



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 2

PREVENTION, INVESTIGATION AND PROSECUTION OF CRIME

CHAPTER 1

FUNCTIONS RELATING TO SERIOUS VIOLENCE

Functions relating to serious violence

8 Duties to collaborate and plan to prevent and reduce serious violence

- (1) The specified authorities for a local government area must collaborate with each other to prevent and reduce serious violence in the area.
- (2) The duty imposed on the specified authorities for a local government area by subsection (1) includes a duty to plan together to exercise their functions so as to prevent and reduce serious violence in the area.
- (3) In particular, the specified authorities for a local government area must—
 - (a) identify the kinds of serious violence that occur in the area,
 - (b) identify the causes of serious violence in the area, so far as it is possible to do so, and
 - (c) prepare and implement a strategy for exercising their functions to prevent and reduce serious violence in the area.
- (4) In preparing a strategy under this section for a local government area, the specified authorities for the area must ensure that the following are consulted—
 - (a) each educational authority for the area;

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- (b) each prison authority for the area;
 - (c) each youth custody authority for the area.
- (5) A strategy under this section for a local government area may specify an action to be carried out by—
- (a) an educational authority for the area,
 - (b) a prison authority for the area, or
 - (c) a youth custody authority for the area.
- See section 15 for further provision about the duties of such authorities in relation to such actions.
- (6) In preparing a strategy under this section for a local government area, the specified authorities for the area may invite participation from—
- (a) in the case of a strategy for a local government area in England, a person of a description for the time being prescribed by order of the Secretary of State under section 5(3) of the Crime and Disorder Act 1998;
 - (b) in the case of a strategy for a local government area in Wales, a person of a description for the time being prescribed by order of the Welsh Ministers under section 5(3) of that Act.
- (7) Once a strategy has been prepared under this section for a local government area, the specified authorities for the area must—
- (a) publish the strategy,
 - (b) keep the strategy under review, and
 - (c) from time to time prepare and implement a revised strategy.
- (8) A strategy under this section must not include any material that the specified authorities consider—
- (a) might jeopardise the safety of any person,
 - (b) might prejudice the prevention or detection of crime or the investigation or prosecution of an offence, or
 - (c) might compromise the security of, or good order or discipline within, an institution of a kind mentioned in the first column of a table in Schedule 2.
- (9) A strategy under this section may cover an area that is wider than a local government area if it is also prepared in the exercise of the powers in section 9.
- (10) The Secretary of State may by regulations make further provision for or in connection with the publication and dissemination of a strategy under this section.
- (11) References in subsections (4) to (10) to a strategy under this section include a revised strategy.
- (12) This section does not affect any power of a specified authority to collaborate or plan apart from this section.
- (13) For provisions about the interpretation of this section, see—
- (a) section 11 and Schedule 1 (specified authorities and local government areas);
 - (b) section 12 and Schedule 2 (educational, prison and youth custody authorities);
 - (c) section 13 (preventing and reducing serious violence).

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9 Powers to collaborate and plan to prevent and reduce serious violence

- (1) Two or more specified authorities may collaborate with each other to prevent and reduce serious violence in a relevant area.
- (2) The power conferred on specified authorities by subsection (1) includes a power to plan together to exercise their functions so as to prevent and reduce serious violence in a relevant area.
- (3) In particular, the specified authorities may—
 - (a) identify the kinds of serious violence that occur in a relevant area,
 - (b) identify the causes of serious violence in the area, and
 - (c) prepare and implement a strategy for exercising their functions to prevent and reduce serious violence in the area.
- (4) In preparing a strategy under this section for a relevant area, the specified authorities preparing the strategy must ensure that the following are consulted—
 - (a) every other specified authority for the area;
 - (b) each educational authority for the area;
 - (c) each prison authority for the area;
 - (d) each youth custody authority for the area.
- (5) A strategy under this section for a relevant area may specify actions to be carried out by—
 - (a) an educational authority for the area,
 - (b) a prison authority for the area, or
 - (c) a youth custody authority for the area.

See section 15 for further provision about the duties of such authorities in relation to such actions.

- (6) In preparing a strategy under this section for a relevant area, the specified authorities for the area may invite participation from—
 - (a) in the case of a strategy for a relevant area in England, an eligible person for the time being prescribed by order of the Secretary of State under section 5(3) of the Crime and Disorder Act 1998;
 - (b) in the case of a strategy for a relevant area in Wales, an eligible person for the time being prescribed by order of the Welsh Ministers under section 5(3) of that Act;
 - (c) in the case of a strategy for a relevant area partly in England and partly in Wales, an eligible person for the time being prescribed by order of the Secretary of State or the Welsh Ministers under section 5(3) of that Act.
- (7) For the purposes of subsection (6), an eligible person is—
 - (a) where a person is prescribed in terms of a description which includes a connection to a local government area, a person of that description with such a connection to a local government area all or part of which coincides with or falls within the relevant area, or
 - (b) a person prescribed in terms that do not refer to a connection with a local government area.

In this subsection “local government area” has the same meaning as in section 5 of the Crime and Disorder Act 1998 (see subsection (4) of that section).

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- (8) Once a strategy has been prepared under this section for a relevant area, the specified authorities for the area—
- (a) must publish the strategy,
 - (b) may keep the strategy under review, and
 - (c) may from time to time prepare and implement a revised strategy.
- (9) A strategy under this section must not include any material that the specified authorities consider—
- (a) might jeopardise the safety of any person,
 - (b) might prejudice the prevention or detection of crime or the investigation or prosecution of an offence, or
 - (c) might compromise the security of, or good order or discipline within, an institution of a kind mentioned in the first column of a table in Schedule 2.
- (10) The Secretary of State may by regulations make further provision for or in connection with the publication and dissemination of a strategy under this section.
- (11) References in subsections (4) to (10) to a strategy under this section include a revised strategy.
- (12) This section does not affect any power of a specified authority to collaborate or plan apart from this section.
- (13) In this Chapter “relevant area”, in relation to a specified authority, educational authority, prison authority or youth custody authority means an area made up of—
- (a) all or part of a local government area for which it is a specified authority, educational authority, prison authority or youth custody authority, and
 - (b) all or part of one or more other local government areas (regardless of whether, in the case of a specified authority or educational authority, it is also a specified authority or educational authority for the other area or areas).
- (14) For further provisions about the interpretation of this section, see—
- (a) section 11 and Schedule 1 (specified authorities and local government areas);
 - (b) section 12 and Schedule 2 (educational, prison and youth custody authorities);
 - (c) section 13 (preventing and reducing serious violence).

10 Power to authorise collaboration etc. with other persons

- (1) The Secretary of State may by regulations—
- (a) confer powers on a specified authority to collaborate with a prescribed person to prevent and reduce serious violence in a prescribed area;
 - (b) confer powers on a prescribed person to collaborate with a specified authority to prevent and reduce serious violence in a prescribed area.
- (2) The Secretary of State may by regulations authorise the disclosure of information—
- (a) by a prescribed person to any person listed in subsection (3) for the purposes of preventing and reducing serious violence in a prescribed area;
 - (b) by any person listed in subsection (3) to a prescribed person for such purposes.
- (3) Those persons are—
- (a) a specified authority;
 - (b) a local policing body;

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- (c) an educational authority;
 - (d) a prison authority;
 - (e) a youth custody authority.
- (4) Regulations under subsection (2) may provide that a disclosure under the regulations does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (5) But if regulations under subsection (2) contain provision under subsection (4)(b), they must provide that they do not authorise a disclosure of information that—
- (a) would contravene the data protection legislation (but in determining whether a disclosure would do so, any power conferred by the regulations is to be taken into account), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (6) Regulations under subsection (2) must not authorise—
- (a) the disclosure of patient information, or
 - (b) the disclosure of personal information by a specified authority which is a health or social care authority.
- (7) This section does not affect any power to collaborate or to disclose information apart from regulations under this section.
- (8) In this section, “prescribed” means prescribed, or of a description prescribed, in regulations under this section.
- (9) Regulations under this section may, in particular, prescribe persons by reference to the fact that they have been invited under section 8(6) or 9(6) to participate in the preparation of a strategy under section 8 or 9.
- (10) In this Chapter—
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 - “health or social care authority” means a specified authority which is listed in the first column of the table headed “Health and social care” in Schedule 1;
 - “patient information” means personal information (however recorded) which relates to—
 - (a) the physical or mental health or condition of an individual,
 - (b) the diagnosis of an individual’s condition, or
 - (c) an individual’s care or treatment,or is (to any extent) derived directly or indirectly from information relating to any of those matters;
 - “personal information” means information which is in a form that identifies any individual or enables any individual to be identified (either by itself or in combination with other information).

11 Specified authorities and local government areas

- (1) In this Chapter “specified authority” means a person listed in the first column of a table in Schedule 1.

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- (2) Subsection (3) applies to a specified authority listed in Schedule 1 in terms that refer to the exercise of particular functions or to a particular capacity that it has.
- (3) References in this Chapter to the authority’s functions are to those functions or its functions when acting in that capacity.
- (4) In this Chapter “local government area” means—
 - (a) in relation to England, a district, a London borough, the City of London or the Isles of Scilly;
 - (b) in relation to Wales, a county or county borough.
- (5) For the purposes of this Chapter the Inner Temple and the Middle Temple form part of the City of London.
- (6) For the purposes of this Chapter a specified authority listed in a table in Schedule 1 is an authority for the local government area or (as the case may be) each local government area listed in the corresponding entry in the second column of the table.
- (7) The Secretary of State may by regulations amend Schedule 1 by adding, modifying or removing a reference to a specified authority or a local government area.

12 Educational, prison and youth custody authorities

- (1) In this Chapter—
 - “educational authority” means a person listed in the first column of the first table in Schedule 2;
 - “prison authority” means a person listed in the first column of the second table in Schedule 2;
 - “youth custody authority” means a person listed in the first column of the third table in Schedule 2.
- (2) For the purposes of this Chapter an educational authority, prison authority or a youth custody authority listed in a table in Schedule 2 is an authority for the local government area or (as the case may be) each local government area listed in the corresponding entry in the second column of the table.
- (3) The Secretary of State may by regulations amend Schedule 2 by adding, modifying or removing an entry in a table in that Schedule.

13 Preventing and reducing serious violence

- (1) In this Chapter—
 - (a) references to preventing serious violence in an area are to preventing people from becoming involved in serious violence in the area, and
 - (b) references to reducing serious violence in an area are to reducing instances of serious violence in the area.
- (2) The reference in subsection (1)(a) to becoming involved in serious violence includes becoming a victim of serious violence.
- (3) In this Chapter “violence”—
 - (a) includes, in particular—

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- (i) domestic abuse within the meaning of the Domestic Abuse Act 2021 (see section 1 of that Act),
 - (ii) sexual offences,
 - (iii) violence against property, and
 - (iv) threats of violence;
 - (b) does not include terrorism (within the meaning of the Terrorism Act 2000 (see section 1(1) to (4) of that Act)).
- (4) In subsection (3)(a)(ii), “sexual offence” means an offence under the law of England and Wales which is for the time being specified in Schedule 3 to the Sexual Offences Act 2003, other than the offence specified in paragraph 14 of that Schedule (fraudulent evasion of excise duty).
- (5) In determining for the purposes of subsection (4) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.
- (6) In considering whether violence in an area amounts to serious violence for the purposes of this Chapter, account must be taken in particular of the following factors—
- (a) the maximum penalty which could be imposed for the offence (if any) involved in the violence,
 - (b) the impact of the violence on any victim,
 - (c) the prevalence of the violence in the area, and
 - (d) the impact of the violence on the community in the area.

Exercise of functions

14 Involvement of local policing bodies

- (1) A local policing body for a police area may assist a specified authority in the exercise of—
- (a) the authority’s functions under or in accordance with section 8 in relation to a local government area which coincides with or falls within the police area, or
 - (b) the authority’s functions under or in accordance with section 9 in relation to a relevant area which, or any part of which, coincides with or falls within the police area.
- (2) A local policing body for a police area may—
- (a) monitor the exercise by specified authorities of their functions under or in accordance with section 8 in relation to a local government area which coincides with or falls within the police area, or
 - (b) monitor the exercise by specified authorities of their functions under or in accordance with section 9 in relation to a relevant area which, or any part of which, coincides with or falls within the police area.
- (3) A local policing body may report its findings under subsection (2) to the Secretary of State.
- (4) The Secretary of State may by regulations make provision conferring functions on a local policing body for a police area for the purposes of subsection (1).

