be made in relation to any case.

(5) In this section "appropriate officer" has the same meaning as in section 120A.

131C Sections 131A and 131B: appeals

(1) If a sheriff decides not to make an order under section 131A, an appropriate officer may appeal to the Court of Session.

(2) If a sheriff makes an order under section 131A, a person affected by the order may appeal to the Court of Session.

(3) But the person mentioned in section 131A(2)(a) may not appeal.

(4) An appropriate officer may appeal to the Court of Session against—
  (a) a determination made by a sheriff under section 131B;
  (b) a decision by a sheriff not to make a determination under that section.

(5) An appeal under this section must be made before the end of the period of 21 days starting with the day on which the decision or (as the case may be) the order was made.

(6) On an appeal under this section the Court of Session may—
  (a) confirm, quash or vary the decision or (as the case may be) the order, or
  (b) make such order as Court of Session believes is appropriate.

(7) In this section "appropriate officer" has the same meaning as in section 120A.

131D Proceeds of realisation

(1) This section applies to sums which—
  (a) are in the hands of an appropriate officer, and
  (b) are the proceeds of the realisation of property under section 131A.

(2) The sums must be applied as follows—

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;

(b) second, they must be applied in making any payments directed by the sheriff;

(c) third, they must be paid to the appropriate clerk of court on account of the amount payable under the confiscation order.

(3) If the amount payable under the confiscation order has been fully paid and any sums remain in the appropriate officer's hands, the appropriate officer must distribute them—

(a) among such persons who held (or hold) interests in the property represented by the proceeds as the sheriff directs, and

(b) in such proportions as the sheriff directs.

(4) Before making a direction under subsection (3) the sheriff must give persons who held (or hold) interests in the property a reasonable opportunity to make representations to the sheriff.

(5) In this section—

(a) "appropriate officer" has the same meaning as in section 120A;

(b) "appropriate clerk of court" means the sheriff clerk of the sheriff court responsible for enforcing the confiscation order under section 211 of the Procedure Act as applied by section 118(1)."

(3) In section 131 (sums received by clerk of court)—

(a) in subsection (3)(b) after "section 130(3)(a)" insert " or 131D(2)(a) ",

(b) in subsection (5) after "130" insert " or 131D ", and

(c) after subsection (5) insert—

"(5A) If the clerk of court received the sums from an appropriate officer under section 130 or 131D, the clerk of court must next apply them in payment to an appropriate officer of any amount to which the officer is entitled by virtue of section 131B."

VALID FROM 01/03/2016

60 Power to sell seized personal property: Northern Ireland

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) After section 215 insert—

"**215A Seized personal property**

(1) This section applies to personal property which is held by a person and which—

(a) has been seized by an appropriate officer under a relevant seizure power, or

(b) has been produced to an appropriate officer in compliance with a production order under section 345.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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) This section applies if the following conditions are satisfied—
  (a) a confiscation order is made against the person by whom the property is held;
  (b) a receiver has not been appointed under section 198 in relation to the property;
  (c) any period allowed under section 161 for payment of the amount ordered to be paid under the confiscation order has ended.

(3) In such a case a magistrates' court may by order authorise an appropriate officer to realise the property.

(4) In this section "appropriate officer" and "relevant seizure power" have the same meaning as in section 190A.

215B Costs of storage and realisation

(1) This section applies if a magistrates' court makes an order under section 215A.

(2) The court may determine an amount which may be recovered by the appropriate officer in respect of reasonable costs incurred in—
  (a) storing or insuring the property since it was seized or produced as mentioned in subsection (1) of that section;
  (b) realising the property.

(3) If the court makes a determination under this section the appropriate officer is entitled to payment of the amount under section 203(4).

(4) A determination under this section may be made on the same occasion as the section 215A order or on any later occasion; and more than one determination may be made in relation to any case.

(5) In this section "appropriate officer" has the same meaning as in section 190A.

215C Sections 215A and 215B: appeals

(1) If a magistrates' court decides not to make an order under section 215A, an appropriate officer may appeal to a county court.

(2) If a magistrates' court makes an order under section 215A, a person affected by the order may appeal to a county court.

(3) But the person mentioned in section 215A(2)(a) may not appeal.

(4) An appropriate officer may appeal to a county court against—
  (a) a determination made by a magistrates' court under section 215B;
  (b) a decision by a magistrates' court not to make a determination under that section.

(5) In this section "appropriate officer" has the same meaning as in section 190A.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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215D Proceeds of realisation

(1) This section applies to sums which—
- (a) are in the hands of an appropriate officer, and
- (b) are the proceeds of the realisation of property under section 215A.

(2) The sums must be applied as follows—
- (a) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;
- (b) second, they must be applied in making any payments directed by the magistrates' court or Crown Court;
- (c) third, they must be paid to the appropriate chief clerk on account of the amount payable under the confiscation order.

(3) If the amount payable under the confiscation order has been fully paid and any sums remain in the appropriate officer's hands, the appropriate officer must distribute them—
- (a) among such persons who held (or hold) interests in the property represented by the proceeds as the magistrates' court or Crown Court directs, and
- (b) in such proportions as it directs.

(4) Before making a direction under subsection (3) the court must give persons who held (or hold) interests in the property a reasonable opportunity to make representations to it.

(5) If the magistrates' court has made a direction under subsection (2)(b) or (3) in respect of the proceeds of realisation of any property, the Crown Court may not make a direction under either of those provisions in respect of the proceeds of realisation of that property; and vice versa.

(6) In this section—

"appropriate officer" has the same meaning as in section 190A, and

"appropriate chief clerk" has the same meaning as in section 202(7)."

(3) Accordingly, at the end of the cross-heading immediately above that section insert " and personal property ".

(4) In section 203(3)(b) (payment of sums received by chief clerk under section 202 or otherwise: insolvency practitioners' expenses) after "section 202(2)(a)" insert " or 215D(2)(a) ".

(5) In section 203(4) (payment of sums received by chief clerk under section 202)—
- (a) after "section 202" insert " or 215D ",
- (b) in paragraph (b) for "the receiver" substitute " any receiver ", and
- (c) after paragraph (b) insert—

"(c) third, in payment to an appropriate officer of any amount to which the officer is entitled by virtue of section 215B."

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61 Payment of compensation

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 72 (serious default in England and Wales) in subsection (9)—

(a) after paragraph (b) insert—

"(ba) if the person in default was a member of staff of SOCA, the compensation is payable by SOCA;", and

(b) after paragraph (e) insert—

"(f) if the person in default was an accredited financial investigator and none of paragraphs (a) to (e) apply, the compensation is payable in accordance with paragraph (a), (c) or (e) of section 302(7A) (as the case may require)."

(3) In section 139 (serious default in Scotland) after paragraph (c) of subsection (9) insert—

"(ca) if the person in default was a member of staff of SOCA, the compensation is payable by SOCA;".

(4) Subsection (9) of section 220 (serious default in Northern Ireland) is amended as follows.

(5) In paragraph (b), for "a member of the Director of Public Prosecutions for Northern Ireland" substitute " a member of the Public Prosecution Service for Northern Ireland ".

(6) After paragraph (b) insert—

"(ba) if the person in default was a member of staff of SOCA, the compensation is payable by SOCA;".

(7) After paragraph (e) insert—

"(f) if the person in default was an accredited financial investigator and none of paragraphs (a) to (e) apply, the compensation is payable in accordance with paragraph (b), (d) or (e) of section 302(7A) (as the case may require)."

Commencement Information

I32 S. 61 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(g)**

Civil recovery

62 Limitation

(1) In the following provisions for "twelve years" substitute " 20 years "

(a) sections 27A(2) and 27B(2) of the Limitation Act 1980 (c. 58) (civil recovery of property obtained through unlawful conduct etc),

(b) sections 19B(2) and 19C(2) of the Prescription and Limitation (Scotland) Act 1973 (c. 52) (equivalent provisions for Scotland), and

(c) Articles 72A(2) and 72B(2) of the Limitation (Northern Ireland) Order 1989 (S.I. 1339 (N.I. 11)) (equivalent provisions for Northern Ireland).

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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 amendments made by this section—

(a) apply to causes of action which accrued before, as well as to causes of action which accrue after, the commencement of this section, but

(b) do not apply to causes of action barred by the provisions mentioned in subsection (1) before the commencement of this section.

Commencement Information

I33 S. 62 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(h)**

VALID FROM 01/06/2015

63 Power to search vehicles

(1) Section 289 of the Proceeds of Crime Act 2002 (c. 29) (searches) is amended as set out in subsections (2) to (4).

(2) After subsection (1) insert—

"(1A) The powers specified in subsection (1D) are exercisable if—

(a) a customs officer, a constable or an accredited financial investigator has reasonable grounds for suspecting that there is cash falling within subsection (1E) in a vehicle, and

(b) it appears to the officer, constable or investigator that the vehicle is under the control of a person (the suspect) who is in or in the vicinity of the vehicle.

(1B) The powers are exercisable only if the vehicle is—

(a) in any place to which, at the time of the proposed exercise of the powers, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, or

(b) in any other place to which at that time people have ready access but which is not a dwelling.

(1C) But if the vehicle is in a garden or yard or other land occupied with and used for the purposes of a dwelling, the customs officer, constable or accredited financial investigator may exercise the powers under subsection (1D) only if the officer, constable or investigator has reasonable grounds for believing—

(a) that the suspect does not reside in the dwelling, and

(b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(1D) The customs officer, constable or accredited financial investigator may, so far as the officer, constable or investigator thinks it necessary or expedient, require the suspect to—

(a) permit entry to the vehicle,

(b) permit a search of the vehicle.

(1E) Cash falls within this subsection if—

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(a) it is recoverable property or is intended by any person for use in unlawful conduct, and

(b) the amount of it is not less than the minimum amount."

(3) In subsection (4) for the words from "exercising" to the end substitute "may—

(a) in exercising powers by virtue of subsection (1D), detain the vehicle for so long as is necessary for their exercise,

(b) in exercising powers by virtue of subsection (3)(b), detain the suspect for so long as is necessary for their exercise."

(4) In subsection (5)(c) for the words from "premises" to the end substitute "the following—

(i) premises in England, Wales or Northern Ireland (in the case of subsection (1)),

(ii) vehicles and suspects in England, Wales or Northern Ireland (in the case of subsections (1D) and (4)(a)),

(iii) suspects in England, Wales or Northern Ireland (in the case of subsections (2), (3) and (4)(b))."

64 Detention of seized cash

(1) In section 295(2)(a) of the Proceeds of Crime Act 2002 (c. 29) (period for which court may authorise further detention of seized cash) for "three months" substitute " six months ".

(2) The amendment made by subsection (1) applies in relation to cash seized before or after the commencement of this section.

Commencement Information

I34 S. 64 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(i)**

VALID FROM 22/11/2014

65 Forfeiture of detained cash

(1) After section 297 of the Proceeds of Crime Act 2002 insert—

"Forfeiture without court order

297A Forfeiture notice

(1) Subsection (2) applies while any cash is detained in pursuance of an order under section 295(2) made by a magistrates' court in England and Wales or Northern Ireland.

(2) A senior officer may give a notice for the purpose of forfeiting the cash or any part of it if satisfied that the cash or part—

(a) is recoverable property, or

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(b) is intended by any person for use in unlawful conduct.

(3) The Secretary of State must make regulations about how a notice is to be given.

(4) The regulations may provide—
(a) for a notice to be given to such person or persons, and in such manner, as may be prescribed;
(b) for a notice to be given by publication in such manner as may be prescribed;
(c) for circumstances in which, and the time at which, a notice is to be treated as having been given.

(5) The regulations must ensure that where a notice is given it is, if possible, given to every person to whom notice of an order under section 295(2) in respect of the cash has been given.

(6) A senior officer means—
(a) an officer of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,
(b) a senior police officer, or
(c) an accredited financial investigator.

(7) A senior police officer means a police officer of at least the rank of inspector.

(8) A notice under this section is referred to in this Chapter as a forfeiture notice.

297B Content

(1) A forfeiture notice must—
(a) state the amount of cash in respect of which it is given,
(b) state when and where the cash was seized,
(c) confirm that the senior officer is satisfied as mentioned in section 297A(2),
(d) specify a period for objecting to the proposed forfeiture and an address to which any objections must be sent, and
(e) explain that the cash will be forfeited unless an objection is received at that address within the period for objecting.

(2) The period for objecting must be at least 30 days starting with the day after the notice is given.

297C Effect

(1) This section applies if a forfeiture notice is given in respect of any cash.

