SCHEDULES

SCHEDULE 1

Section 46

AMENDMENTS OF SERIOUS CRIME ACT 2007: SCOTLAND

1 The Serious Crime Act 2007 is amended as set out in this Schedule.

Commencement Information
I1 Sch. 1 para. 1 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

2 (1) Section 1 (serious crime prevention orders) is amended as follows.

(2) After subsection (1) insert—

"(1A) The appropriate court in Scotland may make an order if—

(a) it is satisfied that a person has been involved in serious crime (whether in Scotland or elsewhere); and

(b) it has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland."

(3) In subsection (3), after "England and Wales" insert " , Scotland ".

(4) For subsection (5) substitute—

"(5) In this Part—

"appropriate court" means the Court of Session or sheriff;

"serious crime prevention order" means—

(a) an order under this section;

(b) an order under section 19 (corresponding order of the Crown Court on conviction); or

(c) an order under section 22A (corresponding order of the High Court of Justiciary or sheriff on conviction)."

Commencement Information
I2 Sch. 1 para. 2 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)** (with art. 4)

3 In section 2 (involvement in serious crime: England and Wales orders), in subsection (6)—

(a) for "test in section" substitute " tests in sections 2A(1) and ";

(b) after "serious crime in" insert " Scotland or (as the case may be) ".

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

Commencement Information

I3 Sch. 1 para. 3 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

4 After section 2 insert—

"**2A Involvement in serious crime: Scotland orders**

(1) For the purposes of this Part, a person has been involved in serious crime in Scotland if he—

(a) has committed a serious offence in Scotland;

(b) has facilitated the commission by another person of a serious offence in Scotland; or

(c) has conducted himself in a way that was likely to facilitate the commission by himself or another person of a serious offence in Scotland (whether or not such an offence was committed).

(2) In this Part "a serious offence in Scotland" means an offence under the law of Scotland which, at the time when the court is considering the application or matter in question—

(a) is specified, or falls within a description specified, in Part 1A of Schedule 1; or

(b) is one which, in the particular circumstances of the case, the court considers to be sufficiently serious to be treated for the purposes of the application or matter as if it were so specified.

(3) For the purposes of this Part, involvement in serious crime in Scotland is any one or more of the following—

(a) the commission of a serious offence in Scotland;

(b) conduct which facilitates the commission by another person of a serious offence in Scotland;

(c) conduct which is likely to facilitate the commission, by the person whose conduct it is or another person, of a serious offence in Scotland (whether or not such an offence is committed).

(4) For the purposes of section 1(1A)(a), a person has been involved in serious crime elsewhere than in Scotland if he—

(a) has committed a serious offence in a country outside Scotland;

(b) has facilitated the commission by another person of a serious offence in a country outside Scotland; or

(c) has conducted himself in a way that was likely to facilitate the commission by himself or another person of a serious offence in a country outside Scotland (whether or not such an offence was committed).

(5) In subsection (4) "a serious offence in a country outside Scotland" means an offence under the law of a country outside Scotland which, at the time when the court is considering the application or matter in question—

(a) would be an offence under the law of Scotland if committed in or as regards Scotland; and

(b) either—

(i) would be an offence which is specified, or falls within a description specified, in Part 1A of Schedule 1 if committed in or as regards Scotland; or

(ii) is conduct which, in the particular circumstances of the case, the court considers to be sufficiently serious to be treated for the purposes of the application or matter as if it meets the test in sub-paragraph (i).

(6) The test in subsection (4) is to be used instead of the tests in sections 2(1) and 3(1) in deciding for the purposes of section 1(1A)(a) whether a person has been involved in serious crime in England and Wales or (as the case may be) Northern Ireland.

(7) An act punishable under the law of a country outside the United Kingdom constitutes an offence under that law for the purposes of subsection (5), however it is described in that law."

Commencement Information
I4 Sch. 1 para. 4 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

5 In section 3 (involvement in serious crime: Northern Ireland orders), in subsection (6)—

(a) for "test in section 2(1)" substitute " tests in sections 2(1) and 2A(1) ";

(b) at the end insert " or (as the case may be) Scotland ".

Commencement Information
I5 Sch. 1 para. 5 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

6 In section 4 (involvement in serious crime: supplementary), after subsection (4) insert—

"(4A) The Scottish Ministers may by order amend Part 1A of Schedule 1.

(4B) The Scottish Ministers may not exercise the power conferred by subsection (4A) in relation to an offence which relates to a reserved matter (within the meaning of the Scotland Act 1998) without the consent of the Secretary of State."

Commencement Information
I6 Sch. 1 para. 6 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

7 In section 5 (type of provision that may be made by orders), in subsection (2), after "England and Wales", in both places, insert " , Scotland ".

Commencement Information
I7 Sch. 1 para. 7 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

8 In section 7 (other exceptions), after subsection (1) insert—

"(1A) A person may not be made the subject of a serious crime prevention order in Scotland if the person falls within a description specified by order of the Scottish Ministers."

Commencement Information
I8 Sch. 1 para. 8 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

9 In section 8 (limited class of applicants for making of orders)—

(a) omit the word "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) in the case of an order in Scotland, the Lord Advocate;".

Commencement Information
I9 Sch. 1 para. 9 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

10 (1) Section 9 (right of third parties to make representations) is amended as follows.

(2) In each of subsections (1) to (3), after "High Court" insert " or (in Scotland) the appropriate court ".

(3) After subsection (4) insert—

"(4A) The High Court of Justiciary must, on an application by a person, give the person an opportunity to make representations in proceedings before it arising by virtue of section 24B(3) if it considers that the making or variation of the serious crime prevention order concerned (or a decision not to vary it) would be likely to have a significant adverse effect on that person."

Commencement Information
I10 Sch. 1 para. 10 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

11 In section 10 (notice requirements in relation to orders), in subsection (4)—

(a) omit the word "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) in relation to a serious crime prevention order in Scotland, the Lord Advocate;".

Commencement Information
I11 Sch. 1 para. 11 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

12 (1) Section 12 (restrictions for legal professional privilege) is amended as follows.

(2) In subsection (1), after "order" insert " in England and Wales or Northern Ireland ".

(3) After subsection (4) insert—

"(4A) A serious crime prevention order in Scotland may not require a person to breach any duty of confidentiality of communications which the person could not be required to breach in proceedings before the appropriate court."

(4) In subsection (5), for "subsection (1) does not" substitute " subsections (1) and (4A) do not ".

Commencement Information
I12 Sch. 1 para. 12 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

13 In section 13 (restrictions on excluded material and banking information), in subsection (1)—

(a) omit the word "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) in the case of an order in Scotland, any excluded material (as defined by that section (except that "enactment" in subsection (2)(b) of that section is to be taken to include an Act of the Scottish Parliament or an instrument made under such an Act));".

Commencement Information
I13 Sch. 1 para. 13 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

14 (1) Section 17 (variation of orders) is amended as follows.

(2) After subsection (1) insert—

"(1A) The appropriate court in Scotland may, on an application under this section, vary a serious crime prevention order in Scotland if it has reasonable grounds to believe that the terms of the order as varied would protect the public by preventing, restricting or disrupting involvement, by the person who is the subject of the order, in serious crime in Scotland."

(3) In each of subsections (6)(a) and (7)(a), after "High Court" insert " , the appropriate court ".

Commencement Information
I14 Sch. 1 para. 14 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

15 (1) Section 18 (discharge of orders) is amended as follows.

(2) In subsection (1)—

(a) omit the word "and" at the end of paragraph (a);

(b) after that paragraph insert—

"(aa) the appropriate court in Scotland may discharge a serious crime prevention order in Scotland;".

(3) In each of subsections (5)(a) and (6)(a), after "High Court" insert " , the appropriate court ".

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

Commencement Information

I15 Sch. 1 para. 15 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

16 In section 22 (inter-relationship between different types of order), at the end of the heading insert " **in England and Wales or Northern Ireland** ".

Commencement Information

I16 Sch. 1 para. 16 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

17 After that section insert—

"Extension of jurisdiction: Scotland

22A Orders by High Court of Justiciary and sheriff on conviction

(1) Subsection (2) applies where—

(a) the High Court of Justiciary (the "High Court") is dealing with a person who—

(i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or

(ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or

(b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.

(2) The High Court or (as the case may be) the sheriff may, in addition to dealing with the person in relation to the offence, make an order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.

(3) The High Court or sheriff making an order by virtue of subsection (2) in the case of a person who is already the subject of a serious crime prevention order in Scotland must discharge the existing order.

(4) An order under this section may contain—

(a) such prohibitions, restrictions or requirements; and

(b) such other terms;

as the High Court or (as the case may be) the sheriff considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime in Scotland.