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- (5) Provision under subsection (4) may include provision—
 - (a) for a local policing body to provide funding to a specified authority,
 - (b) for a local policing body to arrange for meetings to be held for the purpose of assisting the exercise by specified authorities of their functions under or in accordance with section 8 or 9,
 - (c) for the local policing body or a representative of the body to chair the meetings, and
 - (d) for such descriptions and numbers of persons as the local policing body may specify to be required to attend the meetings.
- (6) If a local policing body acts under subsection (1) or (2), or under regulations under subsection (4), in relation to the exercise by a specified authority of its functions under or in accordance with section 8 or 9, the authority must co-operate with the body.
- (7) References in this Chapter (however expressed) to a specified authority exercising functions in accordance with section 8 or 9 are to the authority exercising functions conferred on it apart from this Chapter in accordance with the section in question.

15 Involvement of educational, prison and youth custody authorities

- (1) An educational, prison or youth custody authority (a “relevant authority”) for a local government area and a specified authority for that area may collaborate with each other to prevent and reduce serious violence in that area.
- (2) A relevant authority for a relevant area and a specified authority for that area may collaborate with each other to prevent and reduce serious violence in that area.
- (3) A relevant authority and a specified authority must collaborate with each other as mentioned in subsection (1) or (2) if either the relevant authority or the specified authority requests the other to do so.
- (4) A relevant authority must carry out any actions which are specified under section 8(5) or 9(5) as actions to be carried out by the authority.
- (5) A relevant authority for a local government area—
 - (a) may collaborate with another relevant authority for that area to prevent and reduce serious violence in that area, and
 - (b) must collaborate with another relevant authority for that area for those purposes if requested by that other relevant authority to do so.
- (6) A relevant authority (“RA1”) may collaborate with another relevant authority (“RA2”) to prevent and reduce serious violence in an area which is made up of—
 - (a) all or part of the local government area for which RA1 is a relevant authority, and
 - (b) all or part of the local government area for which RA2 is a relevant authority.
- (7) A relevant authority is not subject to a duty in subsection (3), (4) or (5)(b), and a specified authority is not subject to a duty in subsection (3), if or to the extent that compliance with the duty—
 - (a) would be incompatible with any other duty of the authority imposed by an enactment (other than subsection (5)(b)),
 - (b) would otherwise have an adverse effect on the exercise of the authority’s functions,

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- (c) would be disproportionate to the need to prevent and reduce serious violence in the area to which the duty relates, or
 - (d) would mean that the authority incurred unreasonable costs.
- (8) In determining whether subsection (7) applies to an authority, the cumulative effect of complying with duties under this section must be taken into account.
- (9) Subsection (7) or (8) does not apply in relation to the duty of a relevant authority to collaborate with a specified authority under subsection (3) to the extent that it relates to—
- (a) the exercise by the specified authority of its function under subsection (3)(a) or (b) of section 8 of identifying the kinds or causes of serious violence in an area or its function of preparing a strategy under subsection (3)(c) of that section, or
 - (b) the exercise by the specified authority of its function under subsection (3)(a) or (b) of section 9 of identifying the kinds or causes of serious violence in an area or its function of preparing a strategy under subsection (3)(c) of that section.
- (10) This section does not affect any power to collaborate apart from this section.
- (11) In this section “enactment” includes—
- (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978, and
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru.

16 Disclosure of information

- (1) A person listed in subsection (2) may disclose information that it holds for the purposes of its functions to another person listed in that subsection for the purposes of the exercise by the other person of its functions under or in accordance with this Chapter.
- (2) Those persons are—
- (a) a specified authority;
 - (b) a local policing body;
 - (c) an educational authority;
 - (d) a prison authority;
 - (e) a youth custody authority.
- (3) A disclosure of information authorised by this section does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4) But this section does not authorise—
- (a) the disclosure of patient information,
 - (b) the disclosure of personal information by a specified authority which is a health or social care authority,
 - (c) a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by this section is to be taken into account), or

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- (d) a disclosure of information that is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (5) Subsection (6) applies if—
 - (a) a disclosure of information under this section is also permitted by regulations under section 6(2) of the Crime and Disorder Act 1998 or by section 115 of that Act (but is not also a disclosure under section 17A of that Act), and
 - (b) a condition or limitation applies to a disclosure under those regulations or section 115 of that Act by virtue of such regulations.
- (6) The condition or limitation does not apply to the disclosure of information under this section.
- (7) This section does not otherwise affect any power to disclose information apart from this section.

17 Supply of information to local policing bodies

- (1) A local policing body may, for the purposes of enabling or assisting it to exercise its functions under section 14 in relation to an area, request any person listed in subsection (2) to supply it with such information as may be specified in the request.
- (2) Those persons are—
 - (a) a specified authority for that area;
 - (b) an educational authority for that area;
 - (c) a prison authority for that area;
 - (d) a youth custody authority for that area.
- (3) Information requested under subsection (1) must be information that is held by the person to whom the request is made and that relates to—
 - (a) the person to whom the request was made,
 - (b) a function of the person to whom the request was made, or
 - (c) a person in respect of whom a function is exercisable by the person requested to supply the information.
- (4) Subject to subsection (6), a person who is requested to supply information under subsection (1) must comply with the request.
- (5) A disclosure of information required by subsection (4) does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (6) But subsection (4) does not require—
 - (a) the disclosure of patient information,
 - (b) the disclosure of personal information by a specified authority which is a health or social care authority,
 - (c) a disclosure of information that would contravene the data protection legislation (but in determining whether a disclosure would do so, the duty imposed by that subsection is to be taken into account), or
 - (d) a disclosure of information that is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

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- (7) Information supplied to a local policing body under this section may be used by the body only for the purpose of enabling or assisting it to exercise its functions under section 14.

18 Directions

- (1) Subsection (2) applies if the Secretary of State is satisfied that—
- (a) a specified authority has failed to discharge a duty imposed on it by section 8, 14(6), 15(3) or 17(4), or
 - (b) an educational authority, prison authority or youth custody authority has failed to discharge a duty imposed on it by section 15(3), (4) or (5)(b) or 17(4).
- (2) The Secretary of State may give directions to the authority for the purpose of securing compliance with the duty.
- (3) A direction under subsection (2) may be enforced, on an application made on behalf of the Secretary of State, by a mandatory order.
- (4) The Secretary of State must obtain the consent of the Welsh Ministers before giving a direction under this section to a devolved Welsh authority within the meaning of the Government of Wales Act 2006 (see section 157A of that Act).
- (5) This section does not apply in relation to—
- (a) a provider of probation services if that provider is the Secretary of State,
 - (b) the governor of a prison, young offender institution or secure training centre, or
 - (c) the principal of a directly managed secure college as defined in paragraph 27 of Schedule 10 to the Criminal Justice and Courts Act 2015.

19 Guidance

- (1) A person listed in subsection (2) must have regard to guidance issued by the Secretary of State—
- (a) in exercising any function conferred by or by virtue of this Chapter, or
 - (b) in exercising any function in accordance with this Chapter.
- (2) Those persons are—
- (a) a specified authority;
 - (b) a person prescribed in regulations under section 10;
 - (c) a local policing body;
 - (d) an educational authority;
 - (e) a prison authority;
 - (f) a youth custody authority.
- (3) The Secretary of State must consult the Welsh Ministers before issuing guidance relating to the exercise of functions as mentioned in subsection (1) by a devolved Welsh authority within the meaning of the Government of Wales Act 2006 (see section 157A of that Act).
- (4) After issuing guidance under this section, the Secretary of State must lay a copy of the guidance before Parliament.

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Amendments to the Crime and Disorder Act 1998 etc

20 Amendments to the Crime and Disorder Act 1998

- (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 5A (combination agreements: further provision)—
 - (a) in subsection (2), after paragraph (c) insert—
 - “(d) preventing people from becoming involved in serious violence;
 - (e) reducing instances of serious violence.”, and
 - (b) after subsection (9) insert—
 - “(10) References in this section to serious violence and to becoming involved in serious violence are to be construed in accordance with section 18.”
- (3) Section 6 (formulation and implementation of strategies) is amended in accordance with subsections (4) to (7).
- (4) In subsection (1), at the end of paragraph (c) insert “; and
 - (d) a strategy for—
 - (i) preventing people from becoming involved in serious violence in the area, and
 - (ii) reducing instances of serious violence in the area.”
- (5) In subsection (6)—
 - (a) omit the “or” at the end of paragraph (a), and
 - (b) after paragraph (b) insert—
 - “(c) the prevention of people becoming involved in serious violence of a particular description; or
 - (d) the reduction of instances of serious violence of a particular description.”
- (6) In subsection (9), at the end of paragraph (a) insert “and strategies for preventing people from becoming involved in and reducing instances of serious violence in areas in Wales”.
- (7) After subsection (9) insert—
 - “(10) The Secretary of State must consult the Welsh Ministers before making regulations under this section if and to extent that the regulations—
 - (a) relate to a strategy within subsection (1)(d), and
 - (b) make provision that applies in relation to a devolved Welsh authority within the meaning of the Government of Wales Act 2006 (see section 157A of that Act).
 - (11) References in this section to serious violence and to becoming involved in serious violence are to be construed in accordance with section 18.”
- (8) Section 17 (duty to consider crime and disorder implications) is amended in accordance with subsections (9) to (11).
- (9) In subsection (1), at the end of paragraph (c) insert “; and

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(d) serious violence in its area.”

(10) After subsection (1) insert—

“(1A) The duty imposed on an authority by subsection (1) to do all it reasonably can to prevent serious violence in its area is a duty on the authority to do all it reasonably can to—

- (a) prevent people from becoming involved in serious violence in its area, and
- (b) reduce instances of serious violence in its area.”

(11) After subsection (5) insert—

“(6) References in this section to serious violence and to becoming involved in serious violence are to be construed in accordance with section 18.”

(12) In section 18 (interpretation of Chapter 1)—

(a) in subsection (1), at the appropriate place insert—

““violence”—

(a) includes, in particular—

- (i) domestic abuse within the meaning of the Domestic Abuse Act 2021 (see section 1 of that Act),
- (ii) sexual offences,
- (iii) violence against property, and
- (iv) threats of violence;

(b) does not include terrorism (within the meaning of the Terrorism Act 2000 (see section 1(1) to (4) of that Act)).”, and

(b) after that subsection insert—

“(1A) In the definition of “violence” in subsection (1) “sexual offence” means an offence under the law of England and Wales which is for the time being specified in Schedule 3 to the Sexual Offences Act 2003, other than the offence specified in paragraph 14 of that Schedule (fraudulent evasion of excise duty).

(1B) In determining for the purposes of subsection (1A) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.

(1C) References in this Chapter to becoming involved in serious violence include becoming a victim of serious violence.

(1D) In considering whether violence in an area amounts to serious violence for the purposes of this Chapter account must be taken in particular of the following factors—

- (a) the maximum penalty which could be imposed for the offence (if any) involved in the violence,
- (b) the impact of the violence on any victim,
- (c) the prevalence of the violence in the area, and
- (d) the impact of the violence on the community in the area.”

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21 Amendment to the Police and Justice Act 2006

In section 19(11) of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters: interpretation), in the definition of “local crime and disorder matter”—

- (a) omit the “or” at the end of paragraph (a), and
- (b) at the end of paragraph (b) insert “or
- (c) serious violence (within the meaning of Chapter 1 of Part 1 of the Crime and Disorder Act 1998),”.

General

22 Regulations

- (1) Regulations under this Chapter are to be made by statutory instrument.
- (2) Regulations under this Chapter—
 - (a) may make different provision for different purposes or areas;
 - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (3) The Secretary of State must consult the Welsh Ministers before making regulations under this Chapter if and to extent that the regulations make provision that applies in relation to a devolved Welsh authority within the meaning of the Government of Wales Act 2006 (see section 157A of that Act).
- (4) A statutory instrument containing regulations under this Chapter may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Subsection (4) does not apply to a statutory instrument containing only one or more of the following—
 - (a) regulations under section 8(10);
 - (b) regulations under section 9(10);
 - (c) regulations under section 11(7) which make provision for the removal of an entry in Schedule 1 where the authority concerned has ceased to exist;
 - (d) regulations under section 11(7) which make provision for the modification of an entry in Schedule 1 in consequence of a change of name or transfer of functions;
 - (e) regulations under section 12(3) which make provision for the removal of an entry in Schedule 2 where the authority concerned has ceased to exist;
 - (f) regulations under section 12(3) which make provision for the modification of an entry in Schedule 2 in consequence of a change of name or transfer of functions;
 - (g) regulations under section 14(4).
- (6) A statutory instrument within subsection (5) is subject to annulment in pursuance of a resolution of either House of Parliament.

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23 Index of defined expressions

In this Chapter an expression listed in the first column of the table has the meaning given by, or is to be interpreted in accordance with, the corresponding provision listed in the second column.