(2) The cash is to be detained until—
(a) the cash is forfeited under this section,
(b) the notice lapses under this section, or
(c) the cash is released under a power conferred by this Chapter.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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(3) If no objection is made within the period for objecting, and the notice has not lapsed, the cash is forfeited (subject to section 297E).

(4) If an objection is made within the period for objecting, the notice lapses.

(5) If an application is made for the forfeiture of the whole or any part of the cash under section 298, the notice lapses.

(6) If the cash or any part of it is released under a power conferred by this Chapter, the notice lapses or (as the case may be) lapses in relation to that part.

(7) An objection may be made by anyone, whether a recipient of the notice or not.

(8) An objection means a written objection sent to the address specified in the notice; and an objection is made when it is received at the address.

(9) An objection does not prevent forfeiture of the cash under section 298.

(10) Nothing in this section affects the validity of an order under section 295(2).

297D Detention following lapse of notice

(1) This section applies if—
  (a) a forfeiture notice is given in respect of any cash,
  (b) the notice lapses under section 297C(4), and
  (c) the period for which detention of the cash was authorised under section 295(2) has expired.

(2) The cash may be detained for a further period of up to 48 hours (calculated in accordance with section 295(1B)).

(3) But if within that period the Commissioners for Her Majesty's Revenue and Customs, a constable or an accredited financial investigator decides that neither of the applications mentioned in subsection (4) ought to be made, the cash must be released.

(4) The applications are—
  (a) an application for a further order under section 295(2);
  (b) an application for forfeiture of the cash under section 298.

(5) " If within that period an application is made for a further order under section 295(2) the cash may be detained until the application is determined or otherwise disposed of. "

297E Application to set aside forfeiture

(1) This section applies if any cash is forfeited in pursuance of a forfeiture notice.

(2) A person aggrieved by the forfeiture may apply to a magistrates' court in England and Wales or Northern Ireland for an order setting aside the forfeiture of the cash or any part of it.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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(3) The application must be made before the end of the period of 30 days starting with the day on which the period for objecting ended.

(4) But the court may give permission for an application to be made after the 30-day period has ended if it thinks that there are exceptional circumstances to explain why the applicant—
  (a) failed to object to the forfeiture within the period for objecting, and
  (b) failed to make an application within the 30-day period.

(5) On an application under this section the court must consider whether the cash to which the application relates could be forfeited under section 298 (ignoring the forfeiture mentioned in subsection (1) above).

(6) If the court is satisfied that the cash to which the application relates or any part of it could not be forfeited under that section it must set aside the forfeiture of that cash or part.

(7) Where the court sets aside the forfeiture of any cash—
  (a) it must order the release of that cash, and
  (b) that cash is to be treated as never having been forfeited.

297F Release of cash subject to forfeiture notice

(1) This section applies while any cash is detained under section 297C or 297D.

(2) A magistrates' court may direct the release of the whole or any part of the cash if the following condition is met.

(3) The condition is that the court is not satisfied, on an application by the person from whom the cash was seized, that the cash to be released—
  (a) is recoverable property, or
  (b) is intended by any person for use in unlawful conduct.

(4) An officer of Revenue and Customs, constable or accredited financial investigator may release the cash or any part of it if satisfied that the detention of the cash to be released is no longer justified.

297G Application of forfeited cash

(1) Cash forfeited in pursuance of a forfeiture notice, and any accrued interest on it, is to be paid into the Consolidated Fund.

(2) But it is not to be paid in—
  (a) before the end of the period within which an application under section 297E may be made (ignoring the possibility of an application by virtue of section 297E(4)), or
  (b) if an application is made within that period, before the application is determined or otherwise disposed of.”

(2) In section 298(1) of that Act (forfeiture by court order) after “section 295” insert “ , 297C or 297D ”.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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 section 299(4) of that Act (appeal against forfeiture order: release of cash) for "order the release of the cash" substitute " order the release of the whole or any part of the cash ".

(4) In section 297A(1) of that Act (inserted by subsection (1) above) the reference to an order includes an order made before the commencement of this section.

VALID FROM 22/11/2014

Detained cash investigations

66 Transfer of jurisdiction to Crown Court

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 343 (judges)—
- (a) in subsection (2) for "or a money laundering investigation" substitute " , a money laundering investigation or a detained cash investigation ", and
- (b) in subsection (3) omit "or a detained cash investigation".

(3) In section 344 (courts)—
- (a) in paragraph (a) for "or a money laundering investigation" substitute " , a money laundering investigation or a detained cash investigation ", and
- (b) in paragraph (b) omit "or a detained cash investigation".

(4) In section 350 (government departments), in subsection (5)—
- (a) in paragraph (a) for "or a money laundering investigation" substitute " , a money laundering investigation or a detained cash investigation ", and
- (b) in paragraph (b) omit "or a detained cash investigation".

(5) In section 351 (supplementary provisions in connection with production orders and orders to grant entry), in subsection (8) omit "or a detained cash investigation".

(6) In section 355 (further provisions: confiscation and money laundering), in subsection (1)(a) for "or a money laundering investigation" substitute " , a money laundering investigation or a detained cash investigation ".

(7) In section 356 (further provisions: civil recovery and detained cash)—
- (a) in the title omit "and detained cash",
- (b) in subsection (1) omit "or detained cash investigations",
- (c) in subsection (10) for "if the appropriate person has reasonable" substitute " if an appropriate officer has reasonable ", and
- (d) omit subsections (11) and (12).

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PART 6

EXTRADITION

Alerts

67 Article 26 alerts

For section 204 of the Extradition Act 2003 (c. 41) (Part 1 warrant: transmission by other electronic means) substitute—

"**204 Warrant issued by category 1 territory: transmission by other electronic means**

(1) This section applies if—
- (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which an article 26 alert is issued,
- (b) the information contained in the warrant and the alert are transmitted to the designated authority by electronic means, and
- (c) that information is received by the designated authority in a qualifying form.

(2) This section also applies if—
- (a) an arrest warrant is issued by an authority of a category 1 territory in a case in which no article 26 alert is issued,
- (b) the information contained in the warrant is transmitted to the designated authority by electronic means, and
- (c) that information is received by the designated authority in a qualifying form.

(3) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read as if it were a reference to the information received by the designated authority.

(4) The references in section 63(1) to an arrest warrant are to be read as if they were references to the information received by the designated authority.

(5) For the purposes of subsection (1), a reference to the information contained in the article 26 alert includes a reference to any information sent with that information relating to the case in question.

(6) For the purposes of this section—
- (a) an article 26 alert is an alert issued pursuant to article 26 of the Council Decision on the establishment, operation and use of the second generation Schengen Information System of 12 June 2007,
- (b) references to information being transmitted by electronic means do not include facsimile transmission, and
- (c) information is received in a qualifying form if it is received in a form in which it is intelligible and which is capable of being used for subsequent reference."

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Commencement Information

I35 S. 67 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(j)** (with art. 4(1)(a))

68 Article 95 alerts

(1) Section 212 of the Extradition Act 2003 (c. 41) (the title to which becomes "Article 95 alerts") is amended as follows.

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

"(1) This section applies in a case where an article 95 alert is issued at the request of an authority of a category 1 territory.

(2) The reference in section 2(2) to an arrest warrant issued by a judicial authority of a category 1 territory is to be read—

(a) as if it were a reference to the alert issued at the request of the authority, and

(b) as if the alert included any information sent with it which relates to the case.

(2A) The references in section 63(1) to an arrest warrant are to be read in accordance with paragraphs (a) and (b) of subsection (2) above."

(3) In subsection (3) for "As applied by" substitute " In consequence of ".

Commencement Information

I36 S. 68 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(k)** (with art. 4(1)(b))

Deferral of extradition

69 Extradition to category 1 territory

After section 8 of the Extradition Act 2003 insert—

"**8A Person charged with offence in United Kingdom before extradition hearing**

(1) This section applies if—

(a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and

(b) the judge is informed that the person is charged with an offence in the United Kingdom.

(2) The judge must order further proceedings in respect of the extradition to be adjourned until one of these occurs—

(a) the charge is disposed of;

(b) the charge is withdrawn;

(c) proceedings in respect of the charge are discontinued;

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(d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.

(3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

8B Person serving sentence in United Kingdom before extradition hearing

(1) This section applies if—

(a) a person has been brought before the appropriate judge under section 4(3) or 6(2) but the extradition hearing has not begun; and

(b) the judge is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the United Kingdom.

(2) The judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

(3) In a case where further proceedings in respect of the extradition are adjourned under subsection (2)—

(a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;

(b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody) has effect as if a reference to 28 days in—

(i) sub-paragraph (a)(iii), or

(ii) the words after sub-paragraph (b),

were a reference to six months."

Commencement Information

I37 S. 69 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(l)** (with art. 4(1)(c))

70 Extradition to category 2 territory

After section 76 of the Extradition Act 2003 (c. 41) insert—

"**76A Person charged with offence in United Kingdom before extradition hearing**

(1) This section applies if—

(a) a person has been brought before the appropriate judge under section 72(3) or 74(3) but the extradition hearing has not begun; and

(b) the judge is informed that the person is charged with an offence in the United Kingdom.

(2) The judge must order further proceedings in respect of the extradition to be adjourned until one of these occurs—

(a) the charge is disposed of;

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(b) the charge is withdrawn;
(c) proceedings in respect of the charge are discontinued;
(d) an order is made for the charge to lie on the file, or in relation to Scotland, the diet is deserted *pro loco et tempore*.

(3) If a sentence of imprisonment or another form of detention is imposed in respect of the offence charged, the judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

76B Person serving sentence in United Kingdom before extradition hearing

(1) This section applies if—
(a) a person has been brought before the appropriate judge under section 72(3) or 74(3) but the extradition hearing has not begun; and
(b) the judge is informed that the person is in custody serving a sentence of imprisonment or another form of detention in the United Kingdom.

(2) The judge may order further proceedings in respect of the extradition to be adjourned until the person is released from detention pursuant to the sentence (whether on licence or otherwise).

(3) In a case where further proceedings in respect of the extradition are adjourned under subsection (2)—
(a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
(b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (period of remand in custody) has effect as if a reference to 28 days in—
(i) sub-paragraph (a)(iii), or
(ii) the words after sub-paragraph (b),
were a reference to six months."

Commencement Information
I38 S. 70 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(m)** (with art. 4(1)(d))

71 Person charged with offence or serving sentence of imprisonment

(1) The Extradition Act 2003 (c. 41) is amended as follows.

(2) In section 22(3) (power to adjourn extradition hearing in Part 1 case) for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

(3) In section 23 (person serving sentence in Part 1 case)—
(a) in subsection (1), after "issued is" insert " in custody ", and
(b) in subsection (2), for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

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(4) In section 88(3) (power to adjourn extradition hearing in Part 2 case) for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

(5) In section 89 (person serving sentence in Part 2 case)—
  (a) in subsection (1) after "person is" insert " in custody ", and
  (b) in subsection (2) for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

(6) In section 97(3) (power to defer decision on extradition) for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

(7) In section 98 (person serving sentence in Part 2 case: reference by judge)—
  (a) in subsection (1)(b) after "person is" insert " in custody ", and
  (b) in subsection (2) for "the sentence has been served" substitute " the person is released from detention pursuant to the sentence (whether on licence or otherwise) ".

(8) In section 102(3) (meaning of "appropriate day" where decision deferred) for the words from "until the person" to the end substitute " , the appropriate day is the day on which the person is released from detention pursuant to the sentence (whether on licence or otherwise). "

(9) In section 197A (extradition of serving prisoner) after "a person who is" insert " in custody ".

(10) In section 216 (interpretation) after subsection (6) insert—

"(6A) References to releasing a person from detention pursuant to a sentence do not include releasing a person temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003."

Commencement Information
I39 S. 71 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(n)** (with art. 4(1)(e))

Return to overseas territory

72 Return from category 1 territory

For section 59 of the Extradition Act 2003 substitute—

"**59 Return of person to serve remainder of sentence**

(1) This section applies if—
  (a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 1 territory in accordance with this Part;
  (b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.

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(2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.

(3) But subsection (2) does not apply if—
  (a) the person was extradited for the purpose of being prosecuted for an offence, and
  (b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 1 territory.

(4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.

(5) In a case where the person is not entitled to be released from detention pursuant to the sentence—
  (a) the person is liable to be detained in pursuance of the sentence, and
  (b) if at large, the person must be treated as being unlawfully at large.

