



Prison Act 1952

1952 CHAPTER 52 15 and 16 Geo 6 and 1 Eliz 2

An Act to consolidate certain enactments relating to prisons and other institutions for offenders and related matters with corrections and improvements made under the Consolidation of Enactments (Procedure) Act 1949. [1st August 1952]

Extent Information

- E1** For the extent of this Act see [s. 55\(3\)\(4\)\(5\)](#)

Modifications etc. (not altering text)

- C1** By [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 10(1), [Sch. 12 para. 23](#); S.I. 1991/2208, art. 2(1), [Sch. 1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s. 70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333, art. 2\(2\)](#), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.
- C2** Act applied (3.11.1994) by [1994 c. 33, ss. 7\(2\)\(4\)](#), 172(4)
Act applied (3.11.1994) by [1994 c. 33, ss. 8\(2\)](#), 172(4)
- C3** Act amended (1.10.1997) by [1997 c. 43, s. 41](#), [Sch. 1 Pt. III para. 17\(2\)\(3\)](#); S.I. 1997/2200, [art. 2\(1\)\(g\)](#) (with [art. 5](#))
- C4** A reference to a detention centre within the meaning of [Part VIII of the Immigration and Asylum Act 1999 \(c. 33\)](#) to be construed as a reference to a removal centre within the meaning of that Part (prosp.) by virtue of [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), ss. {66(4)}, 162(2) (with s. 159)
- C5** Act: a reference to a detention centre within the meaning of Pt. 8 of the Immigration and Asylum Act 1999 (c. 33) to be construed as a reference to a removal centre within the meaning of that part (10.2.2003) by virtue of [2002 c. 41, ss. 66\(4\), 162\(1\)](#); S.I. 2003/1, art. 2, Sch.

Commencement Information

- I1** Act wholly in force at 1.10.1952 see [s. 55\(2\)](#)

Status: Point in time view as at 28/01/2015.

Changes to legislation: Prison Act 1952 is up to date with all changes known to be in force on or before 13 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Central administration

1 General control over prisons.

All powers and jurisdiction in relation to prisons and prisoners which before the commencement of the ^{M1}Prison Act 1877 were exercisable by any other authority shall, subject to the provisions of this Act, be exercisable by the Secretary of State.

Marginal Citations

M1 1877 c. 21.

2^{F1}

Textual Amendments

F1 S. 2 repealed by S.I. 1963/597, Sch. 1

3 ^{X1}**Officers and servants of Prison Commissioners.**

- (1) The Secretary of State [^{F2}may, for the purposes of this Act, appoint such officers and [^{F3}employ such other persons] as he] may, with the sanction of the [^{F4}Minister for the Civil Service] as to number, determine.
- (2) There shall be paid out of moneys provided by Parliament to [^{F2}the officers and servants appointed under this section] such salaries as the Secretary of State may with the consent of the [^{F4}Minister for the Civil Service] determine.

Editorial Information

X1 Unreliable marginal note

Textual Amendments

- F2** Words substituted by S.I. 1963/597, Sch. 1
- F3** Words in s. 3(1) substituted (3.2.1995) by 1994 c. 33, s. 168(2), Sch. 10 para. 7; S.I. 1995/127, art. 2(1), Sch. 1 Appendix B
- F4** Words substituted by virtue of S.I. 1968/1656, art. 2(1)(a)

4 ^{X2}**General duties of Prison Commissioners.**

- (1) [^{F5}The Secretary of State] shall have the general superintendence of prisons and shall make the contracts and do the other acts necessary for the maintenance of prisons and the maintenance of prisoners.
- (2) [^{F5}Officers of the Secretary of State duly authorised in that behalf], shall visit all prisons and examine the state of buildings, the conduct of officers, the treatment and conduct of prisoners and all other matters concerning the management of prisons and shall ensure that the provisions of this Act and of any rules made under this Act are duly complied with.

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- (3) [^{F5}The Secretary of State and his officers] may exercise all powers and jurisdiction exercisable at common law, by Act of Parliament, or by charter by visiting justices of a prison.

Editorial Information

X2 Unreliable marginal note

Textual Amendments

F5 Words substituted by [S.I. 1963/597](#), [Sch. 1](#)

5 ^{x3} **Annual report of Prison Commissioners.**

[^{F6}(1) The Secretary of State shall issue an annual report on every prison and shall lay every such report before Parliament.]

(2) The report shall contain—

- (a) a statement of the accommodation of each prison and the daily average and highest number of prisoners confined therein;
- (b) such particulars of the work done by prisoners in each prison, including the kind and quantities of articles produced and the number of prisoners employed, as may in the opinion of the Secretary of State give the best information to Parliament;
- (c) a statement of the punishments inflicted in each prison and of the offences for which they were inflicted, . . . ^{F7}

Editorial Information

X3 Unreliable marginal note

Textual Amendments

F6 [S. 5\(1\)](#) substituted by [S.I. 1963/597](#), [Sch. 1](#)

F7 Words repealed by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 7 Pt. I](#)

[^{F8}**5A** **Appointment and functions of Her Majesty's Chief Inspector of Prisons.**

- (1) Her Majesty may appoint a person to be Chief Inspector of Prisons.
- (2) It shall be the duty of the Chief Inspector to inspect or arrange for the inspection of prisons in England and Wales and to report to the Secretary of State on them.
- (3) The Chief Inspector shall in particular report to the Secretary of State on the treatment of prisoners and conditions in prisons.
- (4) The Secretary of State may refer specific matters connected with prisons in England and Wales and prisoners in them to the Chief Inspector and direct him to report on them.
- (5) The Chief Inspector shall in each year submit to the Secretary of State a report in such form as the Secretary of State may direct, and the Secretary of State shall lay a copy of that report before Parliament.

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- [^{F9}(5A) Subsections (2) to (5) shall apply—
- (a) in relation to removal centres within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33),
 - (b) in relation to short-term holding facilities within the meaning of that section,
^{F10} ...
 - [^{F11}(ba) in relation to pre-departure accommodation within the meaning of that section,
and]
 - (c) in relation to escort arrangements within the meaning of that section.]
- [In their application by virtue of subsection (5A) subsections (2) to (5)—
- ^{F9}(5B) (a) shall apply to centres, facilities [^{F12}, accommodation] and arrangements anywhere in the United Kingdom, and
- (b) shall have effect—
 - (i) as if a reference to prisons were a reference to removal centres, short-term holding facilities [^{F13}, pre-departure accommodation] and escort arrangements,
 - (ii) as if a reference to prisoners were a reference to detained persons and persons to whom escort arrangements apply, and
 - (iii) with any other necessary modifications.]
- [The Chief Inspector shall also inspect or arrange for the inspection of—
- ^{F14}(5C) (a) areas of the Crown Court, county courts and magistrates' courts where prisoners are detained in custody; and
- (b) any vehicle used to transport prisoners in custody to and from the Crown Court, county courts or magistrates' courts,
and shall report to the Secretary of State on them.]
- (6) The Chief Inspector shall be paid such salary and allowances as the Secretary of State may with the consent of the Treasury determine.]
- [^{F15}(7) Schedule A1 to this Act (which makes further provision about the Chief Inspector) has effect.]

Textual Amendments

- F8** S. 5A inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 57(1)**
- F9** S. 5A(5A)(5B) substituted for s. 5A(5A) (31.8.2006) by [Immigration, Asylum and Nationality Act 2006 \(c. 13\)](#), **ss. 46(1), 62(1)(2)**; S.I. 2006/2226, art. 3, Sch. 1
- F10** Word in s. 5A(5A)(b) omitted (28.7.2014) by virtue of [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 8(2)(a)**; S.I. 2014/1820, art. 3(cc)
- F11** S. 5A(5A)(ba) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 8(2)(b)**; S.I. 2014/1820, art. 3(cc)
- F12** Word in s. 5A(5B)(a) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 8(3)(a)**; S.I. 2014/1820, art. 3(cc)
- F13** Words in s. 5A(5B)(b)(i) inserted (28.7.2014) by [Immigration Act 2014 \(c. 22\)](#), s. 75(3), **Sch. 9 para. 8(3)(b)**; S.I. 2014/1820, art. 3(cc)
- F14** S. 5A(5C) inserted (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012 \(S.I. 2012/2401\)](#), art. 1(2)(3), **Sch. 1 para. 2** (with art. 2)
- F15** S. 5A(7) inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 28(1), 53(1)**; S.I. 2007/709, art. 3(m) (with art. 6)

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Visiting committees and boards of visitors

6 ^{X4}[^{F16}Independent monitoring boards]

- (1) ^{F17}
- (2) The Secretary of State shall appoint for every prison . . . ^{F18} a [^{F19}group of independent monitors][^{F20}of whom not less than two shall be justices of the peace].
- [^{F21}(2A) The groups so appointed are to be known as independent monitoring boards.]
- (3) Rules made as aforesaid shall prescribe the functions of . . . ^{F18}[^{F22}independent monitoring boards] and shall among other things require members to pay frequent visits to the prison and hear any complaints which may be made by the prisoners and report to the Secretary of State any matter which they consider it expedient to report; and any member of ^{F18}[^{F22}an independent monitoring board] may at any time enter the prison and shall have free access to every part of it and to every prisoner.
- (4) ^{F17}