<i>Expression</i>	<i>Provision</i>
the data protection legislation	section 10(10)
educational authority	section 12(1) and Schedule 2
educational authority for a local government area	section 12(2) and Schedule 2
educational authority for a relevant area	section 9(13)
health or social care authority	section 10(9)
local government area	section 11(4)
patient information	section 10(9)
personal information	section 10(9)
preventing serious violence	section 13(1) and (2)
prison authority	section 12(1) and Schedule 2
prison authority for a local government area	section 12(2) and Schedule 2
prison authority for a relevant area	section 9(13)
reducing serious violence	section 13(1)
relevant area	section 9(13)
serious violence	section 13(6)
specified authority	section 11(1) and Schedule 1
specified authority for a local government area	section 11(6) and Schedule 1
specified authority for a relevant area	section 9(13)
violence	section 13(3)
youth custody authority	section 12(1) and Schedule 2
youth custody authority for a local government area	section 12(2) and Schedule 2
youth custody authority for a relevant area	section 9(13)

CHAPTER 2

OFFENSIVE WEAPONS HOMICIDE REVIEWS

24 Duty to arrange a review

- (1) Where a review partner considers that—
 - (a) the death of a person was, or is likely to have been, a qualifying homicide,
 - (b) the death occurred, or is likely to have occurred, in England or Wales,
 - (c) such other conditions as the Secretary of State may specify by regulations are satisfied, including, for example, conditions relating to—
 - (i) the circumstances of or relating to the death,
 - (ii) the circumstances or history of the person who died, or
 - (iii) the circumstances or history of other persons with a connection to the death, and
 - (d) the review partner is one of the relevant review partners in respect of the death (see section 25),

the review partner must join with the other relevant review partners in respect of the death in arranging for there to be a review under this section of the person’s death.
- (2) Subsection (1) is subject to subsections (3) to (5) and section 26.
- (3) If the review partner considers, on further information, that any of the conditions mentioned in subsection (1)(a) to (c) is not satisfied in the case of the person’s death, the review partner ceases to be under a duty to arrange for there to be a review under this section of the death (and a review may accordingly be discontinued).
- (4) If the review partner considers, on further information, that the condition mentioned in subsection (1)(d) is not satisfied in the case of the person’s death, the review partner ceases to be under a duty to arrange for there to be a review under this section of the death, except where such a review of the death has already started to take place under arrangements made by the review partner and other review partners.
- (5) Subsection (1) does not require a review partner to arrange for there to be a review under this section of a person’s death if such a review of the death has already taken place, or started to take place, under arrangements made by other review partners.
- (6) For the purposes of this section, the homicide of a person is a qualifying homicide if—
 - (a) the person was aged 18 or over, and
 - (b) the death, or the events surrounding it, involved the use of an offensive weapon.
- (7) The Secretary of State may by regulations—
 - (a) amend this section so as to alter the meaning of “qualifying homicide”, and
 - (b) make such consequential amendments of this Chapter as appear to the Secretary of State to be appropriate.
- (8) In this section “offensive weapon” has the same meaning as in section 1 of the Prevention of Crime Act 1953.

25 Relevant review partners

- (1) The Secretary of State may by regulations make provision for identifying which review partners are to be the relevant review partners in respect of a person's death.
- (2) The regulations may provide that the relevant review partners in respect of a person's death are—
 - (a) a chief officer of police for a police area in England or Wales of a description specified in the regulations,
 - (b) a local authority of a description specified in the regulations or, in a case of a description specified in the regulations, a county council and a district council of a description specified in the regulations, and
 - (c) a clinical commissioning group or a local health board of a description specified in the regulations.
- (3) The regulations may, in particular, provide that, in a case of a description specified in the regulations, the relevant review partners in respect of a person's death are—
 - (a) the chief officer of police for the police area in England or Wales in which the death occurred or is likely to have occurred,
 - (b) the local authority in whose area the death occurred or is likely to have occurred or, if the death occurred or is likely to have occurred within the area of a district council whose area is within the area of a county council, both of those local authorities, and
 - (c) the clinical commissioning group or the local health board in whose area the death occurred or is likely to have occurred.
- (4) The regulations may include provision for identifying the relevant review partners in respect of a person's death by reference to other matters, including—
 - (a) the last known place of residence of the person who died;
 - (b) an earlier place of residence of the person who died;
 - (c) the place of residence of the person who caused or is likely to have caused, or of any of the persons who caused or are likely to have caused, the person's death;
 - (d) the police area in England or Wales of the police force that is investigating or has investigated the person's death.
- (5) The regulations may—
 - (a) provide for a group of review partners to agree with another group of review partners to be the relevant review partners in respect of a person's death instead of that other group;
 - (b) provide for review partners of a description specified in the regulations to agree between them which of them is a relevant review partner in respect of a person's death;
 - (c) provide for the Secretary of State to give a direction specifying which review partners are the relevant review partners in respect of a person's death.

26 Relationship with other review requirements

- (1) The duty in section 24(1) does not apply in relation to a death if—
 - (a) a child death review must or may be arranged in relation to the death (see section 16M(1) and (2) of the Children Act 2004),

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- (b) the death may be the subject of a domestic homicide review (see section 9 of the Domestic Violence, Crime and Victims Act 2004), or
 - (c) a safeguarding adults review must or may be established in relation to the death (see section 44(1) and (4) of the Care Act 2014).
- (2) The Secretary of State may by regulations make provision about the duty in section 24(1) not applying in the case of a death which may or must be investigated under arrangements made by NHS bodies with respect to deaths caused by persons who are receiving or have received any health services relating to mental health.
- (3) The duty in section 24(1) does not apply in relation to a death if regulations under section 135(4)(a) of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#) require a Safeguarding Board to undertake a review of the death.
- (4) The Secretary of State may by regulations make provision about the duty in section 24(1) not applying in the case of a death, caused by a person who is receiving or has received any health services relating to mental health, where there may be a review of, or investigation into, the provision of that health care under section 70 of the Health and Social Care (Community Health and Standards) Act 2003.

27 Notification of Secretary of State

- (1) If a review partner becomes aware of qualifying circumstances in relation to a person's death, the review partner must notify the Secretary of State before the end of the notification period of one of the following—
- (a) that the review partner is under a duty to arrange for there to be a review under section 24 of the person's death,
 - (b) that the review partner is not under that duty in respect of the death, or
 - (c) that the review partner has not been able to take a decision on the matter.
- (2) Subsection (1) does not apply if, when the review partner becomes aware of qualifying circumstances in relation to a person's death, the review partner is also aware that no duty in section 24(1) arises in respect of the death because of section 24(5) or 26.
- (3) If a review partner gives a notification under subsection (1)(c), the review partner must notify the Secretary of State of the review partner's decision on the matter once it has been taken.
- (4) Where a review partner—
- (a) notifies the Secretary of State that the review partner is under a duty to arrange a review under section 24 of a death, but
 - (b) before the review starts to take place, decides that the review partner is not under that duty in respect of that death (see section 24(3) and (4)),
- the review partner must notify the Secretary of State of that decision.
- (5) Where a review under section 24 of a death is discontinued because the review partner considers that a condition mentioned in section 24(1)(a) to (c) is not satisfied in relation to the death (see section 24(3)), the review partner must notify the Secretary of State.
- (6) Where a review partner—
- (a) notifies the Secretary of State that the review partner is not under a duty to arrange a review under section 24 of a death, but
 - (b) afterwards decides that the review partner is under that duty in respect of that death,

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the review partner must notify the Secretary of State of that decision.

- (7) For the purposes of this section, a review partner becomes aware of qualifying circumstances in relation to a person's death if the review partner becomes aware of such facts as make it likely that—
- (a) the conditions mentioned in section 24(1)(a) and (b) are satisfied in relation to the death, and
 - (b) the review partner is one of the relevant review partners in respect of the death.
- (8) In this section “the notification period”, in relation to notification by a review partner, means the period of one month beginning with the day on which the review partner becomes aware of qualifying circumstances in relation to the death in question.

28 Conduct of review

- (1) Where a review under section 24 of a person's death takes place, the review partners that arranged it must co-operate in and contribute to the carrying out of the review.
- (2) The purposes of a review under section 24 are—
- (a) to identify the lessons to be learnt from the death, and
 - (b) to consider whether it would be appropriate for anyone to take action in respect of those lessons learned.
- (3) Where the review partners consider that it would be appropriate for a person to take action as mentioned in subsection (2)(b), they must inform that person.
- (4) The review partners must prepare a report on the review and send it to the Secretary of State.
- (5) The report must include—
- (a) the findings of the review,
 - (b) any conclusions drawn by the review partners, and
 - (c) recommendations made in light of those findings and conclusions (including those referred to in subsection (3)).
- (6) The review partners must not include in the report sent to the Secretary of State material that they consider—
- (a) might jeopardise the safety of any person, or
 - (b) might prejudice the investigation or prosecution of an offence.
- (7) The Secretary of State must publish, or make arrangements for the publication of, the report, unless the Secretary of State considers it inappropriate for the report to be published.
- (8) If the Secretary of State considers it inappropriate for the report to be published, the Secretary of State must publish, or make arrangements for the publication of, so much of the contents of the report as the Secretary of State considers appropriate to be published.

29 Information

- (1) A review partner may request a person to provide information specified in the request to the review partner or another review partner.

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- (2) A review partner may make a request to a person under this section only if the conditions in subsections (3) and (4) are satisfied.
- (3) The condition in this subsection is that the request is made for the purpose of enabling or assisting the performance of functions conferred on a review partner by sections 24 to 28.
- (4) The condition in this subsection is that the request is made to a person whose functions or activities are considered by the review partner to be such that the person is likely to have information that would enable or assist the performance of functions conferred on a review partner by sections 24 to 28.
- (5) The person to whom a request under this section is made must comply with the request.
- (6) The review partner that made the request may enforce the duty under subsection (5) against the person by making an application to the High Court or the county court for an injunction.
- (7) A review partner may provide information to another review partner for the purpose of enabling or assisting the performance of functions under sections 24 to 28.

30 Information: supplementary

- (1) A person may not be required under section 29 to disclose information that the person could not be compelled to disclose in proceedings before the High Court.
- (2) A disclosure of information required or authorised by sections 27 to 29 does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (3) But sections 27 to 29 do not require or authorise a disclosure of information that—
 - (a) would contravene the data protection legislation (but in determining whether a disclosure would do so, the duty imposed or power conferred by the section in question is to be taken into account), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4) Sections 27 to 29 do not affect any duty or power to disclose information apart from those sections.
- (5) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

31 Delegating functions

- (1) The Secretary of State may by regulations make provision enabling the relevant review partners in respect of a person’s death to act jointly to appoint—
 - (a) one of themselves, or
 - (b) another person,
 to carry out on their behalf, in relation to the person’s death, one or more of the functions specified in the regulations.

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- (2) Regulations under subsection (1) may specify some or all of the functions of a review partner under section 28 or 29 relating to a review under section 24 or a report on the review.
- (3) The Secretary of State may by regulations make provision enabling—
 - (a) a county council, and
 - (b) a district council for an area that is within the area of the county council,to agree that one of them carry out on behalf of the other one or more of the functions specified in the regulations.
- (4) Regulations under subsection (3) may specify some or all of the functions of a review partner under sections 24 to 29.

32 Guidance

- (1) Review partners must have regard to any guidance issued by the Secretary of State in connection with functions conferred on them under sections 24 to 31.
- (2) Before issuing guidance under this section, the Secretary of State must consult—
 - (a) persons appearing to the Secretary of State to represent review partners,
 - (b) the Welsh Ministers, so far as the proposed guidance relates to a devolved Welsh authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (3) After issuing guidance under this section, the Secretary of State must lay a copy of the guidance before Parliament.

33 Power to pay grant: local health boards

Section 31(2) to (5) of the Local Government Act 2003 (power of the Secretary of State to pay grant to local authorities in Wales) applies in relation to local health boards in Wales and expenditure incurred or to be incurred by those local health boards in the exercise of their functions under this Chapter as it applies in relation to local authorities in Wales and expenditure incurred or to be incurred by those local authorities.

