



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 6

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **85 Minor and consequential amendments**

- (1) Schedule 4 (minor and consequential amendments) has effect.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (3) The power to make regulations under this section—
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make transitional, transitory or saving provision;
  - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before this Act or in the same Session.
- (4) Before making regulations under this section the Secretary of State must—
  - (a) if the regulations contain provision that would fall within the legislative competence of the Scottish Parliament if included in an Act of that Parliament, consult the Scottish Ministers;
  - (b) if the regulations contain provision that would fall within the legislative competence of the Northern Ireland Assembly if included in an Act of that Assembly, consult the Department of Justice in Northern Ireland.
- (5) A statutory instrument containing regulations under this section that amend, repeal, revoke or otherwise modify any provision of primary legislation is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “primary legislation” means—
- (a) an Act of Parliament;
  - (b) an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales;
  - (d) Northern Ireland legislation.

#### Commencement Information

- I1** S. 85 partly in force at Royal Assent; s. 85(1) in force for specified purposes at Royal Assent; s. 85(2)-(7) wholly in force at Royal Assent, see s. 88(1)(2)(c)(3)(b)(5)(b)
- I2** S. 85(1) in force at 3.5.2015 for N.I. for specified purposes by [S.R. 2015/190, reg. 2](#)
- I3** S. 85(1) in force at 3.5.2015 for specified purposes by [S.I. 2015/820, reg. 2\(o\)](#)
- I4** [S. 85\(1\)](#) in force at 1.6.2015 for specified purposes by [S.I. 2015/820, reg. 3\(p\)](#)
- I5** [S. 85\(1\)](#) in force at 1.6.2015 for specified purposes by [S.R. 2015/190, reg. 3\(1\)\(k\)](#)
- I6** [S. 85\(1\)](#) in force at 17.7.2015 for specified purposes by [S.I. 2015/1428, art. 2\(b\)](#)

## 86 Transitional and saving provisions

- (1) An order under section 13A of the Proceeds of Crime Act 2002 (inserted by section 7) may be made in respect of any confiscation order (within the meaning of Part 2 of that Act) that is made on or after the day on which section 7 comes into force.
- (2) The amendment made by subsection (3) of section 10 has effect in relation to a default of payment of a sum payable under a confiscation order only if the default occurs on or after the date on which that subsection comes into force.
- (3) An order under section 97B(2) of the Proceeds of Crime Act 2002 (inserted by section 16) may be made in respect of any confiscation order (within the meaning of Part 3 of that Act) that is made on or after the day on which section 16 comes into force.
- (4) An order under section 163A of the Proceeds of Crime Act 2002 (inserted by section 29) may be made in respect of any confiscation order (within the meaning of Part 4 of that Act) that is made on or after the day on which section 29 comes into force.
- (5) An offence is not committed under section 3A(3) of the Computer Misuse Act 1990 by virtue of the amendment made by section 42 unless every act or other event proof of which is required for conviction of the offence takes place after section 42 comes into force.
- (6) The amendments made by paragraph 10 of Schedule 4 apply, in relation to any offence of conspiracy to commit an offence under the Computer Misuse Act 1990 or of attempting to commit such an offence, only where every act or other event proof of which is required for conviction of the conspiracy or attempt offence takes place after section 43 comes into force.
- (7) The repeals by this Act of—
  - (a) section 76 of the Serious Organised Crime and Police Act 2005 (“the 2005 Act”), and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to England and Wales,

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- do not apply in the case of a financial reporting order made before section 50(1) (a) above comes into force.
- (8) The repeals by this Act of—
- (a) section 77 of the 2005 Act, and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to Scotland,
- do not apply in the case of a financial reporting order made before section 50(1) (b) above comes into force.
- (9) The repeals by this Act of—
- (a) section 78 of the 2005 Act, and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to Northern Ireland,
- do not apply in the case of a financial reporting order made before section 50(1) (c) above comes into force.
- (10) The amendments made by a section listed below apply only in cases where every act or other event proof of which is required for conviction of the offence in question takes place after the provision comes into force—
- (a) section 43;
  - (b) section 66;
  - (c) section 70;
  - (d) section 81.
- (11) Subsection (7) of section 68 and paragraph 2 of Schedule 4 do not apply in the case of an offence proceedings for which are started before the commencement of that subsection.
- (12) The amendment made by section 83 applies only to a code of practice that is issued or revised on or after the day on which this Act is passed.
- (13) Before the day on which section 109 of the Courts Reform (Scotland) Act 2014 (asp 18) (abolition of appeal from a sheriff to the sheriff principal) comes into force—
- (a) the reference to the Sheriff Appeal Court in subsection (3)(b) of section 62 is to be read as a reference to the sheriff principal;
  - (b) the references to the court in subsections (5) to (7) of that section are to be read as including references to the sheriff principal.
- (14) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, a reference to 12 months in the following provisions is to be read as a reference to 6 months—
- (a) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section 67 above;
  - (b) section 69(3)(a);
  - (c) in the Female Genital Mutilation Act 2003, paragraph (b) of the subsection (2) inserted in section 5 by section 72(4)(b) above;
  - (d) paragraph 4(5)(b) of the Schedule inserted in that Act by section 73(2) above;
  - (e) section 76(11)(b);
  - (f) in the Prison Act 1952, subsection (4)(b) of the section 40CA inserted by section 78 above;
  - (g) in that Act, subsection (4)(b) of the section 40CB inserted by section 79 above.