Editorial Information

X4 Unreliable marginal note

Textual Amendments

- F16** S. 6 sidenote substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 26(2)(a)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(g)(t)
- F17** S. 6(1)(4) repealed by [Courts Act 1971 \(c. 23\)](#), **Sch. 11 Pt. IV**
- F18** Words repealed by [Courts Act 1971 \(c. 23\)](#), s. 53(3), **Sch. 11 Pt. IV**
- F19** Words in s. 6(2) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 26(2)(b)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(g)
- F20** Words in s. 6(2) cease to have effect (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), ss. 26(3), 41(1), **Sch. 5 Pt. 2**; [S.I. 2007/3001](#), art. 2(1)(g)(t)
- F21** S. 6(2A) inserted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 26(2)(c)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(g)
- F22** Words in s. 6(3) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 26(2)(d)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(g)

Modifications etc. (not altering text)

C6 S. 6(2) restricted (1.4.1999) by [S.I. 1999/728](#), **rule 75**

Prison officers

7 **Prison officers.**

- (1) Every prison shall have a governor, a chaplain ^{F23}... and such other officers as may be necessary.
- (2) Every prison in which women are received shall have a sufficient number of women officers; . . . ^{F24}
- (3) A prison which in the opinion of the Secretary of State is large enough to require it may have a deputy governor or an assistant chaplain or both.

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- (4) The chaplain and any assistant chaplain shall be a clergyman of the Church of England
^{F25}
- (5) ^{F26}

Textual Amendments

- F23** Words in s. 7(1) repealed (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), ss. 25(1), 41(1), [Sch. 5 Pt. 2](#); [S.I. 2007/3001](#), art. 2(1)(t)
- F24** Words repealed by [Sex Discrimination Act 1975 \(c. 65\)](#), [s. 18\(2\)](#)
- F25** Words in s. 7(4) repealed (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), [Sch. 5 Pt. 2](#); [S.I. 2007/3001](#), art. 2(1)(t)
- F26** S. 7(5) repealed by [S.I. 1963/597](#), [Sch. 1](#)

Modifications etc. (not altering text)

- C7** S. 7(1) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 87\(2\)](#); [S.I. 1991/2208](#), art. 2(4), [Sch. 3](#)

8 Powers of prison officers.

Every prison officer while acting as such shall have all the powers, authority, protection and privileges of a constable.

Modifications etc. (not altering text)

- C8** S. 8 modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#) s. 87(3); [S.I. 1991/2208](#), art. 2(4), [Sch. 3](#)

^{F27}8A Powers of search by authorised [^{F28}persons] .

- (1) An authorised [^{F29}person] at a prison shall have the power to search any prisoner for the purpose of ascertaining whether he has any unauthorised property on his person.
- (2) An authorised [^{F30}person] searching a prisoner by virtue of this section—
- shall not be entitled to require a prisoner to remove any of his clothing other than an outer coat, jacket, headgear, gloves and footwear;
 - may use reasonable force where necessary; and
 - may seize and detain any unauthorised property found on the prisoner in the course of the search.
- (3) In this section “[^{F31}authorised person]” means [^{F32}a person working at the prison,] of a description for the time being authorised by the governor to exercise the powers conferred by this section.
- (4) The governor of a prison shall take such steps as he considers appropriate to notify to prisoners the descriptions of persons who are for the time being authorised to exercise the powers conferred by this section.
- (5) In this section “unauthorised property”, in relation to a prisoner, means property which the prisoner is not authorised by prison rules or by the governor to have in his possession or, as the case may be, in his possession in a particular part of the prison.

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Textual Amendments

- F27** S. 8A and sidenote inserted (3.2.1995) by 1994 c. 33, s. 152(1); S.I. 1995/127, art. 2(1), Sch. 1
- F28** Word in s. 8A sidenote substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 27(2), 41(1); S.I. 2007/3001, art. 2(1)(h)
- F29** Word in s. 8A(1) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 27(3), 41(1); S.I. 2007/3001, art. 2(1)(h)
- F30** Word in s. 8A(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 27(3), 41(1); S.I. 2007/3001, art. 2(1)(h)
- F31** Words in s. 8A(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 27(4)(a), 41(1); S.I. 2007/3001, art. 2(1)(h)
- F32** Words in s. 8A(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 27(4)(b), 41(1); S.I. 2007/3001, art. 2(1)(h)

Modifications etc. (not altering text)

- C9** S. 8A modified (3.2.1995) by 1991 c. 53, s. 87(3) (as amended (3.2.1995) by 1994 c. 33, s. 168(2), Sch. 10 para. 68; S.I. 1995/127, art. 2(1), Sch. 1 Appendix B)

9 Exercise of office of chaplain.]

- (1) A person shall not officiate as chaplain of two prisons unless the prisons are within convenient distance of each other and are together designed to receive not more than one hundred prisoners.
- (2) Notice of the nomination of a chaplain or assistant chaplain to a prison shall, within one month after it is made, be given to the bishop of the diocese in which the prison is situate; and the chaplain or assistant chaplain shall not officiate in the prison except under the authority of a licence from the bishop.

Textual Amendments

- F27** S. 8A and sidenote inserted (3.2.1995) by 1994 c. 33, s. 152(1); S.I. 1995/127, art. 2(1), Sch. 1

10 Appointment of prison ministers.

- (1) Where in any prison the number of prisoners who belong to a religious denomination other than the Church of England is such as in the opinion of the Secretary of State to require the appointment of a minister of that denomination, the Secretary of State may appoint such a minister to that prison.
- (2) The Secretary of State may pay a minister appointed under the preceding subsection such remuneration as he thinks reasonable.
- (3) [^{F33}The Secretary of State] may allow a minister of any denomination other than the Church of England to visit prisoners of his denomination in a prison to which no minister of that denomination has been appointed under this section.
- (4) No prisoner shall be visited against his will by such a minister as is mentioned in the last preceding subsection; but every prisoner not belonging to the Church of England shall be allowed, in accordance with the arrangements in force in the prison in which he is confined, to attend chapel or to be visited by the chaplain.

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- (5) The governor of a prison shall on the reception of each prisoner record the religious denomination to which the prisoner declares himself to belong, and shall give to any minister who under this section is appointed to the prison or permitted to visit prisoners therein a list of the prisoners who have declared themselves to belong to his denomination; and the minister shall not be permitted to visit any other prisoners.

Textual Amendments

F33 Words substituted by [S.I. 1963/597, Sch. 1](#)

Modifications etc. (not altering text)

C10 [S. 10\(5\)](#) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 87\(4\)](#); [S.I. 1991/2208, art. 2\(4\)](#), [Sch. 3](#)

11 Ejectment of prison officers and their families refusing to quit.

- (1) Where any living accommodation is provided for a prison officer or his family by virtue of his office, then, if he ceases to be a prison officer or is suspended from office or dies, he, or, as the case may be, his family, shall quit the accommodation when required to do so by notice of [^{F34}the Secretary of State].
- (2) Where a prison officer or the family of a prison officer refuses or neglects to quit the accommodation forty-eight hours after the giving of such a notice as aforesaid, any two justices of the peace, on proof made to them of the facts authorising the giving of the notice and of the service of the notice and of the neglect or refusal to comply therewith, may, by warrant under their hands and seals, direct any constable, within a period specified in the warrant, to enter by force, if necessary, into the accommodation and deliver possession of it to [^{F34}a person acting on behalf of the Secretary of State].

Textual Amendments

F34 Words substituted by [S.I. 1963/597, Sch. 1](#)

Modifications etc. (not altering text)

C11 [S. 11](#) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 87\(3\)](#); [S.I. 1991/2208, art. 2\(4\)](#), [Sch. 3](#)

Confinement and treatment of prisoners

12 Place of confinement of prisoners.

- (1) A prisoner, whether sentenced to imprisonment or committed to prison on remand or pending trial or otherwise, may be lawfully confined in any prison.
- (2) Prisoners shall be committed to such prisons as the Secretary of State may from time to time direct; and may by direction of the Secretary of State be removed during the term of their imprisonment from the prison in which they are confined to any other prison.

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- (3) A writ, warrant or other legal instrument addressed to the governor of a prison and identifying that prison by its situation or by any other sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.

Modifications etc. (not altering text)

- C12** S. 12(1)(2) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), **s. 87(5)**; S.I. 1991/2208, **art. 2(4)**, **Sch. 3**
S. 12(2): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by [S.I. 2000/1160](#), **art. 4(1)(2)(b)**
- C13** S. 12(3) modified (31.10.1991) by [Criminal Justice Act 1991 \(c.53, SIF 39:1\)](#), **s. 87(4)**; S.I. 1991/2208, **art. 2(4)**, **Sch. 3**

13 Legal custody of prisoner.

- (1) Every prisoner shall be deemed to be in the legal custody of the governor of the prison.
- (2) A prisoner shall be deemed to be in legal custody while he is confined in, or is being taken to or from, any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of an officer of the prison [^{F35}and while he is being taken to any place to which he is required or authorised by or under this Act [^{F36}or section 95, 98, 99 or 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000] to be taken, or is kept in custody in pursuance of any such requirement or authorisation].