34 Piloting

- (1) The Secretary of State may exercise the power in section 208(1) so as to bring sections 24 to 30, 32 and 33 into force—
 - (a) for all purposes, and
 - (b) in relation to the whole of England and Wales,only if the conditions in subsections (2) and (3) are met.
- (2) The condition in this subsection is that regulations under section 208(1) have brought some or all of sections 24 to 30, 32 and 33 into force only—
 - (a) for one or more specified purposes, or
 - (b) in relation to one or more specified areas.
- (3) The condition in this subsection is that the Secretary of State has laid before Parliament a report on the operation of some or all of the provisions of sections 24 to 31—
 - (a) for one or more of those purposes, or

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- (b) in relation to one or more of those areas.
- (4) Regulations under section 208(1) which bring any provision of sections 24 to 30, 32 and 33 into force only for a specified purpose or in relation to a specified area may—
 - (a) provide for that provision to be in force for that purpose or in relation to that area for a specified period;
 - (b) make transitional or saving provision in connection with that provision ceasing to be in force at the end of the specified period.
- (5) Regulations containing provision by virtue of subsection (4)(a) may be amended by subsequent regulations under section 208(1) so as to continue any provision of sections 24 to 30, 32 and 33 in force—
 - (a) for the specified purpose, or
 - (b) in relation to the specified area,
 for a further specified period.
- (6) In this section “specified” means specified in regulations under section 208(1).

35 Regulations

- (1) Regulations under this Chapter are to be made by statutory instrument.
- (2) Regulations under this Chapter—
 - (a) may make different provision for different purposes and different provision for different areas;
 - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (3) A statutory instrument containing regulations under this Chapter may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing only regulations under section 26(2) or (4).
- (5) A statutory instrument within subsection (4) is subject to annulment in pursuance of a resolution of either House of Parliament.

36 Interpretation

- (1) In this Chapter—
 - “clinical commissioning group” means a clinical commissioning group established under section 14D of the National Health Service Act 2006;
 - “devolved Welsh authority” has the meaning given in section 157A of the Government of Wales Act 2006;
 - “local authority” means—
 - (a) in relation to England—
 - (i) a county council,
 - (ii) a district council,
 - (iii) a London borough council,
 - (iv) the Common Council of the City of London in its capacity as a local authority, or

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- (v) the Council of the Isles of Scilly;
 - (b) in relation to Wales—
 - (i) a county council, or
 - (ii) a county borough council;
- “local health board” means a local health board established under section 11 of the National Health Service (Wales) Act 2006;
- “NHS body” has the same meaning as in the National Health Service Act 2006 (see section 275 of that Act);
- “review partner” means—
- (a) a chief officer of police for a police area in England or Wales,
 - (b) a local authority,
 - (c) a clinical commissioning group, or
 - (d) a local health board;
- “relevant review partner” has the meaning given by section 25.
- (2) The Secretary of State may by regulations—
- (a) amend the definition of “review partner”, and
 - (b) make such consequential amendments of this Chapter as appear to the Secretary of State to be appropriate.
- (3) Before making regulations under subsection (2), the Secretary of State must consult—
- (a) such persons as appear to the Secretary of State to represent review partners,
 - (b) the Welsh Ministers, so far as the proposed regulations relate to a devolved Welsh authority, and
 - (c) such other persons as the Secretary of State considers appropriate.

CHAPTER 3

EXTRACTION OF INFORMATION FROM ELECTRONIC DEVICES

37 Extraction of information from electronic devices: investigations of crime etc

- (1) An authorised person may extract information stored on an electronic device from that device if—
- (a) a user of the device has voluntarily provided the device to an authorised person, and
 - (b) that user has agreed to the extraction of information from the device by an authorised person.
- (2) The power in subsection (1) may be exercised only for the purposes of—
- (a) preventing, detecting, investigating or prosecuting crime,
 - (b) helping to locate a missing person, or
 - (c) protecting a child or an at-risk adult from neglect or physical, mental or emotional harm.
- (3) The reference in subsection (2) to crime is a reference to—
- (a) conduct which constitutes one or more criminal offences in any part of the United Kingdom, or

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- (b) conduct which, if it took place in any part of the United Kingdom, would constitute one or more criminal offences.
- (4) For the purposes of subsection (2) an adult is an at-risk adult if the authorised person reasonably believes that the adult—
- (a) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
 - (b) is unable to protect themselves against the neglect or harm or the risk of it.
- (5) An authorised person may exercise the power in subsection (1) only if—
- (a) in a case where the authorised person proposes to exercise the power for a purpose within subsection (2)(a), the authorised person reasonably believes that information stored on the electronic device is relevant to a reasonable line of enquiry which is being, or is to be, pursued by an authorised person,
 - (b) in a case where the authorised person proposes to exercise the power for a purpose within subsection (2)(b) or (c), the authorised person reasonably believes that information stored on the electronic device is relevant to that purpose, and
 - (c) in any case, the authorised person is satisfied that exercise of the power is necessary and proportionate to achieve the purpose within subsection (2) for which the person proposes to exercise the power.
- (6) Subsection (7) applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than—
- (a) information necessary for a purpose within subsection (2) for which the authorised person may exercise the power, or
 - (b) information necessary for a purpose within subsection (2) of section 41 (investigations of death) for which the authorised person may exercise the power in subsection (1) of that section.
- (7) The authorised person must, to be satisfied that the exercise of the power in subsection (1) is proportionate, be satisfied that—
- (a) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (b) there are such other means, but it is not reasonably practicable to use them.
- (8) Subsection (9) applies if the authorised person thinks that, in exercising the power in subsection (1), there is a risk of obtaining confidential information.
- (9) The authorised person must, to be satisfied that the exercise of the power is proportionate—
- (a) have regard to the matters in subsection (10), and
 - (b) be satisfied that—
 - (i) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (ii) there are such other means, but it is not reasonably practicable to use them.
- (10) The matters referred to in subsection (9)(a) are—
- (a) the amount of confidential information likely to be stored on the device, and
 - (b) the potential relevance of the confidential information to—

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- (i) a purpose within subsection (2) for which the authorised person may exercise the power, or
 - (ii) a purpose within subsection (2) of section 41 for which the authorised person may exercise the power in subsection (1) of that section.
- (11) An authorised person must have regard to the code of practice for the time being in force under section 42 in exercising, or deciding whether to exercise, the power in subsection (1).
- (12) This section does not affect any power relating to the extraction or production of information, or any power to seize any item or obtain any information, conferred by an enactment or rule of law.
- (13) In this Chapter—
 - “adult” means a person aged 18 or over;
 - “authorised person” has the meaning given by subsection (1) of section 44 (subject to subsections (2) and (3) of that section);
 - “child” means a person aged under 18;
 - “confidential information” has the meaning given by section 43;
 - “criminal offence” includes—
 - (a) a service offence within the meaning of the Armed Forces Act 2006, and
 - (b) an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059);
 - “electronic device” means any device on which information is capable of being stored electronically and includes any component of such a device;
 - “enactment” includes—
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (c) an enactment contained in, or in an instrument made under, an Act or Measure of Senedd Cymru, and
 - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
 - “information” includes moving or still images and sounds;
 - “user”, in relation to an electronic device, means a person who ordinarily uses the device.
- (14) References in this Chapter to the extraction of information include its reproduction in any form.
- (15) This section is subject to sections 38 (children, and adults without capacity), 39 (requirements for voluntary provision and agreement) and 40 (persons who have died etc).

38 Application of section 37 to children and adults without capacity

- (1) A child is not to be treated for the purposes of section 37(1) as being capable of—
 - (a) voluntarily providing an electronic device to an authorised person for those purposes, or

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- (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (2) If a child is a user of an electronic device, a person who is not a user of the device but is listed in subsection (3) may—
 - (a) voluntarily provide the device to an authorised person for the purposes of section 37(1), and
 - (b) agree for those purposes to the extraction of information from the device by an authorised person.
- (3) The persons mentioned in subsection (2) are—
 - (a) a parent or guardian of the child or, if the child is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation, or
 - (b) if no person within paragraph (a) is available, any responsible person who is aged 18 or over other than a relevant authorised person.
- (4) Before exercising the power under section 37(1) by virtue of subsection (2), an authorised person must, so far as it is reasonably practicable to do so—
 - (a) ascertain the views of the child, and
 - (b) have regard to any views so ascertained, taking account of the child’s age and maturity.
- (5) If an authorised person (“A”) exercises the power under section 37(1) as a result of action taken under subsection (2) by a person within subsection (3)(b), A must, unless A considers that it is not appropriate to do so, inform a person within subsection (3)(a) that A has exercised the power.
- (6) An adult without capacity is not to be treated for the purposes of section 37(1) as being capable of—
 - (a) voluntarily providing an electronic device to an authorised person for those purposes, or
 - (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (7) If a user of an electronic device is an adult without capacity, a person who is not a user of the device but is listed in subsection (8) may—
 - (a) voluntarily provide the device to an authorised person for the purposes of section 37(1), and
 - (b) agree for those purposes to the extraction of information from the device by an authorised person.
- (8) The persons mentioned in subsection (7) are—
 - (a) a parent or guardian of the adult without capacity or, if the adult without capacity is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation,
 - (b) a registered social worker,
 - (c) a person who, under a power of attorney, may make decisions for the purposes of subsection (7)(a) and (b) on behalf of the adult without capacity,
 - (d) a deputy appointed under section 16 of the Mental Capacity Act 2005 or section 113 of the Mental Capacity Act (Northern Ireland) 2016 who may make decisions for the purposes of subsection (7)(a) and (b) on behalf of the adult without capacity by virtue of that appointment,

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- (e) a person authorised under an intervention order under section 53 of the Adults with Incapacity (Scotland) Act 2000 ([asp 4](#)) who may make decisions for the purposes of subsection (7)(a) and (b) on behalf of the adult without capacity by virtue of that authorisation, or
 - (f) if no person within any of paragraphs (a) to (e) is available, any responsible person who is aged 18 or over other than a relevant authorised person.
- (9) Nothing in this section prevents any other user of an electronic device who is not a child or an adult without capacity from—
- (a) voluntarily providing the device to an authorised person for the purposes of section 37(1), or
 - (b) agreeing for those purposes to the extraction of information from the device by an authorised person.
- (10) For the purposes of this Chapter a person is an adult without capacity if—
- (a) in relation to England and Wales, the person is an adult who, within the meaning of the Mental Capacity Act 2005, lacks capacity to do the things mentioned in section 37(1)(a) and (b);
 - (b) in relation to Scotland, the person is an adult (within the meaning of this Chapter) who is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000 in relation to the matters mentioned in section 37(1)(a) and (b);
 - (c) in relation to Northern Ireland, the person is an adult who, within the meaning of the Mental Capacity Act (Northern Ireland) 2016, lacks capacity to do the things mentioned in section 37(1)(a) and (b).
- (11) In this Chapter—
- “local authority”—
 - (a) in relation to England, means a county council, a district council for an area for which there is no county council, a London borough council or the Common Council of the City of London in its capacity as a local authority;
 - (b) in relation to Wales, means a county council or a county borough council;
 - (c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;
 - “registered social worker” means a person registered as a social worker in a register maintained by—
 - (a) Social Work England,
 - (b) the Care Council for Wales,
 - (c) the Scottish Social Services Council, or
 - (d) the Northern Ireland Social Care Council;
 - “relevant authorised person”, in relation to the extraction of information from an electronic device for a particular purpose, means an authorised person who may extract the information from the device for that purpose;
 - “relevant authority”—
 - (a) in relation to England and Wales and Scotland, means a local authority;
 - (b) in relation to Northern Ireland, means an authority within the meaning of the Children (Northern Ireland) Order 1995 ([S.I. 1995/755 \(N.I. 2\)](#));
 - “voluntary organisation”—

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

- (a) in relation to England and Wales, has the same meaning as in the Children Act 1989;
- (b) in relation to Scotland, has the same meaning as in Part 2 of the Children (Scotland) Act 1995;
- (c) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995.

(12) This section is subject to section 39 (requirements for voluntary provision and agreement).

39 Requirements for voluntary provision and agreement

- (1) A person (“P”) is to be treated for the purposes of section 37 or 38 as having—
 - (a) voluntarily provided an electronic device to an authorised person, and
 - (b) agreed to the extraction of information from the device by an authorised person,
 only if the requirements of this section have been met.
- (2) An authorised person must not have placed undue pressure on P to provide the device or agree to the extraction of information from it.
- (3) An authorised person must have given P notice in writing—
 - (a) specifying or describing the information that is sought,
 - (b) specifying the reason why the information is sought,
 - (c) specifying how the information will be dealt with once it has been extracted,
 - (d) stating that P may refuse to provide the device or agree to the extraction of information from it, and
 - (e) stating that the investigation or enquiry for the purposes of which the information is sought will not be brought to an end merely because P refuses to provide the device or agree to the extraction of information from it.
- (4) Subject to subsection (5), P must have confirmed in writing that P has—
 - (a) voluntarily provided the device to an authorised person, and
 - (b) agreed to the extraction of information from the device by an authorised person.
- (5) If P was unable to provide that confirmation in writing as a result of P’s physical impairment or lack of literacy skills—
 - (a) P must have given that confirmation orally, and
 - (b) an authorised person must have recorded P’s confirmation in writing.
- (6) If P’s confirmation was given in writing and in hard copy form, the authorised person must have given P a copy of that confirmation (in hard copy or electronic form).
- (7) If P’s confirmation was given orally, the authorised person must have given P a copy of the record of that confirmation (in hard copy or electronic form).

