



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

An Act to make further provision with respect to the treatment of offenders; and for connected purposes. [21st March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### <sup>F1</sup>PART I

#### Textual Amendments

**F1** Pt. I (ss. 1-7) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**PART II**

EFFECT OF CUSTODIAL SENTENCES

**Modifications etc. (not altering text)**

**C3** Pt. II applied in part (with modifications) (1.10.1997) by S.I. 1997/1776, art. 2, **Sch. 1 paras. 2-4**; S.I. 1997/2200, **art. 2(1)**

**CHAPTER I**

DETERMINATE SENTENCES

*General*

**F<sup>9</sup>8** .....

**Textual Amendments**

**F9** S. 8 repealed (30.9.1998) by 1998 c. 37, s. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 22(1)(w)(3)(x)**.

**F<sup>10</sup>9** .....

**Textual Amendments**

**F10** S. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F<sup>11</sup>9A** .....

**Textual Amendments**

**F11** S. 9A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Early release*

**F<sup>12</sup>10** .....

**Textual Amendments**

**F12** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

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F13 **11** .....

.....  
**Textual Amendments**

**F13** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F14 **12** .....

.....  
**Textual Amendments**

**F14** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F15 **13** .....

.....  
**Textual Amendments**

**F15** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

*Additional days*

F16 **14** .....

.....  
**Textual Amendments**

**F16** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F17 **15** .....

.....  
**Textual Amendments**

**F17** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

*Supervision after release*

F18 **16** .....

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**Textual Amendments**  
F18 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F19 17 .....

**Textual Amendments**  
F19 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F20 18 .....

**Textual Amendments**  
F20 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

*Special cases*

F21 19 .....

**Textual Amendments**  
F21 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F22 20 .....

**Textual Amendments**  
F22 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F23 21 .....

**Textual Amendments**  
F23 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

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F24 **22** .....

**Textual Amendments**

**F24** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F25 **23** .....

**Textual Amendments**

**F25** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F26 **24** .....

**Textual Amendments**

**F26** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F27 **25** .....

**Textual Amendments**

**F27** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

*Supplemental*

F28 **26** .....

**Textual Amendments**

**F28** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F29 **27** .....

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### Textual Amendments

- F29** Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

## CHAPTER II

### LIFE SENTENCES

### Modifications etc. (not altering text)

- C4** Pt. II Ch. II excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

*<sup>F30</sup>Sentence of detention during Her Majesty's pleasure: review of minimum term*

### Textual Amendments

- F30** Ss. 27A, 27B and cross-heading inserted (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32)**, **ss. 128(1), 208(5)(1)**

## **27A Sentence of detention during Her Majesty's pleasure imposed on a person under 18: application for minimum term review**

- (1) This section applies to a person who—
  - (a) is serving a DHMP sentence, and
  - (b) was under the age of 18 when sentenced;
 and such a person is referred to in this section as a “relevant young offender”.
- (2) A relevant young offender may make an application for a minimum term review to the Secretary of State after serving half of the minimum term.
- (3) An “application for a minimum term review” is an application made by a relevant young offender for a reduction in the minimum term.
- (4) Where a relevant young offender has made an application for a minimum term review under this section, the offender may only make a further such application if—
  - (a) the period of 2 years beginning with the day on which the previous application was determined has expired, and
  - (b) the offender is under the age of 18 on the day on which the further application is made.
- (5) Where the Secretary of State receives an application under this section, the Secretary of State must—
  - (a) consider the application, and
  - (b) unless the Secretary of State forms the view that the application is frivolous or vexatious, refer it to the High Court.

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- (6) Where the Secretary of State decides not to refer the application to the High Court, the Secretary of State must give notice of that decision, and the reasons for it, to the relevant young offender.
- (7) If the relevant young offender makes representations or provides further evidence in support of the application before the end of the period of 4 weeks beginning with the day on which the notice under subsection (6) is given, the Secretary of State must consider the representations or evidence and—
- (a) if the Secretary of State is no longer of the view mentioned in subsection (5)(b), refer the application to the High Court, or
  - (b) give notice to the offender confirming the decision not to refer the application.
- (8) In this section—
- “DHMP sentence” means a sentence of detention during Her Majesty’s pleasure imposed (whether before or after this section comes into force) under a provision listed in column 1 of the table in subsection (9);
- “minimum term”, in relation to a person serving a DHMP sentence, means the part of the sentence specified—
- (a) in the minimum term order made in respect of the sentence, or
  - (b) where one or more reduction orders have been made under section 27B in respect of the sentence, in the most recent of those orders;
- “minimum term order”, in relation to a DHMP sentence, means the order made under the provision listed in column 2 of the table in subsection (9) that corresponds to the entry in column 1 that relates to the sentence.

- (9) The table is as follows—

<i>Provision under which DHMP sentence imposed</i>	<i>Provision under which minimum term order made</i>
Section 259 of the Sentencing Code	Section 322 of the Sentencing Code
Section 90 of the Powers of Criminal Courts (Sentencing) Act 2000	Section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 or section 269 of the Criminal Justice Act 2003
Section 218 of the Armed Forces Act 2006	Section 269 of the Criminal Justice Act 2003 or section 322 of the Sentencing Code.

- (10) For the purposes of subsection (4), an application for a minimum term review is determined—
- (a) when the court makes a reduction order or a decision confirming the minimum term (see section 27B), or
  - (b) in a case where the application is not referred to the court, when the Secretary of State gives the relevant young offender notice in relation to the application under subsection (6).
- (11) There is no right for any person who is serving a DHMP sentence to request a review of the minimum term other than that conferred by this section.

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**Modifications etc. (not altering text)**

- C5** S. 27A(4) modified (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 128(3), 208(5)(1)** (with s. 128(4))

**27B Power of High Court to reduce minimum term**

- (1) This section applies where the Secretary of State refers an application for a minimum term review made by a relevant young offender under section 27A to the High Court.
- (2) The court may—
  - (a) make a reduction order in relation to relevant young offender, or
  - (b) confirm the minimum term in respect of the offender’s DHMP sentence, and a decision of the court under this subsection is final.
- (3) A reduction order is an order that the relevant young offender’s minimum term is to be reduced to such part of the offender’s DHMP sentence as the court considers appropriate and is specified in the reduction order.
- (4) In deciding whether to make a reduction order, the court must, in particular, take into account any evidence—
  - (a) that the relevant young offender’s rehabilitation has been exceptional;
  - (b) that the continued detention or imprisonment of the offender for the remainder of the minimum term is likely to give rise to a serious risk to the welfare or continued rehabilitation of the offender which cannot be eliminated or mitigated to a significant degree.
- (5) In this section “DHMP sentence”, “minimum term” and “relevant young offender” have the same meaning as in section 27A.]

*Release on licence*

**28 Duty to release certain life prisoners.**

- [<sup>F31</sup>[<sup>F32</sup>(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner’s sentence is a reference to—
- [<sup>F33</sup>(a) the part of the sentence specified in the minimum term order, or
  - (b) in a case where one or more reduction orders has been made in relation to the prisoner (see section 27B), the part of the sentence specified in the most recent of those orders.]]
- (1B) But if a life prisoner is serving two or more life sentences—
- (a) [<sup>F34</sup>this section does not apply to him] unless [<sup>F35</sup>a minimum term order has been made in respect of each of those sentences]; and
  - (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.
- (5) As soon as—
- (a) a life prisoner to whom this section applies has served the relevant part of his sentence; and]



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- (b) the Parole Board has directed his release under this section,  
it shall be the duty of the Secretary of State to release him on licence.
- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—
  - (a) the Secretary of State has referred the prisoner’s case to the Board; and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- [<sup>F36</sup>(6A) Sections 28A and 28B contain provision that relates to the Parole Board's function of giving directions under subsection (5) for the release of life prisoners.]
- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—
  - (a) after he has served the relevant part of his sentence; and
  - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference;  
<sup>F37</sup> ...
  - <sup>F37</sup>(c) .....  
and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.
- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the <sup>M17</sup>Prison Act 1952.
- [<sup>F38</sup>(8A) In this section “minimum term order” means an order under—
  - (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
  - (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence) [<sup>F39</sup>, or
  - (c) subsection (2) of section 321 of the Sentencing Code (life sentence: minimum term order etc).]]
- <sup>F40</sup>(9) .....

**Textual Amendments**

- F31** S. 28(1A)(1B)-(5)(a) substituted for s. 28(1)-(5)(a) (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 136(a)**
- F32** S. 28(1A) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 275(1)(2), 336(2)**
- F33** S. 28(1A)(a)(b) substituted for words in s. 28(1A) (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 128(2), 208(5)(l)**
- F34** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(a), 336(2)**
- F35** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(b), 336(2)**
- F36** S. 28(6A) inserted (4.1.2021) by **Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 1(2), 3(2); S.I. 2020/1537, reg. 2**

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- F37** S. 28(7)(c) and word omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 144\(1\)\(a\)](#), [208\(5\)\(p\)](#)
- F38** S. 28(8A) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [s. 275\(1\)\(4\)](#), [336\(2\)](#)
- F39** S. 28(8A)(c) and word inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 145](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F40** S. 28(9) repealed (30.11.2000 with effect as mentioned in [Sch. 7 para. 145](#) and notes to [Sch. 8](#) of the repealing Act) by [2000 c. 43](#), [ss. 74, 75](#), [Sch. 7 Pt. II para. 136\(b\)](#), [Sch. 8](#)

#### **Modifications etc. (not altering text)**

- C6** S. 28: exercise of functions restricted in or as regards Scotland (30.6.1999) by [S.I. 1999/1748](#), [art. 8\(2\)](#), [Sch. 4 Pt. I para. 1\(1\)](#)
- C7** S. 28 modified (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [s. 336\(2\)](#), [Sch. 22 para. 16](#)
- C8** S. 28(1B) modified (30.11.2000) by [2000 c. 43](#), [ss. 74, 80\(3\)\(d\)](#), [Sch. 7 Pt. II para. 146-148](#)

#### **Marginal Citations**

- M17** [1952 c.52](#).

### **[<sup>F41</sup>28A Murder or manslaughter: prisoner's non-disclosure of information**

- (1) The Parole Board must comply with this section when making a public protection decision about a life prisoner if—
  - (a) the prisoner's life sentence was passed for murder or manslaughter;
  - (b) the Parole Board does not know where and how the victim's remains were disposed of; and
  - (c) the Parole Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Parole Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the life prisoner, the Parole Board must take into account—
  - (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Parole Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a)—
  - (a) the reference to a life sentence includes a life sentence passed before the coming into force of section 1 of the Prisoners (Disclosure of Information About Victims) Act 2020;
  - (b) the reference to murder includes—
    - (i) murder under the law of Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man, and
    - (ii) any offence under the law of any other country or territory that corresponds to murder under the law of England and Wales;
  - (c) the reference to manslaughter includes—
    - (i) culpable homicide under the law of Scotland,
    - (ii) manslaughter under the law of Northern Ireland, any of the Channel Islands or the Isle of Man, and

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(iii) any offence under the law of any other country or territory that corresponds to manslaughter under the law of England and Wales.

(5) In this section, in relation to a life prisoner—

“public protection decision” means the decision, made under section 28(6) (b) for the purposes of section 28(5), as to whether the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“victim” means the victim of the offence for which the prisoner's life sentence was passed;

and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.

#### Textual Amendments

**F41** Ss. 28A, 28B inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 1(1), 3(2); S.I. 2020/1537, reg. 2

### 28B Indecent images: prisoner's non-disclosure of information

- (1) The Parole Board must comply with this section when making a public protection decision about a life prisoner if—
- (a) the prisoner's life sentence was passed for—
    - (i) an offence of taking an indecent photograph of a child, or
    - (ii) a relevant offence of making an indecent pseudo-photograph of a child;
  - (b) the Parole Board does not know the identity of the child who is the subject of the relevant indecent image; and
  - (c) the Parole Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Parole Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Parole Board must take into account—
- (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Parole Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Parole Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a life sentence includes a life sentence passed before the coming into force of section 1 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) For the purposes of this section, an offence is an “offence of taking an indecent photograph of a child” if it is—
- (a) an offence of taking an indecent photograph of a child under section 1(1)(a) of the Protection of Children Act 1978 (the “England and Wales offence”), or

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- (b) an offence of taking an indecent photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence.
- (6) For the purposes of this section, an offence is a “relevant offence of making an indecent pseudo-photograph of a child” if—
- (a) it is—
- (i) an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child (the “England and Wales offence”), or
  - (ii) an offence of making an indecent pseudo-photograph of a child under the law of Scotland, Northern Ireland, any of the Channel Islands, the Isle of Man or any other country or territory that corresponds to the England and Wales offence, and
- (b) the Parole Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;
- and in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.
- (7) In this section—
- “public protection decision”, in relation to a prisoner, means the decision, made under section 28(6)(b) for the purposes of section 28(5), as to whether the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
- “relevant indecent image” means—
- (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
  - (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

#### Textual Amendments

**F41** Ss. 28A, 28B inserted (4.1.2021) by [Prisoners \(Disclosure of Information About Victims\) Act 2020 \(c. 19\)](#), [ss. 1\(1\), 3\(2\)](#); S.I. 2020/1537, reg. 2

### <sup>F42</sup>29 Power to release other life prisoners.

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#### Textual Amendments

**F42** S. 29 repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(b\)\(i\), 336\(2\)](#), [Sch. 37 Pt. 8](#)

### 30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.

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- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

**Modifications etc. (not altering text)**

- C9** S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by [S.I. 1999/1748, art. 8\(2\)](#), [Sch. 4 Pt. I para. 1\(1\)](#)

*Licences and recall*

**31 Duration and conditions of licences.**

- (1) Where a life prisoner <sup>F43</sup>, other than a prisoner to whom section 31A below applies,] is released on licence, the licence shall, unless previously revoked under section 32 <sup>F44</sup>... below, remain in force until his death.
- <sup>F45</sup>(1A) Where a prisoner to whom section 31A below applies is released on licence, the licence shall remain in force until his death unless—
- (a) it is previously revoked under section 32(1) or (2) below; or
  - (b) it ceases to have effect in accordance with an order made by the Secretary of State under section 31A below.]
- (2) A life prisoner subject to a licence shall comply with such conditions <sup>F46</sup>... as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.
- <sup>F47</sup>(2A) The conditions so specified shall include on the prisoner's release conditions as to his supervision by—
- (a) <sup>F48</sup>[an officer of a local probation board] appointed for or assigned to the <sup>F49</sup>[local justice area] within which the prisoner resides for the time being <sup>F50</sup>[or (as the case may be) an officer of a provider of probation services acting in the local justice area within which the prisoner resides for the time being];
  - (b) where the prisoner is under the age of 22, a social worker of the <sup>F51</sup>... local authority within whose area the prisoner resides for the time being; or
  - (c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998.]
- <sup>F52</sup>(3) The Secretary of State must not include a condition in a life prisoner's licence on release, insert a condition in such a licence or vary or cancel a condition of such a licence except—
- (a) in accordance with recommendations of the Parole Board, or
  - (b) where required to do so by an order under section 62A of the Criminal Justice and Court Services Act 2000 (compulsory electronic monitoring conditions).]
- <sup>F53</sup>(4) .....
- (5) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by <sup>F54</sup>section 259 of the Criminal Justice Act 2003]), subsection (2) above shall have effect as if <sup>F55</sup>subsection (2A) above] were omitted.