Textual Amendments

- F35** Words added by [Criminal Justice Act 1961 \(c. 39\)](#), **Sch. 4**
F36 Words in [s. 13\(2\)](#) substituted (25.8.2000) by [2000 c. 6. ss. 165\(1\), 168\(1\)](#), **Sch. 9 para. 4**

Modifications etc. (not altering text)

- C14** S. 13(1) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), **s. 87(4)**; S.I. 1991/2208, **art. 2(4)**, **Sch. 3**
- C15** S. 13(2) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), **s. 87(6)**; S.I. 1991/2208, **art. 2(4)**, **Sch. 3**
S. 13(2) modified (3.11.1994) by [1994 c. 33, ss. 11\(3\)\(4\)](#), **172(4)**
S. 13(2) modified (3.11.1994) by [1991 c. 53, s. 88A](#) (as inserted (3.11.1994) by [1994 c. 33, ss. 99](#), **172(4)**)

14 Cells.

- (1) The Secretary of State shall satisfy himself from time to time that in every prison sufficient accommodation is provided for all prisoners.
- (2) No cell shall be used for the confinement of a prisoner unless it is certified by an inspector that its size, lighting, heating, ventilation and fittings are adequate for health and that it allows the prisoner to communicate at any time with a prison officer.
- (3) A certificate given under this section in respect of any cell may limit the period for which a prisoner may be separately confined in the cell and the number of hours a day during which a prisoner may be employed therein.

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- (4) The certificate shall identify the cell to which it relates by a number or mark and the cell shall be marked by that number or mark placed in a conspicuous position; and if the number or mark is changed without the consent of an inspector the certificate shall cease to have effect.
- (5) An inspector may withdraw a certificate given under this section in respect of any cell if in his opinion the conditions of the cell are no longer as stated in the certificate.
- (6) In every prison special cells shall be provided for the temporary confinement of refractory or violent prisoners.

Modifications etc. (not altering text)

- C16** S. 14 amended by substitution for any reference to an inspector of a reference to an officer (not being an officer of a prison) acting on behalf of the Secretary of State: [S.I. 1963/597](#), [Sch. 1](#)
- C17** S. 14(2) modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [s. 87\(7\)](#); [S.I. 1991/2208](#), [art. 2\(4\)](#), [Sch. 3](#)
- S. 14(2) modified (3.11.1994) by [1991 c. 53, s. 8A](#) (as inserted (3.11.1994) by [1994 c. 33, ss. 99, 172\(4\)](#))
- C18** S. 14(6) applied with modifications by [S.I. 1988/1422](#), [rule 48\(3\)](#)

15^{F37}

Textual Amendments

- F37** [Ss. 15, 18](#) repealed by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 7 Pt. I](#)

16 Photographing and measuring of prisoners.

The Secretary of State may make regulations as to the measuring and photographing of prisoners and such regulations may prescribe the time or times at which and the manner and dress in which prisoners shall be measured and photographed and the number of copies of the measurements and photographs of each prisoner which shall be made and the persons to whom they shall be sent.

[^{F38}**16A Testing prisoners for drugs.**

- (1) If an authorisation is in force for the prison, any prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has any drug in his body.
- (2) If the authorisation so provides, the power conferred by subsection (1) above shall include power to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of urine.
- (3) In this section—
“authorisation” means an authorisation by the governor;

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“drug” means any drug which is a controlled drug for the purposes of the ^{M2}Misuse of Drugs Act 1971;

“intimate sample” has the same meaning as in Part V of the ^{M3}Police and Criminal Evidence Act 1984;

“prison officer” includes a prisoner custody officer within the meaning of Part IV of the Criminal Justice Act 1991; and

“prison rules” means rules under section 47 of this Act.

Textual Amendments

F38 S. 16A and sidenote inserted (9.1.1995) by 1994 c. 33, s. 151(1); S.I. 1994/3192, art. 2, Sch.

Marginal Citations

M2 1971 c. 38.

M3 1984 c. 60.

[^{F39} 16B Power to test prisoners for alcohol.]

(1) If an authorisation is in force for the prison, any prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of breath for the purpose of ascertaining whether he has alcohol in his body.

(2) If the authorisation so provides, the power conferred by subsection (1) above shall include power—

(a) to require a prisoner to provide a sample of urine, whether instead of or in addition to a sample of breath, and

(b) to require a prisoner to provide a sample of any other description specified in the authorisation, not being an intimate sample, whether instead of or in addition to a sample of breath, a sample of urine or both.

(3) In this section—

“authorisation” means an authorisation by the governor;

“intimate sample” has the same meaning as in Part V of the ^{M4}Police and Criminal Evidence Act 1984;

“prison officer” includes a prisoner custody officer within the meaning of Part IV of the ^{M5}Criminal Justice Act 1991;

“prison rules” means rules under section 47 of this Act.]]

Textual Amendments

F38 S. 16A and sidenote inserted (9.1.1995) by 1994 c. 33, s. 151(1); S.I. 1994/3192, art. 2, Sch.

F39 S. 16B and sidenote inserted (21.5.1997) by 1997 c. 38, ss. 1, 3(2)

Marginal Citations

M4 1984 c. 60.

M5 1991 c. 53.

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F40 17 Painful tests.

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Textual Amendments
F40 S. 17 repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 25(3), 41(1), **Sch. 5 Pt. 2**; S.I. 2007/3001, art. 2(1)(f)(t)

18 **F41**

Textual Amendments
F41 Ss. 15, 18 repealed by Criminal Justice Act 1967 (c. 80), **Sch. 7 Pt. I**

19 Right of justice to visit prison.

- (1) A justice of the peace for [^{F42}assigned to any local justice area] . . . ^{F43} may at any time visit any prison in that [^{F44}area] . . . ^{F43} and any prison in which a prisoner is confined in respect of an offence committed in that [^{F44}area] . . . ^{F43} and may examine the condition of the prison and of the prisoners and enter in the visitors' book, to be kept by the governor of the prison, any observations on the condition of the prison or any abuses.
- (2) Nothing in the preceding subsection shall authorise a justice of the peace to communicate with any prisoner except on the subject of his treatment in the prison, ^{F45}
- (3) The governor of every prison shall bring any entry in the visitors' book to the attention of the [^{F46}independent monitoring board] at their next visit.

Textual Amendments

F42 Words in s. 19(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 94(2)**; S.I. 2005/910, art. 3(y)

F43 Words repealed by Local Government Act 1972 (c. 70), **Sch. 30**

F44 Words in s. 19(1) substituted (27.9.1999) by 1999 c. 22, ss. 76(2), 108(3)(c), **Sch. 10 para. 21(a)(b)** (with **Sch. 14 para. 7(2)**)

F45 Words in s. 19(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), s. 110(1), **Sch. 8 para. 94(3)**, **Sch. 10**; S.I. 2005/910, art. 3(y)

F46 Words in s. 19(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 6**; S.I. 2007/3001, art. 2(1)(r)

Modifications etc. (not altering text)

C19 S. 19(1)(3) modified (31.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 87(4)**; S.I. 1991/2208, art. 2(4), **Sch. 3**

S. 19(1) modified (1.4.1996) by S.I. 1996/674, reg. 2, **Sch. Pt. II para. 5(2)(l)**

S. 19(1) modified (1.4.1996) by S.I. 1996/675, art. 2, **Sch. Pt. II para. 7(2)(l)**

20 **F47**

Status: Point in time view as at 28/01/2015.

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Textual Amendments

F47 S. 20 repealed by [Courts Act 1971 \(c. 23\)](#), [Sch. 11 Pt. IV](#)

21 Expenses of conveyance to prison.

A prisoner shall not in any case be liable to pay the cost of his conveyance to prison.

Modifications etc. (not altering text)

C20 S. 21 excluded (26.1.2004 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 186\(1\), 336\(3\)\(4\)](#); [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

22 Removal of prisoners for judicial and other purposes.

(1) Rules made under section forty–seven of this Act may provide in what manner an appellant within the meaning of [^{F48}Part I of the ^{M6}Criminal Appeal Act 1968]when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of that Act, or any place to which the Court of Criminal Appeal or any judge thereof may order him to be taken for the purpose of any proceedings of that court.

(2) The Secretary of State may—

(a) . . . ^{F49}

(b) if he is satisfied that a person so detained requires [^{F50}medical investigation or observation or]medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the [^{F50}investigation, observation or]treatment;

and where any person is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison in which he is required in accordance with law to be detained.

Textual Amendments

F48 Words substituted by [Criminal Appeal Act 1968 \(c. 19\)](#), [Sch. 5](#)

F49 [S. 22\(2\)\(a\)](#) repealed by [Criminal Justice Act 1961 \(c. 39\)](#), [Sch. 5](#)

F50 Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 5](#)

Marginal Citations

M6 [1968 c. 19](#).

23 Power of constable etc. to act outside his jurisdiction.

For the purpose of taking a person to or from any prison under the order of any authority competent to give the order a constable or other officer may act outside the area of his jurisdiction and shall notwithstanding that he is so acting have all the powers, authority, protection and privileges of his office.