40 Application of section 37 where user has died etc

- (1) If any of conditions A to C is met, an authorised person may exercise the power in section 37(1) to extract information stored on an electronic device from that device even though—

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

- (a) the device has not been voluntarily provided to an authorised person by a user of the device, or
 - (b) no user of the device has agreed to the extraction of information from the device by an authorised person.
- (2) Condition A is that—
- (a) a person who was a user of the electronic device has died, and
 - (b) the person was a user of the device immediately before their death.
- (3) Condition B is that—
- (a) a user of the electronic device is a child or an adult without capacity, and
 - (b) an authorised person reasonably believes that the user’s life is at risk or there is a risk of serious harm to the user.
- (4) Condition C is that—
- (a) a person who was a user of the electronic device is missing,
 - (b) the person was a user of the device immediately before they went missing, and
 - (c) an authorised person reasonably believes that the person’s life is at risk or there is a risk of serious harm to the person.
- (5) The exercise of the power in subsection (1) of section 37 by virtue of this section is subject to that section.

41 Extraction of information from electronic devices: investigations of death

- (1) An authorised person may extract information stored on an electronic device from that device if—
- (a) a person who was a user of the electronic device has died, and
 - (b) the person was a user of the device immediately before their death.
- (2) The power in subsection (1) may be exercised only for the purposes of—
- (a) an investigation into the person’s death under Chapter 1 of Part 1 of the Coroners and Justice Act 2009,
 - (b) an inquest into the person’s death under the Coroners Act (Northern Ireland) 1959, or
 - (c) an investigation into the person’s death by the Lord Advocate.
- (3) References in subsection (2) to the exercise of the power in subsection (1) for the purposes of an investigation or inquest include references to the exercise of that power for the purposes of determining whether an investigation should be conducted or an inquest should be held.
- (4) An authorised person may exercise the power in subsection (1) only if—
- (a) the authorised person reasonably believes that information stored on the electronic device is relevant to a purpose within subsection (2), and
 - (b) the authorised person is satisfied that exercise of the power is necessary and proportionate to achieve that purpose.
- (5) Subsection (6) applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than—
- (a) information necessary for a purpose within subsection (2), or
 - (b) information necessary for a purpose within section 37(2).

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

- (6) The authorised person must, to be satisfied that the exercise of the power is proportionate, be satisfied that—
 - (a) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (b) there are such other means, but it is not reasonably practicable to use them.
- (7) Subsection (8) applies if the authorised person thinks that, in exercising the power in subsection (1), there is a risk of obtaining confidential information.
- (8) The authorised person must, to be satisfied that the exercise of the power is proportionate—
 - (a) have regard to the matters in subsection (9), and
 - (b) be satisfied that—
 - (i) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (ii) there are such other means, but it is not reasonably practicable to use them.
- (9) The matters referred to in subsection (8)(a) are—
 - (a) the amount of confidential information likely to be stored on the device, and
 - (b) the potential relevance of the confidential information to a purpose within subsection (2) or section 37(2).
- (10) An authorised person must have regard to the code of practice for the time being in force under section 42 in exercising, or deciding whether to exercise, the power in subsection (1).
- (11) This section does not affect any power relating to the extraction or production of information, or any power to seize any item or obtain any information, conferred by an enactment or rule of law.

42 Code of practice about the extraction of information

- (1) The Secretary of State must prepare a code of practice containing guidance about the exercise of the powers in sections 37(1) and 41(1).
- (2) The code may make different provision for different purposes or areas.
- (3) In preparing the code, the Secretary of State must consult—
 - (a) the Information Commissioner,
 - (b) the Scottish Ministers,
 - (c) the Department of Justice in Northern Ireland,
 - (d) the Commissioner for Victims and Witnesses,
 - (e) the Domestic Abuse Commissioner,
 - (f) the Commission for Victims and Survivors for Northern Ireland, and
 - (g) such other persons as the Secretary of State considers appropriate.
- (4) Subsection (3)(f) does not apply on or after the day appointed under Article 4(4) of the Victims and Survivors (Northern Ireland) Order 2006 (S.I. 2006/2953 (N.I. 17)) (power to revoke Article 4).

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- (5) After preparing the code, the Secretary of State must lay it before Parliament and publish it.
- (6) The code is to be brought into force by regulations made by statutory instrument.
- (7) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) After the code has come into force the Secretary of State may from time to time revise it.
- (9) A failure on the part of an authorised person to act in accordance with the code does not of itself render the person liable to any criminal or civil proceedings.
- (10) But the code is admissible in evidence in criminal or civil proceedings and a court may take into account a failure to act in accordance with it in determining a question in the proceedings.
- (11) References in subsections (2) to (10) to the code include a revised code, subject to subsection (12).
- (12) The duty to consult in subsection (3) does not apply in relation to the preparation of a revised code if the Secretary of State considers that the proposed revisions are insubstantial.

43 Confidential information

- (1) In this Chapter “confidential information” means information which constitutes or may constitute—
 - (a) confidential journalistic material within the meaning of the Investigatory Powers Act 2016 (see section 264(6) and (7) of that Act), or
 - (b) protected material.
- (2) In subsection (1)(b) “protected material”—
 - (a) in relation to England and Wales means—
 - (i) items subject to legal privilege, within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act),
 - (ii) material falling within section 11(1)(a) of that Act (certain personal records held in confidence), or
 - (iii) material to which section 14(2) of that Act applies (other material acquired in the course of a trade etc that is held in confidence);
 - (b) in relation to Scotland means—
 - (i) items in respect of which a claim to confidentiality of communications could be maintained in legal proceedings, or
 - (ii) other material of a kind mentioned in paragraph (a)(ii) or (iii) of this subsection;
 - (c) in relation to Northern Ireland, means—
 - (i) items subject to legal privilege, within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order),
 - (ii) material falling with Article 13(1)(a) of that Order (certain personal records held in confidence), or

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

(iii) material to which Article 16(2) of that Order applies (other material acquired in the course of a trade etc that is held in confidence).

44 Authorised persons

- (1) Subject to subsections (2) and (3), in this Chapter “authorised person” means a person listed in Schedule 3.
- (2) The power in subsection (1) of section 37 may be exercised for a purpose mentioned in subsection (2)(b) or (c) of that section only by a person listed in Part 1 or 2 of Schedule 3.
- (3) The power in section 41(1) may be exercised only by a person listed in Part 1 of Schedule 3.
- (4) The Secretary of State may by regulations made by statutory instrument amend Schedule 3—
 - (a) so as to add a reference to a person;
 - (b) so as to remove a reference to a person;
 - (c) so as to modify a description of a person mentioned in that Schedule.
- (5) Regulations under subsection (4) may contain transitional, transitory or saving provision.
- (6) The Secretary of State must consult the Scottish Ministers before making regulations under subsection (4) if and so far as the regulations make provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament.
- (7) The Secretary of State must consult the Department of Justice in Northern Ireland before making regulations under subsection (4) if and so far as the regulations make provision that, if it were contained in an Act of the Northern Ireland Assembly—
 - (a) would be within the legislative competence of that Assembly, and
 - (b) would not require the consent of the Secretary of State.
- (8) Subject to subsection (9), a statutory instrument containing regulations under subsection (4)(a) (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) Subsection (8) does not apply to a statutory instrument containing regulations which—
 - (a) remove a reference to a person from Part 1 of Schedule 3 and add a reference to that person to Part 2 or 3 of that Schedule, or
 - (b) remove a reference to a person from Part 2 of that Schedule and add a reference to that person to Part 3 of that Schedule.
- (10) A statutory instrument containing—
 - (a) regulations under subsection (4)(a) to which subsection (9) applies, or
 - (b) regulations under subsection (4)(b) or (c),
 and which is not a statutory instrument to which subsection (8) applies is subject to annulment in pursuance of a resolution of either House of Parliament.

CHAPTER 4

OTHER PROVISIONS

Pre-charge bail

45 Pre-charge bail

- (1) Schedule 4 contains amendments relating to pre-charge bail.
- (2) In that Schedule—
 - (a) Part 1 makes provision relating to the grant of pre-charge bail,
 - (b) Part 2 makes provision about the factors to be taken into account in determining whether to grant pre-charge bail,
 - (c) Part 3 makes provision requiring the views of alleged victims to be sought in relation to the grant or variation of pre-charge bail subject to conditions,
 - (d) Part 4 makes provision relating to limits on periods of pre-charge bail,
 - (e) Part 5 makes provision about the determination of a period of police detention following a person’s arrest for breach of pre-charge bail, and
 - (f) Part 6 makes provision for guidance about pre-charge bail.
- (3) An amendment made by Schedule 4—
 - (a) applies in relation to a person arrested for an offence only if the person was arrested for the offence after the coming into force of that amendment,
 - (b) applies in relation to a person arrested under section 46A of the Police and Criminal Evidence Act 1984 (failure to answer to police bail etc) only if the person was arrested after the coming into force of that amendment for the offence for which the person was originally released on bail, and
 - (c) applies in relation to a person arrested under section 24A of the Criminal Justice Act 2003 (failure to comply with conditional caution) only if the person was arrested after the coming into force of that amendment for the offence in respect of which the caution was given.

Sexual offences

46 Arranging or facilitating commission of a child sex offence

- (1) Section 14 of the Sexual Offences Act 2003 (arranging or facilitating commission of a child sex offence) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1), in paragraph (b), for “9” substitute “5”.
- (3) In subsection (4), for paragraphs (a) and (b) substitute “to the penalty to which the person would be liable on conviction of the offence within subsection (1)(b)”.

47 Positions of trust

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) After section 22 insert—

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

“22A Further positions of trust

- (1) For the purposes of sections 16 to 19, a person (A) is in a position of trust in relation to another person (B) if—
 - (a) A coaches, teaches, trains, supervises or instructs B, on a regular basis, in a sport or a religion, and
 - (b) A knows that they coach, teach, train, supervise or instruct B, on a regular basis, in that sport or religion.
 - (2) In subsection (1)—

“sport” includes—

 - (a) any game in which physical skill is the predominant factor, and
 - (b) any form of physical recreation which is also engaged in for purposes of competition or display;

“religion” includes—

 - (a) a religion which involves belief in more than one god, and
 - (b) a religion which does not involve belief in a god.
 - (3) This section does not apply where a person (A) is in a position of trust in relation to another person (B) by virtue of circumstances within section 21.
 - (4) The Secretary of State may by regulations amend subsections (1) and (2) to add or remove an activity in which a person may be coached, taught, trained, supervised or instructed.”
- (3) In section 138(2) (orders and regulations) after “section 21,” insert “22A,”.

48 Voyeurism: breast-feeding

- (1) Section 67A of the Sexual Offences Act 2003 (voyeurism: additional offences) is amended as follows.
- (2) After subsection (2) insert—

“(2A) A person (A) commits an offence if—

 - (a) A operates equipment,
 - (b) A does so with the intention of enabling A or another person (C), for a purpose mentioned in subsection (3), to observe another (B) while B is breast-feeding a child, and
 - (c) A does so—
 - (i) without B’s consent, and
 - (ii) without reasonably believing that B consents.

“(2B) A person (A) commits an offence if—

 - (a) A records an image of another (B) while B is breast-feeding a child,
 - (b) A does so with the intention that A or another person (C) will look at the image for a purpose mentioned in subsection (3), and
 - (c) A does so—
 - (i) without B’s consent, and
 - (ii) without reasonably believing that B consents.”

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

- (3) In subsection (3), for “and (2)” substitute “to (2B)”.
- (4) After subsection (3) insert—
- “(3A) In this section a reference to B breast-feeding a child includes B re-arranging B’s clothing—
- (a) in the course of preparing to breast-feed the child, or
 - (b) having just finished breast-feeding the child.
- (3B) It is irrelevant for the purposes of subsections (2A) and (2B)—
- (a) whether or not B is in a public place while B is breast-feeding the child,
 - (b) whether or not B’s breasts are exposed while B is breast-feeding the child, and
 - (c) what part of B’s body—
 - (i) is, or is intended by A to be, visible in the recorded image, or
 - (ii) is intended by A to be observed.”