### Textual Amendments

- F43** Words in s. 31(1) inserted (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 18 para. 1(2)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 40 (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(1)**)
- F44** Words in s. 31(1) repealed (14.7.2008) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 28 Pt. 2; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(b)**
- F45** S. 31(1A) inserted (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 18 para. 1(3)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 40 (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(1)**)
- F46** Words in s. 31(2) repealed (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by **1998 c. 37, ss. 119, 120(2), Sch. 8 para. 131(1), Sch. 10; S.I. 1998/2327, art. 3(1)(b)(c), Sch. 1; S.I. 2000/924, art. 3**
- F47** S. 31(2A) inserted (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by **1998 c. 37, s. 119, Sch. 8 para. 131(2)**; S.I. 1998/2327, art. 3(1)(b), **Sch. 1**; S.I. 2000/924, **art. 3**
- F48** Words in s. 31(2A)(a) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. 1 para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F49** Words in s. 31(2A)(a) substituted (1.4.2005) by **The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, Sch. para. 53**
- F50** Words in s. 31(2A)(a) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), Sch. 1 para. 12(2)**
- F51** Words in s. 31(2A)(b) repealed (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004 (c. 31), Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(2)**
- F52** S. 31(3) substituted (13.4.2015) by **Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 2 para. 1 (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73**
- F53** S. 31(4) repealed (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 83(3), Sch. 37 Pt. 8**
- F54** Words in s. 31(6) substituted (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 83(4)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (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(1)**)
- F55** Words in s. 31(6) substituted (30.9.1998) by **1998 c. 37, s. 119, Sch. 8 para. 131(3); S.I. 1998/2327, art. 2(2)(mm)**.

### Modifications etc. (not altering text)

- C10** S. 31: exercise of functions restricted in or as regards Scotland (30.6.1999) by **S.I. 1999/1748, art. 8(2), Sch. 4 Pt. 1 para. 1**
- C11** S. 31(6) modified (1.1.1998) by **S.I. 1997/2200, art. 5(3)(a)**  
 S. 31(6) modified (19.9.1998) by **S.I. 1998/2327, art. 5(1)(b)**.

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### **[<sup>F56</sup>31A Imprisonment or detention for public protection: termination of licences**

- (1) This section applies to a prisoner who—
- (a) is serving one or more preventive sentences, and
  - (b) is not serving any other life sentence.
- (2) Where—
- (a) the prisoner has been released on licence under this Chapter [<sup>F57</sup>(whether or not the prisoner has subsequently been recalled to prison under section 32)]; and
  - (b) the qualifying period has expired,
- the Secretary of State shall, if directed to do so by the Parole Board, order that the licence is to cease to have effect.

- [<sup>F58</sup>(3) Where—
- (a) the prisoner has been released on licence under this Chapter (whether or not the prisoner has subsequently been recalled to prison under section 32);
  - (b) the qualifying period has expired; and
  - (c) if the Secretary of State has made a previous reference of the prisoner’s case under this subsection, the period of twelve months beginning with the day of the disposal of that reference has expired,

the Secretary of State must refer the prisoner’s case to the Parole Board under this subsection.]

- (4) Where [<sup>F59</sup>a reference] is made under subsection (3) above, the Parole Board—
- (a) shall, if it is satisfied that it is no longer necessary for the protection of the public that the licence should remain in force, direct the Secretary of State to make an order that the licence is to cease to have effect;
  - (b) shall otherwise dismiss the [<sup>F60</sup>reference].

[ A reference under subsection (3) must be made, and a reference under that subsection  
<sup>F61</sup>(4A) must be determined by the Parole Board under subsection (4), even if at the time of the reference or determination the prisoner is in prison having been recalled under section 32.

(4B) If at the time of the determination the prisoner is in prison having been recalled under section 32—

- (a) subsection (2) does not apply, and
- (b) subsection (4)(a) has effect as if it required the Parole Board—
  - (i) to determine whether it is satisfied that it is not necessary for the protection of the public for the prisoner, when released, to be released on licence in respect of the preventative sentence or sentences, and
  - (ii) if it is so satisfied, to direct the Secretary of State accordingly.

(4C) Where the Parole Board gives a direction under subsection (4B)(b)(ii)—

- (a) if at any time the Board directs the prisoner’s release under section 28, that section has effect in relation to the prisoner as if, in subsection (5), for “to release him on licence” there were substituted “to release the prisoner unconditionally”, and
- (b) if at any time the Board directs the prisoner’s release under section 32, that section has effect in relation to the prisoner as if, in subsection (5),



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for “immediate release on licence” there were substituted “immediate unconditional release”.]

(5) In this section—

“preventive sentence” means a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or a sentence of detention for public protection under section 226 of that Act [<sup>F62</sup>(including such a sentence of imprisonment [<sup>F63</sup>or detention in a young offender institution] or detention passed as a result of section 219 or 221 of the Armed Forces Act 2006)];

“the qualifying period”, in relation to a prisoner who has been released on licence [<sup>F64</sup>(whether or not the prisoner has subsequently been recalled to prison under section 32)], means the period of ten years beginning with the date of his release.]

#### Textual Amendments

- F56** S. 31A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 18 para. 2](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 40](#) (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(1))
- F57** Words in s. 31A(2)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(2\)](#), 208(5)(o)
- F58** S. 31A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(3\)](#), 208(5)(o)
- F59** Words in s. 31A(4) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(4\)\(a\)](#), 208(5)(o)
- F60** Word in s. 31A(4)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(4\)\(b\)](#), 208(5)(o)
- F61** S. 31A(4A)-(4C) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(5\)](#), 208(5)(o)
- F62** Words in s. 31A(5) inserted (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. 141](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F63** Words in s. 31A(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(10\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F64** Words in s. 31A(5) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(6\)](#), 208(5)(o)

#### Modifications etc. (not altering text)

- C12** S. 31A(3) applied (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(9\)\(10\)](#), 208(5)(o)
- C13** S. 31A(4)-(4C) applied (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 138\(7\)\(8\)](#), 208(5)(o)
- C14** S. 31A(4) applied (22.7.2019) by [The Parole Board Rules 2019 \(S.I. 2019/1038\)](#), rules 1, [31\(4\)](#)

## 32 Recall of life prisoners while on licence.

[<sup>F65</sup>(1) The Secretary of State may, in the case of any life prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.]



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- (3) A life prisoner recalled to prison under [<sup>F66</sup>this section]—
- (a) may make representations in writing with respect to his recall; and
  - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Parole Board [<sup>F67</sup>the case of a life prisoner recalled under this section].
- [<sup>F68</sup>(5) Where on a reference under subsection (4) above the Parole Board directs the <sup>F69</sup>... release on licence under this section of the life prisoner, the Secretary of State shall give effect to the direction.]
- [<sup>F70</sup>(5A) The Board must not give a direction unless satisfied that it is no longer necessary for the protection of the public that the life prisoner should remain in prison.]
- (6) On the revocation of the licence of any life prisoner under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

#### Textual Amendments

- F65** S. 32(1) substituted for s. 32(1)(2) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 31\(2\)](#), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F66** Words in s. 32(3) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 31\(3\)](#), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F67** Words in s. 32(4) substituted for s. 32(4)(a)(b) (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 31\(4\)](#), 153(7); S.I. 2008/1586, art. 2(1), Sch. 1 para. 17
- F68** S. 32(5) substituted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 32 para. 84](#)
- F69** Word in s. 32(5) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 139\(1\)\(a\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F70** S. 32(5A) inserted (29.6.2022) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 11\(2\)](#), 95(1) (with s. 11(5)); S.I. 2022/716, art. 2

#### Modifications etc. (not altering text)

- C15** S. 32: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), [Sch. 4 Pt. 1 para. 1](#)
- C16** S. 32: power to amend conferred (29.6.2022) by 2012 c. 10, s. 128(3)(aa) (as inserted by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 11\(3\)](#), 95(1); S.I. 2022/716, art. 2)

#### [<sup>F71</sup>32ZA] **Offence of remaining unlawfully at large after recall**

- (1) A person recalled to prison under section 32 commits an offence if the person—
- (a) has been notified of the recall orally or in writing, and
  - (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
- (a) written notice of the recall has been delivered to an appropriate address, and
  - (b) a period specified in the notice has elapsed.
- (3) In subsection (2) “an appropriate address” means—

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- (a) an address at which, under the person's licence, the person is permitted to reside or stay, or
  - (b) an address nominated, in accordance with the person's licence, for the purposes of this section.
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
- (a) the person's licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
  - (b) the person has failed to comply with such an instruction, and
  - (c) the person has not complied with such an instruction for at least 6 months.
- (5) A person who is guilty of an offence under this section is liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- (6) In relation to an offence committed before [<sup>F72</sup> May 2022], the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months.
- (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5) (b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.]

#### Textual Amendments

- F71** S. 32ZA inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 12(1)**, 95(1) (with s. 12(3)); S.I. 2015/778, art. 3, Sch. 1 para. 8
- F72** Words in s. 32ZA(6) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**

*[<sup>F73</sup> Release at the direction of Parole Board*

#### Textual Amendments

- F73** S. 32ZB and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 139(1)(b)**, 208(1); S.I. 2022/520, reg. 5(o)

### **32ZB Release at direction of Parole Board: timing**

- (1) This section applies where the Parole Board directs the release of a life prisoner under section 28 or 32.
- (2) The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances including, in particular, the need to make arrangements in connection with any conditions that are to be included in the life prisoner's licence under this Chapter.

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- (3) The duty under subsection (2) is subject to provision made pursuant to section 239(5C) (b) of the Criminal Justice Act 2003 (provision in Parole Board rules in relation to setting aside of release directions).]

*[<sup>F74</sup>Persons liable to removal from the United Kingdom*

**Textual Amendments**

**F74** Ss. 32A, 32B and cross-heading inserted (1.5.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 119**, 151(2)(b) (with Sch. 15)

**32A Removal of prisoners liable to removal from United Kingdom**

- (1) Where P—
- (a) is a life prisoner in respect of whom a minimum term order has been made, and
  - (b) is liable to removal from the United Kingdom,
- the Secretary of State may remove P from prison under this section at any time after P has served the relevant part of the sentence (whether or not the Parole Board has directed P's release under section 28).
- (2) But if P is serving two or more life sentences—
- (a) this section does not apply to P unless a minimum term order has been made in respect of each of those sentences; and
  - (b) the Secretary of State may not remove P from prison under this section until P has served the relevant part of each of them.
- (3) If P is removed from prison under this section—
- (a) P is so removed only for the purpose of enabling the Secretary of State to remove P from the United Kingdom under powers conferred by—
    - (i) Schedule 2 or 3 to the Immigration Act 1971, or
    - (ii) section 10 of the Immigration and Asylum Act 1999, and
  - (b) so long as remaining in the United Kingdom, P remains liable to be detained in pursuance of the sentence.
- (4) So long as P, having been removed from prison under this section, remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section 28 or 30 is exercisable in relation to P as if P were in prison.
- (5) In this section—
- “liable to removal from the United Kingdom” has the meaning given by section 259 of the Criminal Justice Act 2003;
  - “the relevant part” has the meaning given by section 28.

**32B Re-entry into United Kingdom of offender removed from prison**

- (1) This section applies if P, having been removed from prison under section 32A, is removed from the United Kingdom.
- (2) If P enters the United Kingdom—

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- (a) P is liable to be detained in pursuance of the sentence from the time of P's entry into the United Kingdom;
  - (b) if no direction was given by the Parole Board under subsection (5) of section 28 before P's removal from prison, that section applies to P;
  - (c) if such a direction was given before that removal, P is to be treated as if P had been recalled to prison under section 32.
- (3) A person who is liable to be detained by virtue of subsection (2)(a) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2)(a) does not prevent P's further removal from the United Kingdom.]

*Miscellaneous and supplemental*

**<sup>F75</sup>33 Life prisoners transferred to England and Wales.**

.....

**Textual Amendments**

**F75** S. 33 repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(b)(ii), 336(2), **Sch. 37 Pt. 8**

**[<sup>F76</sup>33A Life prisoners also serving fixed-term sentence**

- (1) This section applies where a life prisoner is also serving one or more sentences by virtue of which the fixed-term provisions apply to the offender.
- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the fixed-term provisions to release the prisoner.
- (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner's case to the Parole Board unless the Secretary of State is also required by the fixed-term provisions to—
  - (a) refer the prisoner's case to the Board, or
  - (b) release the prisoner.
- (4) Subsection (3) does not apply to a reference by the Secretary of State under section 31A(3).
- (5) The fact that the prisoner is serving a life sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the fixed-term provisions require.
- (6) In this section “the fixed-term provisions” means Chapter 6 of Part 12 of the Criminal Justice Act 2003.]

**Textual Amendments**

**F76** S. 33A inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 144(1)(b), 208(5)(p)

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**Status:** Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
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## 34 Interpretation of Chapter II.

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences [<sup>F77</sup>and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003]; <sup>F78</sup>...
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
- (a) a sentence of imprisonment for life;
  - (b) a sentence of detention during Her Majesty’s pleasure or for life under [<sup>F79</sup>section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F80</sup>or section 250 or 259 of the Sentencing Code]; and
  - (c) a sentence of custody for life [<sup>F81</sup>under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000, under section 272 or 275 of the Sentencing Code (including a sentence passed as a result of section 217 of the Armed Forces Act 2006) or under section 210A of the Armed Forces Act 2006].
  - [<sup>F82</sup>(d) a sentence of imprisonment [<sup>F83</sup>or detention in a young offender institution] for public protection under section 225 of the Criminal Justice Act 2003 [<sup>F84</sup>(including one passed as a result of section 219 of the Armed Forces Act 2006)], <sup>F85</sup>...
  - (e) a sentence of detention for public protection under section 226 of that Act [<sup>F86</sup>(including one passed as a result of section 221 of the Armed Forces Act 2006)].
  - [<sup>F87</sup>(f) a sentence of detention for life under section 209 of the Armed Forces Act 2006;
  - (g) a sentence under section 218 of that Act (detention at Her Majesty's pleasure).]
- <sup>F88</sup>(3) .....
- <sup>F89</sup>(4) .....

### Textual Amendments

- F77** Words in s. 34(1) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 273(4)**, 336(2)
- F78** Word in s. 34(1) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by [2000 c. 43](#), **ss. 74, 75, 80(3)(d)**, [Sch. 7 Pt. II para. 138](#), **Sch. 8**
- F79** Words in s. 34(2)(3) substituted (25.8.2000) by [2000 c. 6](#), **ss. 165, 168(1)**, **Sch. 9 para. 183(2)(3)**
- F80** Words in s. 34(2)(b) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 146(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F81** Words in s. 34(2)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 146(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F82** S. 34(2)(d)(e) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 18 para. 3**; S.I. 2005/950, art. 2(1), [Sch. 1 para. 40](#) (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(1))
- F83** Words in s. 34(2)(d) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 117(10)(b)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F84** Words in s. 34(2)(d) inserted (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. 142(2)(a)**; S.I. 2009/812, art. 3(a) (b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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- F85** Word in s. 34(2)(d) repealed (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. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- F86** Words in s. 34(2)(e) inserted (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. 142\(2\)\(b\)](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- F87** S. 34(2)(f)(g) 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. 142\(2\)\(c\)](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- F88** S. 34(3) repealed (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. 142\(3\)](#), [Sch. 17](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- F89** S. 34(4) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 144\(1\)\(c\)](#), [208\(5\)\(p\)](#)

**Modifications etc. (not altering text)**

- C17** S. 34: exercise of functions restricted in or as regards Scotland (30.6.1999) by [S.I. 1999/1748](#), art. 8(2), [Sch. 4 Pt. 1 para. 1](#)
- C18** S. 34(1) extended (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 22 para. 17](#)
- C19** S. 34(2) 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. 40](#)

## PART III

### MISCELLANEOUS AND SUPPLEMENTAL

#### *Community sentences*

### 35 **Fine defaulters: general.**

- (1) Subsection (2) below applies in any case where a magistrates' court—
- (a) has power under Part III of [<sup>F90</sup>the Magistrates' Courts Act 1980 (“the 1980 Act”)] to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the <sup>M18</sup>Criminal Justice Act 1988 or section 2 of the <sup>M19</sup>Drug Trafficking Act 1994 [<sup>F91</sup>or section 6 of the Proceeds of Crime Act 2002]); or
  - (b) would, but for [<sup>F92</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) The magistrates' court may—
- (a) subject to subsections (4) to (6) [<sup>F93</sup>, (10) and (11)] below, make a community service order; or
  - (b) subject to subsections (7) to (11) below, make a curfew order,
- in respect of the person in default instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders).