(5) The powers of the High Court and the sheriff in respect of an order under this section are subject to sections 6 to 15 (safeguards).

(6) An order must not be made under this section except—

(a) in addition to a sentence imposed in respect of the offence concerned; or

(b) in addition to an order discharging the person absolutely.

(7) An order under this section is also called a serious crime prevention order.

22B Powers of High Court of Justiciary and sheriff to vary orders on conviction

(1) Subsection (2) applies where—

(a) the High Court of Justiciary (the "High Court") is dealing with a person who—

(i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or

(ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or

(b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.

(2) The High Court or (as the case may be) the sheriff may—

(a) in the case of a person who is the subject of a serious crime prevention order in Scotland; and

(b) in addition to dealing with the person in relation to the offence,

vary the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.

(3) A variation under this section may be made only on an application by the Lord Advocate.

(4) A variation must not be made except—

(a) in addition to a sentence imposed in respect of the offence concerned; or

(b) in addition to an order discharging the person absolutely.

(5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).

22C Powers of High Court of Justiciary and sheriff to vary or replace orders on breach

(1) Subsection (2) applies where—

(a) the High Court of Justiciary (the "High Court") is dealing with a person who—

(i) has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

serious crime prevention order and has been remitted to the High Court to be dealt with, or

(ii) has been convicted by or before the High Court of having committed an offence under section 25 in relation to a serious crime prevention order; or

(b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a serious crime prevention order.

(2) The High Court or (as the case may be) the sheriff may—

(a) in the case of an order in Scotland; and

(b) in addition to dealing with the person in relation to the offence;

vary or replace the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied, or the new order, would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.

(3) An order may be varied or replaced under this section only on an application by the Lord Advocate.

(4) A variation or new order must not be made except—

(a) in addition to a sentence imposed in respect of the offence concerned; or

(b) in addition to an order discharging the person absolutely.

(5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).

(6) A reference in this section to replacing a serious crime prevention order is to making a new serious crime prevention order and discharging the existing one.

22D Inter-relationship between different types of orders in Scotland

(1) A serious crime prevention order made under section 1(1A) or varied under section 17(1A) may be varied under section 22B(2) or 22C(2).

(2) The fact that a serious crime prevention order made under section 1(1A) or varied under section 17(1A) has been varied under section 22B(2) or 22C(2) does not prevent it from being varied or discharged by the appropriate court.

(3) A decision by the High Court of Justiciary or (as the case may be) the sheriff not to make an order under section 22A does not prevent a subsequent application to the appropriate court for an order under section 1(1A) in consequence of the same offence.

(4) Where a serious crime prevention order is made under section 1(1A) or varied under section 17(1A), a decision by the High Court of Justiciary or (as the case may be) the sheriff not to vary the order under section 22B(2) or 22C(2) does not prevent a subsequent application under section 17(1A) for a variation of the order in consequence of the same offence.”

Commencement Information

I17 Sch. 1 para. 17 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)** (with art. 5)

18 After section 24 insert—

"**24A Additional right of appeal from Court of Session**

(1) An appeal may be made to the Inner House of the Court of Session in relation to a decision of the Outer House of the Court of Session—

(a) to make a serious crime prevention order;

(b) to vary, or not to vary, such an order; or

(c) to discharge or not to discharge such an order;

by any person who was given an opportunity to make representations in the proceedings concerned by virtue of section 9(1), (2) or (as the case may be) (3).

(2) Subsection (1) is without prejudice to the rights of the person who is the subject of the order and the Lord Advocate to make appeals, under section 28 of the Court of Session Act 1988, in relation to any judgments or orders of the Outer House of the Court of Session about serious crime prevention orders.

24B Appeals from High Court of Justiciary and sheriff

(1) The following are to be taken to be a sentence for the purpose of an appeal—

(a) a serious crime prevention order made under section 22A;

(b) the variation under section 22B or 22C of an order made under section 22A;

(c) the discharge of an order made under section 22A.

(2) If the Lord Advocate considers that a decision of the High Court of Justiciary or the sheriff under section 22A not to make a serious crime prevention order was inappropriate, the Lord Advocate may appeal against the decision.

(3) In addition, an appeal may be made in relation to a decision of the High Court of Justiciary or the sheriff—

(a) to make a serious crime prevention order under section 22A; or

(b) to vary, or not to vary, such an order under section 22B or 22C;

by any person who was given an opportunity to make representations in the proceedings concerned by virtue of section 9(4A)."

Commencement Information

I18 Sch. 1 para. 18 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

19 (1) Section 27 (powers to wind up companies etc: England and Wales and Scotland) is amended as follows.

(2) In the heading omit the words "**and Scotland**".

(3) In subsection (12) omit the words "or Scotland"—

(a) in paragraph (a) of the definition of "company";
(b) in the definition of "the court".

Commencement Information
I19 Sch. 1 para. 19 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

20 After section 27 insert—

"**27A Powers to wind up companies etc: Scotland**

(1) The Scottish Ministers may present a petition to the court for the winding up of a company or relevant body, or the dissolution of a partnership, if—
(a) the company, relevant body or partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
(b) the Scottish Ministers consider that it would be in the public interest for the company or (as the case may be) relevant body to be wound up or the partnership to be dissolved.

(2) The Insolvency Act 1986 applies in relation to—
(a) a petition under this section for the winding up of a company; and
(b) the company's winding up;
as it applies in relation to a petition under section 124A of the Act of 1986 for the winding up of a company and the company's winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).

(3) Section 124(4)(b) of the Act of 1986 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Scottish Ministers.

(4) The court may make an order under section 125 of the Act of 1986 (powers of court on hearing of petition) to wind up the company only if—
(a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
(b) the court considers that it is just and equitable for the company to be wound up.

(5) Where a petition is made to the court under this section for the dissolution of a partnership, the court may make an order to dissolve the partnership only if—
(a) the partnership has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
(b) the court considers that it is just and equitable for the partnership to be dissolved.

(6) Where the court makes an order to dissolve a partnership under this section, the Partnership Act 1890 applies in respect of the dissolution as if it were a dissolution under section 35 of that Act.

(7) The appropriate Minister may by order provide for the Act of 1986 to apply, with such modifications as that person considers appropriate, in relation to

a petition under this section for the winding up of a relevant body and the relevant body's winding up.

(8) An order made by virtue of subsection (7) must ensure that the court may make an order to wind up the relevant body only if—

(a) the relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and

(b) the court considers that it is just and equitable for the relevant body to be wound up.

(9) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—

(a) an appeal against conviction for the offence concerned has been made and not finally determined; or

(b) the period during which such an appeal may be made has not expired.

(10) No petition may be presented, or order to wind up or dissolve made, by virtue of this section if—

(a) the company or relevant body is already being wound up by the court, or

(b) the partnership is already being dissolved by the court.

(11) In deciding for the purposes of subsection (9) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.

(12) In this section—

"appropriate Minister" means—

(a) in relation to a relevant body falling within paragraphs (a) to (c) of the definition of "relevant body" below, the Treasury; and

(b) in relation to any other relevant body, the Scottish Ministers;

"company" means—

(a) a company registered under the Companies Act 2006 in Scotland, or

(b) an unregistered company within the meaning of Part 5 of the Insolvency Act 1986 (see section 220 of that Act),

but does not include a relevant body;

"the court", in relation to a company, means a court in Scotland having jurisdiction to wind up the company;

"partnership" does not include a relevant body; and

"relevant body" means—

(a) a building society (within the meaning of the Building Societies Act 1986);

(b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992);

(c) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014;

(d) a limited liability partnership; or

(e) such other description of person as may be specified by order made by the Scottish Ministers;

and the references to sections 124 to 125 of the Insolvency Act 1986 include references to those sections as applied by section 221(1) of that Act (unregistered companies)."

Commencement Information
I20 Sch. 1 para. 20 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

21 (1) Section 29 (powers to wind up: supplementary) is amended as follows.

(2) After subsection (1) insert—

"(1ZA) The Scottish Ministers may by order make such modifications as they consider appropriate to the application of the Insolvency Act 1986 by virtue of section 27A(2)."

(3) In subsection (2)—

(a) after "subsection (1)" insert " , (1ZA) ";

(b) after "section 27(3) and (4)" insert " , 27A(3) and (4) ".

(4) After subsection (3) insert—

"(3ZA) The Scottish Ministers may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, as they consider appropriate in connection with section 27A(2) to (4)."

(5) In subsection (4)—

(a) after "section 27(5) or (6)" insert " , 27A(7) ";

(b) after "subsection (1)" insert " , (1ZA) ";

(c) after "enactment" insert " including, in the case of an order made by virtue of section 27A(7) or subsection (1ZA) above, an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament. "

Commencement Information
I21 Sch. 1 para. 21 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

22 (1) Section 31 (other partnerships) is amended as follows.