Domestic abuse

49 Time limit for prosecution of common assault or battery in domestic abuse cases

After section 39 of the Criminal Justice Act 1988 insert—

“39A Time limit for prosecution of common assault or battery in domestic abuse cases

- (1) This section applies to proceedings for an offence of common assault or battery where—
- (a) the alleged behaviour of the accused amounts to domestic abuse, and
 - (b) the condition in subsection (2) or (3) is met.
- (2) The condition in this subsection is that—
- (a) the complainant has made a witness statement with a view to its possible admission as evidence in the proceedings, and
 - (b) the complainant has provided the statement to—
 - (i) a constable of a police force, or
 - (ii) a person authorised by a constable of a police force to receive the statement.
- (3) The condition in this subsection is that—
- (a) the complainant has been interviewed by—
 - (i) a constable of a police force, or
 - (ii) a person authorised by a constable of a police force to interview the complainant, and
 - (b) a video recording of the interview has been made with a view to its possible admission as the complainant’s evidence in chief in the proceedings.

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

- (4) Proceedings to which this section applies may be commenced at any time which is both—
- (a) within two years from the date of the offence to which the proceedings relate, and
 - (b) within six months from the first date on which either of the conditions in subsection (2) or (3) was met.
- (5) This section has effect despite section 127(1) of the Magistrates’ Court Act 1980 (limitation of time).
- (6) In this section—
- “domestic abuse” has the meaning given by section 1 of the Domestic Abuse Act 2021;
- “police force” has the meaning given by section 3(3) of the Prosecution of Offences Act 1985;
- “video recording” has the meaning given by section 63(1) of the Youth Justice and Criminal Evidence Act 1999;
- “witness statement” means a written statement that satisfies the conditions in section 9(2)(a) and (b) of the Criminal Justice Act 1967.
- (7) This section does not apply in relation to an offence committed before the coming into force of section 49 of the Police, Crime, Sentencing and Courts Act 2022.”

Criminal damage to memorials

50 Criminal damage to memorials: mode of trial

- (1) In Schedule 2 to the Magistrates’ Courts Act 1980 (offences for which the value involved is relevant to the mode of trial), in paragraph 1 (offences under section 1 of the Criminal Damage Act 1971), in the first column, for the words from “any offence” to the end substitute

“_

- (a) any offence committed by destroying or damaging property by fire, and
 - (b) any offence committed by destroying or damaging a memorial (see section 22(11A) to (11D)).”
-

- (2) In section 22 of that Act, after subsection (11) insert—

“(11A) In paragraph 1 of Schedule 2 “memorial” means—

- (a) a building or other structure, or any other thing, erected or installed on land (or in or on any building or other structure on land), or
 - (b) a garden or any other thing planted or grown on land,
- which has a commemorative purpose.

(11B) For the purposes of that paragraph, any moveable thing (such as a bunch of flowers) which—

- (a) is left in, on or at a memorial within the meaning of subsection (11A), and

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- (b) has (or can reasonably be assumed to have) a commemorative purpose,
is also to be regarded as a memorial.
- (11C) For the purposes of subsections (11A) and (11B)—
 - (a) references to a building or a structure include a reference to part of a building or part of a structure (as the case may be), and
 - (b) something has a commemorative purpose if at least one of its purposes is to commemorate—
 - (i) one or more individuals or animals (or a particular description of individuals or animals), or
 - (ii) an event or a series of events (such as an armed conflict).
- (11D) It is immaterial for the purposes of subsection (11C)(b)(i) whether or not any individuals or animals concerned are or were (at any material time)—
 - (a) living or deceased, or
 - (b) capable of being identified.”
- (3) The amendments made by this section do not apply in relation to offences committed before it comes into force.

Overseas production orders

51 Overseas production orders

Schedule 5 contains amendments to the Crime (Overseas Production Orders) Act 2019.

Amendments to the Police and Criminal Evidence Act 1984 etc

52 Power to photograph certain persons at a police station

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 64A (photographing of suspects etc.), after subsection (1B) insert—
 - “(1C) A person to whom subsection (1) or (1A) does not apply may be photographed at a police station without the appropriate consent if that person falls within subsection (1D), (1F) or (1H).
 - (1D) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—
 - (a) arrested for a recordable offence and released,
 - (b) charged with a recordable offence, or
 - (c) informed that they will be reported for such an offence,and either of the conditions in subsection (1E) is met in relation to that person.
 - (1E) The conditions referred to in subsection (1D) are—
 - (a) that the person has not been photographed in the course of the investigation of the offence by the police, or
 - (b) that the person has been so photographed but—

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- (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
- (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1F) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—

- (a) convicted of a recordable offence, or
- (b) given a caution in respect of a recordable offence which, at the time of the caution they have admitted,

and either of the conditions in subsection (1G) is met in relation to that person.

(1G) The conditions referred to in subsection (1F) are—

- (a) that the person has not been photographed since being convicted or cautioned, or
- (b) that the person has been so photographed but—
 - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
 - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1H) A person falls within this subsection if—

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not they have been punished for it),
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and
- (c) either of the conditions in subsection (1I) is met in relation to that person.

(1I) The conditions referred to in subsection (1H) are—

- (a) that the person has not been photographed on a previous occasion by virtue of being a person falling within subsection (1H), or
- (b) that the person has been so photographed but—
 - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and
 - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.

(1J) A person who falls within subsection (1F) or (1H) may be photographed under subsection (1C) only with the authorisation of an officer of at least the rank of inspector.

(1K) An officer may only give an authorisation under subsection (1J) if the officer is satisfied that taking the photograph is necessary to assist in the prevention or detection of crime.

(1L) In subsections (1E), (1G) and (1I)—

- (a) references to a photograph being unavailable include references to a photograph being lost or destroyed, and

- (b) references to a photograph being inadequate include references to a photograph being—
 - (i) unclear,
 - (ii) an incomplete photograph of the subject, or
 - (iii) no longer an accurate representation of the subject’s appearance.
- (1M) In subsections (1E), (1G), (1I) and (1K) references to crime include references to any conduct which—
 - (a) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or
 - (b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences.”
- (3) Schedule 2A (fingerprinting and samples: power to require attendance at police station) is amended in accordance with subsections (4) to (8).
- (4) In the heading of the Schedule, for “and samples” substitute “, samples and photographs”.
- (5) After Part 3 insert—

“PART 3A

PHOTOGRAPHS

Persons arrested and released

- 14A (1) A constable may require a person who falls within section 64A(1D)(a) to attend a police station to be photographed under section 64A(1C).
- (2) The power under sub-paragraph (1) may not be exercised in a case where section 64A(1E)(b) applies (photograph taken on a previous occasion unavailable or inadequate) after the end of the period of six months beginning with the day on which the appropriate officer was informed that section 64(1E)(b)(i) applied.
- (3) In sub-paragraph (2) the “appropriate officer” means the officer investigating the offence for which the person was arrested.

Persons charged etc.

- 14B (1) A constable may require a person who falls within section 64A(1D)(b) or (c) to attend a police station to be photographed under section 64A(1C).
- (2) The power under sub-paragraph (1) may not be exercised after the end of the period of six months beginning with—
 - (a) in a case where section 64A(1E)(a) applies (photograph not previously taken), the day on which the person was charged or informed that they would be reported, or

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- (b) in a case where section 64A(1E)(b) applies (photograph taken on a previous occasion unavailable or inadequate), the day on which the appropriate officer was informed that section 64A(1E)(b)(i) applied.
- (3) In sub-paragraph (2)(b) the “appropriate officer” means the officer investigating the offence for which the person was charged or informed that they would be reported.

Persons convicted of an offence etc. in England and Wales

- 14C (1) A constable may require a person who falls within section 64A(1F) to attend a police station to be photographed under section 64A(1C).
- (2) Where section 64A(1G)(a) applies (photographs not previously taken), the power under sub-paragraph (1) may not be exercised after the end of the period of two years beginning with—
- (a) the day on which the person was convicted or cautioned, or
 - (b) if later, the day on which this Part comes into force.
- (3) Where section 64A(1G)(b) applies (photograph taken on previous occasion unavailable or inadequate), the power under sub-paragraph (1) may not be exercised after the end of the period of two years beginning with—
- (a) the day on which an appropriate officer was informed that section 64A(1G)(b)(i) applied, or
 - (b) if later, the day on which this Part comes into force.
- (4) In sub-paragraph (3)(a), “appropriate officer” means an officer of the police force which investigated the offence in question.
- (5) Sub-paragraphs (2) and (3) do not apply where the offence is a qualifying offence (whether or not it was such an offence at the time of the conviction or caution).

Persons convicted of an offence etc. outside England and Wales

- 14D A constable may require a person falling within section 64A(1H) to attend at a police station to be photographed under section 64A(1C).

Multiple exercise of power

- 14E (1) Where a photograph is taken of a person under section 64A on two occasions in relation to any offence, the person may not under this Schedule be required to attend a police station to be photographed under that section in relation to that offence on a subsequent occasion without the authorisation of an officer of at least the rank of inspector.
- (2) Where an authorisation is given under sub-paragraph (1)—
- (a) the fact of the authorisation, and
 - (b) the reasons for giving it,
- must be recorded as soon as practicable after it has been given.”

- (6) In the italic heading before paragraph 15 (requirement to have power to take fingerprints or sample), for “or sample” substitute “, sample or photograph”.
- (7) In paragraph 15—
 - (a) for “or a sample” substitute “, a sample or a photograph”, and
 - (b) for “or sample”, in both places it occurs, substitute “, sample or photograph”.
- (8) In paragraph 16(2) (date and time of attendance), for “or sample” substitute “, sample or photograph”.

53 Power to specify date of attendance at police station for fingerprinting etc

- (1) Paragraph 16 of Schedule 2A to the Police and Criminal Evidence Act 1984 (attendance at police station for fingerprinting and taking of samples: date and time of attendance) is amended as follows.
- (2) For sub-paragraph (1) substitute—
 - “(1) A requirement under this Schedule—
 - (a) must direct the person to attend the police station on a specified date, and
 - (b) may either direct the person to attend the police station at a specified time on that date or direct the person to attend the police station between specified times on that date.”
- (3) In sub-paragraph (2), for “period or time or times of day” substitute “date, time or times”.
- (4) Omit sub-paragraphs (3) and (4).
- (5) In sub-paragraph (5), for “any period within which, or date or time at which,” substitute “any date, time at which or times between which”.
- (6) The amendments made by this section apply only in relation to a requirement to attend a police station given under Schedule 2A to the Police and Criminal Evidence Act 1984 after the coming into force of this section.

54 PACE etc powers for food crime officers

- (1) In the Police and Criminal Evidence Act 1984, after section 114B insert—

“114C Power to apply Act to food crime officers

- (1) The Secretary of State may by regulations apply any provision of this Act which relates to investigations of offences conducted by police officers to investigations of offences conducted by food crime officers.
- (2) The regulations may apply provisions of this Act with any modifications specified in the regulations.
- (3) In this section “food crime officer” means an officer of the Food Standards Agency who—
 - (a) is acting for the purposes of the performance by the Food Standards Agency of its functions under the Food Standards Act 1999 or any

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- other enactment (including functions relating to the investigation of offences), and
- (b) is authorised (whether generally or specifically) by the Secretary of State for the purposes of this section.
- (4) The investigations for the purposes of which provisions of this Act may be applied by regulations under this section include investigations of offences committed, or suspected of having been committed, before the coming into force of the regulations or of this section.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) Regulations under this section may make—
- (a) different provision for different purposes;
 - (b) provision which applies generally or for particular purposes;
 - (c) incidental, supplementary, consequential, transitional or transitory provision or savings.
- (7) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “enactment” includes—
- (a) an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978, and
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru.”
- (2) In the Criminal Justice and Public Order Act 1994, after section 39 insert—

“39A Power to apply sections 36 and 37 in relation to food crime officers

- (1) The Secretary of State may by regulations provide for any provision of section 36 or 37 that applies in relation to a constable to apply in relation to a food crime officer.
- (2) Regulations under subsection (1) may apply any provision of section 36 or 37 with any modifications specified in the regulations.
- (3) Regulations under subsection (1) may not apply a provision of section 36 or 37 in relation to a failure or refusal which occurred before the regulations come into force.
- (4) Regulations under subsection (1) are to be made by statutory instrument.
- (5) Regulations under subsection (1) may make—

 - (a) different provision for different purposes;
 - (b) provision which applies generally or for particular purposes;
 - (c) incidental, supplementary, consequential, transitional or transitory provision or savings.

- (6) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section “food crime officer” has the meaning given by section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers).”

(3) In the Food Standards Act 1999, after section 25 insert—

“25A Obstruction of food crime officers

- (1) A person commits an offence if the person—
- (a) intentionally obstructs a food crime officer who is acting in the exercise of functions conferred on the officer by virtue of section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers),
 - (b) fails without reasonable excuse to comply with any requirement made of the person by such a food crime officer who is so acting, or
 - (c) in purported compliance with such a requirement provides information which the person knows to be false or misleading in any material particular or recklessly provides information which is false or misleading in any material particular.