Status: Point in time view as at 28/01/2015.

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Length of sentence, release on licence and temporary discharge

24 Calculation of term of sentence.

(1) In any sentence of imprisonment the word “month” shall, unless the contrary is expressed, be construed as meaning calendar month.

(2)^{F51}

Textual Amendments

F51 S. 24(2) repealed by [Criminal Justice Act 1961 \(c. 39\)](#), [Sch. 5](#)

Modifications etc. (not altering text)

C21 S. 24 excluded (1.9.2001) by [2001 c. 17](#), s. 42, [Sch. 7 para. 2\(1\)\(a\)](#) (with s. 78); S.I. 2001/2161, [art. 2](#)

^{F52}**25**

Textual Amendments

F52 S. 25 repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(2), [Sch. 13](#); S.I. 1992/333, [art. 2\(2\)](#), [Sch. 2](#)

26, 27.^{F53}

Textual Amendments

F53 Ss. 25(2)–(6), 26, 27 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 7 Pt. I](#)

28 Power of Secretary of State to discharge prisoners temporarily on account of ill health.

- (1) If the Secretary of State is satisfied that by reason of the condition of a prisoner’s health it is undesirable to detain him in prison, but that, such condition of health being due in whole or in part to the prisoner’s own conduct in prison, it is desirable that his release should be temporary and conditional only, the Secretary of State may, if he thinks fit, having regard to all the circumstances of the case, by order authorise the temporary discharge of the prisoner for such period and subject to such conditions as may be stated in the order.
- (2) Where an order of temporary discharge is made in the case of a prisoner not under sentence, the order shall contain conditions requiring the attendance of the prisoner at any further proceedings on his case at which his presence may be required.
- (3) Any prisoner discharged under this section shall comply with any conditions stated in the order of temporary discharge, and shall return to prison at the expiration of the period stated in the order, or of such extended period as may be fixed by any subsequent order of the Secretary of State, and if the prisoner fails so to comply or return, he may be arrested without warrant and taken back to prison.

Status: Point in time view as at 28/01/2015.

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- (4) Where a prisoner under sentence is discharged in pursuance of an order of temporary discharge, the currency of the sentence shall be suspended from the day on which he is discharged from prison under the order to the day on which he is received back into prison, so that the former day shall be reckoned and the latter shall not be reckoned as part of the sentence.

^{F54}(5)

Textual Amendments

F54 S. 28(5) repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 25(3), 41(1), **Sch. 5 Pt. 2**; S.I. 2007/3001, art. 2(1)(f)(t)

Modifications etc. (not altering text)

C22 S. 28 excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, art. 2

Discharged prisoners

29^{F55}

Textual Amendments

F55 S. 29 repealed by Criminal Justice Act 1961 (c. 39), **Sch. 5**

[^{F56}30 **Payments for discharged prisoners.**

The Secretary of State may make such payments to or in respect of persons released or about to be released from prison as he may with the consent of the Treasury determine.]

Textual Amendments

F56 S. 30 substituted for ss. 30-32 by Criminal Justice Act 1967 (c. 80), s. 66(3)

Provision, maintenance and closing of prisons

33 Power to provide prisons, etc.

- (1) The Secretary of State may with the approval of the Treasury alter, enlarge or rebuild any prison and build new prisons.

- [^{F57}(2) The Secretary of State may provide new prisons by declaring to be a prison—
- (a) any building or part of a building built for the purpose or vested in him or under his control; or
 - (b) any floating structure or part of such a structure constructed for the purpose or vested in him or under his control.]

Status: Point in time view as at 28/01/2015.

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- (3) A declaration under this section may with respect to the building or part of a building declared to be a prison make the same provisions as an order under the next following section may make with respect to an existing prison.
- (4) A declaration under this section may at any time be revoked by the Secretary of State.
- (5) A declaration under this section shall not be sufficient to vest the legal estate of any building in the [^{F58}Secretary of State].

Textual Amendments

- F57** S. 33(2) substituted (3.11.1994) by 1994 c. 33, ss. 100(1), 172(4)
- F58** Words substituted by S.I. 1963/597, Sch. 1

Modifications etc. (not altering text)

- C23** S. 33(2) modified (3.11.1994) by 1994 c. 33, ss. 100(2)(3), 172(4)

34 Jurisdiction of sheriff, etc.

- (1) The transfer under the ^{M7}Prison Act 1877 of prisons and of the powers and jurisdiction of prison authorities and of justices in sessions assembled and visiting justices shall not be deemed to have affected the jurisdiction of any sheriff or coroner or, except to the extent of that transfer, of any justice of the peace or other officer.
- (2) The Secretary of State may by order direct that, for the purpose of any enactment, rule of law or custom dependent on a prison being the prison of any county or place, any prison situated in that county or in the county in which that place is situated, or any prison provided by him in pursuance of this Act, shall be deemed to be the prison of that county or place.

Marginal Citations

- M7** 1877 c. 21.

^{F59}**[35 Prison property.**

- (1) Every prison and all real and personal property belonging to a prison shall be vested in the Secretary of State [^{F60}for Justice] and may be disposed of in such manner as the Secretary of State [^{F60}for Justice] , with the consent of the Treasury, may determine.

- ^{F61}(2)
- ^{F61}(3)
- ^{F61}(4)]

Textual Amendments

- F59** S. 35 substituted by S.I. 1963/597, Sch. 1
- F60** Words in s. 35(1) inserted (22.8.2007) by The Secretary of State for Justice Order 2007 (S.I. 2007/2128), art. 1(2), Sch. para. 2(2)

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F61 S. 35(2)-(4) omitted (22.8.2007) by virtue of [The Secretary of State for Justice Order 2007 \(S.I. 2007/2128\)](#), art. 1(2), [Sch. para. 2\(3\)](#)

Modifications etc. (not altering text)

C24 S. 35 modified (31.10.1991) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 87(8); S.I. 1991/2208, art. 2(4), [Sch. 3](#)

C25 S. 35(1) modified (3.11.1994) by [1994 c. 33, ss. 100\(2\)\(4\)](#), 172(4)

36 Acquisition of land for prisons.

(1) [^{F62}The Secretary of State may purchase by agreement or]compulsorily, any land required for the alteration, enlargement or rebuilding of a prison or for establishing a new prison or for any other purpose connected with the management of a prison (including the provision of accommodation for officers or servants employed in a prison).

[^{F63}(2) The [^{F64M8}Acquisition of Land Act 1981] shall apply to the compulsory purchase of land by the Secretary of State under this section . . . ^{F65}.]

(3) In relation to the purchase of land by agreement under this section, [^{F66}the provisions of Part I of the ^{M9}Compulsory Purchase Act 1965 (so far as applicable) other than sections 4 to 8, section 10, and section 31, shall apply].

Textual Amendments

F62 Words substituted by [S.I. 1963/597, Sch. 1](#)

F63 [S. 36\(2\)](#) substituted by [S.I. 1963/597, Sch. 1](#)

F64 Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), [Sch. 4 para. 1 Table](#)

F65 Words repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), [Sch. 6 Pt. I](#)

F66 Words substituted by [Compulsory Purchase Act 1965 \(c. 56\)](#), [Sch. 6](#)

Modifications etc. (not altering text)

C26 [S. 36](#) amended (*retrospectively*) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 167, [Sch. 8 para. 16](#)

C27 [S. 36](#) amended by [Criminal Justice Act 1972 \(c. 71\)](#), s. 60

C28 [S. 36\(1\)](#): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by [S.I. 2000/1160, art. 4\(1\)\(2\)\(c\)](#)

Marginal Citations

M8 [1981 c. 67](#)

M9 [1965 c. 56](#).

37 Closing of prisons.

(1) Subject to the next following subsection, the Secretary of State may by order close any prison.

(2) Where a prison is the only prison in the county, the Secretary of State shall not make an order under this section in respect of it except for special reasons, which shall be stated in the order.

(3) In this section the expression “county” means a county at large.

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- (4) For the purposes of this and the next following section a prison shall not be deemed to be closed by reason only of its appropriation for use as a remand centre, detention centre or [^{F67}youth custody centre][^{F68}or secure training centre].

Textual Amendments

- F67** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 6](#)
- F68** Words in [s. 37\(4\)](#) inserted (3.2.1995) by [1994 c. 33, s. 168\(2\)](#), [Sch. 10 para. 8](#); [S.I. 1995/127, art. 2\(1\)](#), [Sch. 1 Appendix B](#)

38 ^{F69}

Textual Amendments

- F69** [S. 38](#) repealed by [Criminal Justice Act 1972 \(c. 71\)](#), [Sch. 6 Pt. II](#)

Offences

Modifications etc. (not altering text)

- C29** Power to apply [ss. 39–42](#) with modifications conferred by [Army Act 1955 \(c. 18\)](#), [s. 122\(3\)](#), [Air Force Act 1955 \(c. 19\)](#), [s. 122\(3\)](#) and [Naval Discipline Act 1957 \(c. 53\)](#), [s. 82\(3\)](#)

[^{F70}39 [^{F70}Assisting a prisoner to escape]

- (1) A person who—
- (a) assists a prisoner in escaping or attempting to escape from a prison, or
 - (b) intending to facilitate the escape of a prisoner—
 - (i) brings, throws or otherwise conveys anything into a prison,
 - (ii) causes another person to bring, throw or otherwise convey anything into a prison, or
 - (iii) gives anything to a prisoner or leaves anything in any place (whether inside or outside a prison),
- is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding ten years.]