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(3) Where a magistrates' court has power to make an order under subsection (2)(a) or (b) above, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions, if any, as it thinks just.

[<sup>F94</sup>(4) Section 46(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders) shall apply for the purposes of subsection (2)(a) above as if for the words from the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—

- (a) section 46(3) and (4) of that Act, and
- (b) so far as applicable, the following provisions of section 46 of that Act and the other provisions of Part IV of that Act relating to community service orders, have effect in relation to a community service order made by virtue of this section as they have effect in relation to any community service order made under that Act, subject to the exceptions in subsection (5) below.

<sup>F94</sup>(5) The following are the exceptions, namely—

- (a) the reference in section 46(3)(a) of that Act to 40 hours shall be construed as a reference to 20 hours;
- (b) section 46(8) of that Act shall not apply;
- (c) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
- (d) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
- (e) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
- (f) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
- (g) paragraph 11(2)(b) of that Schedule shall not apply.]

(6) In the case of an amount in default which is described in the first column of the following Table, the period of community service specified in an order under subsection (2)(a) above shall not exceed the number of hours set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	40 hours
An amount exceeding £200 but not exceeding £500	60 hours
An amount exceeding £500	100 hours

[<sup>F95</sup>(7) Section 37(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (curfew orders) shall apply for the purposes of subsection (2)(b) above as if for the words from



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the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—

- (a) section 37(3), (5) to (8) and (10) to (12) of that Act, and
- (b) so far as applicable, the other provisions of Part IV of that Act relating to curfew orders,

have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any curfew order made under that Act, subject to the exceptions in subsection (8) below.

<sup>F95</sup>(8) The following are the exceptions, namely—

- (a) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
- (b) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
- (c) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
- (d) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
- (e) paragraph 11(2)(b) of that Schedule shall not apply.]

(9) In the case of an amount in default which is described in the first column of the following Table, the number of days to which an order under subsection (2)(b) above relates shall not exceed the number of days set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of days</i>
An amount not exceeding £200	20 days
An amount exceeding £200 but not exceeding £500	30 days
An amount exceeding £500 but not exceeding £1,000	60 days
An amount exceeding £1,000 but not exceeding £2,500	90 days
An amount exceeding £2,500	180 days

(10) A magistrates’ court shall not make an order under [<sup>F96</sup>subsection (2)(a) or (b)] above in respect of a person who is under 16.

(11) A magistrates court shall not make an order under subsection (2)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the relevant area and the notice has not been withdrawn.

(12) In subsection (11) above “the relevant area” means—



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- (a) in relation to an order under subsection (2)(a) above, the area proposed to be specified in the order;
- (b) in relation to an order under subsection (2)(b) above, the area in which the place proposed to be specified in the order is situated.

[<sup>F97</sup>(12A) Sections 35 and 36 of the Powers of Criminal Courts (Sentencing) Act 2000 (restrictions and procedural requirements for community sentences) do not apply in relation to an order under subsection (2)(a) or (b) above.]

- (13) Where an order has been made under subsection (2)(a) or (b) above for default in paying any sum—
  - (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
  - (b) on payment of a part of that sum to any such person, the total number of hours or days to which the order relates shall be reduced proportionately;  
and the total number is so reduced if it is reduced by such number of complete hours or days as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.
- (14) The Secretary of State may by order direct that subsection (5)(a), (6) or (9) above shall be amended by substituting for any number of hours or days there specified such number of hours or days as may be specified in the order.
- (15) The power to make an order under this section shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

#### Textual Amendments

- F90** Words in s. 35(1)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 132(1)**; S.I. 1998/2327, **art. 2(2)(nn)**.
- F91** Words in s. 35(1)(a) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 32(2)**; S.I. 2003/333, **art. 2, Sch.**
- F92** Words in s. 35(1)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 147** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, **reg. 2**
- F93** Words in s. 35(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 50(1)**; S.I. 1998/2327, **art. 2(1)(w)**.
- F94** S. 35(4)(5) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(3)**
- F95** S. 35(7)(8) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(4)**
- F96** Words in s. 35(10) substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 50(6)**; S.I. 1998/2327, **art. 2(1)(w)**.
- F97** S. 35(12A) inserted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(5)**

#### Commencement Information

- I4** S. 35 not in force at Royal Assent, see s. 57(2). S. 35 in force at 1.1.1998 by 1997/2200, **art. 3** (subject to savings in **art. 5**)

#### Marginal Citations

- M18** 1988 c.33.
- M19** 1994 c.37.

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<sup>F98</sup>**36** .....

**Textual Amendments**

**F98** S. 36 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F99</sup>**37** .....

**Textual Amendments**

**F99** S. 37 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F100</sup>**38** .....

**Textual Amendments**

**F100** S. 38 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Driving disqualifications*

<sup>F101</sup>**39** .....

**Textual Amendments**

**F101** S. 39 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**40 Fine defaulters.**

- (1) This section applies in any case where a magistrates' court—
- (a) has power under Part III of the 1980 Act to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the <sup>M20</sup>Criminal Justice Act 1988 or section 2 of the <sup>M21</sup>Drug Trafficking Act 1994 [<sup>F102</sup>or section 6 of the Proceeds of Crime Act 2002]); or
  - (b) would, but for [<sup>F103</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) Subject to subsection (3) below, the magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders), order the person in default to be disqualified, for such period not exceeding twelve months as it thinks fit, for holding or obtaining a driving licence.

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- (3) A magistrates court shall not make an order under subsection (2) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (4) Where an order has been made under subsection (2) above for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
  - (b) on payment of a part of that sum to any such person, the number of weeks or months to which the order relates shall be reduced proportionately;
- and the total number is so reduced if it is reduced by such number of complete weeks or months as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.
- (5) The Secretary of State may by order made by statutory instrument vary the period specified in subsection (2) above; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F104</sup>(6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce any such licence held by him <sup>F105</sup>....
- (7) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988;
- <sup>F106</sup>...]

#### Textual Amendments

- F102** Words in s. 40(1)(a) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 32(3)**; S.I. 2003/333, art. 2, Sch.
- F103** Words in s. 40(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 148** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F104** S. 40(6)(7) substituted (25.8.2000) for s. 40(6) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 185(3)**
- F105** Words in s. 40(6) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\)](#), art. 1(1), **Sch. 2 para. 5(a)**
- F106** Words in s. 40(7) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\)](#), art. 1(1), **Sch. 2 para. 5(b)**

#### Commencement Information

- I5** S. 40 not in force at Royal Assent, see s. 57(2). S. 40 in force at 1.1.1998 by 1997/2200, art. 3 (subject to savings in art. 5)

#### Marginal Citations

- M20** 1988 c.33.  
**M21** 1994 c.37.

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*Transfer and repatriation of prisoners*

**41 Transfer of prisoners within the British Islands.**

Schedule 1 to this Act (which makes provision with respect to the transfer of prisoners within the British Islands) shall have effect.

**42 Repatriation of prisoners to the British Islands.**

Schedule 2 to this Act (which makes provision, including retrospective provision, with respect to prisoners repatriated to the British Islands) shall have effect.

*Young offenders*

<sup>F107</sup>**43** .....

**Textual Amendments**  
**F107** S. 43 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F108</sup>**44** .....

**Textual Amendments**  
**F108** S. 44 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. II paras. 1, 2)

**45 Publication of reports.**

(1) After subsection (4) of section 49 of the 1933 Act (restrictions on reports of proceedings in which children or young persons are concerned) there shall be inserted the following subsections—

“(4A) If a court is satisfied that it is in the public interest to do so, it may, in relation to a child or young person who has been convicted of an offence, by order dispense to any specified extent with the requirements of this section in relation to any proceedings before it to which this section applies by virtue of subsection (2)(a) or (b) above, being proceedings relating to—

- (a) the prosecution or conviction of the offender for the offence;
- (b) the manner in which he, or his parent or guardian, should be dealt with in respect of the offence;
- (c) the enforcement, amendment, variation, revocation or discharge of any order made in respect of the offence;
- (d) where an attendance centre order is made in respect of the offence, the enforcement of any rules made under section 16(3) of the <sup>M22</sup>Criminal Justice Act 1982; or

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- (e) where a secure training order is so made, the enforcement of any requirements imposed under section 3(7) of the <sup>M23</sup>Criminal Justice and Public Order Act 1994.
- (4B) A court shall not exercise its power under subsection (4A) above without—
- (a) affording the parties to the proceedings an opportunity to make representations; and
  - (b) taking into account any representations which are duly made.”
- (2) Subsection (1) above shall not apply where the offence was committed before the commencement of this section.

**Marginal Citations**

**M22** 1982 c.48.

**M23** 1994 c.33.

*Mentally disordered offenders*

**46 Power to make hospital and limitation directions.**

After section 45 of the 1983 Act there shall be inserted the following sections—

*“ Hospital and limitation directions*

**45A Power of higher courts to direct hospital admission.**

- (1) This section applies where, in the case of a person convicted before the Crown Court of an offence the sentence for which is not fixed by law—
  - (a) the conditions mentioned in subsection (2) below are fulfilled; and
  - (b) except where the offence is one the sentence for which falls to be imposed under section 2 of the Crime (Sentences) Act 1997, the court considers making a hospital order in respect of him before deciding to impose a sentence of imprisonment (“the relevant sentence”) in respect of the offence.
- (2) The conditions referred to in subsection (1) above are that the court is satisfied, on the written or oral evidence of two registered medical practitioners—
  - (a) that the offender is suffering from psychopathic disorder;
  - (b) that the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and
  - (c) that such treatment is likely to alleviate or prevent a deterioration of his condition.
- (3) The court may give both of the following directions, namely—
  - (a) a direction that, instead of being removed to and detained in a prison, the offender be removed to and detained in such hospital as may be specified in the direction (in this Act referred to as a “hospital direction”); and

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- (b) a direction that the offender be subject to the special restrictions set out in section 41 above (in this Act referred to as a “limitation direction”).
- (4) A hospital direction and a limitation direction shall not be given in relation to an offender unless at least one of the medical practitioners whose evidence is taken into account by the court under subsection (2) above has given evidence orally before the court.
- (5) A hospital direction and a limitation direction shall not be given in relation to an offender unless the court is satisfied on the written or oral evidence of the registered medical practitioner who would be in charge of his treatment, or of some other person representing the managers of the hospital that arrangements have been made—
  - (a) for his admission to that hospital; and
  - (b) for his admission to it within the period of 28 days beginning with the day of the giving of such directions;
 and the court may, pending his admission within that period, give such directions as it thinks fit for his conveyance to and detention in a place of safety.
- (6) If within the said period of 28 days it appears to the Secretary of State that by reason of an emergency or other special circumstances it is not practicable for the patient to be received into the hospital specified in the hospital direction, he may give instructions for the admission of the patient to such other hospital as appears to be appropriate instead of the hospital so specified.
- (7) Where such instructions are given—
  - (a) the Secretary of State shall cause the person having the custody of the patient to be informed, and
  - (b) the hospital direction shall have effect as if the hospital specified in the instructions were substituted for the hospital specified in the hospital direction.
- (8) Section 38(1) and (5) and section 39 above shall have effect as if any reference to the making of a hospital order included a reference to the giving of a hospital direction and a limitation direction.
- (9) A hospital direction and a limitation direction given in relation to an offender shall have effect not only as regards the relevant sentence but also (so far as applicable) as regards any other sentence of imprisonment imposed on the same or a previous occasion.
- (10) The Secretary of State may by order provide that this section shall have effect as if the reference in subsection (2) above to psychopathic disorder included a reference to a mental disorder of such other description as may be specified in the order.
- (11) An order made under this section may—
  - (a) apply generally, or in relation to such classes of offenders or offences as may be specified in the order;
  - (b) provide that any reference in this section to a sentence of imprisonment, or to a prison, shall include a reference to a custodial sentence, or to an institution, of such description as may be so specified; and
  - (c) include such supplementary, incidental or consequential provisions as appear to the Secretary of State to be necessary or expedient.

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#### **45B Effect of hospital and limitation directions.**

- (1) A hospital direction and a limitation direction shall be sufficient authority—
  - (a) for a constable or any other person directed to do so by the court to convey the patient to the hospital specified in the hospital direction within a period of 28 days; and
  - (b) for the managers of the hospital to admit him at any time within that period and thereafter detain him in accordance with the provisions of this Act.
- (2) With respect to any person—
  - (a) a hospital direction shall have effect as a transfer direction; and
  - (b) a limitation direction shall have effect as a restriction direction.
- (3) While a person is subject to a hospital direction and a limitation direction the responsible medical officer shall at such intervals (not exceeding one year) as the Secretary of State may direct examine and report to the Secretary of State on that person; and every report shall contain such particulars as the Secretary of State may require.”

**Modifications etc. (not altering text)**

**C20** S. 46 excluded (1.1.1998) by S.I. 1997/2200, art. 5(1)

#### **47 Power to specify hospital units.**

- (1) Subject to subsection (2) below, any power to specify a hospital which is conferred by—
  - (a) section 37 of the 1983 Act (hospital orders);
  - (b) section 45A of that Act (hospital and limitation directions);
  - (c) section 47 of that Act (transfer directions); <sup>F109</sup> ...
  - <sup>F110</sup>(d) .....includes power to specify a hospital unit; and where such a unit is specified in relation to any person in the exercise of such a power, any reference in any enactment (including one contained in this Act) to him being, or being liable to be, detained in a hospital shall be construed accordingly.
- (2) In subsection (1) above—
  - (a) paragraph (a) shall not apply unless the court also makes an order under section 41 of the 1983 Act (restriction orders);
  - (b) paragraph (c) shall not apply unless the Secretary of State also gives a direction under section 49 of that Act (restriction directions); <sup>F111</sup> ...
  - <sup>F112</sup>(c) .....
- (3) In this section—

“hospital”, in relation to any exercise of a power, has the same meaning as in the enactment which confers the power;

“hospital unit” means any part of a hospital which is treated as a separate unit.

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- [<sup>F113</sup>(4) A reference in this section to section 37 or 41 of the 1983 Act includes a reference to that section as it applies by virtue of—
- (a) section 5 of the Criminal Procedure (Insanity) Act 1964,
  - (b) section 6 or 14 of the Criminal Appeal Act 1968, [<sup>F114</sup>or]
  - [<sup>F115</sup>(c) Schedule 4 to the Armed Forces Act 2006 (including as applied by section 16(2) of the Court Martial Appeals Act 1968).]

#### Textual Amendments

- F109** Word in s. 47(1) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 11](#); S.I. 2005/579, art. 3(i)
- F110** S. 47(1)(d) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 45\(2\)](#), [Sch. 11](#) (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(g)(i)
- F111** Word in s. 47(2) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 11](#); S.I. 2005/579, art. 3(i)
- F112** S. 47(2)(c) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 45\(2\)](#), [Sch. 11](#) (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(g)(i)
- F113** S. 47(4) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 45\(3\)](#) (with [Sch. 12 para. 8](#)); S.I. 2005/579, art. 3(g)
- F114** Word in s. 47(4)(b) inserted (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. 143](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F115** S. 47(4)(c) substituted for s. 47(4)(c)(d) (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. 143](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### 48 Offenders conditionally discharged from hospital.