(2) In subsection (3), after "England and Wales", in both places, insert " , Scotland, ".

(3) In subsection (6)(b) omit sub-paragraph (ii).

Commencement Information
I22 Sch. 1 para. 22 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

23 In section 32 (unincorporated associations) omit sub-paragraph (ii) of subsection (5)(b).

Commencement Information

I23 Sch. 1 para. 23 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

24 In section 34 (providers of information society services), in subsection (2)(a)—

(a) omit the word "and" at the end of sub-paragraph (i);

(b) after that sub-paragraph insert—

"(ia) in the case of an order in Scotland, serious crime in Scotland;".

Commencement Information

I24 Sch. 1 para. 24 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

25 After section 36 insert—

"**36A Proceedings in the High Court of Justiciary and sheriff court**

(1) Proceedings before the High Court of Justiciary (the "High Court") or the sheriff arising by virtue of section 22A, 22B, 22C or 22E are civil proceedings.

(2) One consequence of this is that the standard of proof to be applied by the High Court or (as the case may be) the sheriff in such proceedings is the civil standard of proof.

(3) Two other consequences of this are that the High Court or (as the case may be) the sheriff—

(a) is not restricted to considering evidence that would have been admissible in the criminal proceedings in which the person concerned was convicted; and

(b) may adjourn any proceedings in relation to a serious crime prevention order even after sentencing the person concerned.

(4) Despite subsection (1), an Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 (Acts of Adjournal) may be made in relation to proceedings before the High Court or the sheriff arising by virtue of section 22A, 22B, 22C or 22E.

(5) A serious crime prevention order may be made as mentioned in section 22A(6)(b) in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995 (which relate to orders discharging a person absolutely and their effect).

(6) A variation of a serious crime prevention order may be made as mentioned in section 22B(4)(b), or (as the case may be) a variation of or a new serious crime prevention order may be made as mentioned in section 22C(4)(b), in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995."

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

Commencement Information
I25 Sch. 1 para. 25 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

26 In section 39 (compliance with orders: authorised monitors), in the definition of "law enforcement agency" in subsection (10), after paragraph (zc) insert—

"(zd) the chief constable of the Police Service of Scotland;".

Commencement Information
I26 Sch. 1 para. 26 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

27 (1) Section 40 (costs in relation to authorised monitors) is amended as follows.

(2) In subsection (5), for "recoverable as if" substitute "recoverable—

(a) in England and Wales and Northern Ireland, as if".

(3) At the end of that subsection insert—

"(b) in Scotland, in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland."

(4) After subsection (6) insert—

"(6A) Where any amounts required to be paid by virtue of section 39(4) and (5) are, in the case of a serious crime prevention order made under section 22A, not paid within a required period, the unpaid balance from time to time carries interest at the rate payable under a decree of the Court of Session."

(5) In subsection (9), after paragraph (a) insert—

"(aa) in relation to serious crime prevention orders in Scotland, the Scottish Ministers;".

Commencement Information
I27 Sch. 1 para. 27 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

28 In section 43 (index of defined expressions), at the appropriate places insert—

"appropriate court	section 1(5)"
"involvement in serious crime: Scotland orders	sections 2A, 4 and 31(3)"
"serious offence in Scotland	section 2A(2)"

Commencement Information
I28 Sch. 1 para. 28 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

29 In section 89 (orders)—

(a) in subsection (1), for “, the Treasury or the Scottish Ministers” substitute “ or the Treasury ”;

(b) in subsection (2)—

(i) for “or the Treasury” substitute “ , the Treasury or the Scottish Ministers ”;

(ii) at the end insert “ or the Scottish Ministers consider appropriate. ”;

(c) in subsection (6)—

(i) for “statutory instrument” substitute “ the Secretary of State or the Treasury ”;

(ii) after “27(6) or (12),” insert “ , 27A(7) ”;

(d) after subsection (6) insert—

“(6A) An order under section 4(4A) is subject to the affirmative procedure.

(6B) An order made by the Scottish Ministers under section 7(1A), 27A(7) or (12), 29(1ZA) or (3ZA) or 40 is subject to the negative procedure.”

Commencement Information

I29 Sch. 1 para. 29 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

30 In section 93 (extent), in subsection (2) (provisions that extend to England and Wales and Northern Ireland only) omit paragraph (a).

Commencement Information

I30 Sch. 1 para. 30 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

31 In Schedule 1 (serious offences), after Part 1 insert—

“PART 1A

SERIOUS OFFENCES IN SCOTLAND

Drug trafficking

16A (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971—

(a) section 4(2) or (3) (unlawful production or supply of controlled drugs);

(b) section 5(3) (possession of controlled drug with intent to supply);

(c) section 6 (restriction of cultivation of cannabis plant);

(d) section 8 (permitting etc certain activities relating to controlled drugs);

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

(e) section 20 (assisting in or inducing the commission outside the United Kingdom of an offence punishable under a corresponding law).

(2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—

(a) section 50(2) or (3) (improper importation of goods);

(b) section 68(2) (exportation of prohibited or restricted goods);

(c) section 170 (fraudulent evasion of duty etc).

(3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990—

(a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);

(b) section 19 (using a ship for illicit traffic in controlled drugs).

People trafficking

16B (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc).

(2) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).

Firearms offences

16C (1) An offence under any of the following provisions of the Firearms Act 1968—

(a) section 1(1) (possession etc of firearms or ammunition without certificate);

(b) section 2(1) (possession etc of shot gun without certificate);

(c) section 3(1) (dealing etc in firearms or ammunition by way of trade or business without being registered);

(d) section 5(1), (1A) or (2A) (possession, manufacture etc of prohibited weapons).

(2) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—

(a) section 68(2) (exportation of prohibited or restricted goods);

(b) section 170 (fraudulent evasion of duty etc).

(3) In sub-paragraph (2) “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968.

Prostitution, child sex and pornography

16D (1) An offence under any of the following provisions of the Criminal Law Consolidation (Scotland) Act 1995—

(a) section 11(1) (living on earnings of prostitution or soliciting for immoral purposes);
(b) section 11(4) (aiding, abetting or compelling prostitution for gain);
(c) section 11(5) (running of brothels).

(2) An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (traffic in prostitution etc).

(3) An offence under any of the following provisions of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005—
(a) section 10 (causing or inciting provision by child of sexual services or child pornography);
(b) section 11 (controlling a child providing sexual services or involved in pornography);
(c) section 12 (arranging or facilitating provision by child of sexual services or child pornography).

(4) An offence under section 51(2) of the Civic Government (Scotland) Act 1982 (obscene material).

Serious organised crime

16E (1) An offence under any of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
(a) section 28(1) (involvement in serious organised crime);
(b) section 30(1) or (2) (directing serious organised crime).

(2) An offence aggravated by a connection with serious organised crime as mentioned in section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime).

Money laundering

16F An offence under any of the following provisions of the Proceeds of Crime Act 2002—
(a) section 327 (concealing etc criminal property);
(b) section 328 (facilitating the acquisition etc of criminal property by or on behalf of another);
(c) section 329 (acquisition, use and possession of criminal property).

Offences in relation to public revenue

16G (1) An offence under section 170 of the Customs and Excise Management Act 1979 (fraudulent evasion of duty etc) so far as not falling within paragraph 16A(2)(c) or 16C(2)(b) above.

(2) An offence under section 72 of the Value Added Tax Act 1994 (fraudulent evasion of VAT etc).

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

(3) An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).

(4) An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).

Bribery

16H An offence under any of the following provisions of the Bribery Act 2010—

(a) section 1 (offences of bribing another person);

(b) section 2 (offences relating to being bribed);

(c) section 6 (bribery of foreign public officials).

Counterfeiting

16I An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981—

(a) section 14 (making counterfeit notes or coins);

(b) section 15 (passing etc counterfeit notes or coins);

(c) section 16 (having custody or control of counterfeit notes or coins);

(d) section 17 (making or having custody or control of counterfeiting materials or implements).

Fraud etc

16J (1) An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents, etc).

(2) Fraud.

(3) Conspiracy to defraud.

(4) Theft.

(5) Extortion.

(6) Assault and robbery.

Computer misuse

16K An offence under any of the following provisions of the Computer Misuse Act 1990—

(a) section 1 (unauthorised access to computer material);

(b) section 2 (unauthorised access with intent to commit or facilitate commission of further offences);

(c) section 3 (unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc);

(d) section 3ZA (unauthorised acts causing, or creating risk of, serious damage to human welfare etc);

(e) section 3A (making, supplying or obtaining articles for use in offence under section 1, 3 or 3ZA).

Intellectual property

16L (1) An offence under section 297A of the Copyright, Designs and Patents Act 1988 (making or dealing etc in unauthorised decoders).