Textual Amendments

- F70** [S. 39](#) substituted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), [ss. 21, 41\(1\)](#); [S.I. 2008/504, art. 3\(g\)](#)

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[^{F71}40A Sections 40B and 40C: classification of articles

- (1) This section defines the categories of articles which are referred to in sections 40B and 40C.
- (2) A List A article is any article or substance in the following list (“List A”)—
 - (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971);
 - (b) an explosive;
 - (c) any firearm or ammunition (as defined in section 57 of the Firearms Act 1968);
 - (d) any other offensive weapon (as defined in section 1(9) of the Police and Criminal Evidence Act 1984).
- (3) A List B article is any article or substance in the following list (“List B”)—
 - (a) alcohol (as defined for the purposes of the Licensing Act 2003);
 - (b) a mobile telephone;
 - (c) a camera;
 - (d) a sound-recording device.
- (4) In List B—

“camera” includes any device by means of which a photograph (as defined in section 40E) can be produced;

“sound-recording device” includes any device by means of which a sound-recording (as defined in section 40E) can be made.
- (5) The reference in paragraph (b), (c) or (d) of List B to a device of any description includes a reference to—
 - (a) a component part of a device of that description; or
 - (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).
- (6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.
- (7) The Secretary of State may by order amend this section for the purpose of—
 - (a) adding an entry to List A or List B;
 - (b) repealing or modifying any entry for the time being included in List A or List B;
 - (c) adding, repealing or modifying any provision for the interpretation of any such entry.]

Textual Amendments

F71 Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), ss. **22(1)**, **41(1)**; S.I. 2008/504, art. 3(h)

[^{F71}40B Conveyance etc. of List A articles into or out of prison

- (1) A person who, without authorisation—
 - (a) brings, throws or otherwise conveys a List A article into or out of a prison,

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- (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
 - (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (d) knowing a person to be a prisoner, gives a List A article to him,
- is guilty of an offence.

- (2) In this section “authorisation” means authorisation given for the purposes of this section—
- (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State; or
 - (b) in relation to a particular prison, by the Secretary of State or by the governor or director of the prison.

In paragraph (a) “specified” means specified in the authorisation.

- (3) Authorisation may be given to specified persons or persons of a specified description—
- (a) in relation to specified articles or articles of a specified description;
 - (b) in relation to specified acts or acts of a specified description; or
 - (c) on such other terms as may be specified.

In this subsection “specified” means specified in the authorisation.

- (4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.
- (5) Authorisation given by the governor or director of a prison shall—
- (a) be given in writing; and
 - (b) specify the purpose for which it is given.
- (6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding ten years or to a fine (or both).

Textual Amendments

F71 Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 22\(1\), 41\(1\); S.I. 2008/504, art. 3\(h\)](#)

[^{F71}40C Conveyance etc. of List B or C articles into or out of prison

- (1) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List B article into or out of a prison,
 - (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
 - (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (d) knowing a person to be a prisoner, gives a List B article to him,
- is guilty of an offence.
- (2) A person who, without authorisation—

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- (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
 - (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,
 - (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
 - (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
 - (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
 - (f) while inside a prison, gives a List C article to a prisoner,
- is guilty of an offence.
- (3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
 - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both);
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both).
- (6) 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.
- (7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (1) to (3) of section 40E apply in relation to authorisations so given as they apply to authorisations given for the purposes of section 40D.

Textual Amendments

F71 Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1)**, [41\(1\)](#); [S.I. 2008/504](#), [art. 3\(h\)](#)

Modifications etc. (not altering text)

C30 S. 40C modified (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), [s. 41\(1\)](#), **Sch. 4 para. 5**; [S.I. 2008/504](#), [art. 3\(m\)](#)

[^{F72}40D Other offences relating to prison security

- (1) A person who, without authorisation—
- (a) takes a photograph, or makes a sound-recording, inside a prison, or

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- (b) transmits, or causes to be transmitted, any image [^{F73}, sound or information] from inside a prison by electronic communications for simultaneous reception outside the prison,
is guilty of an offence.
- (2) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.
- (3) A person who, without authorisation—
- (a) brings or otherwise conveys a restricted document out of a prison or causes such a document to be brought or conveyed out of a prison, or
- ^{F74}(b)
is guilty of an offence.
- [A person who, without authorisation, is in possession of any of the items specified in ^{F75}(3A) subsection (3B) inside a prison is guilty of an offence.]
- [The items referred to in subsection (3A) are—
- ^{F75}(3B) (a) a device capable of transmitting or receiving images, sounds or information by electronic communications (including a mobile telephone);
- (b) a component part of such a device;
- (c) an article designed or adapted for use with such a device (including any disk, film or other separate article on which images, sounds or information may be recorded).]
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
- (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both); or
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both).]

Textual Amendments

- F71** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1)**, 41(1); S.I. 2008/504, art. 3(h)
- F72** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F73** Words in s. 40D(1)(b) substituted (26.3.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 45(a)**, 59(1); S.I. 2012/584, art. 2
- F74** S. 40D(3)(b) and word repealed (26.3.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 45(b)**, 59(1); S.I. 2012/584, art. 2
- F75** S. 40D(3A)(3B) inserted (26.3.2012) by [Crime and Security Act 2010 \(c. 17\)](#), **ss. 45(c)**, 59(1); S.I. 2012/584, art. 2

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Modifications etc. (not altering text)

C31 S. 40D modified (1.4.2008) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 4 para. 5; S.I. 2008/504, art. 3\(m\)](#)

[^{F72}40E Section 40D: meaning of “authorisation” and other interpretation

- (1) In section 40D (and the following provisions of this section) “authorisation” means authorisation given for the purposes of that section—
- (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State;
 - (b) in relation to a particular prison—
 - (i) by the Secretary of State;
 - (ii) by the governor or director of the prison;
 - (iii) by a person working at the prison who is authorised by the governor or director to grant authorisation on his behalf.

In paragraph (a) “specified” means specified in the authorisation.

- (2) Authorisation may be given—
- (a) to persons generally or to specified persons or persons of a specified description; and
 - (b) on such terms as may be specified.

In this subsection “specified” means specified in the authorisation.

- (3) Authorisation given by or on behalf of the governor or director of a prison must be in writing.
- (4) In section 40D “restricted document” means the whole (or any part of)—
- (a) a photograph taken inside the prison;
 - (b) a sound-recording made inside the prison;
 - (c) a personal record (or a document containing information derived from a personal record);
 - (d) any other document which contains—
 - (i) information relating to an identified or identifiable relevant individual, if the disclosure of that information would or might prejudicially affect the interests of that individual; or
 - (ii) information relating to any matter connected with the prison or its operation, if the disclosure of that information would or might prejudicially affect the security or operation of the prison.

- (5) In subsection (4)—

“personal record” means any record which is required by prison rules to be prepared and maintained in relation to any prisoner (and it is immaterial whether or not the individual concerned is still a prisoner at the time of any alleged offence);

“relevant individual” means an individual who is or has at any time been—

- (a) a prisoner or a person working at the prison; or
- (b) a member of such a person's family or household.

- (6) In section 40D and this section—

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“document” means anything in which information is recorded (by whatever means);

“electronic communications” has the same meaning as in the Electronic Communications Act 2000 (c. 7);

“photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced; and

“sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.

Textual Amendments

- F71** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1)**, 41(1); S.I. 2008/504, art. 3(h)
- F72** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)

^{F76} **40F Offences under sections 40B to 40D: extension of Crown immunity**

- (1) An individual who—
- (a) works at a prison;
 - (b) does not do that work as a servant or agent of the Crown; and
 - (c) has been designated by the Secretary of State for the purposes of this section,
- shall be treated for the purposes of the application of sections 40B to 40D as if he were doing that work as a servant or agent of the Crown.
- (2) A designation for the purposes of this section may be given—
- (a) in relation to persons specified in the designation or persons of a description so specified; and
 - (b) in relation to all work falling within subsection (1)(a) or only in relation to such activities as the designation may provide.]

Textual Amendments

- F71** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1)**, 41(1); S.I. 2008/504, art. 3(h)
- F72** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F76** S. 40F inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 24**, 41(1); S.I. 2008/504, art. 3(j)

^{F77} **41 Unlawful introduction of other articles.**

.....

Textual Amendments

- F77** S. 41 repealed (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(2)**, 41(1), **Sch. 5 Pt. 2**; S.I. 2008/504, art. 3(i)(o)

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42 Display of notice of penalties.

The Prison Commissioners shall cause to be fixed in a conspicuous place outside every prison a notice of the penalties to which persons committing offences under [F78sections 39 to 40D] are liable.]]]

Textual Amendments

- F71** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1)**, 41(1); S.I. 2008/504, art. 3(h)
- F72** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F78** Words in s. 42 substituted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(3)**, 41(1); S.I. 2008/504, art. 3(i)

Remand centres, detention centres and Borstal institutions

[F79 43 Remand centres, detention centres and youth custody centres.