(2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine, or to both.

(3) In this section “food crime officer” has the meaning given by section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers).”

(4) In the Police Reform Act 2002—

- (a) in section 10 (general functions of the Director General)—
 - (i) in subsection (1), at the end of paragraph (ga) insert “; and
 - (gb) to carry out such corresponding functions in relation to officers of the Food Standards Agency acting in the exercise of functions conferred on them by virtue of—
 - (i) section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers), or
 - (ii) section 39A of the Criminal Justice and Public Order Act 1994 (powers for food crime officers: inferences from silence).”, and
 - (ii) in subsection (3), after paragraph (bd) insert—

“(be) any regulations under section 26E of this Act (food crime officers);”, and
- (b) after section 26D insert—

“26E Food crime officers

- (1) The Secretary of State may make regulations conferring functions on the Director General in relation to officers of the Food Standards

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Agency (the “Agency”) acting in the exercise of functions conferred on them by virtue of—

- (a) section 114C of the Police and Criminal Evidence Act 1984 (PACE powers for food crime officers), or
 - (b) section 39A of the Criminal Justice and Public Order Act 1994 (powers for food crime officers: inferences from silence).
- (2) Regulations under this section may, in particular—
- (a) apply (with or without modifications), or make provision similar to, any provision of or made under this Part;
 - (b) make provision for payment by the Agency to, or in respect of, the Office or in respect of the Director General.
- (3) The Director General and the Parliamentary Commissioner for Administration may jointly investigate a matter in relation to which—
- (a) the Director General has functions by virtue of this section, and
 - (b) the Parliamentary Commissioner for Administration has functions by virtue of the Parliamentary Commissioner Act 1967.
- (4) An officer of the Agency may disclose information to the Director General or to a person acting on the Director General’s behalf, for the purposes of the exercise by the Director General or by any person acting on the Director General’s behalf, of an Agency complaints function.
- (5) The Director General and the Parliamentary Commissioner for Administration may disclose information to each other for the purposes of the exercise of a function—
- (a) by virtue of this section, or
 - (b) under the Parliamentary Commissioner Act 1967.
- (6) Regulations under this section may, in particular, make—
- (a) further provision about the disclosure of information under subsection (4) or (5);
 - (b) provision about the further disclosure of information that has been so disclosed.
- (7) A disclosure of information authorised by this section does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (8) But this section does not authorise a disclosure of information that—
- (a) would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by this section is to be taken into account), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

- (9) In this section—
- “Agency complaints function” means a function in relation to the exercise of functions by officers of the Agency;
- “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”
- (5) The amendments made by subsections (1) to (3) and any regulations made under provision inserted by subsections (1) and (2) bind the Crown.
- (6) No contravention by the Crown of section 25A of the Food Standards Act 1999 (as inserted by subsection (3)) makes the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (7) That section applies to persons in the public service of the Crown as it applies to other persons.
- (8) If the Secretary of State certifies that it appears requisite or expedient in the interests of national security that any powers of entry conferred by regulations made under provision inserted by subsection (1) should not be exercisable in relation to any Crown premises specified in the certificate, those powers shall not be exercisable in relation to those premises.
- (9) In this section “Crown premises” means premises held or used by or on behalf of the Crown.
- (10) Nothing in this section affects Her Majesty in her private capacity; and this subsection is to be interpreted as if section 38(3) of the Crown Proceedings Act 1947 (references to Her Majesty in her private capacity) were contained in this Act.

Search for material relating to human remains

55 Entry and search of premises for human remains or material relating to human remains

- (1) On an application made by a constable, a justice of the peace may issue a warrant authorising a constable to enter and search premises if the justice of the peace is satisfied that the following conditions are met.
- (2) The first condition is that there are reasonable grounds for believing that there is material on the premises mentioned in subsection (5) that consists of, or may relate to the location of, relevant human remains.
- (3) The second condition is that there are reasonable grounds for believing that the material does not consist of or include—
- items subject to legal privilege,
 - excluded material, or
 - special procedure material.
- (4) The third condition is that there are reasonable grounds for believing, in relation to each set of premises specified in the application—
- that it is not practicable to communicate with any person entitled to grant entry to the premises,

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- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material,
 - (c) that entry to the premises will not be granted unless a warrant is produced, or
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (5) The premises referred to in subsection (2) are—
 - (a) one or more sets of premises specified in the application (in which case the application is for a “specific premises warrant”), or
 - (b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an “all premises warrant”).
- (6) If the application is for an all premises warrant, the justice of the peace must also be satisfied—
 - (a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in subsection (2), and
 - (b) that it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.
- (7) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which the justice of the peace issues the warrant.
- (8) If the warrant authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.
- (9) A constable may—
 - (a) seize and retain anything for which a search has been authorised under subsection (1), and
 - (b) if necessary, use reasonable force in the exercise of a power conferred by a warrant issued under this section.
- (10) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.
- (11) In this section, section 56 and Schedule 6 “relevant human remains” means the body or any other human remains of—
 - (a) a person who the constable making the application reasonably believes to have died in England and Wales but whose death has not been registered under section 15 of the Births and Deaths Registration Act 1953,
 - (b) a person whose death has been registered under that Act following an investigation under section 1(5) of the Coroners and Justice Act 2009, or
 - (c) a person in respect of whom a declaration has been made under section 2 of the Presumption of Death Act 2013.
- (12) In this section, section 56 and Schedule 6 the following expressions have the same meaning as in the Police and Criminal Evidence Act 1984—

- (a) “items subject to legal privilege” (see section 10 of that Act);
- (b) “excluded material” (see section 11 of that Act);
- (c) “special procedure material” (see section 14 of that Act);
- (d) “premises” (see section 23 of that Act).

56 Special procedure for access to material relating to human remains

- (1) Schedule 6 makes provision for a constable to obtain access to excluded material or special procedure material that consists of, or relates to the location of, relevant human remains.
- (2) Section 4 of the Summary Jurisdiction (Process) Act 1881 (which includes provision for the execution of process of English and Welsh courts in Scotland) and section 29 of the Petty Sessions (Ireland) Act 1851 (which makes equivalent provision for execution in Northern Ireland) apply to any process issued by a judge under Schedule 6 to this Act as they apply to process issued by a magistrates’ court under the Magistrates’ Courts Act 1980.

57 Additional seizure powers

In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (powers of seizure to which section 50 of that Act applies), at the end insert—

“Police, Crime, Sentencing and Courts Act 2022

73U Each of the powers of seizure conferred by section 55(9)(a) of, and paragraph 11(a) of Schedule 6 to, the Police, Crime, Sentencing and Courts Act 2022 (seizure in connection with human remains or material relating to human remains).”

Prisoner custody officers

58 Functions of prisoner custody officers in relation to live link hearings

- (1) The Criminal Justice Act 1991 is amended as follows.
- (2) Section 80 (arrangements for the provision of prisoner escorts) is amended in accordance with subsections (3) to (5).
- (3) In subsection (1), after paragraph (b) insert—
 - “(ba) the custody of prisoners at a police station for any purpose connected with their participation in a preliminary, sentencing or enforcement hearing through a live audio link or live video link;”.
- (4) After subsection (1A) insert—
 - “(1B) Subsection (1)(ba) applies in relation to prisoners whether the hearing is yet to take place, is taking place or has taken place.”
- (5) In subsection (4), at the appropriate place insert—
 - ““enforcement hearing”, “live audio link”, “live video link”, “preliminary hearing” and “sentencing hearing” each has the meaning given in section 56(1) of the Criminal Justice Act 2003;”.

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- (6) Section 82 (powers and duties of prisoner custody officers) is amended in accordance with subsections (7) and (8).
- (7) After subsection (4) insert—
- “(4A) Subsections (4B) and (4C) apply if a prisoner custody officer acting in pursuance of prisoner escort arrangements is at a police station for the purposes of exercising functions under section 80(1)(ba) (custody of prisoners in relation to live link proceedings) in relation to a prisoner.
- (4B) It is the prisoner custody officer’s duty to give effect to—
- (a) any order of the Crown Court under section 142 of the Powers of Criminal Courts (Sentencing) Act 2000 in relation to the prisoner, or
 - (b) any order of a magistrates’ court under section 80 of the 1980 Act in relation to the prisoner.
- (4C) The fact that the prisoner custody officer is exercising, or may exercise, functions under section 80(1)(ba) in relation to the prisoner does not prevent a constable from exercising any powers in relation to the prisoner that are otherwise available to the constable.”
- (8) In subsection (5) for “and (4)” substitute “, (4) and (4B)”.

Proceeds of crime

59 Proceeds of crime: account freezing orders

- (1) In section 303Z1 of the Proceeds of Crime Act 2002 (application for account freezing order)—
- (a) omit subsections (5A) and (5B), and
 - (b) in subsection (6), at the appropriate place insert—

““relevant financial institution” means—

 - (a) a bank,
 - (b) a building society,
 - (c) an electronic money institution, or
 - (d) a payment institution.”
- (2) In section 316(1) of that Act (general interpretation), in the definition of “relevant financial institution”, after “303Z1” insert “(6)”.
- (3) In section 48 of the Financial Services Act 2021 (extent)—
- (a) in subsection (1), for “subsections (2) and (3)” substitute “subsection (2)”, and
 - (b) omit subsection (3).
- (4) In paragraph 14 of Schedule 12 to that Act (forfeiture of money: electronic money institutions and payment institutions) omit sub-paragraphs (3) and (4).

*Non-criminal hate incidents***60 Code of practice relating to non-criminal hate incidents**

- (1) The Secretary of State may issue a code of practice about the processing by a relevant person of personal data relating to a hate incident.
- (2) In this section “hate incident” means an incident or alleged incident which involves or is alleged to involve an act by a person (“the alleged perpetrator”) which is perceived by a person other than the alleged perpetrator to be motivated (wholly or partly) by hostility or prejudice towards persons with a particular characteristic.
- (3) The provision that may be made by a code of practice under this section includes, in particular, provision about—
 - (a) whether and how personal data relating to a hate incident should be recorded;
 - (b) the persons who are to process such personal data;
 - (c) the circumstances in which a data subject should be notified of the processing of such personal data;
 - (d) the retention of such personal data, including the period for which it should be retained and the circumstances in which and the procedures by which that period might be changed;
 - (e) the consideration by a relevant person of requests by the data subject relating to such personal data.
- (4) But a code of practice under this section must not make provision about—
 - (a) the processing of personal data for the purposes of a criminal investigation, or
 - (b) the processing of personal data relating to the alleged perpetrator of a hate incident at any time after they have been charged with an offence relating to the hate incident.
- (5) A code of practice under this section may make different provision for different purposes.
- (6) A relevant person must have regard to the code of practice that is for the time being in force under this section in processing personal data relating to a hate incident.
- (7) In this section—
 - “data subject” has the meaning given by section 3(5) of the Data Protection Act 2018;
 - “personal data” has the meaning given by section 3(2) of that Act;
 - “processing” has the meaning given by section 3(4) of that Act.
- (8) In this section “relevant person” means—
 - (a) a member of a police force in England and Wales,
 - (b) a special constable appointed under section 27 of the Police Act 1996,
 - (c) a member of staff appointed by the chief officer of police of a police force in England and Wales,
 - (d) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002,
 - (e) an employee of the Common Council of the City of London who is under the direction and control of a chief officer of police,
 - (f) a constable of the British Transport Police Force,

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- (g) a special constable of the British Transport Police Force appointed under section 25 of the Railways and Transport Safety Act 2003,
- (h) an employee of the British Transport Police Authority appointed under section 27 of that Act,
- (i) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002 as applied by section 28 of the Railways and Transport Safety Act 2003, or
- (j) a National Crime Agency officer.

61 Further provision about a code of practice under section 60

- (1) The Secretary of State may not issue a code of practice under section 60 unless a draft of the code has been laid before and approved by a resolution of each House of Parliament.
- (2) The Secretary of State may from time to time revise and reissue a code of practice under section 60.
- (3) Before reissuing a code of practice the Secretary of State must lay a draft of the code as proposed to be reissued before Parliament.
- (4) If, within the 40-day period, either House of Parliament resolves not to approve the code of practice laid under subsection (3)—
 - (a) the code is not to be reissued, and
 - (b) the Secretary of State may prepare another code.
- (5) If no such resolution is passed within the 40-day period, the Secretary of State may reissue the code of practice.
- (6) In this section “the 40-day period” means—
 - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
 - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (7) In calculating the 40-day period no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.