(2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (unauthorised use of trade mark etc).

Environment

16M (1) An offence under any of the following provisions of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003—

(a) section 1 (fishing for salmon: methods);

(b) section 2 (fishing for freshwater fish: methods);

(c) section 5 (using explosive or other noxious substances for taking or destruction of fish etc).

(2) An offence under section 14 of the Wildlife and Countryside Act 1981 (introduction of new species etc).

(3) An offence under section 33 of the Environmental Protection Act 1990 (prohibition on unauthorised or harmful deposit, treatment or disposal etc of waste).

(4) An offence under regulation 8 of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) (purchase and sale etc of endangered species and provision of false statement and certificates).

Inchoate offences

16N An offence of attempting or conspiring to commit an offence specified or described in this Part of this Schedule.

Earlier offences

16O This Part of this Schedule has effect, in its application to conduct before the coming into force of this Part, as if the offences specified or described in this Part included any corresponding offences under the law in force at the time of the conduct.

Scope of offences

16P Where this Part of this Schedule refers to offences which are offences under the law of Scotland and another country, the reference is to be read as limited to the offences so far as they are offences under the law of Scotland.”

Commencement Information
I31 Sch. 1 para. 31 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(f)**

SCHEDULE 2

Section 54

EXECUTION OF SEARCH AND SEIZURE WARRANTS

Persons who may execute warrant

1 (1) A search and seizure warrant may be executed by any police or customs officer.

(2) A search and seizure warrant may authorise persons to accompany any police or customs officer who is executing it.

(3) A person authorised under sub-paragraph (2) has the same powers as the police or customs officer whom he or she accompanies in respect of—

(a) the execution of the warrant;

(b) the seizure of anything to which the warrant relates.

But the person may exercise those powers only in the company, and under the supervision, of a police or customs officer.

Commencement Information
I32 Sch. 2 para. 1 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Warrant to be executed within 3 months

2 Entry and search under a search and seizure warrant must be within 3 months from the date of its issue.

Commencement Information
I33 Sch. 2 para. 2 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

All-premises warrants

3 In the case of an all-premises warrant, premises that are not specified in the warrant may be entered and searched only if a senior officer has authorised them to be entered.

Commencement Information
I34 Sch. 2 para. 3 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Search of premises more than once

4 Premises may be entered or searched for the second or any subsequent time under a search and seizure warrant authorising multiple entries only if a senior officer has authorised that entry to the premises.

Commencement Information
I35 Sch. 2 para. 4 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Time of search

5 Entry and search under a search and seizure warrant must be at a reasonable hour unless it appears to the police or customs officer executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

Commencement Information
I36 Sch. 2 para. 5 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Evidence of authority etc

6 (1) Where the occupier of premises to be entered and searched under a search and seizure warrant is present at the time when a police or customs officer seeks to execute the warrant, the police or customs officer—

(a) must identify himself or herself to the occupier and, if not a constable in uniform, must produce to the occupier documentary evidence that he or she is a police or customs officer;

(b) must produce the warrant to the occupier;

(c) must supply the occupier with a copy of it.

(2) Where the occupier of premises to be entered and searched under a search and seizure warrant is not present at the time when a police or customs officer seeks to execute the warrant—

(a) if some other person who appears to the officer to be in charge of the premises is present, sub-paragraph (1) has effect as if a reference to the occupier were a reference to that other person;

(b) if not, the officer must leave a copy of the warrant in a prominent place on the premises.

Commencement Information
I37 Sch. 2 para. 6 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Extent of search

7 A search under a search and seizure warrant may only be a search to the extent required for the purpose for which the warrant was issued.

Commencement Information
I38 Sch. 2 para. 7 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Inspection of substances

8 Where a police or customs officer has power under section 55 to seize a substance from premises, the officer or a person authorised under paragraph 1(2) may inspect or test the substance on the premises with a view to establishing whether or not it is a substance that is suitable for use as a drug-cutting agent.

Commencement Information
I39 Sch. 2 para. 8 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Securing premises after entry

9 A police or customs officer who enters premises under a search and seizure warrant must take reasonable steps to ensure that when the officer leaves the premises they are as secure as they were before he or she entered.

Commencement Information
I40 Sch. 2 para. 9 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Endorsement of warrant

10 (1) A police or customs officer executing a search and seizure warrant must make an endorsement on it—
(a) describing the substances, and any containers, that were seized, or
(b) stating that no substances were seized.

(2) Unless the warrant specifies one set of premises only, there must be a separate endorsement under this paragraph identifying each set of premises entered and searched.

Commencement Information
I41 Sch. 2 para. 10 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Return and retention of warrant

11 (1) A search and seizure warrant must be returned to the appropriate person (see sub-paragraph (2))—
(a) when the warrant has been executed, or
(b) on or before the expiry of the period of 3 months from the date of its issue, if the warrant is—
(i) a specific-premises warrant that has not been executed,

(ii) an all-premises warrant, or

(iii) a warrant authorising multiple entries.

(2) The appropriate person is—

(a) in the case of a warrant issued in England and Wales, the designated officer for the local justice area in which the justice of the peace was acting when issuing the warrant;

(b) in the case of a warrant issued in Scotland, the sheriff clerk for the sheriff court in which the sheriff was sitting when the sheriff issued the warrant;

(c) in the case of a warrant issued in Northern Ireland, the clerk of petty sessions [F1] ....

(3) The appropriate person must retain a search and seizure warrant returned under sub-paragraph (1) for 12 months from the date of its return.

(4) If during that period the occupier of premises to which the search and seizure warrant relates asks to inspect it, he or she must be allowed to do so.

Textual Amendments

F1 Words in Sch. 2 para. 11(2)(c) repealed (N.I) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 144, **Sch. 9 Pt. 1**; S.R. 2016/387, art. 2(k)(m) (with art. 3)

Commencement Information

I42 Sch. 2 para. 11 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

Interpretation etc

12 (1) In this Schedule—

"all-premises warrant" and "specific-premises warrant" have the meaning given in section 52(3);

"senior officer" means—

(a) a police officer of at least the rank of inspector;

(b) a National Crime Agency officer of grade 3 or above.

(2) An authorisation under paragraph 3 or 4 must be in writing.

Commencement Information

I43 Sch. 2 para. 12 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(p)**

SCHEDULE 3

Section 69

PAEDOPHILE MANUALS: PROVIDERS OF INFORMATION SOCIETY SERVICES

Interpretation of this Schedule

1 (1) "Prohibited item" means an item within section 69(1).

(2) "Information society services"—

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

(b) is summarised in recital 17 of the E-Commerce Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service".

(3) "The E-Commerce Directive" means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

(4) "Recipient", in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.

(5) "Service provider" means a person providing an information society service.

[F2](6) . . . . . .

[F3](7) . . . . . .

[F4](8) . . . . . .

Textual Amendments

F2 Sch. 3 para. 1(6) omitted (29.7.2021) by virtue of The Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/835), regs. 1, **9(a)(i)**

F3 Sch. 3 para. 1(7) omitted (29.7.2021) by virtue of The Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/835), regs. 1, **9(a)(ii)**

F4 Sch. 3 para. 1(8) omitted (29.7.2021) by virtue of The Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/835), regs. 1, **9(a)(iii)**

Commencement Information

I44 Sch. 3 para. 1 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(q)**

Domestic service providers: extension of liability

[F5]2 . . . . . .

Textual Amendments

F5 Sch. 3 para. 2 omitted (29.7.2021) by virtue of The Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/835), regs. 1, **9(b)**

Non-UK service providers: restriction on institution of proceedings

[F6]3 . . . . . .

Textual Amendments

F6 Sch. 3 para. 3 omitted (29.7.2021) by virtue of The Criminal Justice (Electronic Commerce) (Amendment) (EU Exit) Regulations 2021 (S.I. 2021/835), regs. 1, **9(c)**

Exception for mere conduits

4 (1) A service provider does not commit an offence under section 69(1) by providing access to a communication network or by transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—

(a) initiate the transmission,

(b) select the recipient of the transmission, or

(c) select or modify the information contained in the transmission.

(2) For the purposes of sub-paragraph (1)—

(a) providing access to a communication network, and

(b) transmitting information in a communication network,

include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Commencement Information

I45 Sch. 3 para. 4 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(q)**

Exception for caching

5 (1) A service provider does not commit an offence under section 69(1) by storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.

(2) The first condition is that the storage of the information—

(a) is automatic, intermediate and temporary, and

(b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.

(3) The second condition is that the service provider—

(a) does not modify the information,

(b) complies with any conditions attached to having access to the information, and

(c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.