- (1) The Secretary of State may provide—
- (a) remand centres, that is to say places for the detention of persons not less than 14 but under 21 years of age who are remanded or committed in custody for trial or sentence;
 - ^{F80}(aa) [young offender institutions, that is to say places for the detention of offenders sentenced to detention in a young offender institution [F81or to custody for life]; [F82or other persons who may be lawfully detained there]]
^{F83F84} . . .
 - (b) . . .
 - ^{F85}(d) [secure training centres, that is to say places in which offenders in respect of whom detention and training orders have been made under [F86section 100 of the Powers of Criminal Courts (Sentencing) Act 2000] may be detained and given training and education and prepared for their release.][F87and in which children who have been remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 may be detained]
- (2) The Secretary of State may from time to time direct—
- (a) that a woman aged 21 years or over who is serving a sentence of imprisonment or who has been committed to prison for default shall be detained in a remand centre or a youth custody centre instead of a prison:
 - (b) that a woman aged 21 years or over who is remanded in custody or committed in custody for trial or sentence shall be detained in a remand centre instead of a prison;
 - (c) that a person under 21 but not less than 17 years of age who is remanded in custody or committed in custody for trial or sentence shall be detained in a prison instead of a remand centre or a remand centre instead of a prison, notwithstanding anything in section 27 of the Criminal Justice Act 1948 or section 23(3) of the Children and Young Persons Act 1969.
- (3) Notwithstanding subsection (1) above, any person required to be detained in an institution to which this Act applies may be detained in a remand centre for any temporary purpose [F88and a person [F89aged 18 years] or over may be detained in

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such a centre] for the purpose of providing maintenance and domestic services for that centre.

- (4) Sections 5A, 6(2) and (3), 16, 22, 25 and 36 of this Act shall apply to remand centres, detention centres and youth custody centres and to persons detained in them as they apply to prisons and prisoners.

[Sections 16, 22 and 36 of this Act shall apply to secure training centres and to persons^{F90}(4A) detained in them as they apply to prisons and prisoners.]

- (5) The other provisions of this Act preceding this section, except sections 28 and 37(2) above, shall apply to [^{F91}centres of the descriptions specified in subsection (4) above] and to persons detained in them as they apply to prisons and prisoners, but subject to such adaptation and modifications as may be specified in rules made by the Secretary of State.

[The other provisions of this Act preceding this section, except sections 5, 5A, 6(2) and^{F92}(5A) (3), 12, 14, 19, 25, 28 and 37(2) and (3) above, shall apply to secure training centres and to persons detained in them as they apply to prisons and prisoners, but subject to such adaptations and modifications as may be specified in rules made by the Secretary of State.]

- (6) References in the preceding provisions of this Act to imprisonment shall, so far as those provisions apply to institutions provided under this section, be construed as including references to detention in those institutions.

- (7) Nothing in this section shall be taken to prejudice the operation of [^{F93}section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000].

[The application of this Act to a person on whom a custodial sentence (within the^{F94}(8) meaning of the Armed Forces Act 2006) has been passed in respect of a service offence (within the meaning of that Act) is not affected by the omission from subsection (1) of a reference to that sentence.]]

Textual Amendments

- F79** S. 43 substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 11
- F80** S. 43(1)(aa) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 15 para. 11**
- F81** Words in s. 43(1)(aa) inserted (3.2.1995) by [1994 c. 33, s. 18\(3\)](#); S.I. 1995/127, art. 2(1), **Sch. 1**
- F82** Words in s. 43(1)(aa) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 26 para. 3**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(b)
- F83** S. 43(1)(b)(c) repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16**
- F84** Word in s. 43(1) repealed (1.3.1998) by [1994 c. 33, s. 168\(3\)](#), **Sch. 11**; S.I. 1998/277, **art. 3(3)**
- F85** S. 43(1)(d) substituted (1.4.2000) by [1998 c. 37, s. 119, Sch. 8 para. 6](#); S.I. 1999/3426, **art. 3(b)**
- F86** Words in s. 43(1)(d) substituted (25.8.2000) by [2000 c. 6, ss. 165\(1\), 168\(1\)](#), **Sch. 9 para. 5(2)**
- F87** Words in s. 43(1)(d) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 4**; S.I. 2012/2906, art. 2(j)
- F88** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 15 para. 12**
- F89** Words in s. 43(3) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 68, **Sch. 8 para. 2**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F90** S. 43(4A) inserted (3.11.1994) by [1994 c. 33, ss. 5\(3\)](#), 172(4)
- F91** Words in s. 43(5) substituted (3.11.1994) by [1994 c. 33, ss. 5\(4\)](#), 172(4)
- F92** S. 43(5A) inserted (3.11.1994) by [1994 c. 33, ss. 5\(5\)](#), 172(4)

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- F93** Words in s. 43(7) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 5(3)**
- F94** S. 43(8) added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 383(2), **Sch. 16 para. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C32** S. 43(1)(a)(2)(b)(c) modified (9.5.2005 for specified purposes, 18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44)**, s. 336(3)(4), **Sch. 3 para. 36**; S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(3)(c), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- C33** S. 43(1)(d): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(d)**
- C34** S. 43(8) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059)**, art. 1(3), **Sch. 1 para. 4**

44— ^{F95}
46.

Textual Amendments

- F95** Ss. 44–46 repealed by **Criminal Justice Act 1982 (c. 48, SIF 39:1)**, **Sch. 16**

Rules for the management of prisons and other institutions

47 Rules for the management of prisons, remand centres, detention centres and Borstal institutions.

- (1) The Secretary of State may make rules for the regulation and management of prisons, remand centres [^{F96}, young offender institutions or secure training centres], and for the classification, treatment, employment, discipline and control of persons required to be detained therein.
- (2) Rules made under this section shall make provision for ensuring that a person who is charged with any offence under the rules shall be given a proper opportunity of presenting his case.
- (3) Rules made under this section may provide for the training of particular classes of persons and their allocation for that purpose to any prison or other institution in which they may lawfully be detained.
- (4) Rules made under this section shall provide for the special treatment of the following persons whilst required to be detained in a prison, that is to say—
 - (a) . . . ^{F97}
 - (d) any . . . ^{F98} person detained in a prison, not being a person serving a sentence or a person imprisoned in default of payment of a sum adjudged to be paid by him on his conviction [^{F99} or a person committed to custody on his conviction].

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- [^{F100}(4A) Rules made under this section shall provide for the inspection of secure training centres and the appointment of independent persons to visit secure training centres and to whom representations may be made by offenders detained in secure training centres.]
- (5) Rules made under this section may provide for the temporary release of persons [^{F101}detained in a prison, remand centre [^{F102}, young offender institution or secure training centre] not being persons committed in custody for trial [^{F103}before the Crown Court]or committed to be sentenced or otherwise dealt with by [^{F103}the Crown Court]or remanded in custody by any court.]

Textual Amendments

- F96** Words in s. 47(1) substituted (3.11.1994) by 1994 c. 33, **ss. 6(2)**, 172(4)
- F97** S. 47(4)(a)–(c) repealed by Criminal Justice Act 1967 (c. 80), **Sch. 7 Pt. I**
- F98** Word repealed by Criminal Justice Act 1967 (c. 80), **Sch. 7 Pt. I**
- F99** Words added by Criminal Justice Act 1967 (c. 80), **s. 66(5)**
- F100** S. 47(4A) inserted (3.11.1994) by 1994 c. 33, **ss. 6(3)**, 172(4)
- F101** Word substituted by Criminal Justice Act 1961 (c. 39), **Sch. 4**
- F102** Words in s. 47(5) substituted (3.11.1994) by 1994 c. 33, **ss. 6(4)**, 172(4)
- F103** Words substituted by Courts Act 1971 (c. 23), **Sch. 8 para. 33**

Modifications etc. (not altering text)

- C35** S. 47 amended by Criminal Justice Act 1961 (c. 39), **s. 23(2)** and Courts–Martial (Appeals) Act 1968 (c. 20), **s. 52**
- C36** S. 47 extended by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 13(5), **Sch. 17 para. 9**
- C37** S. 47 amended by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123, Sch. 8 paras. 14, **16**
- C38** S. 47 extended (25.8.2000) by 2000 c. 6, **ss. 99(4)**, 168(1)
- C39** S. 47: transfer of functions (1.4.2009) by The Welsh Ministers (Transfer of Functions) Order 2009 (S.I. 2009/703), arts. 1(2), **2, 3**

Miscellaneous

48 ^{F104}

Textual Amendments

- F104** S. 48 repealed by Criminal Justice Act 1961 (c. 39), **Sch. 5**

49 Persons unlawfully at large.

- (1) Any person who, having been sentenced to [^{F105}imprisonment or custody for life or ordered to be detained in [^{F106}youth detention] accomodation or in a young offenders institution], or having been committed to a prison or remand centre, is unlawfully at large, may be arrested by a constable without warrant and taken to the place in which he is required in accordance with law to be detained.
- (2) Where any person sentenced to [^{F107}imprisonment, or ordered to be detained in [^{F108}youth detention] accomodation or in a young offenders institution] is unlawfully at large at any time during the period for which he is liable to be detained in pursuance

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of the sentence or order, then, unless the Secretary of State otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time during which he is absent from the [F109]place in which he is required in accordance with law to be detained];

Provided that—

- (a) this subsection shall not apply to any period during which any such person as aforesaid is detained in pursuance of the sentence or order or in pursuance of any other sentence of any court [F110]in the United Kingdom][F107]in a prison or remand centre, in [F108]youth detention] accomodation or in a young offenders institution];
- (b) F111
- (c) ... F112

(3) The provisions of the last preceding subsection shall apply to a person who is detained in custody in default of payment of any sum of money as if he were sentenced to imprisonment.