(6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—
  (a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return;
  (b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person (“the offender”).

(7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.

(8) A constable or immigration officer may—
  (a) take the offender into custody, and
  (b) convey the offender to the place mentioned in subsection (7).

(9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

(10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of—
  (a) any Saturday or Sunday,
  (b) Christmas Day,
  (c) Good Friday, or
  (d) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom.

(11) A person is entitled to be released from detention if there is—
  (a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,
  (b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent

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custody order under section 183(1)(b) of the Criminal Justice Act 2003),

(c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or

(d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.

(12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.

(13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971."

Commencement Information

I40 S. 72 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(o)**

73 Return from category 2 territory

For section 132 of the Extradition Act 2003 substitute—

"**132 Return of person to serve remainder of sentence**

(1) This section applies if—

(a) a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom is extradited to a category 2 territory in accordance with this Part;

(b) the person is returned to the United Kingdom to serve the remainder of the sentence or the person otherwise returns to the United Kingdom.

(2) Time during which the person was outside the United Kingdom as a result of the extradition does not count as time served by the person as part of the sentence.

(3) But subsection (2) does not apply if—

(a) the person was extradited for the purpose of being prosecuted for an offence, and

(b) the person has not been convicted of the offence or of any other offence in respect of which the person was permitted to be dealt with in the category 2 territory.

(4) In a case falling within subsection (3), time during which the person was outside the United Kingdom as a result of the extradition counts as time served by the person as part of the sentence if (and only if) it was spent in custody in connection with the offence or any other offence in respect of which the person was permitted to be dealt with in the territory.

(5) In a case where the person is not entitled to be released from detention pursuant to the sentence—

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(a) the person is liable to be detained in pursuance of the sentence, and

(b) if at large, the person must be treated as being unlawfully at large.

(6) In a case where the person is entitled to be released from detention on licence pursuant to the sentence—

(a) if the person was released on licence at the time of extradition, the licence is suspended until the person's return,

(b) if the person was not released on licence at that time, subsections (7) to (10) apply in relation to the person ("the offender").

(7) The offender is liable to be detained, on return, in any place in which the offender could have been detained pursuant to the sentence before the time of extradition.

(8) A constable or immigration officer may—

(a) take the offender into custody, and

(b) convey the offender to the place mentioned in subsection (7).

(9) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

(10) In calculating a period of 5 days for the purposes of subsection (9) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).

(11) A person is entitled to be released from detention if there is—

(a) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,

(b) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),

(c) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or

(d) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008.

(12) The powers conferred on a constable by subsection (8) are exercisable in any part of the United Kingdom.

(13) An immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971."

Commencement Information

I41 S. 73 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(p)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Extradition to UK

74 Return to extraditing territory etc

(1) The Extradition Act 2003 (c. 41) is amended as follows.

(2) Omit sections 143 (undertaking in relation to person serving sentence) and 144 (return to extraditing territory to serve sentence).

(3) After section 153 insert—

"153A Undertaking in relation to person serving sentence

(1) This section applies if—
- (a) a person is accused in the United Kingdom of the commission of an offence or has been convicted of an offence by or before a court in the United Kingdom;
- (b) a Part 3 warrant is issued in respect of the person or the Secretary of State makes a request for the extradition of the person;
- (c) the person is serving a sentence of imprisonment or another form of detention in a territory;
- (d) the person's extradition to the United Kingdom from the territory in pursuance of the warrant or request is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom with regard to the person's treatment in the United Kingdom or return to the territory (or both).

(2) The Secretary of State may give an undertaking to a person acting on behalf of the territory with regard to either or both of these things—
- (a) the treatment in the United Kingdom of the person in respect of whom the warrant is issued or the request for extradition is made;
- (b) the return of that person to the territory.

(3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person accused in the United Kingdom of the commission of an offence include terms—
- (a) that the person be kept in custody until the conclusion of the proceedings against the person for the offence and any other offence in respect of which the person is permitted to be dealt with in the United Kingdom;
- (b) that the person be returned to the territory to serve the remainder of the sentence on the conclusion of those proceedings.

(4) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person who has been convicted of an offence by or before a court in the United Kingdom include terms that the person be returned to the territory to serve the remainder of the sentence after the person would otherwise be released from detention pursuant to the sentence imposed in the United Kingdom (whether or not on licence).

(5) If a person is to be returned to a territory by virtue of an undertaking given under subsection (2), the undertaking is sufficient authority for a constable—

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(a) to remove the person from any prison or other institution where the person is detained;
(b) to keep the person in custody until returned;
(c) to convey the person to the territory.

153B Return of person in pursuance of undertaking

(1) This section applies if—
(a) an undertaking is given under section 153A(2) as to the return of a person to a territory;
(b) the person is returned to the territory in pursuance of the undertaking;
(c) the person is returned to the United Kingdom to serve the remainder of any sentence imposed in the United Kingdom or the person otherwise returns to the United Kingdom.

(2) Time during which the person was outside the United Kingdom as a result of the undertaking given under section 153A(2) does not count as time served by the person as part of the sentence.

(3) If the person is not entitled to be released from detention pursuant to the sentence—
(a) the person is liable to be detained in pursuance of the sentence, and
(b) if at large, the person must be treated as being unlawfully at large.

(4) If the person is entitled to be released from detention on licence pursuant to the sentence—
(a) if the person was released on licence at the time of return to the territory, the licence is suspended until the person's return to the United Kingdom;
(b) if the person was not released on licence at that time, subsections (5) to (8) apply in relation to the person ("the offender").

(5) The offender is liable to be detained, on return to the United Kingdom, in any place in which the offender could have been detained pursuant to the sentence before the time of return to the territory.

(6) A constable or immigration officer may—
(a) take the offender into custody, and
(b) convey the offender to the place mentioned in subsection (5).

(7) The offender must be released on licence within the period of 5 days beginning when the offender is taken (or retaken) into custody under this section.

(8) In calculating a period of 5 days for the purposes of subsection (7) no account is to be taken of any day mentioned in any of paragraphs (a) to (d) of section 59(10).

(9) The powers conferred on a constable by subsection (6) are exercisable in any part of the United Kingdom.

(10) For the purposes of this section—
(a) a person is entitled to be released from detention if there is—

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(i) a duty to release the person under section 33(1), (1A) or (2) of the Criminal Justice Act 1991,

(ii) a duty to release the person under section 244 of the Criminal Justice Act 2003 (other than temporarily on licence pursuant to an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003),

(iii) a duty to release the person under section 1, 1AA or 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 or section 5, 11(2), 13, 19 or 23 of the Custodial Sentences and Weapons (Scotland) Act 2007, or

(iv) a duty to release the person under section 1 of the Northern Ireland (Remission of Sentences) Act 1995, Article 26 of the Criminal Justice (Northern Ireland) Order 1996 or Article 17 or 18(8) of the Criminal Justice (Northern Ireland) Order 2008;

(b) an immigration officer is a person who is an immigration officer within the meaning of the Immigration Act 1971.

153C Return to extraditing territory to serve sentence

(1) This section applies if—

(a) a person is extradited to the United Kingdom from a territory for the purposes of being prosecuted for an offence;

(b) the person's extradition is made subject to a condition that an undertaking is given by or on behalf of the United Kingdom as to the person's return to the territory.

(2) The Secretary of State may give an undertaking to a person acting on behalf of the territory as to the person's return to the territory.

(3) The terms which may be included by the Secretary of State in an undertaking given under subsection (2) in relation to a person include terms that if the person is convicted of the offence and a sentence of imprisonment or another form of detention is imposed in respect of it, the person is to be returned to the territory to serve the sentence.

(4) A person who is to be returned to a territory by virtue of an undertaking given under subsection (2) must be returned as soon as is reasonably practicable after the sentence is imposed and any other proceedings in respect of the offence are concluded.

(5) If subsection (4) is complied with the sentence for the offence is treated as served but the person's conviction for the offence must be treated as a conviction for all other purposes.

(6) The sentence for the offence is treated as served under subsection (5) only in so far as it consists of the sentence of imprisonment or another form of detention mentioned in subsection (3).

(7) Subsection (8) applies if—

(a) subsection (4) is not complied with, and

(b) the person applies to the court which imposed the sentence to expedite return to the territory.

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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(8) The court must order return by such date as is specified in the order unless reasonable cause is shown for the delay.

(9) If a person is to be returned by virtue of an undertaking given under subsection (2), a constable may—

(a) remove the person from any prison or other institution where the person is detained;

(b) keep the person in custody until returned;

(c) convey the person to the territory to which the person is to be returned.

153D Sections 153A and 153C etc: supplementary

(1) Nothing in section 153A or 153C requires the return of a person to a territory in a case in which the Secretary of State is not satisfied that the return is compatible with the Convention rights within the meaning of the Human Rights Act 1998 or with the United Kingdom's obligations under the Refugee Convention.

(2) References in sections 153A and 153C and subsection (1) above to the Secretary of State are to be read as references to the Scottish Ministers in a case in which—

(a) a Part 3 warrant was issued in respect of the person to be returned, and

(b) the warrant was issued by a sheriff.

(3) The reference in subsection (1) to the Refugee Convention is to the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention.”

(4) In section 153(1)(b) (return of person acquitted or not tried) for the words from “from” to the end substitute “ from a territory; ”.

(5) In section 197(2) (powers on escape from custody) after “Part 2” insert “ , or kept in custody by virtue of a power under Part 3, ”.

Commencement Information

I42 S. 74 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(q)**

75 Cases in which sentence treated as served

(1) The Extradition Act 2003 (c. 41) is amended as follows.

(2) In section 145(2) (sentence in territory executing Part 3 warrant) for “punishment for the offence must be treated as remitted” substitute “ sentence for the offence must be treated as served ”.

(3) In section 152 (sentence in United Kingdom)—

(a) in subsection (1)(a) for the words from “from” to the end substitute “ from a territory; ”, and

(b) in subsection (2) for “punishment for the offence must be treated as remitted” substitute “ sentence for the offence must be treated as served ”.

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Commencement Information
I43 S. 75 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(r)**

76 Dealing with person for other offences

(1) The Extradition Act 2003 is amended as follows.

(2) Omit section 151 (dealing with person for other offences: other category 2 territories).

(3) Before section 152 insert—

"151A **Dealing with person for other offences**

(1) This section applies if a person is extradited to the United Kingdom from a territory which is not—
  (a) a category 1 territory, or
  (b) a territory falling within section 150(1)(b).

(2) The person may be dealt with in the United Kingdom for an offence committed before the person's extradition only if—
  (a) the offence is one falling within subsection (3), or
  (b) the condition in subsection (4) is satisfied.

(3) The offences are—
  (a) the offence in respect of which the person is extradited;
  (b) an offence disclosed by the information provided to the territory in respect of that offence;
  (c) an offence in respect of which consent to the person being dealt with is given on behalf of the territory.

(4) The condition is that—
  (a) the person has returned to the territory from which the person was extradited, or
  (b) the person has been given an opportunity to leave the United Kingdom.

(5) A person is dealt with in the United Kingdom for an offence if—
  (a) the person is tried there for it;
  (b) the person is detained with a view to trial there for it."

Commencement Information
I44 S. 76 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(s)** (with art. 4(2))

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Ancillary matters

77 Provisional arrest

(1) Section 6 of the Extradition Act 2003 (c. 41) (requirements in relation to person subject to provisional arrest) is amended as follows.

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

"(2) The person must be brought before the appropriate judge within 48 hours starting with the time when the person is arrested.

(2A) The documents specified in subsection (4) must be produced to the judge within 48 hours starting with the time when the person is arrested but this is subject to any extension under subsection (3B).

(2B) Subsection (3) applies if—

(a) the person has been brought before the judge in compliance with subsection (2); but

(b) documents have not been produced to the judge in compliance with subsection (2A).

(3) The person must be brought before the judge when the documents are produced to the judge.

(3A) While the person is before the judge in pursuance of subsection (2), the authority of the category 1 territory may apply to the judge for an extension of the 48 hour period mentioned in subsection (2A) by a further 48 hours.

(3B) The judge may grant an extension if the judge decides that subsection (2A) could not reasonably be complied with within the initial 48 hour period.

(3C) The judge must decide whether that subsection could reasonably be so complied with on a balance of probabilities.

(3D) Notice of an application under subsection (3A) must be given in accordance with rules of court."

(3) After subsection (5) insert—

"(5A) Subsection (5B) applies if—

(a) the person is before the judge in pursuance of subsection (2); and

(b) the documents specified in subsection (4) have not been produced to the judge.