(4) This sub-paragraph applies if the service provider obtains actual knowledge that—

(a) the information at the initial source of the transmission has been removed from the network,

(b) access to it has been disabled, or

(c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

Commencement Information
I46 Sch. 3 para. 5 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(q)**

Exception for hosting

6 (1) A service provider does not commit an offence under section 69(1) by storing information provided by a recipient of the service if—

(a) the service provider had no actual knowledge when the information was provided that it was, or contained, a prohibited item, or

(b) on obtaining actual knowledge that the information was, or contained, a prohibited item, the service provider promptly removed the information or disabled access to it.

(2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Commencement Information
I47 Sch. 3 para. 6 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(q)**

SCHEDULE 4

Section 85

MINOR AND CONSEQUENTIAL AMENDMENTS

Visiting Forces Act 1952 (c. 67)

1 In the Schedule to the Visiting Forces Act 1952 (offences referred to in section 3), in paragraph 1(b)(xi), before "the Female Genital Mutilation Act 2003" insert " sections 1 to 3 of ".

Commencement Information
I48 Sch. 4 para. 1 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(i)**

Street Offences Act 1959 (c. 57)

2 (1) The Schedule to the Street Offences Act 1959 (orders under section 1(2A): breach, amendment etc) is amended as follows.

(2) In paragraphs 2(3), 3(3) and 5(4), for paragraphs (a) and (b) substitute "a magistrates' court acting in the relevant local justice area".

(3) In paragraph 9(2), for paragraphs (a) and (b) substitute "any magistrates' court".

(4) Omit paragraph 9(4).

(5) In paragraph 10(4), for paragraphs (a) and (b) substitute " to a prison ".

(6) Omit paragraph 10(5).

(7) In paragraph 11(1) omit "youth court or other".

Commencement Information
I49 Sch. 4 para. 2 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(ii)**

Criminal Appeal Act 1968 (c. 19)

3 In section 50 of the Criminal Appeal Act 1968 (meaning of "sentence"), in subsection (1), at the end of paragraph (ca) insert " (but not a determination under section 10A of that Act) ".

Commencement Information
I50 Sch. 4 para. 3 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(i)**

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

4 In section 30(3) of the Criminal Appeal (Northern Ireland) Act 1980 (meaning of "sentence"), at the end of paragraph (d) insert " (but not a determination under section 160A of that Act) ".

Commencement Information
I51 Sch. 4 para. 4 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(a)**

Senior Courts Act 1981 (c. 54)

5 In paragraph 3 of Schedule 1 to the Senior Courts Act 1981 (distribution of business to the family division of the High Court), after paragraph (h) insert—

"(ha) all proceedings under Part 1 of Schedule 2 to the Female Genital Mutilation Act 2003;".

Commencement Information
I52 Sch. 4 para. 5 in force at 17.7.2015 by S.I. 2015/1428, **art. 2(c)(i)**

Civil Jurisdiction and Judgments Act 1982 (c. 27)

6 (1) In section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom), after paragraph (c) of subsection (6A) insert—

"(d) an order under section 255G or 255H of that Act (order relating to PPO receivers in connection with prohibitory property order)."

(2) The power conferred by section 52(2) of that Act (power to extend to Channel Islands, Isle of Man and British overseas territories) is exercisable in relation to the amendment of that Act made by sub-paragraph (1).

Commencement Information
I53 Sch. 4 para. 6 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(ii)**

Computer Misuse Act 1990 (c. 18)

7 In each of the following provisions of the Computer Misuse Act 1990, for "six" substitute " 12 "

(a) section 1(3)(b);
(b) section 2(5)(b);
(c) section 3(6)(b);
(d) section 3A(5)(b).

Commencement Information
I54 Sch. 4 para. 7 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

8 In section 3A of that Act (making, supplying or obtaining articles for use in an offence under section 1 or 3), in the heading, for "**section 1 or 3**" substitute " **section 1, 3 or 3ZA** ".

Commencement Information
I55 Sch. 4 para. 8 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

9 In section 4 of that Act (territorial scope of offences), in the heading, for "**sections 1 to 3**" substitute " **this Act** ".

Commencement Information
I56 Sch. 4 para. 9 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

10 (1) Section 6 of that Act (territorial scope of inchoate offences) is amended as follows.

(2) In the heading, for "**sections 1 to 3**" substitute " **this Act** ".

(3) In subsection (1), for "section 1, 2 or 3 above" substitute " this Act ".

(4) In subsection (2), for "section 3 above" substitute " this Act ".

Commencement Information
I57 Sch. 4 para. 10 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

11 (1) Section 9 of that Act (British citizenship immaterial) is amended as follows.

(2) In subsection (1), at the beginning insert " Except as provided by section 5(1A), ".

(3) In subsection (2)(a), for "section 1, 2 or 3 above" substitute " this Act ".

(4) In subsection (2)(c), for "section 3 above" substitute " this Act ".

Commencement Information
I58 Sch. 4 para. 11 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

12 In section 10 of that Act, for the heading substitute " **Savings** ".

Commencement Information
I59 Sch. 4 para. 12 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(iii)**

Courts and Legal Services Act 1990 (c. 41)

13 In section 58A of the Courts and Legal Services Act 1990 (conditional fee agreements: supplementary), in subsection (2), after paragraph (f) insert—

"(fza) Part 1 of Schedule 2 to the Female Genital Mutilation Act 2003;".

Commencement Information
I60 Sch. 4 para. 13 in force at 17.7.2015 by S.I. 2015/1428, **art. 2(c)(ii)**

Criminal Procedure (Scotland) Act 1995 (c. 46)

14 In section 108 of the Criminal Procedure (Scotland) Act 1995 (Lord Advocate's right of appeal against disposal), after paragraph (ca) of subsection (1) insert—

"(cb) a decision under section 22A of the Serious Crime Act 2007 not to make a serious crime prevention order;".

Commencement Information
I61 Sch. 4 para. 14 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(g)**

15 (1) Section 175 of that Act (right of appeal from summary proceedings) is amended as follows.

(2) In subsection (4), after paragraph (ca) insert—

"(cb) a decision under section 22A of the Serious Crime Act 2007 not to make a serious crime prevention order;".

(3) In subsection (4A)(b)(ii), for "or (ca)" substitute " , (ca) or (cb) ".

Commencement Information
I62 Sch. 4 para. 15 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(g)**

16 In section 222 of that Act (transfer of fine orders), in subsection (8), for "section 31 of the Powers of Criminal Courts Act 1973" substitute " section 139 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Commencement Information

I63 Sch. 4 para. 16 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)**

Family Law Act 1996 (c. 27)

17 In section 63 of the Family Law Act 1996 (interpretation of Part 4), in subsection (2), after paragraph (i) insert—

"(ia) Part 1 of Schedule 2 to the Female Genital Mutilation Act 2003, other than paragraph 3 of that Schedule;".

Commencement Information

I64 Sch. 4 para. 17 in force at 17.7.2015 by S.I. 2015/1428, **art. 2(c)(iii)**

Regulation of Investigatory Powers Act 2000 (c. 23)

[F7]18 . . . . . .

Textual Amendments

F7 Sch. 4 para. 18 repealed (22.7.2020) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 Pt. 8** (with Sch. 9 paras. 7, 8, 10); S.I. 2020/766, reg. 2(e)(iv)

Proceeds of Crime Act 2002 (c. 29)

19 In section 6 of the Proceeds of Crime Act 2002 (making of order), at the end of subsection (5) insert— "Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount."

Commencement Information

I65 Sch. 4 para. 19 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

20 In section 12 of that Act (interest on unpaid sums), in subsection (1)—

(a) for "the amount required to be paid" substitute " any amount required to be paid ";

(b) for "must pay interest on the amount" substitute " must pay interest on that amount ".

Commencement Information

I66 Sch. 4 para. 20 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

21 In section 14 of that Act (postponement), after paragraph (c) of subsection (12) insert—

"(ca) made an order under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);".

Commencement Information

I67 Sch. 4 para. 21 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

22 (1) Section 15 of that Act (effect of postponement) is amended as follows.

(2) In subsection (2)—

(a) at the end of paragraph (c) omit "or";

(b) after that paragraph insert—

"(ca) make an order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or".

(3) In subsection (3)—

(a) at the end of paragraph (c) omit "or";

(b) after that paragraph insert—

"(ca) making an order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or".

Commencement Information

I68 Sch. 4 para. 22 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

23 (1) Section 19 of that Act (no order made: reconsideration of case) is amended as follows.

(2) In subsection (7), after paragraph (d) insert—

"(da) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);".

(3) In subsection (8), after "Sentencing Act" insert " , a surcharge under section 161A of the Criminal Justice Act 2003 ".

Commencement Information

I69 Sch. 4 para. 23 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

24 (1) Section 20 of that Act (no order made: reconsideration of benefit) is amended as follows.

(2) In subsection (11), after paragraph (d) insert—

"(da) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);".