- (1) The 1983 Act and the 1984 Act shall have effect subject to the amendments specified in Schedule 3 to this Act, being amendments making provision with respect to transfers within the British Islands of responsibility for offenders conditionally discharged from hospital.
- (2) In this section and that Schedule “the 1984 Act” means the <sup>M24</sup>Mental Health (Scotland) Act 1984.

#### Marginal Citations

**M24** 1984 c.36.

#### 49 Other amendments of the 1983 Act.

- (1) In subsection (5) of section 38 of the 1983 Act (interim hospital orders), for the words “six months” there shall be substituted the words “ twelve months ”.
- (2) In subsection (3) of section 41 of that Act (power of higher courts to restrict discharge from hospital), in paragraph (c)(ii), after the words “section 19 above” there shall be inserted the words “ or in pursuance of subsection (3) of that section ”.



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- (3) In subsection (1) of section 47 of that Act (removal to hospital of persons serving sentences of imprisonment etc.), the words “(not being a mental nursing home)” shall cease to have effect.
- (4) In paragraph 5 of Part II of Schedule 1 to that Act (patients subject to hospital and guardianship orders)—
- (a) the word “and” immediately following sub-paragraph (a) shall cease to have effect; and
  - (b) after sub-paragraph (b) there shall be inserted the words “and
  - (c) in subsection (3) after the words “may at any time” there shall be inserted the words “, with the consent of the Secretary of State,”.”

*Miscellaneous*

**F116**50 .....

**Textual Amendments**

**F116** S. 50 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F117**51 .....

**Textual Amendments**

**F117** S. 51 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F118**52 **Increased penalty for offence of indecency with children.**

.....

**Textual Amendments**

**F118** S. 52 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), s. 141, **Sch. 7**; S.I. 2004/874, art. 2

*Supplemental*

**53 Financial provisions.**

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

**54 General interpretation.**

(1) In this Act—

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- “the 1933 Act” means the <sup>M25</sup>Children and Young Persons Act 1933;
- “the 1969 Act” means the <sup>M26</sup>Children and Young Persons Act 1969;
- “the 1973 Act” means the <sup>M27</sup>Powers of Criminal Courts Act 1973;
- “the 1980 Act” means the <sup>M28</sup>Magistrates’ Courts Act 1980;
- “the 1982 Act” means the <sup>M29</sup>Criminal Justice Act 1982;
- “the 1983 Act” means the <sup>M30</sup>Mental Health Act 1983;
- “the 1991 Act” means the <sup>M31</sup>Criminal Justice Act 1991.

[<sup>F119</sup>“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]

<sup>F120</sup>(2) . . . . .

(3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this Act to have been committed on the last of those days.

[<sup>F121</sup>(4) For the purposes of any provision of this Act which requires the determination of the age of a person by the court, his age shall be deemed to be that which it appears to the court to be after considering any available evidence.]

**Textual Amendments**

**F119** S. 54(1): definition of “local probation board” inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 141**; S.I. 2001/919, **art. 2(f)(ii)**

**F120** S. 54(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 133, **Sch. 10**; S.I. 1998/2327, **art. 2(2)(nn)(3)(x)**.

**F121** S. 54(4) added (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 53**; S.I. 1998/2327, **art. 2(1)(w)**.

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**Marginal Citations**

**M25** 1933 c.12.  
**M26** 1969 c.54.  
**M27** 1973 c.62.  
**M28** 1980 c.43.  
**M29** 1982 c.48.  
**M30** 1983 c.20.  
**M31** 1991 c.53.

**55 Minor and consequential amendments. E+W**

(1) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

(2) For the purposes of any of those enactments as so amended—

<sup>F122</sup>(a) . . . . .

(b) a sentence falls to be imposed under subsection (3A) of section 70 of the <sup>M32</sup>Army Act 1955 or the <sup>M33</sup>Air Force Act 1955 or subsection (1A) of section 42 of the <sup>M34</sup>Naval Discipline Act 1957 if it is required by that subsection [<sup>F123</sup>and] the court-martial is not of the opinion there mentioned.

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#### Extent Information

**E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only.

#### Textual Amendments

**F122** S. 55(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F123** Word in s. 55(2)(b) substituted (E.W.) (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 54**; S.I. 1998/2327, **art. 2(1)(w)**.

#### Commencement Information

**I6** S. 55 wholly in force at 1.12.1999; S. 55 not in force at Royal Assent, see s. 57(2); S. 55(1)(2)(b) (and 55(2)(a) for specified purposes) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)**; S. 55 in force at 1.12.1999 to the extent not already in force at 1.12.1999 by S.I. 1999/3096, **art. 2(d)**

#### Marginal Citations

**M32** 1955 c.18.

**M33** 1955 c.19.

**M34** 1957 c.53.

## 55 Minor and consequential amendments. **S+N.I.**

(1) The enactments mentioned in Schedule 4 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

(2) For the purposes of any of those enactments as so amended—

<sup>F327</sup>(a) .....

(b) a sentence falls to be imposed under subsection (3A) of section 70 of the <sup>M56</sup>Army Act 1955 or the <sup>M57</sup>Air Force Act 1955 or subsection (1A) of section 42 of the <sup>M58</sup>Naval Discipline Act 1957 if it is required by that subsection in any case where the court-martial is not of the opinion there mentioned.

#### Extent Information

**E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only.

#### Textual Amendments

**F327** S. 55(2)(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

#### Commencement Information

**I20** S. 55 wholly in force at 1.12.1999; S. 55 not in force at Royal Assent, see s. 57(2); S. 55(1)(2)(b) (and 55(2)(a) for specified purposes) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)**; s. 55 in force to the extent not already in force at 1.12.1999 by S.I. 1999/3096, **art. 2(d)**

#### Marginal Citations

**M56** 1955 c.18.

**M57** 1955 c.19.

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**M58** 1957 c.53.

## 56 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 5 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M35</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

### Commencement Information

- I7** S. 56(1)(2) in force at 1.10.1997 for specified purposes by S.I. 1997/2200, **art. 2(1)**
- I8** S. 56(2) in force at 4.4.2005 for specified purposes by S.I. 2005/932, **art. 2(1)(2)(a)** (with **art. 2(3)**)
- I9** S. 56(2) in force at 3.12.2012 for specified purposes by S.I. 2012/2901, **art. 2(a)**

### Marginal Citations

**M35** 1978 c.30.

## 57 Short title, commencement and extent.

- (1) This Act may be cited as the Crime (Sentences) Act 1997.
- (2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) Without prejudice to the provisions of Schedule 5 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) Subject to subsections (5) to (8) below, this Act extends to England and Wales only.
- (5) The following provisions of this Act extend to Scotland, Northern Ireland and the Channel Islands, namely—
  - (a) section 41 and Schedule 1; and
  - (b) section 56(2) and Schedule 6 so far as relating to the repeal of Part III of the <sup>M36</sup>Criminal Justice Act 1961.
- (6) The following provisions of this Act extend to Scotland, namely—
  - (a) section 45;
  - (b) paragraphs 1 and 5 to 8 of Schedule 2 and section 42 so far as relating to those paragraphs;
  - (c) paragraphs 1 and 6 to 10 of Schedule 3 and section 48 so far as relating to those paragraphs;
  - (d) paragraph 16 of Schedule 4 to this Act and section 55 so far as relating to that paragraph; and
  - (e) paragraphs 9, 11 and 12 of Schedule 5 and section 56(1) so far as relating to those paragraphs.

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- (7) The following provisions of this Act extend to Northern Ireland, namely—
- (a) paragraphs 1, 9 and 10 of Schedule 2 and section 42 so far as relating to those paragraphs;
  - (b) paragraphs 2, 3, 7 and 8 of Schedule 3 and section 48 so far as relating to those paragraphs; and
  - (c) paragraphs 10 and 12 of Schedule 5 and section 56(1) so far as relating to those paragraphs.

[<sup>F124</sup>(8) Nothing in subsection (4) above affects the extent of section 47 of this Act so far as it confers a power on the Court Martial or the Court Martial Appeal Court.]

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#### Subordinate Legislation Made

- P1** S. 57(2)(3): Power partly exercised (23.6.1997): 25.6.1997 appointed for specified provisions by [S.I. 1997/1581](#) and (8.9.1997): 1.10.1997, 1.1.1998 and 1.3.1998 appointed for specified provisions by [S.I. 1997/2200](#)  
S. 57(2)(3); Power partly exercised (17.11.1999); 1.12.1999 appointed for specified provisions by [S.I. 1999/3096](#), [art. 2](#)

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#### Textual Amendments

- F124** S. 57(8) substituted (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. 144](#); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

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#### Modifications etc. (not altering text)

- C21** S. 57(5)(b) amended (30.9.1998) by [1998 c. 37](#), s. 119, [Sch. 8 para. 134](#); [S.I. 1998/2327](#), [art. 2\(2\)](#) (**nn**).

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#### Marginal Citations

- M36** [1961 c.39](#).

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## SCHEDULES

### SCHEDULE 1

Section 41.

#### TRANSFER OF PRISONERS WITHIN THE BRITISH ISLANDS

**Modifications etc. (not altering text)**

- C22** Sch. 1: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 4(1), Sch. 2 para. 3
- C23** Sch. 1 excluded (1.1.1998) by S.I. 1997/2200, art. 5(6)  
 Sch. 1 excluded (18.9.1998) by S.I. 1998/2251, art. 16(5).  
 Sch. 1 excluded (1.9.2001) by 2001 c. 17, s. 42(5) (with s. 78); S.I. 2001/2161, art. 2  
 Sch. 1 extended (1.9.2001) by 2001 c. 17, s. 46(1) (with s. 78); S.I. 2001/2161, art. 2

### PART I

#### POWERS OF TRANSFER

**Modifications etc. (not altering text)**

- C24** Sch. 1 Pt. I extended (with modifications) (18.12.1998) by S.I. 1998/2798, arts. 2, 3, Schs.1, 2.

#### *Transfer of prisoners: general*

- 1 (1) The Secretary of State may, on the application of—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- make an order for his transfer to another part of the United Kingdom or to any of the Channel Islands, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of the remainder of his sentence, and for his removal to an appropriate institution there.
- (2) Where—
- (a) a person is remanded in custody in any of the Channel Islands in connection with an offence; or
  - (b) a person has been sentenced to imprisonment in any of the Channel Islands,
- the Secretary of State may, without application in that behalf, make an order for his transfer to any part of the United Kingdom, there to be remanded in custody pending his trial for the offence or, as the case may be, to serve the whole or any part of his sentence or the remainder of his sentence, and for his removal to an appropriate institution there.

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[<sup>F125</sup>(2A) If it appears to [<sup>F126</sup>the Department of Justice in Northern Ireland or] the Secretary of State that—

(a) a person remanded in custody in Northern Ireland in connection with an offence, or

(b) a person serving a sentence of imprisonment in Northern Ireland;

should be transferred to another part of the United Kingdom in the interests of maintaining security or good order in any prison in Northern Ireland, [<sup>F127</sup>the Department of Justice in Northern Ireland or (as the case may be) the Secretary of State may] make an order for his transfer to that other part, there to be remanded in custody pending his trial or, as the case may be, to serve the whole or any part of the remainder of his sentence, and for his removal to an appropriate institution there.]

[<sup>F128</sup>(2B) But the Secretary of State may make an order under sub-paragraph (2A) only if—

(a) the Secretary of State is of the view that the transfer is in the interests of national security, or

(b) the Secretary of State’s view that the person should be transferred is arrived at (wholly or partly) on the basis of protected information.

“Protected information” means information the disclosure of which may, in the view of the Secretary of State, be against the interests of national security.]

(3) In this paragraph “appropriate institution”—

(a) in relation to a person remanded in custody, means any prison or other institution;

(b) in relation to a person sentenced to imprisonment, means, subject to sub-paragraph (4) below, any institution which would be appropriate for the detention of an offender of the same age serving an equivalent sentence passed by a court in the country or island to which he is transferred.

(4) Sub-paragraph (3)(b) above shall have effect in relation to a person serving a sentence of a length which could not have been passed on an offender of his age by a court in the place to which he has been transferred as if it defined “appropriate institution” as meaning such place as the Secretary of State may direct.

[<sup>F129</sup>(5) This paragraph has effect subject to the following modifications—

(a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;

(b) in determining the meaning of “appropriate institution” in relation to a person transferred to Northern Ireland from another part of the United Kingdom, any reference in sub-paragraph (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

**F125** Sch. 1 para. 1(2A) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\), ss. 13\(2\), 19\(1\)](#); [S.R. 2004/267, art. 2](#)



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- F126** Words in Sch. 1 para. 1(2A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 16(2)(a)** (with arts. 28-31)
- F127** Words in Sch. 1 para. 1(2A) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 16(2)(b)** (with arts. 28-31)
- F128** Sch. 1 para. 1(2B) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 16(3)** (with arts. 28-31)
- F129** Sch. 1 para. 1(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 16(4)** (with arts. 28-31)

**Modifications etc. (not altering text)**

- C25** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, **art. 2**, Sch.; S.I. 1997/2200, **art. 2**
- C26** Sch. 1 para. 1(1)(4) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(2)**; S.I. 1998/3178, **art. 3**

*Transfer of prisoners for trial*

- 2 (1) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom,
- should be transferred to another part of the United Kingdom or to any of the Channel Islands for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that other part or that island and for his removal to a prison or other institution there.
- (2) If it appears to the Secretary of State that—
- (a) a person remanded in custody in any of the Channel Islands in connection with an offence; or
  - (b) a person serving a sentence of imprisonment in any of the Channel Islands,
- should be transferred to a part of the United Kingdom for the purpose of attending criminal proceedings against him there, the Secretary of State may make an order for his transfer to that part and for his removal to a prison or other institution there.
- (3) Where a person has been transferred under sub-paragraph (1)(a) or (2)(a) above for the purpose of any proceedings, the Secretary of State may, if that person is not sentenced to imprisonment in those proceedings, make an order for his return to the country or island from which he was transferred under that sub-paragraph.
- (4) Where a person has been transferred under sub-paragraph (1)(b) or (2)(b) above for the purpose of any proceedings, the Secretary of State may—
- (a) if that person is sentenced to imprisonment in those proceedings, make an order under paragraph 1(1)(b) or (2)(b) above (but without application in that behalf) transferring him back to the country or island from which he was transferred under that sub-paragraph;
  - (b) if he is not so sentenced, make an order for his return to the said country or island, there to serve the remainder of the sentence referred to in that sub-paragraph.



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*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- [<sup>F130</sup>(5) This paragraph has effect subject to the following modifications—
- (a) in relation to the transfer to another part of the United Kingdom of a person remanded in custody in Northern Ireland or serving a sentence of imprisonment in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
  - (b) in relation to a person who has been transferred from Northern Ireland to another part of the United Kingdom, any reference in sub-paragraph (3) or (4) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

**F130** Sch. 1 para. 2(5) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 17** (with arts. 28-31)

#### Modifications etc. (not altering text)

**C27** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2

**C28** Sch. 1 para. 2(1)(3)(4) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(3)**; S.I. 1998/3178, art. 3

#### *Transfer of prisoners for other judicial purposes*

- 3 (1) If the Secretary of State is satisfied, in the case of—
- (a) a person remanded in custody in any part of the United Kingdom in connection with an offence;
  - (b) a person serving a sentence of imprisonment in any part of the United Kingdom; or
  - (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any part of the United Kingdom,
- that the attendance of that person at any place in that or any other part of the United Kingdom or in any of the Channel Islands is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.
- (2) If the Secretary of State is satisfied, in the case of—
- (a) a person remanded in custody in any of the Channel Islands in connection with an offence;
  - (b) a person serving a sentence of imprisonment in any of the Islands; or
  - (c) a person not falling within paragraph (a) or (b) above who is detained in a prison in any of the Channel Islands,
- that the attendance of that person at any place in the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the Secretary of State may direct that person to be taken to that place.
- (3) Where any person is directed under this paragraph 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 or other institution or place in which he is required in accordance with law to be detained.