(5B) The judge must remand the person in custody or on bail (subject to subsection (6))."

(4) In subsection (6) after "subsection (2)" insert " , (2A) or (3) ".

(5) After subsection (8) insert—

"(8A) In calculating a period of 48 hours for the purposes of this section no account is to be taken of—

(a) any Saturday or Sunday;

(b) Christmas Day;

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(c) Good Friday; or

(d) any day falling within subsection (8B).

(8B) The following days fall within this subsection—

(a) in Scotland, any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in the court of the appropriate judge;

(b) in any part of the United Kingdom, any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in that part of the United Kingdom."

(6) In section 7(1)(b) of the Extradition Act 2003 (c. 41) (application of provisions for verifying the identity of the person arrested) for "is arrested under section 5 and section 6(2)" substitute " arrested under section 5 is brought before the appropriate judge under section 6 and section 6(2A) ".

Commencement Information

I45 S. 77 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(t)** (with art. 4(3))

78 Use of live link in extradition proceedings

After section 206 of the Extradition Act 2003 insert—

"Live links

206A Use of live links at certain hearings

(1) This section applies in relation to—

(a) a hearing before the appropriate judge in proceedings under Part 1, other than—

(i) an extradition hearing within the meaning of that Part;

(ii) a hearing under section 54 or 56, and

(b) a hearing before the appropriate judge in proceedings under Part 2, other than an extradition hearing within the meaning of that Part.

(2) If satisfied that the person affected by an extradition claim is likely to be in custody during the hearing, the appropriate judge may give a live link direction at any time before the hearing.

(3) A live link direction is a direction that, if the person is being held in custody at the time of the hearing, any attendance at the hearing is to be through a live link from the place at which the person is held.

(4) Such a direction—

(a) may be given on the appropriate judge's own motion or on the application of a party to the proceedings, and

(b) may be given in relation to all subsequent hearings to which this section applies, or to such hearing or hearings to which this section applies as may be specified or described in the direction.

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(5) The appropriate judge may give such a direction only if satisfied that it is not contrary to the interests of justice to give the direction.

(6) A person affected by an extradition claim is to be treated as present in court when, by virtue of a live link direction, the person attends a hearing through a live link.

206B Live links: supplementary

(1) The appropriate judge may rescind a live link direction at any time before or during a hearing to which it relates.

(2) The appropriate judge must not give a live link direction or rescind such a direction unless the parties to the proceedings have been given the opportunity to make representations.

(3) If a hearing takes place in relation to the giving or rescinding of a live link direction, the appropriate judge may require or permit any party to the proceedings who wishes to make representations to do so through a live link.

(4) If in a case where an appropriate judge has power to give a live link direction but decides not to do so, the appropriate judge must—
   (a) state in open court the reasons for not doing so, and
   (b) cause those reasons to be entered in the register of proceedings.

(5) Subsection (7) applies if—
   (a) an application for a live link direction is made under section 206A(4) in relation to a qualifying hearing but the application is refused, or
   (b) a live link direction is given in relation to a qualifying hearing but the direction is rescinded before the hearing takes place.

(6) A hearing is a qualifying hearing—
   (a) in relation to proceedings under Part 1, if it is a hearing by virtue of which section 4(3) would be complied with;
   (b) in relation to proceedings under Part 2, if it is a hearing by virtue of which section 72(3) or 74(3) would be complied with.

(7) The requirement in section 4(3), 72(3) or 74(3) (as the case requires) to bring the person as soon as practicable before the appropriate judge is to be read as a requirement to bring the person before that judge as soon as practicable after the application is refused or the direction is rescinded.

206C Live links: interpretation

(1) This section applies for the purposes of section 206A and subsections (2) and (3) also apply for the purposes of section 206B.

(2) In relation to proceedings under Part 1, section 67 applies for determining the appropriate judge.

(3) In relation to proceedings under Part 2, section 139 applies for determining the appropriate judge.

(4) A person is affected by an extradition claim if—

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(a) a Part 1 warrant is issued in respect of the person;
(b) the person is arrested under section 5;
(c) a request for the person's extradition is made; or
(d) a warrant under section 73 is issued in respect of the person.

(5) References to being in custody include—
(a) in England and Wales, references to being in police detention within the meaning of the Police and Criminal Evidence Act 1984;
(b) in Northern Ireland, references to being in police detention within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989;
(c) in Scotland, references to detention under section 14 of the Criminal Procedure (Scotland) Act 1995.

(6) "Live link" means an arrangement by which a person, while absent from the place where the hearing is being held, is able—
(a) to see and hear the appropriate judge, and other persons,
(b) to be seen and heard by the judge, other persons,
and for this purpose any impairment of eyesight or hearing is to be disregarded."

Commencement Information
I46 S. 78 in force at 25.1.2010 by S.I. 2009/3096, **art. 3(u)**

PART 7

AVIATION SECURITY

79 Security planning for airports

After Part 2 of the Aviation Security Act 1982 (c. 36) insert—

"PART 2A

SECURITY PLANNING FOR AERODROMES

Aerodromes to which Part 2A applies

24AA **Aerodromes to which Part 2A applies**

(1) This Part applies to—
(a) any aerodrome in respect of which a direction under section 12, 13 or 14 to the manager of the aerodrome is in force, and
(b) any other aerodrome specified in an order made by the Secretary of State.

(2) Any reference in the following provisions of this Part to an aerodrome is a reference to an aerodrome to which this Part applies.

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(3) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Risk assessment at aerodromes

24AB **Risk advisory groups**

(1) The manager of an aerodrome must establish a group ("a risk advisory group") for the aerodrome.

(2) The group is to consist of—
  (a) an individual nominated by the manager,
  (b) the chief officer of police for the relevant police area or an individual nominated by the chief officer, and
  (c) the individuals (if any) nominated under subsections (3) to (6).

(3) The manager of the aerodrome may at any time nominate one or more individuals to be members of the group (in addition to the individual nominated under subsection (2)(a)).

(4) The chief officer of police may at any time nominate one individual to be a member of the group (in addition to the individual, if any, nominated under subsection (2)(b)).

(5) The Commissioners for Her Majesty's Revenue and Customs may at any time nominate one individual to be a member of the group.

(6) The Secretary of State may at any time nominate one or more individuals to be members of the group.

(7) If the manager of the aerodrome wishes to make a nomination under subsection (3) at any time after the establishment of the group, the manager must consult the group before making the nomination.

(8) An individual may be nominated under subsections (2) to (6) only if the individual has knowledge or experience which is relevant to the assessment of threats, or particular kinds of threats, to the security of aerodromes.

(9) The group must permit any individuals nominated by the Secretary of State for the purposes of this subsection to attend meetings of the group as observers.

24AC **Functions of risk advisory groups**

(1) The risk advisory group for an aerodrome must prepare a risk report for the aerodrome before the end of the period of 2 months beginning with the day by which the group is required to be established.

(2) A risk report is a document containing an assessment of each threat to the security of the aerodrome.

(3) In relation to each such threat, the risk report must also—

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(a) contain an assessment of the effectiveness of any security measures that are being taken in relation to the aerodrome in response to the threat, and

(b) set out the recommendations of the group as to the security measures that should be taken, or continue to be taken, in response to the threat.

(4) The group—

(a) must from time to time revise the assessments contained in the report so as to keep them up to date, and

(b) may at any time revise the recommendations.

(5) Where the report is prepared or revised, the group must give a copy of it to the manager of the aerodrome.

(6) The manager of the aerodrome must then give a copy of the report to each member of the security executive group for the aerodrome.

(7) If the Secretary of State at any time requests a copy of the risk report for an aerodrome, the manager of the aerodrome must give the Secretary of State a copy of the report (or, in the case of a report which has been revised, the report as so revised).

(8) In subsection (1), "the day by which the group is required to be established" means the day which is the relevant day in relation to the aerodrome for the purposes of section 24AL.

24AD **Discharge of functions by risk advisory groups**

(1) In exercising its functions, the risk advisory group for an aerodrome must have regard to—

(a) any directions given under section 12, 13, 13A or 14,

(b) any national threat assessment, and

(c) any guidance given by the Secretary of State which is relevant to the group's functions.

(2) A member of the risk advisory group may not disclose any information received by the member in the exercise of the member's functions under this Part except—

(a) for the purpose of any of those functions, or

(b) for any other purpose connected with the making of aerodrome security plans or their implementation.

(3) In this section, "national threat assessment" means any assessment issued by the Secretary of State of a threat to the aviation industry.

Aerodrome security planning

24AE **Aerodrome security plans**

(1) There must be an aerodrome security plan in force in relation to an aerodrome at all times after the period of 9 months beginning with the day by which the security executive group for the aerodrome is required to be established.

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(2) An aerodrome security plan is a plan which specifies—
  (a) the security measures, if any, that each relevant person is to take in relation to the aerodrome during the period for which the plan is in force, and
  (b) the arrangements for monitoring the implementation of those measures ("monitoring arrangements").

(3) An aerodrome security plan may specify steps to be taken by a relevant person for the purposes of the monitoring arrangements ("monitoring steps").

(4) The relevant persons are—
  (a) the manager of the aerodrome,
  (b) the chief officer of police for the relevant police area,
  (c) any operator of an aircraft that takes off from, or lands at, the aerodrome,
  (d) any person who is permitted to have access to the aerodrome for the purposes of a business carried on by the person,
  (e) any person who occupies any land forming part of the aerodrome,
  (f) the Serious Organised Crime Agency,
  (g) the Commissioners for Her Majesty's Revenue and Customs, and
  (h) the Secretary of State.

(5) If the plan specifies security measures to be taken by a person within subsection (4)(a) or (c) to (h) ("B"), the plan may also specify—
  (a) that any other relevant person is to make payments in respect of the costs reasonably incurred by B in connection with the security measures, and
  (b) the amount of those payments or the manner in which their amount is to be assessed.

(6) If the plan specifies security measures to be taken by a person within subsection (4)(c) to (h), the plan may also specify that the manager of the aerodrome is to provide accommodation or facilities in connection with those measures.

(7) A relevant person must comply with any provision of an aerodrome security plan which provides that the person is to—
  (a) take a security measure,
  (b) take a monitoring step, or
  (c) make any payments or provide any accommodation or facilities.

(8) In subsection (1), "the day by which the security executive group for the aerodrome is required to be established" means the day which is the relevant day in relation to the aerodrome for the purposes of section 24AL.

24AF **Aerodrome security plans: duration etc.**

(1) An aerodrome security plan must specify the period for which it is to be in force.

(2) In the case of the first plan for the aerodrome, the period specified must—
  (a) begin on the day after the end of the period mentioned in section 24AE(1), and

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(b) end on either the 31 March next following that day or on any subsequent 31 March specified in the plan.

(3) In the case of any subsequent plan, the period specified must—
(a) begin on 1 April, and
(b) end on either the 31 March next following that day or on any subsequent 31 March specified in the plan.

(4) An aerodrome security plan ceases to be in force if the aerodrome to which it relates ceases to be one to which this Part applies.

(5) If there is a dispute about security planning for an aerodrome which relates to an aerodrome security plan which is not in force, the Secretary of State may direct that the plan is to come into force at the beginning of a day other than that specified in subsection (2)(a) or (3)(a).

24AG **Security executive groups**

(1) The manager of an aerodrome must establish a group ("the security executive group") for the aerodrome.

(2) The group is to consist of—
(a) a representative of the manager of the aerodrome,
(b) the chief officer of police for the relevant police area or a representative of the chief officer,
(c) a representative of the police authority for the relevant police area,
(d) if the Commissioners for Her Majesty's Revenue and Customs so request, a representative of the Commissioners,
(e) if the Serious Organised Crime Agency so request, a representative of the Agency,
(f) the individual nominated under subsection (3), and
(g) any individuals nominated under subsections (4) to (6).

(3) The manager of the aerodrome must nominate as a member of the group an individual who appears to the manager to represent the interests of the operators of aircraft that take off from, or land at, the aerodrome.

(4) The Secretary of State may at any time nominate as a member of the group an official of the Secretary of State who exercises functions relating to immigration.

(5) The manager of the aerodrome or the Secretary of State may at any time nominate as a member of the group an individual who is, or who appears to the manager or (as the case may be) the Secretary of State to represent the interests of, a particular relevant person within section 24AE(4)(c) to (e).

(6) The manager of the aerodrome or the Secretary of State may at any time nominate as a member of the group an individual who appears to the manager or (as the case may be) the Secretary of State to represent the interests of any description of relevant persons within section 24AE(4)(c) to (e).