[F113(3A) Where—

- (a) a person is extradited to the United Kingdom from a category 1 territory for the purpose of serving a term of imprisonment or another form of detention mentioned in subsection (2) of this section, and
- (b) the person was for any time kept in custody in that territory with a view to the extradition (and not also for any other reason),

the Secretary of State shall exercise the power under that subsection to direct that account shall be taken of that time in calculating the period for which the person is liable to be detained.]

[F113(3B) In subsection (3A) of this section “category 1 territory” means a territory designated under the Extradition Act 2003 for the purposes of Part 1 of that Act.]

(4) For the purposes of this section a person who, after being temporarily released in pursuance of rules made under subsection (5) of section forty–seven of this Act, is at large at any time during the period for which he is liable to be detained in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made by the [F114]Secretary of State]in pursuance of the rules.

F115(4A)

[F116(5) In this section “[F117]“youth detention accommodation”]” means—

- (a) a young offender institution;
- (b) a secure training centre; or
- (c) any other accommodation that is [F118]youth detention] accommodation within the meaning given by [F119]section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000] (detention and training orders).]

Textual Amendments

F105 Words in s. 49(1) substituted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 7(1)**; S.I. 1999/3426, **art. 3(b)**

F106 Words in s. 49(1) substituted (1.11.2007) by **Offender Management Act 2007 (c. 21)**, s. 41(1), **Sch. 3 para. 11(2)**; S.I. 2007/3001, art. 2(1)(r)

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- F107** Words in s. 49(2) substituted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 7(2)**; S.I. 1999/3426, **art. 3(b)**
- F108** Words in s. 49(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 11(3)**; S.I. 2007/3001, art. 2(1)(r)
- F109** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 8(b)(ii)**
- F110** Words inserted by Criminal Justice Act 1961 (c. 39), **Sch. 4**
- F111** S. 49(2)(b) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 16**
- F112** S. 49(2) proviso (c) repealed by Criminal Justice Act 1961 (c. 39), **Sch. 5**
- F113** S. 49(3A)(3B) inserted (E.W.) (21.7.2014) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 171, 185(1)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/1916, art. 2(p)
- F114** Words substituted by S.I. 1963/597, **Sch. 1**
- F115** S. 49(4A) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 1**; S.I. 2012/2906, art. 2(h)
- F116** S. 49(5) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 7(3)**; S.I. 1999/3426, **art. 3(b)**
- F117** Words in s. 49(5) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 11(4)(a)**; S.I. 2007/3001, art. 2(1)(r)
- F118** Words in s. 49(5)(c) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 11(4)(b)**; S.I. 2007/3001, art. 2(1)(r)
- F119** Words in s. 49(5)(c) substituted (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 6**

Modifications etc. (not altering text)

- C40** S. 49 excluded by Naval Discipline Act 1957 (c. 53), **s. 88(4)**; amended by Criminal Justice Act 1967 (c. 80), **s. 69(2)**
- C41** S. 49 applied (5.9.1995) by 1995 c. 16, **s. 1(5)(6)**; S.I. 1995/2021, **art. 2**
- C42** S. 49(1) extended by Criminal Justice Act 1961 (c. 39), **s. 30(1)(2)**
- C43** S. 49(1) extended (U.K, Channel Islands) (1.10.1997) by 1997 c. 43, s. 41, **Sch. 1 Pt. III para. 17(1)(a)**; S.I. 1997/2200, **art. 2(1)(g)** (with art. 5)
- C44** S. 49(2) amended by Mental Health Act 1959 (c. 72), **s. 75(4)**
- C45** S. 49(2) amended by Mental Health Act 1983 (c. 20, SIF 85), **s. 50(4)**
s. 49(2) excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 2(1)(b)** (with s. 78); S.I. 2001/2161, **art. 2**
- C46** Proviso (a) to s. 49(2) amended (1.10.1997) by 1997 c. 43, s. 41, **Sch. 1 Pt. III para. 17(6)(a)**; S.I. 1997/2200, **art. 2(1)(g)** (with art. 5)
- C47** S. 49(4) applied (with modifications) by SI 2000/1160, art. 5 (as inserted (E.W.) (28.1.2015) by The Youth Justice Board for England and Wales (Amendment of Functions) Order 2015 (S.I. 2015/79), arts. 1, **3(4)**)

50 Application of certain provisions to remand homes and attendance centres.

Subsection (1) of section eighteen of this Act shall apply to attendance centres as it applies to prisons . . . ^{F120}

Textual Amendments

- F120** Words repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**

Status: Point in time view as at 28/01/2015.

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Supplemental

51 Payment of expenses out of moneys provided by Parliament.

All expenses incurred in the maintenance of prisons and in the maintenance of prisoners and all other expenses of the Secretary of State . . . ^{F121} incurred under this Act shall be defrayed out of moneys provided by Parliament.

Textual Amendments

F121 Words repealed by [S.I. 1963/597, Sch. 1](#)

52 Exercise of power to make orders, rules and regulations.

- (1) Any power of the Secretary of State to make rules or regulations under this Act and the power of the Secretary of State to make an order under section thirty-four [^{F122}, 37 or 40A] of this Act [^{F123} or under Schedule A1 to this Act] shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing regulations made under section sixteen or an order made under section thirty-seven of this Act, . . . ^{F124} shall be laid before Parliament.
- [^{F125}(2A) A statutory instrument containing an order under section 40A(7) which relates to List A (whether or not it also relates to List B) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (2B) A statutory instrument containing an order under section 40A(7) which relates only to List B is subject to annulment in pursuance of a resolution of either House of Parliament.]
- [^{F126}(2A) A statutory instrument containing an order under Schedule A1 to this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- (3) The power of the Secretary of State to make an order under section six or section thirty-four of this Act [^{F127} or under Schedule A1 to this Act] shall include power to revoke or vary such an order.

Textual Amendments

- F122** Words in s. 52(1) substituted (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 22\(2\)\(a\), 41\(1\); S.I. 2008/504, art. 3\(h\)](#)
- F123** Words in s. 52(1) inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 14 para. 1\(2\); S.I. 2007/709, art. 3\(p\) \(with art. 6\)](#)
- F124** Words repealed by [Criminal Justice Act 1967 \(c. 80\), Sch. 7 Pt. I](#)
- F125** S. 52(2A)(2B) inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 22\(2\)\(b\), 41\(1\); S.I. 2008/504, art. 3\(h\)](#)
- F126** S. 52(2A) inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 14 para. 1\(3\); S.I. 2007/709, art. 3\(p\) \(with art. 6\)](#)
- F127** Words in s. 52(3) inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 14 para. 1\(4\); S.I. 2007/709, art. 3\(p\) \(with art. 6\)](#)

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53 Interpretation.

- (1) In this Act the following expressions have the following meanings:—
- “Attendance centre” means a centre provided by the Secretary of State under ^{F128}section 221 of the Criminal Justice Act 2003] ;
- “Prison” does not include a naval, military or air force prison;
^{F129}
...
- (2) For the purposes of this Act the maintenance of a prisoner shall include all necessary expenses incurred in respect of the prisoner for food, clothing, custody and removal from one place to another, from the period of his committal to prison until his death or discharge from prison.
- (3) References in this Act to the Church of England shall be construed as including references to the Church in Wales.
- (4) References in this Act to any enactment shall be construed as references to that enactment as amended by any other enactment.

Textual Amendments

F128 Words in s. 53 substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 3](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(4\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

F129 Definition of “Remand home” repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

54 Consequential amendments, repeals and savings.

- ^{F130}(1)
- (2) ^{F131}
- (3) Nothing in this repeal shall affect any rule, order, regulation or declaration made, direction or certificate given or thing done under any enactment repealed by this Act and every such rule, order, regulation, direction, certificate or thing shall, if in force at the commencement of this Act, continue in force and be deemed to have been made, given or done under the corresponding provision of this Act.
- (4) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment in this Act.
- (5) The mention of particular matters in this section shall not be taken to affect the general application to this Act of section thirty-eight of the ^{M10}Interpretation Act 1889 (which relates to the effect of repeals).

Textual Amendments

F130 [S. 54\(1\)](#) repealed (5.11.1993) by [1993 c. 50](#), s. 1(1), [Sch. 1 Pt. I Group 1](#)

F131 [S. 54\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

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Marginal Citations

M10 1889 c. 63.

55 Short title, commencement and extent.

- (1) This Act may be cited as the Prison Act 1952.
- (2) This Act shall come into operation on the first day of October, nineteen hundred and fifty-two.