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- [<sup>F131</sup>(4) This paragraph has effect subject to the following modifications—
- (a) in relation to the attendance at a place in Northern Ireland or any other part of the United Kingdom of a person who is remanded in custody in, serving a sentence of imprisonment in, or otherwise detained in a prison in, Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
  - (b) in relation to a person who is directed by the Department of Justice in Northern Ireland to be taken to any place under this paragraph, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

**F131** Sch. 1 para. 3(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 8 para. 18** (with arts. 28-31)

#### Modifications etc. (not altering text)

**C29** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), art. 2, Sch.; [S.I. 1997/2200](#), art. 2

**C30** Sch. 1 para. 3(1)(3) amended (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, **Sch. 2 Pt. I para. 1(4)**; [S.I. 1998/3178](#), art. 3

### *Transfer of supervision of released prisoners*

- 4 (1) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any part of the United Kingdom, make an order for the transfer of his supervision to another part of the United Kingdom or to any of the Channel Islands, that is to say, an order—
- (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country or island; and
  - (b) for responsibility for his supervision to be transferred to an appropriate person there.
- (2) The Secretary of State may, on the application of a person undergoing or about to undergo supervision in any of the Channel Islands, make an order for the transfer of his supervision to any part of the United Kingdom, that is to say, an order—
- (a) for his supervision or, as the case may be, the remainder of his supervision to be undergone in that country; and
  - (b) for responsibility for his supervision to be transferred to an appropriate person there.
- [<sup>F132</sup>(3) In relation to the transfer to another part of the United Kingdom of the supervision of a person undergoing or about to undergo supervision in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

**F132** Sch. 1 para. 4(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 8 para. 19** (with arts. 28-31)

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#### Modifications etc. (not altering text)

- C31** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2
- C32** Sch. 1 para. 4(1) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 130(5); S.I. 1998/3178, art. 3

#### Conditions of transfers

- 5 (1) A transfer under this Part [<sup>F133</sup>(other than a transfer under paragraph 1(2A))] shall have effect subject to such conditions (if any) as the Secretary of State may think fit to impose.
- (2) Subject to sub-paragraph (3) below, a condition imposed under this paragraph may be varied or removed at any time.
- (3) Such a condition as is mentioned in paragraph 6(1)(a) below shall not be varied or removed except with the consent of the person to whom the transfer relates.
- [<sup>F134</sup>(4) In relation to a transfer under this Part which is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (1) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

- F133** Words in Sch. 1 para. 5(1) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(3), 19(1); S.R. 2004/267, art. 2
- F134** Sch. 1 para. 5(4) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 8 para. 20 (with arts. 28-31)

#### Modifications etc. (not altering text)

- C33** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, Sch.; S.I. 1997/2200, art. 2
- C34** Sch. 1 para. 5(1) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 130(6); S.I. 1998/3178, art. 3

#### [<sup>F135</sup>Conditions of transfer under paragraph 1(2A)]

#### Textual Amendments

- F135** Sch. 1 para. 5A and cross-heading inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(4), 19(1); S.R. 2004/267, art. 2

- 5A (1) A transfer under paragraph 1(2A) shall have effect subject to—
- (a) such a condition as is mentioned in paragraph 6(1)(a); and
- (b) such other conditions (if any) [<sup>F136</sup>—
- (i) as the Department of Justice in Northern Ireland may think fit to impose, in the case of an order made by the Department, or
- (ii) as the Secretary of State may think fit to impose, in the case of an order made by the Secretary of State.]

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- (2) Such a condition as is mentioned in paragraph 6(1)(a) shall not be varied or removed.
- (3) A condition imposed under sub-paragraph (1)(b) may be varied or removed at any time <sup>F137</sup>by the person who imposed it].]

#### Textual Amendments

**F136** Words in Sch. 1 para. 5A(1)(b) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 8 para. 21(2)** (with arts. 28-31)

**F137** Words in Sch. 1 para. 5A(3) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 8 para. 21(3)** (with arts. 28-31)

## PART II

### EFFECT OF TRANSFERS

#### Modifications etc. (not altering text)

**C35** Sch. 1 Pt. II excluded (28.7.1998) by [1998 c. 35, s. 17](#), **Sch. 3 para. 9(1)**; [S.I. 1998/1858](#), **art.2**.

### *Preliminary*

#### PROSPECTIVE

- 6 (1) For the purposes of this Part of this Schedule, a transfer under Part I of this Schedule—
- (a) is a restricted transfer if it is subject to a condition that the person to whom it relates is to be treated for the relevant purposes as if he were still subject to the provisions applicable for those purposes under the law of the place from which the transfer is made; and
  - (b) is an unrestricted transfer if it is not so subject.
- (2) In this Part of this Schedule “the relevant purposes” means—
- (a) in relation to the transfer of a person under paragraph 1(1)(a) or (2)(a) <sup>F138</sup>or (2A)(a)], 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above, the purposes of his remand in custody and, where applicable, the purposes of his detention under and release from any sentence of imprisonment that may be imposed;
  - (b) in relation to the transfer of a person under paragraph 1(1)(b) or (2)(b) <sup>F139</sup>or (2A)(b)], 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above, the purposes of his detention under and release from his sentence and, where applicable, the purposes of his supervision <sup>F140</sup>, possible recall following release and any supervision default order]; and
  - (c) in relation to the transfer of a person’s supervision under paragraph 4(1) or (2) above, the purposes of his supervision <sup>F141</sup>, possible recall and any supervision default order].
- (3) In this paragraph “recall” means—

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- (a) in relation to a person who is supervised in pursuance of an order made for the purpose, being sentenced to imprisonment, or being recalled to prison, for a breach of any condition of the order;
- [<sup>F142</sup>(aa) in relation to a person who is supervised in pursuance of a detention and training order, being ordered to be detained for any failure to comply with requirements under [<sup>F143</sup>section 242(2)(b) of the Sentencing Code];]
- (b) in relation to a person who is supervised in pursuance of a condition contained in a licence, being [<sup>F144</sup>recalled or returned to prison], whether for a breach of any condition of the licence or otherwise.
- [<sup>F145</sup>(c) in relation to a person who is supervised under section 256AA of the 2003 Act, being ordered to be committed to prison or detention for failure to comply with a requirement imposed under that section or by a supervision default order;
- (d) in relation to a person who is supervised under section 256B of the 2003 Act, being ordered to be detained for failure to comply with a supervision requirement imposed under that section.]

[<sup>F146</sup>(4) In this Part of this Schedule—

“the 2003 Act” means the Criminal Justice Act 2003;

<sup>F147</sup>

...

<sup>F147</sup>

...

[<sup>F148</sup>“supervision default order” has the meaning given in section 268(1) of the 2003 Act;]]

### Textual Amendments

- F138** Words in Sch. 1 para. 6(2)(a) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), **ss. 13(5)(a), 19(1)**; S.R. 2004/267, art. 2
- F139** Words in Sch. 1 para. 6(2)(b) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), **ss. 13(5)(b), 19(1)**; S.R. 2004/267, art. 2
- F140** Words in Sch. 1 para. 6(2)(b) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 2(2)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F141** Words in Sch. 1 para. 6(2)(c) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 2(3)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F142** Sch. 1 para. 6(3)(aa) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 135(2)(a)**; S.I. 1999/3426, **art. 3(b)**
- F143** Words in Sch. 1 para. 6(3)(aa) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F144** Words in Sch. 1 para. 6(3)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(2)(b)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F145** Sch. 1 para. 6(3)(c)(d) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 2(4)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F146** Sch. 1 para. 6(4) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 85(2)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (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))
- F147** Words in Sch. 1 para. 6(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(2)**; S.I. 2012/2906, art. 2(h)

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**F148** Words in Sch. 1 para. 6(4) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 2\(5\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)

**Modifications etc. (not altering text)**

**C36** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), art. 2, [Sch.](#); [S.I. 1997/2200](#), art. 2

*Restricted transfers: general*

- 7 (1) Where—
- (a) a person’s transfer under paragraph 1, 2 or 3 above; or
  - (b) a transfer under paragraph 4 above of a person’s supervision,
- is a restricted transfer, that person or, as the case may be, his supervision may by order be transferred back to the country or island from which he or it was transferred.
- [<sup>F149</sup>(1A) An order for the transfer of a person or a person’s supervision back to the country from which he or it was transferred shall be made by the Department of Justice in Northern Ireland if the transfer of the person or, as the case may be, the transfer of his supervision was the subject of an order or direction made by the Department of Justice.]
- (2) Where a person’s transfer under paragraph 1 or 2 above is a restricted transfer, that person shall while in the country or territory to which he is transferred be kept in custody except in so far as the Secretary of State may in any case or class of case otherwise direct.
- [<sup>F150</sup>(2A) Where a transfer under paragraph 1 or 2 is the subject of an order made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (2) to the Secretary of State must be read as a reference to the Department of Justice.]

**Textual Amendments**

**F149** Sch. 1 para. 7(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 8 para. 22\(2\)](#) (with arts. 28-31)

**F150** Sch. 1 para. 7(2A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 8 para. 22\(3\)](#) (with arts. 28-31)

**Modifications etc. (not altering text)**

**C37** Sch. 1 paras. 1-7 extended (with modifications) (1.10.1997) by [S.I. 1997/1775](#), art. 2, [Sch.](#); [S.I. 1997/2200](#), art. 2

**C38** Sch. 1 para. 7 amended (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 130\(7\)](#); [S.I. 1998/3178](#), art. 3

*Restricted transfers from England and Wales to Scotland*

- 8 (1) Where a person’s transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Scotland is a restricted transfer—
- (a) regulations made under section 22 of the <sup>M37</sup>Prosecution of Offences Act 1985 (time limits in relation to preliminary stages of proceedings) shall apply to him in place of the corresponding provisions of the law of Scotland; but

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- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.
- (2) Where a person’s transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Scotland is a restricted transfer—
- <sup>F151</sup>(a) sections 241, [<sup>F152</sup>243A][<sup>F153</sup>to][<sup>F154</sup>244A, ][<sup>F155</sup>246 to [<sup>F156</sup>264B]][<sup>F157</sup>, 267A and 267B] of [<sup>F158</sup>, and Schedules 19A, 20A and 20B to,] the 2003 Act (fixed-term prisoners) or, as the case may require, [<sup>F159</sup>sections 241, 242 and 247 of, and paragraphs 2 and 3 of Schedule 12 to, the Sentencing Code] (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
  - (aa) sections 62 [<sup>F160</sup>, 64 and 64A] of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland; [<sup>F161</sup>and]
  - <sup>F162</sup>(ab) .....]
  - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in Scotland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person’s supervision from England and Wales to Scotland is a restricted transfer—
- <sup>F163</sup>(a) sections 241 [<sup>F164</sup>, 249 to [<sup>F165</sup>264B], 267A and 267B] of [<sup>F166</sup>, and Schedules 19A, 20A and 20B to,] the 2003 Act (fixed-term prisoners) or, as the case may require, [<sup>F167</sup>sections 242 and 247 of, and paragraphs 2 and 3 of Schedule 12 to, the Sentencing Code] (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
  - (aa) sections 62 [<sup>F168</sup>, 64 and 64A] of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland; [<sup>F169</sup>and]
  - <sup>F170</sup>(ab) .....]
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- <sup>F171</sup>(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a relevant officer of such local authority as may be specified in the licence”.]
- <sup>F171</sup>(6) Any provision of [<sup>F172</sup>sections 241 and 242 of, and paragraphs 2 and 3 of Schedule 12 to, the Sentencing Code] which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if—
- (a) any reference to [<sup>F173</sup>youth detention] accommodation were a reference to secure accommodation within the meaning of Part 2 of the Children



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- (Scotland) Act 1995 or a young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989,
- (b) <sup>F174</sup>... any reference to the Secretary of State were a reference to the Scottish Ministers,
- (c) any reference to an officer of a [<sup>F175</sup>provider of probation services] were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
- (d) any reference to a youth court were a reference to a sheriff court,
- (e) in [<sup>F176</sup>section 242], any reference to a local justice area were a reference to a local government area within the meaning of the Local Government etc. (Scotland) Act 1994,
- <sup>F177</sup>(ea) .....
- (f) [<sup>F178</sup>in section 242(2)(a), for sub-paragraph (ii)] there were substituted a reference to an officer of a local authority constituted under that Act for the local government area in which the offender resides for the time being,
- [<sup>F179</sup>(fa) [<sup>F180</sup>section 242(6)] were omitted,]
- (g) [<sup>F181</sup>section 242(7)] were omitted,
- (h) [<sup>F182</sup>in paragraph 2 of Schedule 12, for sub-paragraphs (1) and (2)] there were substituted—
- “(1) Where a detention and training order is in force in respect of an offender and it appears on information to a sheriff court having jurisdiction in the locality in which the offender resides that the offender has failed to comply with requirements under [<sup>F183</sup>section 242(4)(b)], the court may—
- (a) issue a citation requiring the offender to appear before it at the time specified in the citation, or
- (b) issue a warrant for the offender’s arrest.”,
- (i) [<sup>F184</sup>paragraph 2(3) of Schedule 12 were omitted,]
- (j) in [<sup>F185</sup>paragraph 3(11) of that Schedule], the reference to the Crown Court were a reference to the High Court of Justiciary][<sup>F186</sup>, and]
- [<sup>F187</sup>(k) paragraph 3(12)(a)(ii) and (b)(ii) of that Schedule were omitted.]
- [<sup>F188</sup>(7) Sections 64 and 64A of the Criminal Justice and Court Services Act 2000 (release on licence etc: drug appointments), as applied by sub-paragraph (2) or (4) above, have effect as if any reference to an officer of a provider of probation services were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.]
- [<sup>F189</sup>(8) The supervision provisions, as applied by sub-paragraph (2) or (4), have effect—
- (a) as if any reference to something listed in the first column of the Table in sub-paragraph (10) were a reference to whatever is opposite it in the second column of that Table,
- (b) with the modifications in sub-paragraph (11), and
- (c) in a case falling within [<sup>F190</sup>section 247 of the Sentencing Code], with the further modifications in sub-paragraph (12),
- (and see also paragraphs 8A, 19A and 19B).
- (9) In this paragraph “the supervision provisions” means—



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- (a) sections 256AA to 256E of, and Schedule 19A to, the 2003 Act,
- (b) the provisions of the 2003 Act mentioned in section 256AC of, and Schedule 19A to, that Act, as applied by that section and that Schedule, and
- [<sup>F191</sup>(c) section 247 of the Sentencing Code.]