(7) More than one individual may be nominated under subsection (5) or (6) (but not in relation to the same relevant person or description of relevant persons).

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(8) The group must permit any individuals nominated by the Secretary of State for the purposes of this subsection to attend meetings of the group as observers.

24AH **Functions of security executive groups**

(1) The security executive group for an aerodrome must—
  (a) decide the contents of each aerodrome security plan for the aerodrome, and
  (b) keep the contents of each plan under review and decide whether (and, if so, how) they should be varied.

(2) No provision may be included in an aerodrome security plan unless all the members of the group unanimously agree that it should be included.

(3) An aerodrome security plan may not be varied unless all the members of the group unanimously agree to the variation.

(4) But the agreement of a member is not required for the purposes of subsection (2) or (3) if the member unreasonably fails to inform the other members of the group whether the member agrees or disagrees to the inclusion of the provision or (as the case may be) to the variation.

(5) If the Secretary of State at any time requests a copy of an aerodrome security plan, the manager of the aerodrome must give a copy of the plan to the Secretary of State.

24AI **Objections to proposals by security executive groups**

(1) The security executive group for an aerodrome must notify a person to whom this section applies if—
  (a) the group proposes to include a provision in an aerodrome security plan or to vary a provision in a plan, and
  (b) the provision (or the provision as varied) would by virtue of section 24AE require the person to—
    (i) take a security measure,
    (ii) take a monitoring step, or
    (iii) make any payments.

(2) This section applies to—
  (a) any relevant person within section 24AE(4)(c) to (e), other than such a person who is represented on the security executive group by virtue of section 24AG(5),
  (b) the Commissioners for Her Majesty's Revenue and Customs, unless the Commissioners are represented on the group,
  (c) the Serious Organised Crime Agency, unless the Agency is represented on the group,
  (d) the Secretary of State, unless the Secretary of State has made a nomination under section 24AG(4).

(3) A person notified under subsection (1) may object to the proposal by informing the group that the person objects.

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(4) The person must give the group the reasons for the objection.

(5) The objection must be made before the end of the period of 30 days beginning with the day on which the person was notified of the proposal ("the 30 day period").

(6) The group must consider an objection made by a person in accordance with this section.

(7) If the members of the group and the person are unable to reach agreement on whether or not the proposal should be withdrawn or varied in the light of the objection, the member of the group who represents the manager of the aerodrome must refer the matter under section 24AN(1) (disputes about security plans).

(8) A provision mentioned in subsection (1) may not be included in an aerodrome security plan or (as the case may be) may not be varied before the end of the 30 day period.

(9) If an objection is made in accordance with this section before the end of the 30 day period the provision may not be included in the plan or (as the case may be) may not be varied unless—
   (a) the members of the group and the person who objected agree that it may be included or varied, or
   (b) it is included or varied by virtue of section 24AQ (powers in relation to disputes about security plans).

24AJ **Discharge of functions by security executive groups**

(1) In exercising its functions, the security executive group for an aerodrome must have regard to—
   (a) any directions given under section 12, 13, 13A or 14,
   (b) the risk report for the aerodrome,
   (c) any national threat assessment, and
   (d) any guidance given by the Secretary of State which is relevant to the group's functions.

(2) The group must—
   (a) consider each recommendation in the risk report, and
   (b) ensure that a record of its decision whether to accept or reject the recommendation, together with the reasons for the decision, is appended to an aerodrome security plan.

(3) A member of the security executive group may not disclose any information received by the member in the exercise of the member's functions under this Part except—
   (a) for the purpose of any of those functions, or
   (b) for any other purpose connected with the making of aerodrome security plans or their implementation.

(4) In this section, "national threat assessment" means any assessment issued by the Secretary of State of a threat to the aviation industry.

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Aerodrome security groups: general

24AK **Aerodrome groups: supplemental**

(1) An individual may be a member of both the risk advisory group and the security executive group for an aerodrome.

(2) The manager of the aerodrome may at any time—
  (a) revoke a nomination under section 24AB(2)(a) or 24AG(3), and
  (b) make another nomination under that provision.

(3) A person who makes a nomination under section 24AB(2)(b) or (3) to (6) or (9) or section 24AG(4) to (6) or (8) may at any time revoke the nomination (whether or not the person makes another nomination under the provision in question).

(4) Except as provided by this Part, risk advisory groups and security executive groups may decide their own procedures (and, in particular, may allow individuals who are not members of the groups to attend meetings and take part in discussions).

(5) The manager of an aerodrome must ensure that the risk advisory group and the security executive group for the aerodrome have such accommodation and facilities as are necessary to enable them to discharge their functions.

24AL **Period for establishment of aerodrome groups**

(1) The risk advisory group and the security executive group for an aerodrome must each be established before the relevant day.

(2) In the case of an aerodrome to which this Part applies on the commencement date, the relevant day is —
  (a) in relation to the risk advisory group, the end of the period of 1 month beginning with the commencement date, and
  (b) in relation to the security executive group, the end of the period of 3 months beginning with the commencement date.

(3) In subsection (2), “commencement date” means the date on which section 79 of the Policing and Crime Act 2009 comes into force.

(4) In the case of any other aerodrome to which this Part applies, the relevant day is—
  (a) in relation to the risk advisory group, the end of the period of 1 month beginning with the date on which the aerodrome becomes one to which this Part applies, and
  (b) in relation to the security executive group, the end of the period of 3 months beginning with that date.

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Disputes about security planning

24AM **Meaning of dispute about security planning**

(1) This section applies for the purposes of the following provisions of this Part.

(2) There is a dispute about security planning for an aerodrome if there is—
  (a) a dispute about the contents of an aerodrome security plan for the aerodrome (see subsection (3)), or
  (b) a dispute about the implementation of an aerodrome security plan for the aerodrome (see subsection (4)).

(3) There is a dispute about the contents of an aerodrome security plan for an aerodrome if—
  (a) there is a dispute between any of the members of the security executive group about the provisions to be included in a plan and, in consequence, there is, or there is likely to be, a breach of the requirement imposed by section 24AE(1),
  (b) there is a dispute between any of the members of the security executive group about whether or how a plan should be varied, or
  (c) the members of the security executive group and a relevant person who makes an objection under section 24AI are unable to reach agreement on whether or not a proposal by the group should be withdrawn or varied in the light of the objection.

(4) There is a dispute about the implementation of an aerodrome security plan if a member of the security executive group for the aerodrome thinks that a relevant person in relation to the aerodrome is failing to, or has failed to, comply with the duty in section 24AE(7).

24AN **Power to refer dispute to Secretary of State**

(1) If there is a dispute about the contents of an aerodrome security plan, any member of the security executive group for the aerodrome may refer the dispute to the Secretary of State.

(2) If there is a dispute about the implementation of an aerodrome security plan, any member of the security executive group for the aerodrome may refer the dispute to the Secretary of State.

24AO **Powers of Secretary of State in relation to disputes**

(1) This section applies where—
  (a) a dispute about security planning for an aerodrome is referred to the Secretary of State under section 24AN, or
  (b) although no such reference is made, the Secretary of State thinks that there is a dispute about security planning for the aerodrome.

(2) The Secretary of State may require—
  (a) any member of the security executive group for the aerodrome, or
  (b) any relevant person in relation to the aerodrome,

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to take such steps as the Secretary of State thinks may assist to resolve the dispute.

(3) The Secretary of State may require any relevant person in relation to the aerodrome to make payments in respect of any costs incurred by another person (whether or not a relevant person) in connection with the taking of the steps mentioned in subsection (2).

(4) The payments that may be required under subsection (3) include payments in respect of any costs incurred by the Secretary of State (including any costs attributable to the work of officials of the Secretary of State).

(5) If the Secretary of State decides not to exercise the power in subsection (2), or if the Secretary of State exercises that power but the dispute is not resolved, the Secretary of State may determine the dispute.

24AP **Dispute resolution: procedure**

(1) This section applies where the Secretary of State is determining a dispute about security planning for an aerodrome.

(2) The Secretary of State must give—
  (a) each relevant person who appears to the Secretary of State to have an interest in the matter in dispute, and
  (b) each member of the security executive group,

an opportunity to make representations about the matter in dispute.

(3) In the case of a dispute about the contents of an aerodrome security plan, the Secretary of State must have regard to the matters specified in section 24AJ(1) (so far as relevant to the matter in dispute).

(4) Subject to subsections (2) and (3), the Secretary of State may decide the procedure for determining the dispute.

(5) In particular, the Secretary of State may require a person mentioned in subsection (2)(a) or (b) to provide the Secretary of State or another person mentioned in that subsection with such information as the Secretary of State may specify.

(6) Subsection (7) applies if, in determining a dispute about security planning, the Secretary of State—
  (a) provides information to a person mentioned in subsection (2)(a) or (b), or
  (b) requires such a person to provide information to another person under subsection (5).

(7) The Secretary of State may require the person to whom the information is provided not to disclose the information without the consent of the Secretary of State.

24AQ **Dispute resolution: powers**

(1) This section applies where the Secretary of State has considered a dispute about security planning at an aerodrome.

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(2) Where the dispute is about the contents of an aerodrome security plan, the Secretary of State may—
  (a) make a declaration that a provision specified in the declaration is or is not to be included in the plan;
  (b) make a declaration varying the plan.

(3) Where the dispute is about the implementation of a plan, the Secretary of State may do any or all of the following—
  (a) make a declaration as to how any provision of the plan is to be construed;
  (b) make a declaration as to how any provision of the plan is to be, or ought to have been, implemented;
  (c) make a declaration varying the plan.

(4) In relation to any dispute, the Secretary of State may (whether or not the Secretary of State exercises any other power under this section) do either or both of the following—
  (a) determine that a relevant person must pay to any other relevant person ("B") a specified sum, or a sum to be assessed in a specified manner, in respect of costs reasonably incurred by B in connection with any security measures taken by B in relation to the aerodrome;
  (b) make an order requiring a relevant person to pay costs.

(5) Subsection (4)(a) does not apply in relation to security measures taken by the chief officer of police for the relevant police area.

(6) In subsection (4)(b) "costs" means—
  (a) the legal or other costs incurred by the Secretary of State (including costs attributable to the work of officials of the Secretary of State), and
  (b) the legal or other costs incurred by any members of the security executive group or any of the relevant persons.

24AR **Dispute resolution: appeals and enforcement etc.**

(1) A relevant person may appeal to the High Court against—
  (a) any requirement imposed on the person under section 24AO(3), or
  (b) any declaration, determination or order of the Secretary of State under section 24AQ which affects that person.

(2) Any requirement imposed under section 24AO(3) or 24AP(7), and any declaration, determination or order made under section 24AQ, may, with the permission of the High Court, be enforced as if it were a judgment of the High Court (and may, in particular, be enforced by the use of powers in relation to contempt of court).

(3) In the application of this section to Scotland, references to the High Court are to be read as references to the Court of Session.

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General and supplemental

24AS **Power to except or modify**

(1) The Secretary of State may by order provide that this Part—

(a) does not apply in relation to a specified aerodrome in respect of which any directions under section 12, 13, 13A or 14 are in force, or

(b) applies in relation to such an aerodrome with specified modifications.

(2) In subsection (1) "specified" means specified in the order.

(3) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

24AT **Interpretation**

(1) In this Part—

"aerodrome" is to be construed in accordance with section 24AA(2);

"aerodrome security plan" has the meaning given by section 24AE(2);

"dispute about security planning for an aerodrome", "dispute about the contents of an aerodrome security plan" and "dispute about the implementation of an aerodrome security plan" have the meanings given by section 24AM(2) to (4);

"relevant persons", in relation to an aerodrome, means the persons mentioned in section 24AE(4);

"relevant police area", in relation to an aerodrome, means the police area in which the aerodrome is wholly or mainly situated;

"risk advisory group", in relation to an aerodrome, means the group established for the aerodrome in accordance with section 24AB;

"risk report", in relation to an aerodrome, has the meaning given by section 24AC(2);

"security executive group", in relation to an aerodrome, means the group established for the aerodrome in accordance with section 24AG;

"security measure", in relation to an aerodrome, means any measure taken for a purpose to which Part 2 applies (protection of aerodromes etc. against acts of violence) or otherwise for the purpose of preventing crime or preserving the peace at the aerodrome, but it does not include—

(a) any measure specified in a direction under Part 2, or

(b) any measure which an officer of Revenue and Customs or an official of the Secretary of State exercising functions in relation to immigration is required to take by virtue of any enactment.