(3) In subsection (12), after "Sentencing Act" insert " , a surcharge under section 161A of the Criminal Justice Act 2003 ".

Commencement Information

I70 Sch. 4 para. 24 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

25 (1) Section 21 of that Act (order made: reconsideration of benefit) is amended as follows.

(2) In subsection (9), after paragraph (c) insert—

"(ca) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);".

(3) In subsection (10), after "(9)(c)" insert " , (ca) ".

Commencement Information

I71 Sch. 4 para. 25 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

26 (1) Section 22 of that Act (order made: reconsideration of available amount) is amended as follows.

(2) In subsection (5), after paragraph (c) insert—

"(d) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge)."

(3) In subsection (6), after "(5)(c)" insert " or (d). "

Commencement Information

I72 Sch. 4 para. 26 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

27 (1) Section 31 of that Act (appeal to Court of Appeal) is amended as follows.

(2) In the heading, after "**prosecutor**" insert " **etc** ".

(3) In subsection (3), after "by virtue of section" insert " 10A, ".

Commencement Information

I73 Sch. 4 para. 27 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

28 In section 32 of that Act (Court of Appeal's powers on appeal), in subsection (7), after "(compensation orders)" insert " , section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge) ".

Commencement Information
I74 Sch. 4 para. 28 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

29 In section 33 of that Act (appeal to Supreme Court), in subsection (9), after "(compensation orders)" insert " , section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge) ".

Commencement Information
I75 Sch. 4 para. 29 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

30 In section 35 of that Act (enforcement as fines), in subsection (2), for "139(2) to (4)" substitute " 139(2), (3) ".

Commencement Information
I76 Sch. 4 para. 30 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

31 In section 41 of that Act (restraint orders), after subsection (7C) (inserted by section 11 above) insert—

"(7D) In considering whether to make an order under subsection (7), the court must, in particular, consider whether any restriction or prohibition on the defendant's travel outside the United Kingdom ought to be imposed for the purpose mentioned in that subsection."

Commencement Information
I77 Sch. 4 para. 31 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

32 (1) Section 42 of that Act (application, discharge and variation of restraint orders) is amended as follows.

(2) In subsection (4), for "(7)" substitute " (8) ".

(3) For subsection (7) substitute—

"(7) If the condition in section 40 which was satisfied was that an investigation was started—

(a) the court must discharge the order if within a reasonable time proceedings for the offence are not started;

(b) otherwise, the court must discharge the order on the conclusion of the proceedings.

(8) If the condition in section 40 which was satisfied was that an application was to be made—

(a) the court must discharge the order if within a reasonable time the application is not made;

(b) otherwise, the court must discharge the order on the conclusion of the application."

Commencement Information
I78 Sch. 4 para. 32 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

33 In section 55 of that Act (sums received by designated officer), in subsection (5), for "an amount of compensation or all or part of an amount payable under an unlawful profit order" substitute " an amount payable under a priority order (or orders) ".

Commencement Information
I79 Sch. 4 para. 33 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

34 In section 89 of that Act (procedure on appeal to the Court of Appeal), in subsection (4), before paragraph (a) insert—

"(za) section 31(4) (appeals against determinations under section 10A),".

Commencement Information
I80 Sch. 4 para. 34 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iii)**

35 In section 92 of that Act (making of order), at the end of subsection (6) insert—

"Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the accused to pay the recoverable amount."

Commencement Information
I81 Sch. 4 para. 35 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)**

36 In section 99 of that Act (postponement), after paragraph (c) of subsection (11) insert—

"(d) made a restitution order;

(e) ordered the accused under section 253F(2) of the Procedure Act to pay a victim surcharge."

Commencement Information
I82 Sch. 4 para. 36 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**
I83 Sch. 4 para. 36 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

37 (1) Section 100 of that Act (effect of postponement) is amended as follows.

(2) In subsection (3)—

(a) at the end of paragraph (b) omit "or";

(b) after paragraph (c) insert—

"(d) make a restitution order, or

(e) order the accused under section 253F(2) of the Procedure Act to pay a victim surcharge."

(3) In subsection (4)—

(a) at the end of paragraph (b) omit "or";

(b) after paragraph (c) insert—

"(d) making a restitution order, or

(e) ordering the accused under section 253F(2) of the Procedure Act to pay a victim surcharge."

Commencement Information

I84 Sch. 4 para. 37 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I85 Sch. 4 para. 37 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

38 (1) Section 104 of that Act (no order made: reconsideration of case) is amended as follows.

(2) In subsection (7), after paragraph (d) insert—

"(e) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;

(f) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned."

(3) After subsection (8) insert—

"(8A) If a restitution order or an order under section 253F(2) of the Procedure Act has been made against the accused in respect of the offence or offences concerned, section 97A(2) and (4) does not apply."

Commencement Information

I86 Sch. 4 para. 38 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I87 Sch. 4 para. 38 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

39 (1) Section 105 of that Act (no order made: reconsideration of benefit) is amended as follows.

(2) In subsection (10), after paragraph (d) insert—

"(e) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;

(f) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned."

(3) After subsection (11) insert—

"(11A) If a restitution order or an order under section 253F(2) of the Procedure Act has been made against the accused in respect of the offence or offences concerned, section 97A(2) and (4) does not apply."

Commencement Information

I88 Sch. 4 para. 39 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I89 Sch. 4 para. 39 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

40 (1) Section 106 of that Act (order made: reconsideration of benefit) is amended as follows.

(2) In subsection (8), after paragraph (c) insert—

"(d) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;

(e) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned."

(3) In subsection (9)—

(a) for "the court must not" substitute "the court—

(a) must not";

(b) at the end insert—

"(b) must not have regard to an order falling within subsection (8)(d) or (e) if a court has made a direction under section 97A(2) or (4)."

Commencement Information

I90 Sch. 4 para. 40 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I91 Sch. 4 para. 40 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

41 (1) Section 107 of that Act (order made: reconsideration of available amount) is amended as follows.

(2) In subsection (4), after paragraph (c) insert—

"(d) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;

(e) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned."

(3) In subsection (5)—

(a) for "the court must not" substitute "the court—

(a) must not";

(b) at the end insert—

"(b) must not have regard to an order falling within subsection (4)(d) or (e) if a court has made a direction under section 97A(2) or (4)."

Commencement Information

I92 Sch. 4 para. 41 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I93 Sch. 4 para. 41 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

42 In section 118 of that Act (application of provisions about fine enforcement), in subsection (2) omit paragraph (k).

Commencement Information
I94 Sch. 4 para. 42 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)** (with reg. 3)

43 (1) Section 121 of that Act (application, recall and variation) is amended as follows.

(2) In subsection (5), for "(9)" substitute " (10) ".

(3) For subsection (9) substitute—

"(9) In the case of a restraint order, if the condition in section 119 which was satisfied was that an investigation was instituted—

(a) the court must discharge the order if within a reasonable time proceedings for the offence are not instituted;

(b) otherwise, the court must recall the order on the conclusion of the proceedings.

(10) In the case of a restraint order, if the condition in section 119 which was satisfied was that an application was to be made—

(a) the court must discharge the order if within a reasonable time the application is not made;

(b) otherwise, the court must recall the order on the conclusion of the application."

Commencement Information
I95 Sch. 4 para. 43 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)**

44 In section 131 of that Act (sums received by clerk of court)—

(a) in subsection (6), after "97(6)" insert " or 97A(4) ";

(b) after that subsection insert—

"(6A) If a direction was made under section 97A(2) or (4) for an amount payable under a restitution order or a victim surcharge under section 253F(2) of the Procedure Act to be paid out of sums recovered under the confiscation order, the clerk of court must next apply the sums in payment of that amount."

Commencement Information
I96 Sch. 4 para. 44 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**
I97 Sch. 4 para. 44 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

45 In section 153 of that Act (satisfaction of confiscation orders), in subsection (1) omit paragraph (b).

Commencement Information
I98 Sch. 4 para. 45 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)** (with reg. 3)

46 In section 156 of that Act (making of order), at the end of subsection (5) insert—

"Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount."

Commencement Information
I99 Sch. 4 para. 46 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

47 In section 162 of that Act (interest on unpaid sums), in subsection (1)—

(a) for "the amount required to be paid" substitute " any amount required to be paid ";

(b) for "must pay interest on the amount" substitute " must pay interest on that amount ".

Commencement Information
I100 Sch. 4 para. 47 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

48 (1) Section 181 of that Act (appeal to Court of Appeal) is amended as follows.

(2) In the heading, after "**prosecutor**" insert " **etc** ".

(3) In subsection (3), after "by virtue of section" insert " 160A, ".