(10) The references mentioned in sub-paragraph (8)(a) are—

TABLE

<i>Reference</i>	<i>Substituted reference</i>
Crown Court	High Court of Justiciary
Justice of the peace	Sheriff court
Local justice area	Local government area within the meaning of the Local Government etc (Scotland) Act 1994
Magistrates' court	Sheriff court
Officer of a provider of probation services	Relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993
Summons	Citation
Young offender institution	Young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989

(11) The modifications mentioned in sub-paragraph (8)(b) are—

- (a) section 256AA(2)(b) of the 2003 Act has effect as if it also referred to a licence under the Prisons (Scotland) Act 1989 or the Prisoners and Criminal Proceedings (Scotland) Act 1993,
- (b) section 256AC(7)(b) of the 2003 Act has effect as if for “the Secretary of State” there were substituted “ the Scottish Ministers ”,
- (c) paragraph 2 of Schedule 19A to the 2003 Act has effect as if—
  - (i) sub-paragraph (d) referred only to section 215(1) and (2) of the 2003 Act, and
  - (ii) sub-paragraph (e) were omitted,
- (d) paragraph 3 of Schedule 19A to the 2003 Act has effect as if, after sub-paragraph (7), there were inserted—

“(7A) Section 218(4)(a) applies as if for the words “has been notified by the Secretary of State” there were substituted “is satisfied”,
- (e) paragraph 7 of Schedule 19A to the 2003 Act has effect as if—
  - (i) in sub-paragraph (1), for “the supervisor must refer the matter to the enforcement officer” there were substituted “ the supervisor may cause an information to be laid before a sheriff court in respect of the person's failure to comply with the requirement ”, and
  - (ii) sub-paragraphs (2) to (5) were omitted, and

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- (f) paragraph 12(3) of Schedule 19A to the 2003 Act has effect as if for “makes a community order or suspended sentence order” there were substituted “imposes any other sentence”.
- (12) The further modifications mentioned in sub-paragraph (8)(c) are that [F192section 247 of the Sentencing Code] has effect as if—
- (a) in subsection (4), for paragraph (b) there were substituted a reference to an officer of a local authority constituted under the Local Government etc (Scotland) Act 1994 for the local government area in which the offender resides for the time being, and
- (b) after subsection (3) there were inserted—
- “(3A) Sections 256AA(3) and (6), 256AB(1) and 256E(2) have effect as if the references to the Secretary of State were references to the Scottish Ministers.”]

### Textual Amendments

- F151** Sch. 1 para. 8(2)(a)-(ab) substituted for Sch. 1 para. 8(2)(a) (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 85\(3\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in 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(1)); and Sch. 1 para. 8(2)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 32\(2\)\(4\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)
- F152** Word in Sch. 1 para. 8(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 2](#); S.I. 2012/2906, art. 2(1)
- F153** Word in Sch. 1 para. 8(2)(a) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 132\(11\)\(a\), 208\(4\)\(p\)](#)
- F154** Word in Sch. 1 para. 8(2)(a) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 1 para. 12\(2\)](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F155** Words in Sch. 1 para. 8(2)(a) substituted (1.4.2006) by [The Management of Offenders etc. \(Scotland\) Act 2005 \(Consequential Modifications\) Order 2006 \(S.I. 2006/1055\), arts. 1\(1\), 2\(a\)](#)
- F156** Word in Sch. 1 para. 8(2)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 3\(2\)\(a\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F157** Words in Sch. 1 para. 8(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 16 para. 7\(a\)](#); S.I. 2012/2906, art. 2(n)
- F158** Words in Sch. 1 para. 8(2)(a) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 3\(2\)\(b\)](#) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F159** Words in Sch. 1 para. 8(2)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 149\(3\)\(a\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F160** Words in Sch. 1 para. 8(2)(aa) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 13\(2\)\(a\), 22\(1\)](#) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(1)
- F161** Word in Sch. 1 para. 8(2)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 9\(3\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F162** Sch. 1 para. 8(2)(ab) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 9\(3\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F163** Sch. 1 para. 8(4)(a)-(ab) substituted for Sch. 1 para. 8(4)(a) (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 85\(3\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in 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.

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- 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)); and Sch. 1 para. 8(4)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 32(3)(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)
- F164** Words in Sch. 1 para. 8(4)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 7(b)**; S.I. 2012/2906, art. 2(n)
- F165** Word in Sch. 1 para. 8(4)(a) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 3(3)(a)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F166** Words in Sch. 1 para. 8(4)(a) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 3(3)(b)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F167** Words in Sch. 1 para. 8(4)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F168** Words in Sch. 1 para. 8(4)(aa) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. **13(2)(a)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(l)
- F169** Word in Sch. 1 para. 8(4)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(3)(a)**; S.I. 2012/2906, art. 2(h)
- F170** Sch. 1 para. 8(4)(ab) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(3)(b)**; S.I. 2012/2906, art. 2(h)
- F171** Sch. 1 para. 8(5)(6) substituted for Sch. 1 para. 8(5)-(7) (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 85(3)(c)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (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))
- F172** Words in Sch. 1 para. 8(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(i)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F173** Words in Sch. 1 para. 8(6)(a) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 15(2)**; S.I. 2007/3001, art. 2(1)(r)
- F174** Words in Sch. 1 para. 8(6)(b) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(ii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F175** Words in Sch. 1 para. 8(6)(c) substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 12(3)(a)(i)**
- F176** Words in Sch. 1 para. 8(6)(e) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(iii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F177** Sch. 1 para. 8(6)(ea) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(iv)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F178** Words in Sch. 1 para. 8(6)(f) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(v)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F179** Sch. 1 para. 8(6)(fa) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 12(3)(a)(iii)**
- F180** Words in Sch. 1 para. 8(6)(fa) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(vi)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F181** Words in Sch. 1 para. 8(6)(g) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(vii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F182** Words in Sch. 1 para. 8(6)(h) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(viii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F183** Words in Sch. 1 para. 8(6)(h) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(ix)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F184** Sch. 1 para. 8(6)(i) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(x)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F185** Words in Sch. 1 para. 8(6)(j) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(xi)** (with Sch. 27); S.I. 2020/1236, reg. 2

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- F186** Word in Sch. 1 para. 8(6)(j) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(xii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F187** Sch. 1 para. 8(6)(k) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(c)(xiii)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F188** Sch. 1 para. 8(7) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 13(2)(b)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(l)
- F189** Sch. 1 para. 8(8)-(12) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 3(5)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F190** Words in Sch. 1 para. 8(8)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F191** Sch. 1 para. 8(9)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(e)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F192** Words in Sch. 1 para. 8(12) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(3)(f)** (with Sch. 27); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C39** Sch. 1 para. 8(2)(4) modified (19.9.1998) by S.I. 1998/2327, **art. 5(2)(c)(d)**.
- C40** Sch. 1 para. 8(6) modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by Sentencing (Pre-consolidation Amendments) Act 2020 (c. 9), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

#### Marginal Citations

- M37** 1985 c.23.

### *[<sup>F193</sup>Restricted transfers between England and Wales and Scotland: further provision about supervision default orders*

#### Textual Amendments

- F193** Sch. 1 para. 8A and cross-heading inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 4** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

- 8A (1) This paragraph applies if—
- (a) a person's supervision is transferred to Scotland under paragraph 4 of this Schedule by means of a restricted transfer or transferred back to England and Wales under paragraph 7 of this Schedule, and
  - (b) at the time of the transfer, or transfer back, a supervision default order is in force in respect of the person.
- (2) The supervision default order has effect as if, at the time of the transfer or transfer back, it specified the relevant area in which the person resides or proposes to reside in the new jurisdiction (rather than a relevant area in the jurisdiction from which the person is transferring).
- (3) The court acting for that relevant area in the new jurisdiction may amend the supervision default order to specify that area.
- (4) In this paragraph—
- “relevant area” means—
- (a) in England and Wales, a local justice area, and

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- (b) in Scotland, a local government area within the meaning of the Local Government etc (Scotland) Act 1994;  
“supervision default order” has the meaning given in section 268(1) of the 2003 Act.]

*Restricted transfers from England and Wales to Northern Ireland*

- 9 (1) Where a person’s transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from England and Wales to Northern Ireland is a restricted transfer—

- <sup>F194</sup>(a) . . . . .
- (b) subject <sup>F195</sup>... to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.

- (2) Where a person’s transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) above from England and Wales to Northern Ireland is a restricted transfer—

- <sup>F196</sup>(a) sections 241, [<sup>F197</sup>243A][<sup>F198</sup>to][<sup>F199</sup>244A,][<sup>F200</sup>246A,] 247 to 252 [<sup>F201</sup>, 254 to [<sup>F202</sup>264B] , 267A and 267B] of [<sup>F203</sup>, and Schedules 20A and 20B to,] the 2003 Act (fixed-term prisoners) or, as the case may require, [<sup>F204</sup>sections 241, 242 and 247 of, and paragraphs 2 and 3 of Schedule 12 to, the Sentencing Code] (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (aa) sections 62 [<sup>F205</sup>, 64 and 64A] of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland; [<sup>F206</sup>and]
- <sup>F207</sup>(ab) . . . . .]
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Northern Ireland.

- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.

- (4) Where a transfer under paragraph 4(1) above of a person’s supervision from England and Wales to Northern Ireland is a restricted transfer—

- <sup>F208</sup>(a) sections 241, 249 to 252 [<sup>F209</sup>, 254 to [<sup>F210</sup>264B] , 267A and 267B] of [<sup>F211</sup>, and Schedules 20A and 20B to,] the 2003 Act (fixed-term prisoners) or, as the case may require, [<sup>F212</sup>sections 242 and 247 of, and paragraphs 2 and 3 of Schedule 12 to, the Sentencing Code] (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (aa) sections 62 [<sup>F213</sup>, 64 and 64A] of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland; [<sup>F214</sup>and]
- <sup>F215</sup>(ab) . . . . .]

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(b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.

[<sup>F216</sup>(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a probation appointed for or assigned to the petty sessions district within which the prisoner for the time being resides”.]

[<sup>F217</sup>(5A) Sections 64 and 64A of the Criminal Justice and Court Services Act 2000 (release on licence etc: drug appointments), as applied by sub-paragraph (2) or (4) above, have effect as if any reference to an officer of a provider of probation services were a reference to a probation officer.]

<sup>F218</sup>(8) .....

[<sup>F219</sup>(9) The supervision provisions, as applied by sub-paragraph (2) or (4), have effect—  
 (a) as if any reference to something listed in the first column of the Table in sub-paragraph (11) were a reference to whatever is opposite it in the second column of that Table, and  
 (b) with the other modifications in sub-paragraph (12).

(10) In this paragraph “the supervision provisions” means—  
 (a) sections 256AA to 256AC, 256D and 256E of the 2003 Act, and  
 [<sup>F220</sup>(b) section 247 of the Sentencing Code.]

(11) The references mentioned in sub-paragraph (9)(a) are—

TABLE

<i>Reference</i>	<i>Substituted reference</i>
Crown Court	County court
Justice of the peace	Lay magistrate
Information	Complaint
Local justice area	Petty sessions district
Magistrates' court	Court of summary jurisdiction
Officer of a provider of probation services	Probation officer
Young offender institution	Young offender centre

(12) The other modifications mentioned in sub-paragraph (9)(b) are—  
 (a) section 256AA(2)(b) of the 2003 Act has effect as if it also referred to—  
 (i) a custody probation order or licence under Part 2 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160) (N.I. 24), and  
 (ii) a licence under the Northern Ireland (Sentences) Act 1998, Part 3 of the Life Sentences (Northern Ireland) Order 2001 (S.I. 2001/2564



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- (N.I. 2)) or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)),
- (b) section 256AC of the 2003 Act has effect as if subsections (4)(c), (5) and (10) (provision for supervision default orders) were omitted, and
- (c) subsection (7)(b) of that section has effect as if for “the Secretary of State” there were substituted “ the Department of Justice in Northern Ireland ”.]

### Textual Amendments

- F194** Sch. 1 para. 9(1)(a) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(4)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.
- F195** Words in Sch. 1 para. 9(1)(b) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(4)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.
- F196** Sch. 1 para. 9(2)(a)-(ab) substituted for Sch. 1 para. 9(2)(a) (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 85(4)(a)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in 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)); and Sch. 1 para. 9(2)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 32(5)(7)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)
- F197** Word in Sch. 1 para. 9(2)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 2**; S.I. 2012/2906, art. 2(l)
- F198** Word in Sch. 1 para. 9(2)(a) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(11)(b)**, 208(4)(p)
- F199** Word in Sch. 1 para. 9(2)(a) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 12(3)**; S.I. 2015/778, art. 3, **Sch. 1 para. 72**
- F200** Word in Sch. 1 para. 9(2)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 5**; S.I. 2012/2906, art. 2(s)
- F201** Words in Sch. 1 para. 9(2)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 8**; S.I. 2012/2906, art. 2(n)
- F202** Word in Sch. 1 para. 9(2)(a) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(2)(a)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F203** Words in Sch. 1 para. 9(2)(a) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(2)(b)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F204** Words in Sch. 1 para. 9(2)(a) substituted (1.12.2020) by The Prison (Amendment) Rules 2005 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(4)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F205** Words in Sch. 1 para. 9(2)(aa) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 13(3)(a)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(l)
- F206** Word in Sch. 1 para. 9(2)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(4)(a)**; S.I. 2012/2906, art. 2(h)
- F207** Sch. 1 para. 9(2)(ab) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(4)(b)**; S.I. 2012/2906, art. 2(h)
- F208** Sch. 1 para. 9(4)(a)-(ab) substituted for Sch. 1 para. 9(4)(a) (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 85(4)(b)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (with saving in 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)); and Sch. 1 para. 9(4)(a) (in so far as it continues to have effect in relation to prisoners serving sentences of imprisonment for offences committed before 4.4.2005) amended (14.7.2008) by

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Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 32(6)(7)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)

- F209** Words in Sch. 1 para. 9(4)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 8**; S.I. 2012/2906, art. 2(n)
- F210** Word in Sch. 1 para. 9(4)(a) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(3)(a)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F211** Words in Sch. 1 para. 9(4)(a) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(3)(b)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F212** Words in Sch. 1 para. 9(4)(a) substituted (1.12.2020) by The Prison (Amendment) Rules 2005 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(4)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F213** Words in Sch. 1 para. 9(4)(aa) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 13(3)(a)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(l)
- F214** Word in Sch. 1 para. 9(4)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(4)(a)**; S.I. 2012/2906, art. 2(h)
- F215** Sch. 1 para. 9(4)(ab) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 9(4)(b)**; S.I. 2012/2906, art. 2(h)
- F216** Sch. 1 para. 9(5) substituted for Sch. 1 para. 9(5)-(7) (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 85(4)(c)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (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))
- F217** Sch. 1 para. 9(5A) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 13(3)(b)**, 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(l)
- F218** Sch. 1 para. 9(8) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(4)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F219** Sch. 1 para. 9(9)-(12) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 5(5)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F220** Sch. 1 para. 9(10)(b) substituted (1.12.2020) by The Prison (Amendment) Rules 2005 2020 (c. 17), s. 416(1), **Sch. 24 para. 149(4)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2

**Modifications etc. (not altering text)**

- C41** Sch. 1 para 9(2)(4) modified (19.9.1998) by S.I. 1998/2327, **art. 5(2)(c)(d)**.

*Restricted transfers from Scotland to England and Wales*

- 10 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to England and Wales is a restricted transfer—
- (a) sections 65 and 147 of the <sup>M38</sup>Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him in the place of the corresponding provisions of the law of England and Wales; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland to England and Wales is a restricted transfer—
- (a) [<sup>F221</sup>sections 1, [<sup>F222</sup>1AA, [<sup>F223</sup>1AB,] 1A, [<sup>F224</sup>1B,] 3, 3AA], 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, [<sup>F225</sup>26ZA,] 26A and 27 of, and Schedules 2 and 6 to, the <sup>M39</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act")] or, as the case may require, sections 1(4), 2, 3, [<sup>F226</sup>6(1)(b)(i)



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- and (iii)] 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
- (b) subject to that, to [F227 sub-paragraph (3)] below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- F228(4) . . . . .
- (5) Where a transfer under paragraph 4(1) above of a person’s supervision from Scotland to England and Wales is a restricted transfer—
- (a) [F229 sections [F230 1AA, 1A, [F231 1B,] 2(4), 3AA], 3A, 11 to 13, 15 to 21, [F232 26ZA,] 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of England and Wales; but
- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (6) Any reference in—
- (a) sub-paragraphs (2) and (5) above to sections 15, 18 and 19 of the 1993 Act is a reference to those sections so far as relating to supervised release orders;
- [F233(b) in the said sub-paragraph (2) the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the M40 Criminal Procedure (Scotland) Act 1995.]
- [F234(7) Any provision of Part I of the 1993 Act which is applied by sub-paragraph (2) or (5) above shall have effect (as so applied) as if any reference to a chief social work officer were a reference to a chief social worker of a local authority social services department.]