^{F132}(3)

- (4) Except as provided in ^{F133} . . . [^{F134}the ^{M11}Criminal Justice Act 1961], this Act shall not extend to Scotland.

- (5) This Act shall not extend to Northern Ireland.

[^{F135}(6) But (despite subsections (4) and (5)) the following shall extend to England and Wales, Scotland and Northern Ireland—

- (a) section 5A(5A) and (5B), and
- (b) section 5A(2) to (5) in so far as they apply by virtue of section 5A(5A).]

Textual Amendments

F132 S. 55(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. I** Group 1

F133 Words in s. 55(4) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. I** Group 1

F134 Words substituted by **Criminal Justice Act 1961 (c. 39)**, s. 41(3), **Sch. 4**

F135 S. 55(6) inserted (31.8.2006) by **Immigration, Asylum and Nationality Act 2006 (c. 13)**, **ss. 46(2)(b)**, 62(1)(2); S.I. 2006/2226, art. 3, Sch. 1

Marginal Citations

M11 1961 c. 39.

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SCHEDULES

[^{F136}SCHEDULE A1

Section 5A

FURTHER PROVISION ABOUT HER MAJESTY'S CHIEF INSPECTOR OF PRISONS

Textual Amendments

F136 Sch. A1 inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. **28(2)**, 53(1); S.I. 2007/709, art. 3(m) (with art. 6)

Modifications etc. (not altering text)

C48 Sch. A1 modified (temp.) (1.10.2008) by [The Health and Social Care Act 2008 \(Consequential Amendments and Transitory Provisions\) Order 2008 \(S.I. 2008/2250\)](#), arts. 1(1), **3(2)**

Delegation of functions

- 1 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) above it is nevertheless to be regarded for the purposes of section 5A of this Act and this Schedule as carried out by the Chief Inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

Inspection programmes and inspection frameworks

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
 - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
 - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Secretary of State and (subject to sub-paragraph (3) below)
 - (a) Her Majesty's Chief Inspector of Constabulary,
 - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
 - (c) [^{F137}Her Majesty's Chief Inspector of Probation for England and Wales] ,
 - ^{F138}(d)
 - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
 - ^{F139}(f)
 - [^{F140}(g) the Care Quality Commission,]

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- (h) the Audit Commission for Local Government and the National Health Service in England ^{F141} ...,
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

- (3) The requirement in sub-paragraph (2) above to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Chief Inspector from making visits without notice.

Textual Amendments

- F137** Words in Sch. A1 para. 2(2)(c) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 27(2)(a)**
- F138** Sch. A1 para. 2(2)(d) repealed (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012 \(S.I. 2012/2401\)](#), art. 1(2)(3), **Sch. 1 para. 3(a)** (with art. 2)
- F139** Sch. A1 para. 2(2)(f) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 53(2)(a), **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(t)36
- F140** Sch. A1 para. 2(2)(g) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), **Sch. 5 para. 53(2)(b)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(t)
- F141** Words in Sch. A1 para. 2(2)(h) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), Sch. 9 para. 1(2)(a), **Sch. 18 Pt. 9**; S.I. 2008/172, art. 4(a)(n)(i)

Inspections by other inspectors of organisations within Chief Inspector's remit

- 3 (1) If—
- (a) a person or body within sub-paragraph (2) below is proposing to carry out an inspection that would involve inspecting a specified organisation, and
 - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,
- the Chief Inspector shall, subject to sub-paragraph (7) below, give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
- (a) [^{F142}Her Majesty's Inspectorate of Probation for England and Wales] ;
 - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
 - ^{F143}(c)
 - [^{F144}(d) the Care Quality Commission;]

Status: Point in time view as at 28/01/2015.

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- (e) the Audit Commission for Local Government and the National Health Service in England^{F145}
- (3) The Secretary of State may by order amend sub-paragraph (2) above.
- (4) In sub-paragraph (1)(a) above “specified organisation” means a person or body specified by an order made by the Secretary of State.
- (5) A person or body may be specified under sub-paragraph (4) above only if it exercises functions in relation to any prison or other institution or matter falling within the scope of the Chief Inspector's duties under section 5A of this Act.
- (6) A person or body may be specified under sub-paragraph (4) above in relation to particular functions that it has.
- In the case of a person or body so specified, sub-paragraph (1)(a) above is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.
- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.
- This is subject to sub-paragraph (9) below.
- (9) The Secretary of State, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the organisation in question, or
 - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
 - (b) provision prescribing the period within which notices are to be given;
 - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
 - (d) provision for revising or withdrawing notices;
 - (e) provision for setting aside notices not validly given.

Textual Amendments

- F142** Words in Sch. A1 para. 3(2)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 26(2)(a)**
- F143** Sch. A1 para. 3(2)(c) repealed (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), Sch. 5 para. 53(3)(a), **Sch. 15 Pt. 1**; S.I. 2009/462, art. 2(1), Sch. 1 paras. 35(t)36
- F144** Sch. A1 para. 3(2)(d) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), **Sch. 5 para. 53(3)(b)**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(t)
- F145** Words in Sch. A1 para. 3(2)(e) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), Sch. 9 para. 1(2)(a), **Sch. 18 Pt. 9**; S.I. 2008/172, art. 4(a)(n)(i)

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Co-operation

- 4 The Chief Inspector shall co-operate with—
- (a) Her Majesty's Inspectors of Constabulary,
 - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
 - (c) [^{F146}Her Majesty's Inspectorate of Probation for England and Wales] ,
 - ^{F147}(d)
 - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
 - ^{F148}(f)
 - ^{F148}(g)
 - (h) the Audit Commission for Local Government and the National Health Service in England ^{F149} ...,
 - (i) the Auditor General for Wales, and
 - (j) any other public authority specified by an order made by the Secretary of State,
- where it is appropriate to do so for the efficient and effective discharge of his functions.

Textual Amendments

- F146** Words in Sch. A1 para. 4(c) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 26(2)(a)**
- F147** Sch. A1 para. 4(d) repealed (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012 \(S.I. 2012/2401\)](#), art. 1(2)(3), **Sch. 1 para. 3(b)** (with art. 2)
- F148** Sch. A1 para. 4(f)(g) omitted (1.10.2010) by virtue of [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), arts. 1(1), **3**,
- F149** Words in Sch. A1 para. 4(h) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 9 para. 1\(2\)\(a\)](#), **Sch. 18 Pt. 9**; S.I. 2008/172, art. 4(a)(n)(i)

Joint action

- 5 (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
- (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3) below, shall prepare a document (a “joint inspection programme”) setting out—
- (a) what inspections he proposes to carry out in the exercise of the power conferred by sub-paragraph (1) above, and
 - (b) what inspections the chief inspectors within sub-paragraph (3) below (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Constabulary;
 - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
 - (c) [^{F150}Her Majesty's Chief Inspector of Probation for England and Wales] ;
 - ^{F151}(d)

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- (4) A joint inspection programme shall be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 above apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

Textual Amendments

F150 Words in Sch. A1 para. 5(3)(c) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, **Sch. 1 para. 27(2)(a)**

F151 Sch. A1 para. 5(3)(d) repealed (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012 \(S.I. 2012/2401\)](#), art. 1(2)(3), **Sch. 1 para. 3(c)** (with art. 2)

Assistance for other public authorities

- 6 (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
 [The Chief Inspector may do anything the Chief Inspector thinks appropriate to ^{F152}(1A) facilitate the carrying out of an inspection under section 10 of the Local Government Act 1999 (inspection of best value authorities).]
 [^{F153}(2) Anything done under this paragraph may be done on such terms (including terms as to payment) as the Chief Inspector thinks fit.]]

Textual Amendments

F152 Sch. A1 para. 6(1A) inserted (4.4.2014) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 2(5)(a)**; S.I. 2014/900, art. 2(1)(i)

F153 Sch. A1 para. 6(2) substituted (4.4.2014) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 2(5)(b)**; S.I. 2014/900, art. 2(1)(i)

[^{F154}Joint inspection of courts

Textual Amendments

F154 Sch. A1 para. 7 and cross-heading inserted (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012 \(S.I. 2012/2401\)](#), art. 1(2)(3), **Sch. 1 para. 3(d)** (with art. 2)

7. (1) The Chief Inspector may inspect any aspect of the Crown Court or magistrates' courts in relation to their criminal jurisdiction which could have been inspected by Her Majesty's Inspectorate of Court Administration immediately before its abolition.
- (2) Sub-paragraph (1) applies only if the inspection includes matters other than any aspect of the Crown Court or magistrates' courts.

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- (3) The power of the Chief Inspector under this paragraph is in addition to the power under paragraph 5 to act jointly with another public authority.]

FIRST AND SECOND SCHEDULES

F155
. . .

Textual Amendments

F155 Schs. 1, 2 repealed by [Criminal Justice Act 1961 \(c. 39\)](#), [Sch. 5](#)

F156THIRD SCHEDULE

. . .

Textual Amendments

F156 Sch. 3 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. I](#) Group 1

F157FOURTH SCHEDULE

. . .

Textual Amendments

F157 Sch. 4 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

Status:

Point in time view as at 28/01/2015.

Changes to legislation:

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