(2) Any reference in this Part to the security of an aerodrome includes a reference to the preservation of the peace at the aerodrome (and any reference to a threat to the security of the aerodrome is to be construed accordingly).

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(3) Any reference in the preceding provisions of this Part to a person nominated under a provision of this Part is a reference to a person who has been nominated under that provision and accepts that nomination (unless the context otherwise requires).

(4) If an aerodrome to which this Part applies—
  (a) ceases to be such an aerodrome, but
  (b) subsequently becomes such an aerodrome again,

this Part applies in relation to the aerodrome as if it had become an aerodrome to which this Part applies for the first time.

(5) For the purposes of this Part the risk advisory group for an aerodrome is to be treated as established when both of the following conditions are first met—
  (a) the person nominated by the manager of the aerodrome under section 24AB(2)(a) accepts the nomination;
  (b) the chief officer of police for the relevant police area informs the manager of the aerodrome that either the chief officer will serve as a member of the group or that a person nominated by the chief officer for the purposes of section 24AB(2)(b) has accepted the nomination.

(6) For the purposes of this Part the security executive group for an aerodrome is to be treated as established when all of the following conditions are first met—
  (a) the manager of the aerodrome appoints a representative under section 24AG(2)(a);
  (b) the chief officer of police for the relevant police area informs the manager of the aerodrome that either the chief officer will serve as a member of the group or that the chief officer has appointed a representative for the purposes of section 24AG(2)(b);
  (c) the police authority for the relevant police area informs the manager of the aerodrome that the police authority has appointed a representative for the purposes of section 24AG(2)(c);
  (d) a person nominated by the manager of the aerodrome under section 24AG(3) accepts the nomination.

(7) In the application of this Part to Scotland—
  (a) references to the chief officer of police for the relevant police area are to be read as references to the chief constable of the police force for that area, and
  (b) references to the police authority for the relevant police area are, where a joint police board is constituted for that area in accordance with an amalgamation scheme made under the Police (Scotland) Act 1967 (c. 77), to be read as references to that joint police board.

(8) In the application of this Part to Northern Ireland—
  (a) references to the chief officer of police for the relevant police area are to be read as references to the Chief Constable of the Police Service of Northern Ireland, and
  (b) references to the police authority for the relevant police area are to be read as references to the Northern Ireland Policing Board.”

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Commencement Information

I47 S. 79 in force at 29.1.2010 for E.W.S. by S.I. 2010/125, **art. 2(k)**

I48 S. 79 in force at 1.4.2010 for N.I. by S.I. 2010/507, **art. 5(m)**

80 Policing at airports

Schedule 6 (which amends Part 3 of the Aviation Security Act 1982 (c. 36) and makes transitional and saving provision) has effect.

Commencement Information

I49 S. 80 in force at 29.1.2010 for E.W.S. by S.I. 2010/125, **art. 2(l)**

I50 S. 80 in force at 1.4.2010 for N.I. by S.I. 2010/507, **art. 5(n)**

PART 8

MISCELLANEOUS

CHAPTER 1

SAFEGUARDING VULNERABLE GROUPS AND CRIMINAL RECORDS

Renaming of Independent Barring Board

81 Renaming of Independent Barring Board

(1) The Independent Barring Board is renamed the Independent Safeguarding Authority.

(2) For the words in the left-hand column of the table, wherever they appear in the enactments mentioned in subsection (3), substitute the corresponding words in the right-hand column of the table.

Existing words	*Substitution*
"Independent Barring Board"	"Independent Safeguarding Authority"
"Independent Barring Board's"	"Independent Safeguarding Authority's"
"IBB"	"ISA"
"IBB's"	"ISA's"

(3) The enactments are—

(a) Schedule 1 to the Superannuation Act 1972 (c. 11),

(b) sections 7 and 11 of the Police Pensions Act 1976 (c. 35),

(c) section 35C of the Medical Act 1983 (c. 54),

(d) section 13D of the Opticians Act 1989 (c. 44),

(e) section 20 of the Osteopaths Act 1993 (c. 21),

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(f) section 20 of the Chiropractors Act 1994 (c. 17),
(g) section 97 of the Police Act 1996 (c. 16),
(h) sections 113BA, 113BB, 113CA and 113CB of the Police Act 1997 (c. 50),
(i) sections 56 and 75 of the Data Protection Act 1998 (c. 29),
(j) paragraph 1 of Schedule 2 to the Teaching and Higher Education Act 1998 (c. 30),
(k) section 167C of the Education Act 2002 (c. 32),
(l) section 171 of the Education and Inspections Act 2006 (c. 40),
(m) the following enactments in the Safeguarding Vulnerable Groups Act 2006 (c. 47) (including any relevant headings)—
(i) sections 1, 2, 4, 6, 15, 25, 35, 36 to 47 and 50,
(ii) paragraphs 1, 3 to 7 and 9 to 16 of Schedule 1,
(iii) paragraphs 1 and 2 of Schedule 2,
(iv) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 3,
(v) paragraphs 4 and 8 of Schedule 4,
(vi) paragraph 2 of Schedule 5, and
(vii) paragraphs 1 to 3 of Schedule 8,
(n) sections 39, 40 and 97 of, and Schedule 5 to, the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),
(o) the following enactments in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) (including any relevant headings)—
(i) Articles 2, 5, 6, 8, 10, 19, 29, 37 to 49 and 52,
(ii) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 1,
(iii) paragraphs 4 and 8 of Schedule 2,
(iv) paragraph 2 of Schedule 3, and
(v) paragraphs 1 to 3 of Schedule 6, and
(p) sections 130 and 141 of the Education and Skills Act 2008 (c. 25).

(4) In the following enactments for "the Board" substitute " the Authority "
(a) section 167C of the Education Act 2002 (c. 32) (both as inserted by the Education and Inspections Act 2006 (c. 40) and as substituted by the Education and Skills Act 2008 (c. 25)), and
(b) section 130(4) of the Education and Skills Act 2008 (c. 25).

(5) Any reference (other than those dealt with by subsections (2) to (4) above) to the Independent Barring Board in any enactment or other document passed or made before the commencement of this section is to be read as a reference to the Independent Safeguarding Authority.

(6) Any reference to the Independent Safeguarding Authority which arises by virtue of this section is to be read, in relation to times before the commencement of this section, as a reference to the Independent Barring Board.

(7) In this section—

"enactment" includes an Act of the Scottish Parliament, Northern Ireland legislation and an enactment comprised in subordinate legislation,

"subordinate legislation" has the same meaning as in the Interpretation Act 1978 (c. 30)) and also includes an instrument made under—

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(a) an Act of the Scottish Parliament, or
(b) Northern Ireland legislation.

Safeguarding vulnerable groups: England and Wales

PROSPECTIVE

[F15]82 Educational establishments: check on members of governing body

. . . . . .

Textual Amendments

F15 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

83 Monitoring application

In section 24 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) (monitoring)—

(a) in subsection (1)(b) for "a monitoring application" substitute " an application to the Secretary of State under this section (a "monitoring application") ", and
(b) for subsection (10) substitute—

"(10) The Secretary of State may determine the form, manner and contents of a monitoring application."

Commencement Information

I51 S. 83 in force at 29.1.2010 by S.I. 2010/125, **art. 2(m)**

84 Monitoring: additional fees

(1) After section 24 of the Safeguarding Vulnerable Groups Act 2006 insert—

"**24A Monitoring: power to prescribe additional fees**

(1) An individual subject to monitoring under section 24 in relation to a regulated activity must pay a prescribed fee if—
(a) no fee was payable by virtue of section 24(1)(d) when the individual made a monitoring application (within the meaning of section 24) in respect of the activity, and
(b) there has been a prescribed change of circumstances as a result of which a fee would be payable by virtue of section 24(1)(d) if a monitoring application were now made in respect of the activity.

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(2) The amount of the fee payable by virtue of subsection (1) must not exceed the amount of fee which would be payable if a monitoring application were made in respect of the activity as mentioned in subsection (1)(b).

(3) An individual does not cease to be subject to monitoring under section 24 merely because the individual fails to pay a fee required by this section (but see section 30(2A)).”

(2) In section 25 of that Act (monitoring: fees)—

(a) in subsection (1) after “24” insert “ or in relation to a change of circumstances under section 24A ”,

(b) in subsection (2) after “made” insert “ , or change of circumstances occurring, ”,

(c) in subsection (3) after “made” insert “ or change of circumstances occurring ”,

(d) in subsection (4) after “24” insert “ or 24A ”,

(e) in subsection (5)—

(i) for “power” substitute “ powers ”, and

(ii) for “is” substitute “ are ”, and

(f) in subsection (6) after “24(1)(d)” insert “ or 24A ”.

(3) In section 30 of that Act (provision of vetting information) after subsection (2) insert—

“(2A) The Secretary of State may refuse to provide A with the information if B has failed to pay a fee required by section 24A.”

Commencement Information

I52 S. 84 in force at 29.1.2010 for specified purposes by S.I. 2010/125, **art. 3**

PROSPECTIVE

F15 85 Vetting information

. . . . . .

Textual Amendments

F15 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

F15 86 Notification of cessation of monitoring

. . . . . .

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Textual Amendments

F15 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

F15 87 Notification of proposal to include person in barred list

. . . . . .

Textual Amendments

F15 Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

88 Provision of safeguarding information to the police

After section 50 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) insert—

"Provision of information to the police

50A Provision of information to the police

(1) ISA may provide any information it has to a chief officer of police for use for any of the following purposes—
  (a) the prevention, detection and investigation of crime;
  (b) the apprehension and prosecution of offenders.

(2) The power conferred by subsection (1) does not limit any other power of ISA to provide information for any purpose or to any person."

Commencement Information

I53 S. 88 in force at 30.11.2009 by S.I. 2009/3096, **art. 2(a)**

PROSPECTIVE

F16 89 Barring process

. . . . . .

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F16 S. 89 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

Safeguarding vulnerable groups: Northern Ireland

PROSPECTIVE

[F17]90 Notification of proposal to include person in barred list: Northern Ireland

. . . . . .

Textual Amendments

F17 S. 90 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

91 Provision of safeguarding information to the police: Northern Ireland

After Article 52 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) insert—

"Provision of information to the police

52A **Provision of information to the police**

(1) ISA may provide any information it has to the chief constable of the Police Service of Northern Ireland for use for any of the following purposes—
  (a) the prevention, detection and investigation of crime;
  (b) the apprehension and prosecution of offenders.

(2) The power conferred by paragraph (1) does not limit any other power of ISA to provide information for any purpose or to any person."

Commencement Information

I54 S. 91 in force at 30.11.2009 by S.I. 2009/3096, **art. 2(b)**

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
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PROSPECTIVE

F18 92 Barring process: Northern Ireland

. . . . . .

Textual Amendments

F18 S. 92 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 10 Pt. 5** (with s. 97); S.I. 2012/2234, art. 2(bb)

Criminal records etc

PROSPECTIVE

F19 93 Criminal conviction certificates to be given to employers

. . . . . .

Textual Amendments

F19 S. 93 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by Protection of Freedoms Act 2012 (c. 9), ss. 79(1), 120, **Sch. 10 Pt. 6** (with s. 97); S.I. 2012/2234, art. 2(p)

PROSPECTIVE

94 Certificates of criminal records etc: right to work information

In the Police Act 1997 after section 113CC insert—

"113CD Immigration information relevant to employment

(1) This section applies where—

(a) an application for a certificate under section 112, 113A or 113B contains a request for information under this section,

(b) in the case of an application for a certificate under section 112, the application contains a statement that the information is sought for the purposes of employment with a person specified in the application, and

(c) the applicant pays in the prescribed manner any additional fee prescribed in respect of the application.

(2) The certificate must state—

Status: *Point in time view as at 01/04/2010. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force 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) whether according to records held by the Secretary of State the applicant is subject to immigration control, or

(b) that records held by the Secretary of State do not show whether the applicant is subject to immigration control.

(3) If the records show that the applicant is subject to immigration control, the certificate must state—

(a) whether according to the records the applicant has been granted leave to enter or remain in the United Kingdom, or

(b) that the records do not show whether the applicant has been granted leave to enter or remain in the United Kingdom.

(4) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom, the certificate must state—

(a) whether according to the records the applicant's leave to enter or remain in the United Kingdom is current, or

(b) that the records do not show whether the applicant's leave to enter or remain in the United Kingdom is current.

(5) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom and that it is current, the certificate must also state any conditions to which the leave to enter or remain is subject and which relate to the applicant's employment.