Offences relating to hares etc

62 Increase in penalty for offences related to game etc

- (1) Section 1 of the Night Poaching Act 1828 (taking or destroying game or rabbits by night or entering land for that purpose) is amended in accordance with subsections (2) to (4).
- (2) The existing text becomes subsection (1).
- (3) In that subsection—
 - (a) after “conviction” insert “to imprisonment for a term not exceeding 51 weeks,”, and
 - (b) for “not exceeding level 3 on the standard scale” substitute “or to both”.

(4) After that subsection insert—

“(2) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (1) to 51 weeks is to be read as a reference to 6 months.”

(5) Section 30 of the Game Act 1831 (trespass in daytime in search of game etc) is amended in accordance with subsections (6) to (8).

(6) The existing text becomes subsection (1).

(7) In that subsection—

- (a) for the words from “conviction”, in the first place it occurs, to “seem meet”, in the second place it occurs, substitute “summary conviction, be liable to imprisonment for a term not exceeding 51 weeks, to a fine or to both”, and
- (b) for “each of the two offences” substitute “the offence”.

(8) After that subsection insert—

“(2) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (1) to 51 weeks is to be read as a reference to 6 months.”

(9) In section 4A of the Game Laws (Amendment) Act 1960 (forfeiture of vehicles), in subsection (1), omit “as one of five or more persons liable under that section”.

(10) The amendments made by this section have effect only in relation to offences committed on or after the day on which this section comes into force.

63 Trespass with intent to search for or to pursue hares with dogs etc

(1) A person commits an offence if they trespass on land with the intention of—

- (a) using a dog to search for or to pursue a hare,
- (b) facilitating or encouraging the use of a dog to search for or to pursue a hare, or
- (c) enabling another person to observe the use of a dog to search for or to pursue a hare.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the trespass mentioned in that subsection.

(3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.

(4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.

64 Being equipped for searching for or pursuing hares with dogs etc

(1) A person commits an offence if they have an article with them in a place other than a dwelling with the intention that it will be used in the course of or in connection with

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the commission by any person of an offence under section 63 (trespass with intent to search for or to pursue hares with dogs etc).

- (2) Where a person is charged with an offence under subsection (1), proof that the person had with them any article made or adapted for use in committing an offence under section 63 is evidence that the person had it with them with the intention that it would be used in the course of or in connection with the commission by any person of an offence under that section.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.
- (4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In this section—
 - “article” includes a vehicle and, except in subsection (2), an animal;
 - “dwelling” means—
 - (a) a building or structure which is used as a dwelling, or
 - (b) a part of a building or structure, if the part is used as a dwelling,
 and includes any yard, garden, garage or outhouse belonging to and used with a dwelling.

65 Recovery order on conviction for certain offences involving dogs

- (1) This section applies where—
 - (a) a person is convicted of an offence within subsection (5) which was committed on or after the day on which this section comes into force,
 - (b) a dog was used in or was present at the commission of the offence, and
 - (c) the dog was lawfully seized and detained in connection with the offence.
- (2) The court may make an order (a “recovery order”) requiring the offender to pay all the expenses incurred by reason of the dog’s seizure and detention.
- (3) Any sum required to be paid under subsection (2) is to be treated for the purposes of enforcement as if it were a fine imposed on conviction.
- (4) Where a recovery order is available for an offence, the court may make such an order whether or not it deals with the offender in any other way for the offence.
- (5) The following offences are within this subsection—
 - (a) an offence under section 1 of the Night Poaching Act 1828 (taking or destroying game or rabbits by night or entering land for that purpose);
 - (b) an offence under section 30 of the Game Act 1831 (trespass in daytime in search of game etc);
 - (c) an offence under section 63 (trespass with intent to search for or to pursue hares with dogs etc);
 - (d) an offence under section 64 (being equipped for searching for or pursuing hares with dogs etc).

66 Disqualification order on conviction for certain offences involving dogs

- (1) This section applies where—
 - (a) a person is convicted of an offence within subsection (9) which was committed on or after the day on which this section comes into force, and
 - (b) a dog was used in or was present at the commission of the offence.
- (2) The court may make an order (a “disqualification order”) disqualifying the offender, for such period as the court thinks fit, from—
 - (a) owning dogs,
 - (b) keeping dogs, or
 - (c) both.
- (3) The disqualification order may specify a period during which the offender may not make an application under section 68 to terminate the order.
- (4) The court may, where it appears to the court that the offender owns or keeps a dog, suspend the operation of the disqualification order for such period as it thinks necessary for enabling alternative arrangements to be made in respect of the dog.
- (5) Where a court makes a disqualification order, it must—
 - (a) give its reasons for making the order in open court, and
 - (b) cause them to be entered in the register of its proceedings.
- (6) A person who breaches a disqualification order commits an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Where a disqualification order is available for an offence, the court may make such an order whether or not it deals with the offender in any other way for the offence.
- (9) The following offences are within this subsection—
 - (a) an offence under section 1 of the Night Poaching Act 1828 (taking or destroying game or rabbits by night or entering land for that purpose);
 - (b) an offence under section 30 of the Game Act 1831 (trespass in daytime in search of game etc);
 - (c) an offence under section 63 (trespass with intent to search for or to pursue hares with dogs etc);
 - (d) an offence under section 64 (being equipped for searching for or pursuing hares with dogs etc).
- (10) In section 171 of the Sentencing Code (offences relating to animals), after subsection (2) insert—

“(3) See section 66 of the Police, Crime, Sentencing and Courts Act 2022 (disqualification order on conviction for certain offences involving dogs) for orders relating to disqualification in the case of offences involving dogs under that Act, the Night Poaching Act 1828 and the Game Act 1831.”

67 Seizure and disposal of dogs in connection with disqualification order

- (1) Where, on a court making a disqualification order, it appears to the court that the person to whom the order applies owns or keeps a dog contrary to the order, the court may order that the dog be taken into possession.
- (2) Where a person is convicted of an offence under section 66(6) by reason of owning or keeping a dog in breach of a disqualification order, the court by which the person is convicted may order that all dogs owned or kept in breach of the order be taken into possession.
- (3) An order under subsection (1) or (2), so far as relating to any dog owned by the person to whom the disqualification order applies, must make provision for disposal of the dog.
- (4) Any dog taken into possession in pursuance of an order under subsection (1) or (2) that is not owned by the person subject to the disqualification order is to be dealt with in such manner as an appropriate court may order.
- (5) But an order under subsection (4) may not provide for the dog to be—
 - (a) destroyed, or
 - (b) disposed of for the purposes of vivisection.
- (6) A court may not make an order for disposal of the dog under subsection (4) unless—
 - (a) it has given the owner of the dog an opportunity to be heard, or
 - (b) it is satisfied that it is not reasonably practicable to communicate with the owner.
- (7) Where a court makes an order under subsection (4) for the disposal of the dog, the owner of the dog may appeal against the order to the Crown Court.
- (8) In this section—

“appropriate court” means—

 - (a) the magistrates’ court which made the order under subsection (1) or (2), or
 - (b) another magistrates’ court acting for the same local justice area as that court;

“disqualification order” has the same meaning as in section 66.
- (9) In this section references to disposing of a dog do not include—
 - (a) destroying it, or
 - (b) disposing of it for the purposes of vivisection.

68 Termination of disqualification order

- (1) A person who is subject to a disqualification order may apply to an appropriate court for the order to be terminated.
- (2) No application under subsection (1) may be made—
 - (a) before the end of the period of one year beginning with the date on which the disqualification order was made,
 - (b) where a previous application under that subsection has been made in relation to the same order, before the end of the period of one year beginning with the date on which the previous application was determined, or

- (c) before the end of any period specified under section 66(3), or subsection (5), in relation to the order.
- (3) On an application under subsection (1), the court may—
 - (a) terminate the disqualification order,
 - (b) vary the order so as to make it less onerous, or
 - (c) refuse the application.
- (4) When determining an application under subsection (1), the court is to have regard to—
 - (a) the character of the applicant,
 - (b) the applicant’s conduct since the disqualification order was made, and
 - (c) any other relevant circumstances.
- (5) Where the court refuses an application under subsection (1) or varies a disqualification order on such an application, it may specify a period during which the applicant may not make a further application under that subsection in relation to the order concerned.
- (6) The court may order an applicant to pay all or part of the costs of an application.
- (7) In this section—
 - “appropriate court” means—
 - (a) the magistrates’ court which made the disqualification order, or
 - (b) another magistrates’ court acting for the same local justice area as that court;
 - “disqualification order” has the same meaning as in section 66.

69 Section 67: supplementary

- (1) The court by which an order under section 67 is made may—
 - (a) appoint a person to carry out, or arrange for the carrying out of, the order;
 - (b) require any person who has possession of a dog to which the order applies to deliver it up to enable the order to be carried out;
 - (c) give directions with respect to the carrying out of the order;
 - (d) confer additional powers (including power to enter premises where a dog to which the order applies is being kept) for the purpose of, or in connection with, the carrying out of the order;
 - (e) order the person who committed the offence in relation to which the order was made, or another person, to reimburse the expenses of carrying out the order.
- (2) A person who fails to comply with a requirement imposed under subsection (1)(b) commits an offence.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Directions under subsection (1)(c) may—
 - (a) specify the manner in which a dog is to be disposed of, or
 - (b) delegate the decision about the manner in which a dog is to be disposed of to a person appointed under subsection (1)(a).
- (5) In determining how to exercise its powers under section 67 and this section the court is to have regard (amongst other things) to—

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

- (a) the desirability of protecting the value of any dog to which the order under section 67 applies, and
 - (b) the desirability of avoiding increasing any expenses which a person may be ordered to reimburse.
- (6) In determining how to exercise a power delegated under subsection (4)(b), a person is to have regard, amongst other things, to the things mentioned in subsection (5)(a) and (b).
- (7) If the owner of a dog ordered to be disposed of under section 67 is subject to a liability by virtue of subsection (1)(e), any amount to which the owner is entitled as a result of sale of the dog may be reduced by an amount equal to that liability.
- (8) Any sum ordered to be paid under subsection (1)(e) is to be treated for the purposes of enforcement as if it were a fine imposed on conviction.
- (9) In this section references to disposing of a dog do not include—
- (a) destroying it, or
 - (b) disposing of it for the purposes of vivisection.

70 Disqualification orders: appeals

- (1) Nothing may be done under an order under section 66 or 67 with respect to a dog unless—
- (a) the period for giving notice of appeal against the order has expired,
 - (b) the period for giving notice of appeal against the conviction on which the order was made has expired, and
 - (c) if the order or conviction is the subject of an appeal, the appeal has been determined or withdrawn.
- (2) Where the effect of an order is suspended under subsection (1)—
- (a) no requirement imposed or directions given in connection with the order have effect, but
 - (b) the court may give directions about how any dog to which the order applies is to be dealt with during the suspension.
- (3) Directions under subsection (2)(b) may, in particular—
- (a) authorise the dog to be taken into possession;
 - (b) authorise the dog to be cared for either on the premises where it was being kept when it was taken into possession or at some other place;
 - (c) appoint a person to carry out, or arrange for the carrying out of, the directions;
 - (d) require any person who has possession of the dog to deliver it up for the purposes of the directions;
 - (e) confer additional powers (including power to enter premises where the dog is being kept) for the purpose of, or in connection with, the carrying out of the directions;
 - (f) provide for the recovery of any expenses in relation to the removal or care of the dog which are incurred in carrying out the directions.
- (4) A person who fails to comply with a requirement imposed under subsection (3)(d) commits an offence.

- (5) A person guilty an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Any sum directed to be paid under subsection (3)(f) is to be treated for the purposes of enforcement as if it were a fine imposed on conviction.

Administering a substance with intent to cause harm

71 Administering a substance with intent to cause harm

- (1) The Secretary of State must, before the end of the relevant period—
- (a) prepare and publish a report—
 - (i) about the nature and prevalence of the conduct described in subsection (2), and
 - (ii) setting out any steps Her Majesty’s Government has taken or intends to take in relation to the matters referred to in sub-paragraph (i), and
 - (b) lay the report before Parliament.
- (2) The conduct referred to in subsection (1)(a)(i) is a person intentionally administering a substance to, or causing a substance to be taken by, another person—
- (a) without the consent of that other person, and
 - (b) with the intention of causing harm (whether or not amounting to an offence) to that other person.
- (3) In subsection (1), the “relevant period” means the period of 12 months beginning with the day on which this Act is passed.

Offences motivated by hostility based on sex or gender

72 Response to Law Commission report on hate crime laws

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed—
- (a) prepare and publish a response to Recommendation 8 of the Law Commission report on hate crime (adding sex or gender as a protected characteristic for the purposes of aggravated offences and enhanced sentencing), and
 - (b) lay the response before Parliament.
- (2) In this section “the Law Commission report on hate crime” means the Law Commission report “Hate Crime Laws” that was published on 7 December 2021.