Commencement Information
I101 Sch. 4 para. 48 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

49 In section 185 of that Act (enforcement as fines)—

(a) in subsection (2) omit "(2),";

(b) in subsection (3), after "Criminal Justice" insert " (Children) ".

Commencement Information
I102 Sch. 4 para. 49 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

50 In section 190 of that Act (restraint orders), after subsection (7C) (inserted by section 33 above) insert—

"(7D) In considering whether to make an order under subsection (7), the court must, in particular, consider whether any restriction or prohibition on the defendant's travel outside the United Kingdom ought to be imposed for the purpose mentioned in that subsection."

Commencement Information
I103 Sch. 4 para. 50 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

51 (1) Section 191 of that Act (application, discharge and variation of restraint orders) is amended as follows.

(2) In subsection (4), for "(7)" substitute " (8) ".

(3) For subsection (7) substitute—

"(7) If the condition in section 189 which was satisfied was that an investigation was started—

(a) the court must discharge the order if within a reasonable time proceedings for the offence are not started;

(b) otherwise, the court must discharge the order on the conclusion of the proceedings.

(8) If the condition in section 189 which was satisfied was that an application was to be made—

(a) the court must discharge the order if within a reasonable time the application is not made;

(b) otherwise, the court must discharge the order on the conclusion of the application."

Commencement Information
I104 Sch. 4 para. 51 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

52 In section 273 of that Act (payments in respect of rights under pension schemes), in subsection (4)(b), after "section 245E," insert " PPO receiver, ".

Commencement Information
I105 Sch. 4 para. 52 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iv)**

53 In section 277 of that Act (consent orders: pensions), in subsection (7)(b), after "section 245E," insert " PPO receiver, ".

Commencement Information
I106 Sch. 4 para. 53 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iv)**

54 In section 316 of that Act (Part 5: general interpretation), in subsection (1), at the appropriate place insert—

""PPO receiver" has the meaning given by section 255G(2);".

Commencement Information
I107 Sch. 4 para. 54 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(iv)**

55 In section 341 of that Act (investigations), in subsection (1) omit "or" at the end of paragraph (a).

Commencement Information
I108 Sch. 4 para. 55 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(g)**

56 In section 416 of that Act (other interpretative provisions), after subsection (3) insert—

"(3A) The expressions "realisable property" and "confiscation order"—

(a) in the application of this Part to England and Wales, have the same meanings as in Part 2;

(b) in the application of this Part to Scotland, have the same meanings as in Part 3;

(c) in the application of this Part to Northern Ireland, have the same meanings as in Part 4."

Commencement Information

I109 Sch. 4 para. 56 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(v)**

57 (1) Section 459 of that Act (orders and regulations) is amended as follows.

(2) In subsection (4)(a)—

(a) after "section" insert " 35(2C), ";

(b) before "75(7) or (8)" insert " 67(7A), ".

(3) In subsection (7A)—

(a) after "section" insert " 185(2B), ";

(b) before "223(7) or (8)" insert " 215(7A), ".

Commencement Information

I110 Sch. 4 para. 57 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(v)**

58 (1) In Schedule 2 to that Act (lifestyle offences: England and Wales), in paragraph 8 (prostitution and child sex), sub-paragraph (2) is amended as follows.

(2) In paragraph (b), for "child prostitution or pornography" substitute " sexual exploitation of a child ".

(3) In paragraph (c), for "prostitute or a child involved in pornography" substitute " in relation to sexual exploitation ".

(4) In paragraph (d), for "child prostitution or pornography" substitute " sexual exploitation of a child ".

Commencement Information

I111 Sch. 4 para. 58 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(v)**

59 In Schedule 10 to that Act, in paragraph 1 (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (d) insert—

"(da) a PPO receiver appointed under section 255G;".

Commencement Information

I112 Sch. 4 para. 59 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(vi)**

Female Genital Mutilation Act 2003 (c. 31)

60 In section 8 of the Female Genital Mutilation Act 2003 (extent etc), in subsection (4), after "Scotland" insert " and sections 5B and 5C do not extend to Northern Ireland ".

Commencement Information
I113 Sch. 4 para. 60 in force at 31.10.2015 by S.I. 2015/1809, **reg. 2(d)**

Courts Act 2003 (c. 39)

61 In Schedule 8 to the Courts Act 2003 omit paragraph 409 (which is spent as a result of the amendment made by section 14(1)).

Commencement Information
I114 Sch. 4 para. 61 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(vii)**

Sexual Offences Act 2003 (c. 42)

62 In section 54 of the Sexual Offences Act 2003 (sections 51A to 53A: interpretation), for subsections (2) and (3) substitute—

"(2) In sections 51A, 52, 53 and 53A "prostitute" means a person (A) who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to A or a third person; and "prostitution" is to be interpreted accordingly.

(3) In subsection (2) and section 53A, "payment" means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount."

Commencement Information
I115 Sch. 4 para. 62 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(vi)**

63 In section 78 of that Act (meaning of "sexual"), for "except section 71" substitute " except sections 15A and 71 ".

Commencement Information
I116 Sch. 4 para. 63 in force at 3.4.2017 by S.I. 2017/511, **reg. 2(b)(i)**

64 (1) In section 136A of that Act (meaning of specified prostitution offence etc) subsection (2) is amended as follows.

(2) After paragraph (a) insert—

"(aa) an offence under section 48 of this Act committed by causing or inciting a child to be sexually exploited within the meaning given by section 51(2)(a);".

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2015. (See end of Document for details)*

(3) In paragraph (b), for "section 48 of this Act, or Article 38 of the Northern Ireland Order," substitute " Article 38 of the Northern Ireland Order ".

(4) After paragraph (b) insert—

"(ba) an offence under section 49 of this Act committed by controlling the activities of a child in relation to sexual exploitation within the meaning given by section 51(2)(a);".

(5) In paragraph (c), for "section 49 of this Act, or Article 39 of the Northern Ireland Order," substitute " Article 39 of the Northern Ireland Order ".

(6) After paragraph (c) insert—

"(ca) an offence under section 50 of this Act committed by arranging or facilitating the sexual exploitation, within the meaning given by section 51(2)(a), of a child;".

(7) In paragraph (d), for "section 50 of this Act, or Article 40 of the Northern Ireland Order," substitute " Article 40 of the Northern Ireland Order ".

Commencement Information

I117 Sch. 4 para. 64 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(vii)**

65 (1) Subsection (3) of that section is amended as follows.

(2) Before paragraph (a) insert—

"(za) an offence under section 48 of this Act committed by causing or inciting a child to be sexually exploited within the meaning given by section 51(2)(b);".

(3) In paragraph (a), for "section 48 of this Act, or Article 38 of the Northern Ireland Order," substitute " Article 38 of the Northern Ireland Order ".

(4) After paragraph (a) insert—

"(aa) an offence under section 49 of this Act committed by controlling the activities of a child in relation to sexual exploitation within the meaning given by section 51(2)(b);".

(5) In paragraph (b), for "section 49 of this Act, or Article 39 of the Northern Ireland Order," substitute " Article 39 of the Northern Ireland Order ".

(6) After paragraph (b) insert—

"(ba) an offence under section 50 of this Act committed by arranging or facilitating the sexual exploitation, within the meaning given by section 51(2)(b), of a child;".

(7) In paragraph (c), for "section 50 of this Act, or Article 40 of the Northern Ireland Order," substitute " Article 40 of the Northern Ireland Order ".

Commencement Information

I118 Sch. 4 para. 65 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(vii)**

66 (1) Schedule 3 to that Act (sexual offences for purposes of Part 2 (notification requirements etc)) is amended as follows.

(2) After paragraph 24 insert—

"24A An offence under section 15A of this Act (sexual communication with a child)."

(3) After paragraph 35B insert—

"35C An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual) if the offender—

(a) was 18 or over, or

(b) is sentenced in respect of the offence to imprisonment for a term of at least 12 months."

(4) After paragraph 92X insert—

"92Y An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual) if the offender—

(a) was 18 or over, or

(b) is sentenced in respect of the offence to imprisonment for a term of at least 12 months."

Commencement Information

I119 Sch. 4 para. 66(1)(3) in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(viii)**

I120 Sch. 4 para. 66(2) in force at 3.4.2017 by S.I. 2017/511, **reg. 2(b)(ii)**

I121 Sch. 4 para. 66(4) in force for N.I. at 3.5.2015 by S.R. 2015/190, **reg. 2**

Criminal Justice Act 2003 (c. 44)

67 In Schedule 3 to the Criminal Justice Act 2003 omit paragraph 75(3) (which is spent as a result of the amendment made by section 9(1)).

Commencement Information

I122 Sch. 4 para. 67 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(viii)**

68 (1) Schedule 15 to that Act (specified offences for purposes of Chapter 5 of Part 12) is amended as follows.