(6) A certificate under this section must contain such advice as the Secretary of State thinks appropriate about where to obtain further information about the matters mentioned in subsections (2) to (5).

(7) For the purposes of this section a person's leave to enter or remain in the United Kingdom is current unless—

(a) it is invalid, or

(b) it has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise).

(8) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom."

PROSPECTIVE

95 Criminal conviction certificates: verification of identity

In section 118 of the Police Act 1997 (c. 50) (evidence of identity) after subsection (2) insert—

"(2ZA) By virtue of subsection (1) the Secretary of State may, in particular, refuse to issue a certificate to a person unless the application is supported by prescribed evidence that the person's identity has been verified by a third person determined by the Secretary of State (whether or not the third person charges a fee for such verification)."

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VALID FROM 10/09/2012

96 Registered persons

(1) Section 120A of the Police Act 1997 (refusal and cancellation of registration), as inserted by section 134 of the Criminal Justice and Police Act 2001 (c. 16), is amended as follows.

(2) In subsection (3) (matters to which Secretary of State may have regard in considering suitability of persons likely to have access to information) for paragraph (b) substitute—

"(b) any information relating to the person of a kind specified in subsection (3A);".

(3) After subsection (3) insert—

"(3A) The information is—

(a) whether the person is barred from regulated activity;

(b) if the person is barred from such activity, such details as are prescribed of the circumstances in which the person became barred;

(c) whether the Independent Safeguarding Authority is considering whether to include the person in a barred list in pursuance of paragraph 3, 5, 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006;

(d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).

(3B) Subsection (3C) applies if—

(a) the Secretary of State receives an application for registration, and

(b) it appears to the Secretary of State that the registration is likely to make it possible for information to become available to an individual who the Independent Safeguarding Authority is considering whether to include in a barred list as mentioned in subsection (3A)(c).

(3C) The Secretary of State may postpone consideration of the application until the Authority has decided whether to include the individual in the barred list.

(3D) Expressions used in subsections (3A) to (3C) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in those subsections as in that Act, except that "prescribed" must be construed in accordance with section 125 of this Act."

(4) After subsection (6) insert—

"(7) The Secretary of State may by order made by statutory instrument amend subsection (3A) for the purpose of altering the information specified in that subsection.

(8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament."

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97 Criminal records: applications

(1) Before section 126 of the Police Act 1997 (c. 50) insert—

"125B **Form of applications**

(1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.

(2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned."

(2) In the following provisions of that Act omit "in the prescribed manner and form"—
section 112(1)(a) (criminal conviction certificates),
section 113A(1)(a) (criminal record certificates),
section 113B(1)(a) (enhanced criminal record certificates).

(3) In the following provisions of that Act omit "in the prescribed form"—
section 114(1)(a) (criminal record certificates: Crown employment),
section 116(1)(a) (enhanced criminal record certificates: judicial appointments and Crown employment).

Commencement Information
I55 S. 97 in force at 29.1.2010 by S.I. 2010/125, **art. 2(n)**

CHAPTER 2

OTHER

Border controls

98 General information powers in relation to persons entering or leaving the UK

(1) After section 157 of the Customs and Excise Management Act 1979 (c. 2) (general powers: bonds and security) insert—

"**157A General information powers in relation to persons entering or leaving the United Kingdom**

(1) The proper officer of Revenue and Customs may require any person entering or leaving the United Kingdom—
(a) to produce the person's passport or travel documents for examination, or
(b) to answer any questions put by the proper officer of Revenue and Customs about the person's journey.

(2) In subsection (1) "passport" means—
(a) a United Kingdom passport (within the meaning of the Immigration Act 1971),

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(b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or

(c) a document that can be used (in some or all circumstances) instead of a passport.

(3) Subsections (1) and (2) apply in relation to a transit air passenger arriving at the passenger's final destination in the United Kingdom as they apply in relation to a person entering the United Kingdom.

(4) For the purposes of subsection (3) a transit air passenger is a person—

(a) who has arrived by air in the United Kingdom; and

(b) whose journey is continued or resumed by air to a destination in the United Kingdom which is not the place where the person is regarded for the purposes of this section as entering the United Kingdom;

and the passenger's final destination is the destination of the continued or resumed journey."

(2) In section 4(3) of the Finance (No. 2) Act 1992 (c. 48) (non-application of enforcement powers in the Act of 1979 to certain movements between member States), after paragraph (g), insert—

"(ga) section 157A (general information powers in relation to persons entering or leaving the United Kingdom)".

Commencement Information

I56 S. 98 in force at 25.1.2010 by S.I. 2010/52, **art. 2**

99 Powers in relation to cash

(1) After section 164 of the Customs and Excise Management Act 1979 (c. 2) (general powers etc: powers to search persons) insert—

"**164A Powers to search for cash**

(1) The provisions of this Act which fall within subsection (2) (search powers for officers of Revenue and Customs etc.) apply in accordance with subsection (3)—

(a) for the purposes of searching for cash—

(i) which is recoverable property or is intended by any person for use in unlawful conduct; and

(ii) the amount of which is not less than the minimum amount;

(b) for the purposes of searching for cash to ensure compliance with the Cash Control Regulation; or

(c) for purposes connected to any such purposes.

(2) The provisions of this Act which fall within this subsection are—

(a) section 28(1) (powers of access etc.);

(b) section 77(1) and (2) (information powers);

(c) section 159(1) to (4) (powers to examine and take account of goods); and

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(d) section 164 (power to search persons including intimate searches).

(3) Those provisions apply for the purposes mentioned in subsection (1) as if—

(a) any reference in them to goods included a reference to cash; and

(b) in section 164(1)—

(i) the reference to an article were a reference to cash; and

(ii) paragraphs (a) and (b) were omitted.

(4) The Treasury may by regulations provide for—

(a) any provision of this Act to apply with modifications for the purposes of the provisions applied by subsections (1) to (3), or

(b) any other enactment to apply, with or without modifications, for the purposes of the provisions so applied.

(5) This section does not limit the scope of any powers that exist apart from this section (whether under this Act or otherwise).

(6) In this section—

"the 2002 Act" means the Proceeds of Crime Act 2002;

"cash"—

(a) so far as relating to purposes falling within subsection (1)(a) above, has the meaning given by section 289(6) and (7) of the 2002 Act; and

(b) so far as relating to purposes falling within subsection (1)(b) above, has the same meaning as in the Cash Control Regulation;

"the Cash Control Regulation" means Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community;

"minimum amount" has the meaning given by section 303 of the 2002 Act;

"modifications" includes omissions;

"recoverable property" has the meaning given by section 316(1) of the 2002 Act;

"unlawful conduct" has the meaning given by section 241 of the 2002 Act."

(2) In section 4(2) of the Finance (No. 2) Act 1992 (c. 48) (cases where enforcement powers exercisable)—

(a) after "member States;" at the end of paragraph (b) omit "or", and

(b) after "Kingdom" at the end of paragraph (c) insert "; or

(d) searching for cash that is recoverable property or intended for use in unlawful conduct".

(3) In section 4(5) of that Act (interpretation)—

(a) after "In this section—", insert—

""cash" has the meaning given by section 289(6) and (7) of the Proceeds of Crime Act 2002;",

(b) after "Economic Community;" omit "and", and

(c) after "1979;" insert—

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""recoverable property" has the same meaning as in section 316(1) of the Proceeds of Crime Act 2002; and

"unlawful conduct" has the same meaning as in section 241 of that Act;".

(4) After section 105(5) of the Postal Services Act 2000 (c. 26) (application of customs and excise enactments to certain postal packets) insert—

"(6) And in this section "goods" includes cash (within the meaning of section 289(6) and (7) of the Proceeds of Crime Act 2002)."

Commencement Information

I57 S. 99 in force at 25.1.2010 by S.I. 2010/52, **art. 2**

100 Lawful interception of postal items by Revenue and Customs

(1) After section 3(3) of the Regulation of Investigatory Powers Act 2000 (c. 23) (lawful interception without an interception warrant) insert—

"(3A) Conduct consisting in the interception of a communication in the course of its transmission by means of a public postal service is authorised by this section if it is conduct—

(a) under section 159 of the Customs and Excise Management Act 1979 as applied by virtue of—

(i) section 105 of the Postal Services Act 2000 (power to open postal items etc.); or

(ii) that section 105 and another enactment; and

(b) by an officer of Revenue and Customs."

(2) After section 17(3)(b) of that Act (exclusion of matters from legal proceedings) insert—

"(ba) any person deemed to be the proper officer of Revenue and Customs by virtue of section 8(2) of the Customs and Excise Management Act 1979;".

101 Prohibition on importation or exportation of false identity documents etc

(1) The importation or exportation of any identity document to which this section applies is prohibited.

(2) This section applies to—

(a) any false identity document,

(b) any identity document issued or obtained in contravention of the law of the country or territory under whose jurisdiction the document is issued, and

(c) any identity document intended to be used (whether by itself or otherwise and with or without modifications)—

(i) to establish for unlawful purposes a false identity or address, or

(ii) to provide for such purposes evidence of a false identity or address.

(3) In this section—

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"document" includes an article, or a combination of a document and an article, which is a card within the meaning of the Identity Cards Act 2006 (c. 15),

"false", in relation to an identity document, has the same meaning as it has in section 9(1) of the Forgery and Counterfeiting Act 1981 (c. 45) in relation to an instrument,

"identity document" means any document which may be used (whether by itself or otherwise and with or without modifications) to establish, or provide evidence of, a person's identity or address.

Commencement Information

I58 S. 101 in force at 25.1.2010 by S.I. 2010/52, **art. 2**

PROSPECTIVE

102 Prohibition on importation of offensive weapons

(1) After section 141ZA of the Criminal Justice Act 1988 (c. 33) insert—

"**141ZB Importation of offensive weapons: prohibition**

(1) The importation of an offensive weapon is prohibited, subject to section 141ZC.

(2) In this section "offensive weapon" means a weapon of a description specified in an order made by the Secretary of State for the purposes of this subsection.

(3) The Secretary of State may not specify any of the following under subsection (2)—

(a) a weapon subject to the Firearms Act 1968;

(b) a crossbow.

(4) Orders under this section are to be made by statutory instrument.

(5) 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 a resolution of each House of Parliament.

(6) In the application of this section to Northern Ireland the reference in subsection (3) to the Firearms Act 1968 is to be construed as a reference to the Firearms (Northern Ireland) Order 2004.

141ZC Prohibition on importation of offensive weapons: exceptions

(1) The importation of a weapon is not prohibited by section 141ZB if one of the following exceptions applies.

(2) Exception 1 is that the weapon is imported for the purposes only of functions carried out on behalf of—

(a) the Crown, or

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(b) a visiting force.

(3) Exception 2 is that the weapon is imported for the purposes only of making it available to a museum or gallery which does not distribute profits.

(4) Exception 3 is that the weapon is imported for the purposes only of making it available for one or more of the following—

(a) theatrical performances;

(b) rehearsals of theatrical performances;

(c) the production of films;

(d) the production of television programmes.

(5) In subsection (4)—

"films" has the meaning given by section 5B of the Copyright, Designs and Patents Act 1988;

"television programmes" has the meaning given by section 405 of the Communications Act 2003.

(6) The Secretary of State may by order provide for further exceptions from the prohibition on importation of weapons under section 141ZB.

(7) Orders under this section are to be made by statutory instrument.

(8) 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 a resolution of each House of Parliament.

(9) Expressions used in this section and in section 141 have the same meaning in this section as in that section.

141ZD Prohibition on importation of offensive weapons: burdens of proof

(1) This section applies for the purposes of proceedings for an offence under the Customs and Excise Management Act 1979 relating to a weapon the importation of which is prohibited by section 141ZB above.

(2) An exception conferred by or under section 141ZC is to be taken not to apply unless sufficient evidence is adduced to raise an issue with respect to the exception.

(3) Where sufficient evidence is adduced to raise an issue with respect to an exception, it is to be taken to apply unless the contrary is proved beyond a reasonable doubt."

(2) Subsection (3) applies where in any proceedings—

(a) a person ("the defendant") is charged in respect of the same conduct with—

(i) an offence under any provision of the Customs and Excise Management Act 1979 by virtue of the prohibition on importation in section 141(4) of the Criminal Justice Act 1988 as it had effect before its repeal by this Act ("the old offence"), and

(ii) an offence under that provision of the 1979 Act by virtue of the prohibition on importation in section 141ZB(1) of the 1988 Act ("the new offence"),

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(b) the only thing preventing the defendant from being found guilty of the new offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place after the commencement of this section, and

(c) the only thing preventing the defendant from being found guilty of the old offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place before the commencement of this section.