#### Textual Amendments

- F221** Words in Sch. 1 para. 10(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(a)(i)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F222** Words in Sch. 1 para. 10(2)(a) substituted (S.) (8.2.2006) by **Management of Offenders etc. (Scotland) Act 2005 (asp 14), ss. 21(8)(a)(i), 24(2)**; S.S.I. 2006/48, **art. 3(1), sch. Pt. 1**; substitution extended to E.W. and N.I. (1.4.2006) by **The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), art. 3**
- F223** Word in Sch. 1 para. 10(2)(a) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 54(a)**
- F224** Word in Sch. 1 para. 10(2)(a) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 54(b)(i)**
- F225** Word in Sch. 1 para. 10(2)(a) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 54(b)(ii)**

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- F226** Words in Sch. 1 para. 10(2)(a) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(a)(ii)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F227** Words in Sch. 1 para. 10(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(b)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F228** Sch. 1 para. 10(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(5)(c), **Sch.10**; S.I. 1998/2327, **art. 2(2)(oo)(3)(x)**.
- F229** Words in Sch. 1 para. 10(5)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(d)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F230** Words in Sch. 1 para. 10(5)(a) substituted (S.) (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), **ss. 21(8)(a)(ii)**, 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1; substitution extended to E.W.and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), art. 3
- F231** Word in Sch. 1 para. 10(5)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(i)**
- F232** Word in Sch. 1 para. 10(5)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(ii)**
- F233** Sch. 1 para. 10(6)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(e)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F234** Sch. 1 para. 10(7) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(5)(f)**; S.I. 1998/2327, **art. 2(2)(oo)**.

#### Modifications etc. (not altering text)

- C42** Sch. 1 para. 10(3)(7) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 para. 130(8)**; S.I. 1998/3178, **art. 3**

#### Marginal Citations

- M38** 1995 c.46.  
**M39** 1993 c.9.  
**M40** 1995 c.46.

#### *Restricted transfers from Scotland to Northern Ireland*

- 11 (1) Where a person's transfer under paragraph 1(1)(a), 2(1)(a) or 3(1)(a) above from Scotland to Northern Ireland is a restricted transfer—
- (a) sections 65 and 147 of the <sup>M41</sup>Criminal Procedure (Scotland) Act 1995 (time limits for solemn and summary prosecutions where prisoner remanded in custody) shall apply to him as if they were part of the law of Northern Ireland; but
  - (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Northern Ireland.
- (2) Where a person's transfer under paragraph 1(1)(b), 2(1)(b) or 3(1)(b) from Scotland <sup>F235</sup>to Northern Ireland is a restricted transfer—
- (a) <sup>F236</sup>sections 1, <sup>F237</sup>1AA, <sup>F238</sup>1AB,] 1A, <sup>F239</sup>1B,] 3, 3AA] , 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, <sup>F240</sup>26ZA,] 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 1(4), 2, 3, <sup>F241</sup>6(1)(b)(i) and (iii),] 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
  - (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if

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his sentence had been an equivalent sentence passed by a court in Northern Ireland.

- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he is transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Scotland to Northern Ireland is a restricted transfer—
- (a) [F242sections [F2431AA, 1A, [F2441B,] 3AA] , 3A, 11 to 13, 15 to 21, [F24526ZA,] 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] or, as the case may require, sections 2(4), 11 to 13 and 17 of the 1993 Act shall apply to him in place of the corresponding provisions of the law of Northern Ireland; but
- (b) subject to that and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Northern Ireland.
- (5) [F246Sub-paragraph (6)] of paragraph 10 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.
- (6) Any provision of Part I of the 1993 Act [F247. . . which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted expression</i>
Chief social work officer	Chief Officer of a Board or an authorised Health and Social Services (HSS) Trust
Justices for a petty sessions area	Probation Board for Northern Ireland
[F248[F249Officer of a local probation board] appointed for or assigned to such petty sessions area [F250or officer of a provider of probation services acting in such local justice area]	Probation Officer appointed by the Probation Board for Northern Ireland]

#### Textual Amendments

**F235** Word in Sch. 1 para. 11(2) substituted (S.) (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\), ss. 21\(8\)\(b\)\(i\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1; substitution extended to E.W. and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), art. 3

**F236** Words in Sch. 1 para. 11(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, [Sch. 8 para. 135\(6\)\(a\)\(i\)](#); S.I. 1998/2327, [art. 2\(2\)\(oo\)](#).

**F237** Words in Sch. 1 para. 11(2) substituted (8.2.2006) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\), ss. 21\(8\)\(b\)\(ii\), 24\(2\)](#); S.S.I. 2006/48, art. 3(1), sch. Pt. 1; substitution extended to E.W. and N.I.

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(1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), art. 3

- F238** Word in Sch. 1 para. 11(2)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(a)**
- F239** Word in Sch. 1 para. 11(2)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(i)**
- F240** Word in Sch. 1 para. 11(2)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(ii)**
- F241** Words in Sch. 1 para. 11(2)(a) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(6)(a)(ii)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F242** Words in Sch. 1 para. 11(4)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(6)(b)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F243** Words in Sch. 1 para. 11(4)(a) substituted (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), **ss. 21(8)(c), 24(2)**; S.S.I. 2006/48, art. 3(1), sch. Pt. 1; substitution extended to E.W. and N.I. (1.4.2006) by The Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 (S.I. 2006/1055), art. 3
- F244** Word in Sch. 1 para. 11(4)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(i)**
- F245** Word in Sch. 1 para. 11(4)(a) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 54(b)(ii)**
- F246** Words in Sch. 1 para. 11(5) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(6)(c)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F247** Words in Sch. 1 para. 11(6) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(6)(d), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F248** Entry in Sch. 1 para. 11 substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 135(6)(d)**; S.I. 1998/2327, **art. 2(2)(oo)**.
- F249** Words in Sch. 1 para. 11(6) Table substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 143**; S.I. 2001/919, **art. 2(f)(ii)**
- F250** Words in Sch. 1 para. 11(6) Table inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), **Sch. 1 para. 12(3)(b)**

#### **Modifications etc. (not altering text)**

- C43** Sch. 1 para. 11(3)(6) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(9)**; S.I. 1998/3178, **art. 3**

#### **Marginal Citations**

- M41** 1995 c.46.

### *Restricted transfers from Northern Ireland to England and Wales*

- 12 (1) Where a person's transfer under paragraph 1(1)(a) [<sup>F251</sup>or (2A)(a)], 2(1)(a) or 3(1)(a) above from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in England and Wales.
- (2) Where a person's transfer under paragraph 1(1)(b) [<sup>F252</sup>or (2A)(b)], 2(1)(b) or 3(1)(b) above from Northern Ireland to England and Wales is a restricted transfer—
- <sup>F253</sup>(a) sections 13(7) and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976, Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 and Articles 6 to 9 of the Life Sentences (Northern Ireland) Order 2001 or, as the case may require, section 1 of the Northern Ireland (Remission of Sentences) Act

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*Changes to legislation:* Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 1995 [<sup>F254</sup>or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] shall apply to him in place of the corresponding provisions of the law of England and Wales;]
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in England and Wales.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- [<sup>F255</sup>(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.]
- (4) Where a transfer under paragraph 4(1) of a person's supervision from Northern Ireland to England and Wales is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in England and Wales.
- (5) Any provision of the <sup>M42</sup>Prison Act (Northern Ireland) 1953, the <sup>M43</sup>Treatment of Offenders (Northern Ireland) Order 1976, the <sup>M44</sup>Criminal Justice (Northern Ireland) Order 1996 or the <sup>M45</sup>Northern Ireland (Remission of Sentences) Act 1995 [<sup>F256</sup>or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted Expression</i>
Complaint on oath	Information on oath
Court of summary jurisdiction	Magistrates' court
<sup>F257</sup>	<sup>F257</sup>
...	...

#### Textual Amendments

- F251** Words in Sch. 1 para. 12(1) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\)](#), **ss. 13(6)(a)**, 19(1); [S.R. 2004/267](#), **art. 2**
- F252** Words in Sch. 1 para. 12(2) inserted (14.7.2004) by [Justice \(Northern Ireland\) Act 2004 \(c. 4\)](#), **ss. 13(6)(b)**, 19(1); [S.R. 2004/267](#), **art. 2**
- F253** Sch. 1 para. 12(2)(a) substituted (E.W.N.I.) (8.10.2001) by [S.I. 2001/2565](#), **arts. 1(2)**, 3(2); [S.R. 2001/337](#), **art. 2**
- F254** Words in Sch. 1 para. 12(2)(a) inserted (15.5.2008) by [The Criminal Justice \(Northern Ireland\) Consequential Amendments\) Order 2008 \(S.I. 2008/1241\)](#), **arts. 1(2)**, **3(2)** (see [S.R. 2008/217](#), **art. 2**, Sch.)



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- F255** Sch. 1 para. 12(3A) inserted (12.4.2010) by *The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976)*, art. 1(2), **Sch. 8 para. 23** (with arts. 28-31)
- F256** Words in Sch. 1 para. 12(5) inserted (15.5.2008) by *The Criminal Justice (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1241)*, arts. 1(2), **3(2)** (see S.R. 2008/217, art. 2, Sch.)
- F257** Entry in Sch. 1 para. 12 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(7), **Sch. 10; S.I. 1998/2327, art. 2(2)(oo)(3)(x)**.

#### Marginal Citations

- M42** 1953 c.18 (N.I.).
- M43** S.I. 1976/226 (N.I.4).
- M44** S.I. 1996/3160 (N.I.24).
- M45** 1995 c.47.

#### *Restricted transfers from Northern Ireland to Scotland*

- 13 (1) Where a person's transfer under paragraph 1(1)(a) [<sup>F258</sup>or (2A)(a)], 2(1)(a) or 3(1)(a) above from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in Scotland.
- (2) Where a person's transfer under paragraph 1(1)(b) [<sup>F259</sup>or (2A)(b)], 2(1)(b) or 3(1)(b) above from Northern Ireland to Scotland is a restricted transfer—
- [<sup>F260</sup>(a) sections 13(7) and 24 of the Prison Act (Northern Ireland) 1953, Articles 3 to 6 of the Treatment of Offenders (Northern Ireland) Order 1976, Articles 26 to 28 of the Criminal Justice (Northern Ireland) Order 1996 and Articles 6 to 9 of the Life Sentences (Northern Ireland) Order 2001 or, as the case may require, section 1 of the Northern Ireland (Remission of Sentences) Act 1995 [<sup>F261</sup>or Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008] shall apply to him in place of the corresponding provisions of the law of Scotland;]
- (b) subject to that, to sub-paragraph (3) below and to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if that sentence had been an equivalent sentence passed by a court in Scotland.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- [<sup>F262</sup>(3A) Where a transfer under paragraph 1, 2 or 3 is the subject of an order or direction made by the Department of Justice in Northern Ireland, any reference in sub-paragraph (3) to the Secretary of State must be read as a reference to the Department of Justice.]
- (4) Where a transfer under paragraph 4(1) above of a person's supervision from Northern Ireland to Scotland is a restricted transfer, subject to any conditions to which the transfer is subject, he shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in Scotland.
- (5) Any provision of the Prison Act (Northern Ireland) 1953, the Treatment of Offenders (Northern Ireland) Order 1976, the Criminal Justice (Northern Ireland) Order 1996 [<sup>F263</sup>, the Life Sentences (Northern Ireland) Order 2001] or the Northern Ireland (Remission of Sentences) Act 1995 [<sup>F264</sup>or Chapter 4 of Part 2 of the Criminal Justice

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(Northern Ireland) Order 2008] which is applied by sub-paragraph (2) above shall have effect (as so applied) as if any reference to an expression specified in the first column of the following Table were a reference to the expression set out opposite it in the second column of that Table.

TABLE

<i>Expression</i>	<i>Substituted Expression</i>
Complaint on oath	Evidence on oath
Court of summary jurisdiction	Sheriff
Crown Court	High Court of Justiciary
F265	F265
...	...
Probation officer	Relevant officer within the meaning of section 27(1) of the M46 Prisoners and Criminal Proceedings (Scotland) Act 1993

#### Textual Amendments

- F258** Words in Sch. 1 para. 13(1) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(7)(a), 19(1); S.R. 2004/267, art. 2
- F259** Words in Sch. 1 para. 13(2) inserted (14.7.2004) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 13(7)(b), 19(1); S.R. 2004/267, art. 2
- F260** Sch. 1 para. 13(2)(a) substituted (S.N.I.) (8.10.2001) by S.I. 2001/2565, arts. 1(2), 3(3)(a); S.R. 2001/337, art. 2
- F261** Words in Sch. 1 para. 13(2)(a) inserted (15.5.2008) by The Criminal Justice (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1241), arts. 1(2), 3(2) (see S.R. 2008/217, art. 2, Sch.)
- F262** Sch. 1 para. 13(3A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), Sch. 8 para. 24 (with arts. 28-31)
- F263** Words in Sch. 1 para. 13(5) inserted (8.10.2001) by S.I. 2001/2565, arts. 1(2), 3(3)(b); S.R. 2001/337, art. 2
- F264** Words in Sch. 1 para. 13(5) inserted (15.5.2008) by The Criminal Justice (Northern Ireland Consequential Amendments) Order 2008 (S.I. 2008/1241), arts. 1(2), 3(2) (see S.R. 2008/217, art. 2, Sch.)
- F265** Entry in Sch. 1 para. 13(5) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 135(8), Sch. 10; S.I. 1998/2327, art. 2(2)(oo)(3)(x).

#### Marginal Citations

- M46 1993 c.9.

#### *Restricted transfers between the United Kingdom and the Channel Islands*

- 14 (1) Her Majesty may by Order in Council make, in relation to restricted transfers under Part I of this Schedule between any part of the United Kingdom and any of the Channel Islands, provision broadly corresponding to that made by any of paragraphs 8 to 13 above.

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- (2) An Order in Council under this paragraph may make such consequential, incidental, transitional and supplementary provision as Her Majesty considers appropriate.
- (3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

**C44** Sch. 1 para. 14 extended (31.7.1998) by 1998 c. 37, s. 121(12).

*Unrestricted transfers: general*

- 15 (1) Where a person's transfer under paragraph 1(1)(a) or (2)(a), 2(1)(a) or (2)(a) or 3(1)(a) or (2)(a) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if he had been remanded for an offence committed in the place to which he is transferred.
- (2) Subject to sub-paragraph (3) below, where a person's transfer under paragraph 1(1)(b) or (2)(b), 2(1)(b) or (2)(b) or 3(1)(b) or (2)(b) above to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer, he shall be treated for the relevant purposes as if his sentence had been an equivalent sentence passed by a court in the place to which he is transferred.
- (3) A person who has been sentenced to a sentence of a length which could not have been passed on an offender of his age in the place to which he has been transferred shall be treated for the purposes mentioned in sub-paragraph (2) above as the Secretary of State may direct.
- (4) Where a transfer under paragraph 4(1) or (2) above of a person's supervision to any part of the United Kingdom or to any of the Channel Islands is an unrestricted transfer—
- (a) that person shall be treated for the relevant purposes as if his period of supervision had been an equivalent period of supervision directed to be undergone in the place to which he is transferred; and
  - (b) any functions of the Secretary of State under any provision of the law of that place which applies for those purposes shall be exercisable in relation to that person by any person appointed by the Secretary of State for the purpose.
- [<sup>F266</sup>(4A) [<sup>F267</sup>Sub-paragraphs (3) and (4) have] effect subject to the following modifications—
- (a) in relation to a person transferred to Northern Ireland, any reference in sub-paragraph (3) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland;
  - (b) in relation to a person whose supervision has been transferred to Northern Ireland, sub-paragraph (4)(b) above applies as if—
    - (i) after “Secretary of State” where it first occurs there were inserted “or the Department of Justice in Northern Ireland”, and
    - (ii) after “Secretary of State” where it occurs second there were inserted “or the Department of Justice (as the case may be)”.]
- [<sup>F268</sup>(4B) A person who is subject to a period of supervision of a type or length which could not have been imposed on an offender in the place to which the person has been



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transferred is to be treated for the relevant purposes as the receiving authority may direct.