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- (15) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—
- (a) a reference to a fine in the following provisions is to be read as a reference to a fine not exceeding the statutory maximum—
    - (i) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section 67 above;
    - (ii) section 69(3)(a);
    - (iii) in the Female Genital Mutilation Act 2003, paragraph (b) of the subsection (2) inserted in section 5 by section 72(4)(b) above;
    - (iv) paragraph 4(5)(b) of the Schedule inserted in that Act by section 73(2) above;
    - (v) section 76(11)(b) above;
    - (vi) in the Prison Act 1952, subsection (4)(b) of the section 40CA inserted by section 78 above;
    - (vii) in that Act, subsection (4)(b) of the section 40CB inserted by section 79 above;
  - (b) the reference to a fine in paragraph 2(2)(a) of Schedule 1 to the Female Genital Mutilation Act 2003, inserted in that Act by section 71(2) above, is to be read as a reference to a fine not exceeding level 5 on the standard scale.
- (16) The reference to an offence under section 1, 2 or 3 of the Female Genital Mutilation Act 2003 in section 3A (8) of that Act does not include such an offence committed before the coming into force of section 72 above (which inserts section 3A in that Act).
- (17) In proceedings under section 3A of that Act, a defence under subsection (5)(b) of that section may not be negated by reference to steps that the defendant could have taken (but did not) before the coming into force of section 72 above.

## 87 Extent

- (1) The following provisions extend to England and Wales only—
  - (a) Chapter 1 of Part 1;
  - (b) section 45;
  - (c) section 51;
  - (d) sections 66 to 68;
  - (e) sections 74 to 79.
- (2) Section 80 extends to England and Wales and Scotland (but not Northern Ireland).
- (3) The following provisions extend to England and Wales and Northern Ireland (but not Scotland)—
  - (a) section 38(2);
  - (b) section 40;
  - (c) section 69 and Schedule 3;
  - (d) section 70(1);
  - (e) sections 71 to 73.
- (4) The following provisions extend to Scotland only—
  - (a) sections 15 to 22;
  - (b) section 38(3);

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- (c) section 43(6) and (7);
  - (d) section 70(2).
- (5) Chapter 3 of Part 1 extends to Northern Ireland only.
- (6) An amendment or repeal made by Schedule 4 has the same extent as the relevant part of the Act amended or repealed.
- (7) The other provisions of this Act extend to England and Wales, Scotland and Northern Ireland.

## **88 Commencement**

- (1) This Act, except for the provisions referred to in subsections (2) to (5), comes into force on whatever day or days the Secretary of State appoints by regulations made by statutory instrument.
- (2) The following provisions come into force on whatever day or days the Scottish Ministers appoint by regulations after consulting the Secretary of State—
- (a) sections 15 to 22;
  - (b) section 38(3);
  - (c) paragraphs 16 and 35 to 45 of Schedule 4 (and section 85(1) so far as relating to those paragraphs).
- (3) The following provisions come into force on whatever day or days the Department of Justice in Northern Ireland appoints by regulations after consulting the Secretary of State—
- (a) Chapter 3 of Part 1;
  - (b) paragraphs 4, 46 to 51 and 66(4) of Schedule 4 (and section 85(1) so far as relating to those paragraphs).
- (4) Sections 70 to 72 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) The following provisions come into force on the day on which this Act is passed—
- (a) section 80;
  - (b) section 81 and paragraph 74 of Schedule 4 (and section 85(1) so far as relating to that paragraph);
  - (c) section 82;
  - (d) section 83;
  - (e) section 85(2) to (7);
  - (f) sections 86 to 89.
- (6) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Scotland, unless the Secretary of State has consulted the Scottish Ministers—
- (a) section 23;
  - (b) section 38(1);
  - (c) Part 2;
  - (d) section 46 and Schedule 1;
  - (e) sections 47 to 50.

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- (7) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Northern Ireland, unless the Secretary of State has consulted the Department of Justice in Northern Ireland—
- (a) section 38(1) and (2);
  - (b) section 40;
  - (c) sections 47 to 50;
  - (d) section 69 and Schedule 3;
  - (e) section 73.
- (8) Consultation for the purposes of subsection (2), (3), (6) or (7) may be, or include, consultation before the day on which this Act is passed.
- (9) A power to make regulations under this section includes powers to make saving, transitional or transitory provision.
- (10) The power of the Department of Justice in Northern Ireland to make regulations under subsection (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

## **89 Short title**

This Act may be cited as the Serious Crime Act 2015.

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