(3) For the purpose of determining the guilt of the defendant it is to be conclusively presumed that the conduct took place after the commencement of this section.

(4) A reference in subsection (2) to an offence includes a reference to—

(a) aiding, abetting, counselling or procuring the commission of the offence,

(b) conspiracy to commit the offence,

(c) an attempt to commit the offence,

(d) incitement to commit the offence, and

(e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence.

Football spectators

103 Prohibiting attendance at matches in Scotland and Northern Ireland etc

(1) In the provisions of the Football Spectators Act 1989 (c. 37) listed in subsection (2) for "England and Wales" (in each place) substitute " the United Kingdom ".

(2) The provisions are—

(a) in section 14 (definition of banning order and other terms), subsections (2), (3), (4), (5) and (6),

(b) in section 19 (functions of enforcing authority and local police), subsections (2), (2A) and (2E)(a), and

(c) in section 21A (summary measures: detention), subsection (1).

(3) In section 19(2B)(b) of that Act omit "if the match is outside the United Kingdom".

Commencement Information

I59 S. 103 in force at 1.4.2010 by S.I. 2010/507, **art. 5(o)**

104 Requirements to report at police stations

(1) The police station specified under any of the provisions listed in subsection (2) may be in England, Wales, Scotland or Northern Ireland.

(2) The provisions are—

(a) section 14E(2) of the Football Spectators Act 1989 (banning order to include requirement to report initially at specified police station),

(b) section 19(2B) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station),

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(c) section 53(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (football banning order to include requirement to report initially at specified police station),

(d) section 61(4) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station).

(3) In section 14E(2) of the Football Spectators Act 1989 (c. 37) omit "in England and Wales".

(4) In section 53(2)(a) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 omit "in Scotland".

(5) In section 66(1) of that Act for "Scotland" substitute " the United Kingdom ".

Commencement Information

I60 S. 104 in force at 1.4.2010 by S.I. 2010/507, **art. 5(o)**

105 Enforcement of 1989 Act in Scotland and Northern Ireland

(1) The following provisions of the Football Spectators Act 1989 extend to Scotland and Northern Ireland—

(a) section 14J(1) (offence of failing to comply with a requirement imposed by a banning order or a requirement imposed under section 19(2B) or (2C)),

(b) section 19(6) (offence of failing, without reasonable excuse, to comply with a requirement imposed under section 19(2)),

(c) section 20(10) (offence of making a false statement, etc. in connection with an application for exemption from requirements imposed by or under Part 2).

(2) But in Scotland it is a defence where a person is charged with an offence by virtue of subsection (1)(a) to prove that the person had a reasonable excuse for failing to comply with the requirement in question.

(3) A person guilty of an offence by virtue of subsection (1)(a) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

(4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) A person guilty of an offence by virtue of subsection (1)(c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I61 S. 105 in force at 1.4.2010 by S.I. 2010/507, **art. 5(o)**

106 Enforcement of 2006 Act in England and Wales and Northern Ireland

(1) The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 extend to England and Wales and Northern Ireland—

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(a) section 68(1) and (2) (offences of failing to comply with a requirement imposed by a football banning order, under section 61(1) or by a notice under section 61(4), and defence of reasonable excuse),

(b) section 68(5) (offence of making a false statement, etc. in connection with an application for exemption from a notice under section 61(4)).

(2) A person guilty of an offence under section 68(1)(a) or (c) of that Act by virtue of subsection (1)(a) is liable on summary conviction—

(a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale (or both),

(b) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

But in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) the reference in paragraph (a) to 51 weeks is to be read as a reference to 6 months.

(3) A person guilty of an offence under section 68(1)(b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) by virtue of subsection (1)(a) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Omit articles 1(5) and 5 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/1098).

Commencement Information

I62 S. 106 in force at 1.4.2010 by S.I. 2010/507, **art. 5(o)**

107 Relevant offences for purposes of Part 2 of 1989 Act

In Schedule 1 to the Football Spectators Act 1989 (c. 37) (offences) in paragraph 1(a)—

(a) after "14J(1)" insert " , 19(6), 20(10) ", and

(b) after "of this Act" insert " or section 68(1) or (5) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 by virtue of section 106 of the Policing and Crime Act 2009 ".

Commencement Information

I63 S. 107 in force at 1.4.2010 by S.I. 2010/507, **art. 5(o)**

Other

108 Strategies for crime reduction etc: probation authorities

(1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) In section 5 (authorities responsible for strategies) after subsection (1)(a) insert—

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"(aa) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to be a responsible authority under this section;".

(3) In that section, in subsection (1B)(b), after "substances" insert " or of reducing re-offending ".

(4) In section 6 (duty to formulate and implement strategy) at the end of subsection (1)(b) insert "; and

(c) a strategy for the reduction of re-offending in the area".

(5) In that section, in subsection (9)(c), after "disorder" insert " or re-offending ".

(6) In section 17(1) (duty to consider crime and disorder implications etc) at the end insert "; and

(c) re-offending in its area".

Commencement Information

I64 S. 108(1)-(3)(6) in force at 1.4.2010 by S.I. 2010/507, **art. 5(p)**

I65 S. 108(4)(5) in force at 2.3.2010 for specified purposes by S.I. 2010/507, **art. 3**

I66 S. 108(4)(5) in force at 1.4.2010 in so far as not already in force by S.I. 2010/507, **art. 5(p)**

VALID FROM 06/11/2010

109 Application of aspects of UK law to SOCA employees working abroad

In paragraph 20 of Schedule 1 to the Serious Organised Crime and Police Act 2005 (c.15) (SOCA not a Crown body)—

(a) at the beginning insert " (1) Subject to sub-paragraphs (2) to (4), ", and

(b) at the end insert—

"(2) A member of SOCA's staff who is acting, or purporting to act, in the course of service as a member of SOCA's staff is to be treated, for the purposes of section 31(1) of the Criminal Justice Act 1948 (jurisdiction in respect of certain indictable offences committed in foreign countries), as a British subject employed under Her Majesty's Government in the United Kingdom in the service of the Crown who is acting, or purporting to act, in the course of the employment.

(3) A member of SOCA's staff, so far as performing outside the United Kingdom in the course of employment with SOCA or another person duties as a member of SOCA's staff, is to be treated as having overseas Crown employment for the purposes of sections 26 to 28 of the Income Tax (Earnings and Pensions) Act 2003 (liability to income tax on earnings for employees who are resident but not ordinarily resident in the UK or who are not resident in the UK).

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(4) A member of SOCA's staff who is obliged to live outside the United Kingdom in order to perform duties as a member of SOCA's staff is to be treated as being in employment under the Crown for the purposes of section 299 of the Act of 2003 (no liability to income tax for Crown employees' foreign service allowances).”

110 Partial exemption for SCDEA from Firearms Act 1968

In section 54(3) of the Firearms Act 1968 (c. 27) (police and other persons who are exempt from certain provisions of the Act and to whom other provisions apply with modifications), at the end of paragraph (c), insert “, or

(d) a member of the Scottish Crime and Drug Enforcement Agency”.

Commencement Information

I67 S. 110 in force at 29.1.2010 by S.I. 2010/125, **art. 2(o)**

111 Removal of limitation on warrants under Misuse of Drugs Act 1971

(1) Section 23 of the Misuse of Drugs Act 1971 (c. 38) (powers to search and obtain evidence) is amended as follows.

(2) In subsection (3) omit “acting for the police area in which the premises are situated”.

(3) Omit subsection (5).

PART 9

GENERAL

112 Minor and consequential amendments and repeals and revocations

(1) Schedule 7 (which contains minor and consequential amendments and repeals and revocations of provisions which are superseded or no longer required or which have not been brought into force) has effect.

(2) The provisions listed in Schedule 8 are repealed or revoked to the extent specified.

(3) The Secretary of State may by order make such supplementary, incidental or consequential provision as the Secretary of State considers appropriate for the general purposes, or any particular purpose, of this Act or in consequence of any provision made by or under this Act or for giving full effect to this Act or any such provision.

(4) The power conferred by subsection (3)—

(a) is exercisable by statutory instrument, and

(b) includes power to make transitional, transitory or saving provision.

(5) The power conferred by this section may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (including this Act and any Act passed in the same Session as this Act).

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(6) An instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(7) Subsection (6) does not apply to an instrument containing an order under this section if the order does not amend or repeal a provision of a public general Act.

(8) An instrument containing an order under this section to which subsection (6) does not apply is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) For the purposes of subsection (7), an amendment or repeal is not an amendment or repeal of a provision of a public general Act if it is an amendment or repeal of a provision which has been inserted (whether by substitution or otherwise) into such an Act by a local Act or by any other Act which is not a public general Act.

Commencement Information

I68 S. 112 partly in force; s. 112(3)-(9) in force and s. 112(2) in force for certain purposes at Royal Assent and s. 112(1)(2) in force for certain purposes at 1.12.2010, see s. 116(5)(c)(d)(6)(a)(b)

I69 S. 112(1) in force at 25.1.2010 for specified purposes by S.I. 2009/3096, **art. 3(v)(w)**

I70 S. 112(1) in force at 12.3.2010 for specified purposes by S.I. 2010/507, **art. 4(b)**

I71 S. 112(1) in force at 1.4.2010 for specified purposes by S.I. 2010/507, **art. 5(q)**

I72 S. 112(2) in force at 25.1.2010 for specified purposes by S.I. 2010/52, **art. 2**

I73 S. 112(2) in force at 29.1.2010 for specified purposes by S.I. 2010/125, **art. 2(p)(q)**

I74 S. 112(2) in force at 1.4.2010 for specified purposes by S.I. 2010/507, **art. 5(r)**

113 Transitional, transitory and saving provision

The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

114 Financial provisions

The following are to be paid out of money provided by Parliament—

(a) any expenditure incurred by virtue of this Act by a Minister of the Crown or government department, and

(b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

115 Extent

(1) An amendment, repeal or revocation made by this Act has the same extent as the provision amended, repealed or revoked subject to—

(a) subsections (2) to (6), and

(b) any express limitation contained in Schedule 7 or 8.

(2) The following provisions extend to England and Wales and Northern Ireland only—

(a) section 21 and Schedule 2,

(b) sections 22 to 25,

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(c) section 30,
(d) section 97,
(e) section 106.

(3) The following provisions extend to England and Wales only—
(a) section 10(2),
(b) section 27 and Schedule 3,
(c) Part 4,
(d) sections 93, 94 and 95,
(e) section 104(1) and (2) (so far as relating to the Football Spectators Act 1989 (c. 37)).

(4) Section 102 extends to England and Wales, Scotland and Northern Ireland.

(5) Section 104(1) and (2) (so far as relating to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)) extends to Scotland only.

(6) Subsections (1) and (3) to (5) of section 105 extend to Scotland and Northern Ireland and subsection (2) of that section extends to Scotland only.

116 Commencement

(1) Subject as follows, this Act comes into force on such day as the Secretary of State may by order appoint.

(2) Before making an order under subsection (1) relating to section 104 or 105, the Secretary of State must obtain the consent of the Scottish Ministers.

(3) The following provisions come into force on such day as the Treasury may by order appoint—
(a) section 98,
(b) section 99 and Part 9 of Schedule 8 (and section 112(2) so far as relating to that Part), and
(c) section 101.

(4) Section 27, Schedule 3 and paragraph 23 of Schedule 7 come into force—
(a) in relation to England, on such day as the Secretary of State may by order appoint, and
(b) in relation to Wales, on such day as the Welsh Ministers may by order appoint.

(5) The following provisions come into force on the day on which this Act is passed—
(a) section 81,
(b) section 100,
(c) section 111 and Part 12 of Schedule 8 (and section 112(2) so far as relating to that Part), and
(d) sections 112(3) to (9) and 113 to 115, this section and section 117.

(6) The following provisions come into force at the end of the period of 2 months beginning with the day on which this Act is passed—
(a) Part 13 of Schedule 7 (and section 112(1) so far as relating to that Part), and
(b) Part 13 of Schedule 8 (and section 112(2) so far as relating to that Part).

(7) Any power to make an order under this section—

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(a) may be exercised by statutory instrument,

(b) may be exercised so as to appoint different days for different purposes or different areas,

(c) includes power to make transitional, transitory or saving provision.

117 Short title

This Act may be cited as the Policing and Crime Act 2009.

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