(2) After paragraph 116 insert—

"116A An offence under section 15A of that Act (sexual communication with a child)."

(3) In paragraph 136, for "child prostitution or pornography" substitute " sexual exploitation of a child ".

(4) In paragraph 137, for "prostitute or a child involved in pornography" substitute " in relation to sexual exploitation ".

(5) In paragraph 138, for "child prostitution or pornography" substitute " sexual exploitation of a child ".

Commencement Information

I123 Sch. 4 para. 68(1)(3)-(5) in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(ix)**

I124 Sch. 4 para. 68(2) in force at 3.4.2017 by S.I. 2017/511, **reg. 2(b)(iii)**

[F8]69 . . . . . .

Textual Amendments

F8 Sch. 4 para. 69 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

70 (1) Schedule 34A to that Act (child sex offences for purposes of section 327A) is amended as follows.

(2) In paragraph 7(b), for "15" substitute " 15A ".

(3) In paragraph 7(e), for "abuse of children through prostitution and pornography" substitute " sexual exploitation of children ".

(4) After paragraph 13A insert—

"13B An offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual)."

Commencement Information

I125 Sch. 4 para. 70(1)(3)(4) in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xi)**

I126 Sch. 4 para. 70(2) in force at 3.4.2017 by S.I. 2017/511, **reg. 2(b)(iv)**

Serious Organised Crime and Police Act 2005 (c. 15)

71 In the Serious Organised Crime and Police Act 2005 omit sections 79 to 81 (financial reporting orders).

Commencement Information

I127 Sch. 4 para. 71 in force at 1.3.2016 by S.I. 2016/148, **reg. 3(g)**

72 In section 175 of that Act (penalties for offences: transitional modification for England and Wales), in the table in subsection (3) omit the entry for section 79(10)(a)(i).

Commencement Information

I128 Sch. 4 para. 72 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xii)**

73 (1) Section 179 of that Act (extent etc) is amended as follows.

(2) In subsection (3)(b), for "79" substitute " 82. "

(3) In subsection (4)(a) omit "77 and".

(4) In subsection (5)(b), for "79" substitute " 82 ".

(5) In subsection (6) omit paragraph (b).

Commencement Information
I129 Sch. 4 para. 73(1)(5) in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xiii)**
I130 Sch. 4 para. 73(2)-(4) in force at 1.3.2016 by S.I. 2016/148, **reg. 3(g)**

Terrorism Act 2006 (c. 11)

74 In section 17 of the Terrorism Act 2006 (commission of offences abroad), in subsection (2)(a)—

(a) omit "or 6";

(b) omit ", instruction or training".

Armed Forces Act 2006 (c. 52)

75 In Schedule 2 to the Armed Forces Act 2006 (which lists serious offences the possible commission of which, if suspected, must be referred to a service police force), in paragraph 12—

(a) after paragraph (ak) insert—

"(aka) an offence under section 3ZA of the Computer Misuse Act 1990 (unauthorised acts causing, or creating risk of, serious damage);";

(b) at the end insert—

"(ax) an offence under section 69 of the Serious Crime Act 2015 (possession of paedophile manual)."

Commencement Information
I131 Sch. 4 para. 75 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xiv)**

Serious Crime Act 2007 (c. 27)

76 In section 9 of the Serious Crime Act 2007 (right of third parties to make representations), in subsection (4), for "or 21" substitute " , 21 or 22E ".

Commencement Information
I132 Sch. 4 para. 76 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xv)**

77 In section 16 of that Act (duration of orders), at the end insert—

"(7) Subsections (2) and (4)(b) have effect subject to section 22E."

Commencement Information
I133 Sch. 4 para. 77 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xv)**

78 (1) Section 19 of that Act (orders by Crown Court on conviction) is amended as follows.

(2) After subsection (2) insert—

"(2A) A court that makes an order by virtue of subsection (2) in the case of a person who is already the subject of a serious crime prevention order in England and Wales must discharge the existing order."

(3) After subsection (4) insert—

"(4A) A court that makes an order by virtue of subsection (4) in the case of a person who is already the subject of a serious crime prevention order in Northern Ireland must discharge the existing order."

Commencement Information

I134 Sch. 4 para. 78 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xv)**

79 In section 21 of that Act (powers of Crown Court to vary orders on breach), in the heading, after "**vary**" insert " **or replace** ".

Commencement Information

I135 Sch. 4 para. 79 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xv)**

80 In section 36 of that Act (proceedings in the Crown Court), in subsection (1), for "or 21" substitute " , 21 or 22E ".

Commencement Information

I136 Sch. 4 para. 80 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xv)**

81 (1) Schedule 1 to that Act (serious offences) is amended as follows.

(2) In Part 1 (serious offences in England and Wales), in paragraph 4 (prostitution and child sex), in sub-paragraph (2)—

(a) in paragraph (b), for "child prostitution or pornography" substitute " sexual exploitation of a child ";

(b) in paragraph (c), for "prostitute or a child involved in pornography" substitute " in relation to sexual exploitation ";

(c) in paragraph (d), for "child prostitution or pornography" substitute " sexual exploitation of a child ".

(3) In that Part, after paragraph 13 insert—

"Organised crime

13A An offence under section 45 of the Serious Crime Act 2015 (participating in activities of organised crime group)."

(4) In Part 2 (serious offences in Northern Ireland), for the heading before paragraph 19 substitute— " Firearms offences ".

Commencement Information
I137 Sch. 4 para. 81 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xvi)**

82 In Part 2 of Schedule 3 to that Act (offences under particular enactments: England and Wales), after paragraph 38 insert—

"Serious Crime Act 2015

38A An offence under section 45 of the Serious Crime Act 2015 (participating in activities of organised crime group)."

Commencement Information
I138 Sch. 4 para. 82 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xvii)**

Policing and Crime Act 2009 (c. 26)

83 In the Policing and Crime Act 2009, in the heading of Part 4, after "VIOLENCE" insert " AND DRUG-DEALING ACTIVITY ".

Commencement Information
I139 Sch. 4 para. 83 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(ix)**

84 In section 35 (contents of injunctions), in subsection (2)(e), after "violence" insert " or drug-dealing activity ".

Commencement Information
I140 Sch. 4 para. 84 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(ix)**

85 In section 49 (interpretation), at the appropriate place in subsection (1) insert—

""drug-dealing activity" has the meaning given by section 34(7);".

Commencement Information
I141 Sch. 4 para. 85 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(ix)**

Crime and Security Act 2010 (c. 17)

86 In the Crime and Security Act 2010 omit section 34 (which is spent as a result of the amendment made by section 51 above).

Commencement Information
I142 Sch. 4 para. 86 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(ix)**

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

87 (1) Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended as follows.

(2) After paragraph 15 insert—

"Female genital mutilation protection orders

15A (1) Civil legal services provided in relation to female genital mutilation protection orders under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003.

Exclusions

Exclusions

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule."

(3) In the heading before paragraph 38, after "*violence*" insert " *and drug-dealing activity* ".

(4) In sub-paragraph (1) of that paragraph, after "violence" insert " and drug-dealing activity ".

Commencement Information

I143 Sch. 4 para. 87(1)(3)(4) in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(x)**

I144 Sch. 4 para. 87(2) in force at 17.7.2015 by S.I. 2015/1428, **art. 2(c)(iv)**

88 (1) Part 3 of that Schedule (advocacy: exclusion and exceptions) is amended as follows.

(2) In paragraph 6—

(a) omit "and" at the end of paragraph (c);

(b) at the end insert ", and

(e) proceedings for the variation or discharge of an order under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003."

(3) In paragraph 8—

(a) omit "and" at the end of paragraph (c);

(b) at the end insert ", and

(e) proceedings for the variation or discharge of an order under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003."

Commencement Information

I145 Sch. 4 para. 88 in force at 17.7.2015 by S.I. 2015/1428, **art. 2(c)(v)**

Prevention of Social Housing Fraud Act 2013 (c. 3)

89 In the Schedule to the Prevention of Social Housing Fraud Act 2013 (consequential amendments), omit paragraphs 14 and 22 (which are spent as a result of the amendments made by section 6 and paragraph 33 above).

Commencement Information

I146 Sch. 4 para. 89 in force at 1.6.2015 by S.I. 2015/820, **reg. 3(q)(xi)**

Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)

90 In section 116 of the Anti-social Behaviour, Crime and Policing Act 2014 (information about guests at hotels believed to be used for child sexual exploitation), in subsection (8)(a), for "prostitution and pornography" substitute " sexual exploitation ".

Commencement Information

I147 Sch. 4 para. 90 in force at 3.5.2015 by S.I. 2015/820, **reg. 2(r)(xviii)**

Changes to legislation:
There are currently no known outstanding effects for the Serious Crime Act 2015.