- (4C) In sub-paragraph (4B), “the receiving authority” means—
- (a) in relation to a person transferred to Scotland, the Scottish Ministers,
  - (b) in relation to a person transferred to Northern Ireland, the Department of Justice in Northern Ireland, and
  - (c) in relation to any other person, the Secretary of State.]

F269(5) . . . . .

#### Textual Amendments

- F266** Sch. 1 para. 15(4A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 8 para. 25** (with arts. 28-31)
- F267** Words in Sch. 1 para. 15(4) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 6(2)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F268** Sch. 1 para. 15(4B)(4C) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 6(3)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F269** Sch. 1 para. 15(5) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 32 para. 85(5), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(32), 44(4)(o) (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))

#### Modifications etc. (not altering text)

- C45** Sch. 1 para. 15 extended (with modifications) (1.10.1997) by S.I. 1997/1775, **art. 2**, Sch.; S.I. 1997/2200, **art. 2**  
Sch. 1 para. 15 modified (28.7.1998) by [1998 c. 35](#), s. 17, **Sch. 3 para. 9(5)**; S.I. 1998/1858, **art. 2**.
- C46** Sch. 1 para. 15(3)(4)(5) amended (1.7.1999) by S.I. 1999/1280, arts. 1(2), 4, **Sch. 2 Pt. 1 para. 130(10)**; S.I. 1998/3178, **art. 3**

#### *Transfers ceasing to be restricted*

- 16 Where a transfer under Part I of this Schedule ceases to be a restricted transfer at any time by reason of the removal of such a condition as is mentioned in paragraph 6(1)(a) above, paragraph 15 above shall apply as if the transfer were an unrestricted transfer and had been effected at that time.

#### Modifications etc. (not altering text)

- C47** Sch. 1 para. 16 extended (with modifications) (1.10.1997) by S.I. 1997/1775, **art. 2**, Sch.; S.I. 1997/2200, **art. 2**

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### PART III

#### SUPPLEMENTAL

##### *Prisoners unlawfully at large*

- 17 (1) The following enactments (relating to the arrest and return of prisoners and other persons unlawfully at large), namely—
- (a) section 49(1) [<sup>F270</sup>and (5)] of the <sup>M47</sup>Prison Act 1952;
  - (b) section 40(1) of the <sup>M48</sup>Prisons (Scotland) Act 1989; and
  - (c) section 38(1) of the <sup>M49</sup>Prison Act (Northern Ireland) 1953,
- shall extend throughout the United Kingdom and the Channel Islands.
- (2) Any reference in those enactments to a constable shall include a reference—
- (a) to a person being a constable under the law of any part of the United Kingdom;
  - (b) to a police officer within the meaning of the Police Force (Jersey) Law 1974 or any corresponding law for the time being in force; and
  - (c) to an officer of police within the meaning of section 31(4) of the Theft (Bailiwick of Guernsey) Law 1983 or any corresponding law for the time being in force.
- (3) Those enactments shall also apply to persons who, being unlawfully at large under the law of any of the Channel Islands, are for the time being within the United Kingdom as they apply to persons unlawfully at large under the law of any part of the United Kingdom.
- (4) Any person arrested in the United Kingdom under those enactments as applied by sub-paragraph (3) above may be taken to the place in the Channel Islands in which he is required in accordance with the law in force there to be detained.
- (5) Where a person who, having been sentenced to imprisonment, is unlawfully at large during any period during which he is liable to be detained in a prison in any part of the United Kingdom is sentenced to imprisonment by a court in another part of the United Kingdom—
- (a) the provisions of Part II of this Schedule relating to the treatment of persons transferred under sub-paragraph (1)(b) of paragraph 1 above shall apply to him, while he remains in that other part of the United Kingdom, as if he had been transferred there under that sub-paragraph immediately before he was so sentenced; and
  - (b) the Secretary of State may, if he thinks fit, make an order under that sub-paragraph (but without application in that behalf) transferring him back to the part of the United Kingdom from which he was unlawfully at large.
- (6) In the following provisions, namely—
- (a) paragraph (a) of the proviso to section 49(2) of the Prison Act 1952 (which in effect enables a person who is unlawfully at large during the currency of his original sentence to count towards that sentence any period during which he is detained in pursuance of a sentence of any court);
  - (b) the proviso to section 40(2) of the Prisons (Scotland) Act 1989 (which contains corresponding provisions for Scotland); and

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(c) section 38(3) of the Prison Act (Northern Ireland) 1953 (which contains corresponding provisions for Northern Ireland),  
references to a court shall include references to any court in the United Kingdom.

[<sup>F271</sup>(7) In relation to a person who, having been sentenced to imprisonment, is unlawfully at large during any period during which he is liable to be detained in a prison in England and Wales or Scotland and is sentenced to imprisonment by a court in Northern Ireland, any reference in sub-paragraph (5) above to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.]

#### Textual Amendments

**F270** Words in Sch. 1 para. 17(1)(a) inserted (1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 135(9)**; S.I. 1999/3426, **art. 3(b)**

**F271** Sch. 1 para. 17(7) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 8 para. 26** (with arts. 28-31)

#### Modifications etc. (not altering text)

**C48** Sch. 1 para. 17(1)-(4) extended (with modifications) (1.10.1997) by S.I. 1997/1775, art. 2, **Sch.**; S.I. 1997/2200, **art. 2**

**C49** Sch. 1 para. 17(5)(b) amended (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 Pt. I para. 130(11)**; S.I. 1998/3178, **art. 3**

#### Marginal Citations

**M47** 1952 c.52.

**M48** 1989 c.45.

**M49** 1953 c.18 (N.I.).

#### *Subsequent sentence in case of transferred prisoners*

- 18 (1) The power of a court in any part of the United Kingdom to order that the term of any sentence of imprisonment passed by the court shall commence at or before the expiration of another term of imprisonment shall include power to make such an order where that other term was imposed by sentence of a court elsewhere in the United Kingdom or in any of the Channel Islands if the offender—
- (a) is serving that other sentence in that part of the United Kingdom; or
  - (b) is for the time being present in that part of the United Kingdom,
- by virtue of an order under this Schedule, or is unlawfully at large under the law of the country or island in which that other sentence was passed.
- (2) The provisions of this paragraph shall be without prejudice to the powers exercisable by any court apart from those provisions.

#### Modifications etc. (not altering text)

**C50** Sch. 1 para. 18 extended (with modifications) (1.10.1997) by S.I. 1997/1775, **art. 2**, Sch.; S.I. 1997/2200, **art. 2**

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### *Application to the Isle of Man*

- 19 (1) Her Majesty may by Order in Council direct that any of the foregoing provisions of this Schedule which extend to, or apply in relation to, the Channel Islands shall extend to, or apply in relation to, the Isle of Man with such modifications (if any) as Her Majesty considers appropriate.
- (2) An Order in Council under this paragraph may make such consequential, incidental, transitional and supplementary provision as Her Majesty considers appropriate.
- (3) An Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Modifications etc. (not altering text)**

**C51** Sch. 1 para. 19 extended (31.7.1998) by 1998 c. 37, s. 121(12).

**C52** Sch. 1 para. 19 power modified (13.3.2014) by Offender Rehabilitation Act 2014 (c. 11), ss. 22(2), 23(6)

**C53** Sch. 1 para. 19 modified (12.2.2015) by Criminal Justice and Courts Act 2015 (c. 2), ss. 95(1), 97(1)

### *[<sup>F272</sup>Service of process issued in Scotland*

#### **Textual Amendments**

**F272** Sch. 1 paras. 19A, 19B and cross-headings inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 7 (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

- 19A (1) Section 4 of the Summary Jurisdiction (Process) Act 1881 (service in England and Wales of Scottish process etc) applies to any process issued by a court in Scotland under the supervision provisions.
- (2) “The supervision provisions” means the provisions listed in paragraph 8(9), as they are applied by paragraph 8(2) or (4).

### *Electronic monitoring in Scotland*

- 19B (1) Section 245C of the Criminal Procedure (Scotland) Act 1995 (remote monitoring), and regulations under that section, apply in relation to the electronic monitoring of compliance with a curfew requirement in a supervision default order imposed under the supervision provisions as they apply in relation to the remote monitoring of compliance with a restriction of liberty order.
- (2) “The supervision provisions” means the provisions listed in paragraph 8(9), as they are applied by paragraph 8(2) or (4).]

### *Interpretation*

- 20 (1) In this Schedule—
- [<sup>F273</sup>“detention and training order” includes an order under section 211 of the Armed Forces Act 2006;]
- “prison”, unless the context otherwise requires, includes [<sup>F274</sup>any accommodation which is youth detention accommodation (within the

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meaning given by [<sup>F275</sup>section 248(1) of the Sentencing Code]), a young offenders institution, a young offenders centre and a remand centre;

“sentence of imprisonment” includes any sentence of detention [<sup>F276</sup>(except a sentence of service detention within the meaning of the Armed Forces Act 2006)] and a sentence of custody for life under [<sup>F277</sup>section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F278</sup>or section 272 or 275 of the Sentencing Code], and cognate expressions shall be construed accordingly;

[<sup>F279</sup>“supervision” means—

- (a) supervision under an order made for the purpose,
- (b) supervision under a detention and training order,
- (c) in the case of a person released from prison on licence, supervision under a condition contained in the licence,
- (d) supervision under section 256AA of the Criminal Justice Act 2003 (supervision after end of sentence), including supervision under that section as applied by [<sup>F280</sup>section 247 of the Sentencing Code], or
- (e) supervision under section 256B of the Criminal Justice Act 2003 (supervision after release of certain young offenders serving less than 12 months).]

- (2) References in this Schedule to a person being remanded in custody are references to his being remanded in or committed to custody by an order of a court.
- (3) In determining, in relation to any person serving a sentence of imprisonment, the time which is to be served in respect of an equivalent sentence treated as passed in another country or island, regard shall be had, not only to any time already served by him, but also to—
  - (a) any periods for which he has been remanded in custody, being either—
    - (i) periods by which his sentence falls to be reduced; or
    - (ii) periods which have been directed to count as time served as part of his sentence; and
  - (b) any early release or additional days awarded to him.

#### Textual Amendments

- F273** Words in Sch. 1 para. 20(1) inserted (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. 145(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F274** Words in Sch. 1 para. 20(1) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), s. 41(1), **Sch. 3 para. 15(3)**; S.I. 2007/3001, art. 2(1)(r)
- F275** Words in Sch. 1 para. 20(1) substituted (1.12.2020) by [The Prison \(Amendment\) Rules 2005 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 149(5)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F276** Words in Sch. 1 para. 20(1) inserted (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. 145(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F277** Words in Sch. 1 para. 20(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 186(5)**
- F278** Words in Sch. 1 para. 20(1) inserted (1.12.2020) by [The Prison \(Amendment\) Rules 2005 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 149(5)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F279** Words in Sch. 1 para. 20(1) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 8** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)

*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F280** Words in Sch. 1 para. 20(1) substituted (1.12.2020) by [The Prison \(Amendment\) Rules 2005 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 149\(5\)\(c\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2

SCHEDULE 2

Section 42.

REPATRIATION OF PRISONERS TO THE BRITISH ISLANDS

*Preliminary*

1 Any reference in this Schedule to prisoners repatriated to any part of the United Kingdom is a reference to prisoners transferred there in pursuance of a warrant issued under the <sup>M50</sup>Repatriation of Prisoners Act 1984 (“the 1984 Act”).

**Marginal Citations**  
M50 1984 c.47.

*Prisoners repatriated to England and Wales*

F281<sub>2</sub> .....

**Textual Amendments**  
F281 Sch. 2 para. 2 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in 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)); and Sch. 2 para. 2(2) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 33\(2\)](#); S.I. 2008/1466, art. 2(c)(iii)

F282<sub>3</sub> .....

**Textual Amendments**  
F282 Sch. 2 para. 3 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in 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)); and Sch. 2 para. 3(2) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 33\(3\)](#); S.I. 2008/1466, art. 2(c)(iii)

F283<sub>4</sub> .....

*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F283** Sch. 2 para. 4 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

### *Prisoners repatriated to Scotland*

- 5 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed before 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date.
- [<sup>F284</sup>(c) prisoners detained in Scotland in pursuance of warrants which—
- (i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and
  - (ii) relate to sentences that were imposed before 1 October 1993.]
- (2) Paragraph 2 of the Schedule to the 1984 Act, as originally enacted, shall have effect, and shall be deemed to have had effect since 16th February 1990, as if—
- (a) in sub-paragraph (1), for the words “section 60 of the Criminal Justice Act 1967” there were substituted the words “ section 22 of the Prisons (Scotland) Act 1989 ”; and
  - (b) at the end there were added the following sub-paragraph—
- “(3) In this paragraph “sentence” means the provision included in a warrant which is equivalent to a sentence.”

### Textual Amendments

**F284** Sch. 2 para. 5(1)(c) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 33(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)

- 6 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed on or after 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The question whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.



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(4) For the purposes of Schedule 6 to the <sup>M51</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

#### Marginal Citations

**M51** 1993 c.9.

7 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed on or after 1st October 1993 [<sup>F285</sup>but before the commencement of section 33 of the Criminal Justice (Scotland) Act 2003 (asp 7)].

(2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—

“(2) If the warrant specifies a period to be taken into account for the purposes of sections 1(3) and 2(2) and (7) of the <sup>M52</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993—

(a) the amount of time the prisoner has served; and

(b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

(3) The question whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.

(4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”



**Status:** Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F285** Words in Sch. 2 para. 7(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 33(4)**, 89(2); [S.I. 2003/288](#), **art. 2**, sch.

**Marginal Citations**

**M52** 1993 c.9.

**F286**<sup>8</sup> .....

**Textual Amendments**

**F286** Sch. 2 para. 8 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch.10**; [S.I. 1998/2327](#), **art. 2(2)(pp)(3)(x)**.

*Prisoners repatriated to Northern Ireland*

**F287**<sup>9</sup> .....

**Textual Amendments**

**F287** Sch. 2 para. 9 repealed (1.4.2009) by [The Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216\)](#), **art. 1(4)**, **Sch. 6 Pt. 1**; [S.R. 2009/120](#), **art. 2**, Sch. 1 para. 19(b) (with Sch. 2 para. 1)

**F288**<sup>10</sup> .....

**Textual Amendments**

**F288** Sch. 2 para. 10 repealed (8.10.2001) by [S.I. 2001/2565](#), **arts. 1(2)**, 3(4); [S.R. 2001/337](#), **art. 2**

*Prisoners repatriated to the Islands*

- 11 (1) This paragraph applies where any Order in Council under section 9(4) of the 1984 Act extends the provisions of that Act to any of the Channel Islands or the Isle of Man.
- (2) The modifications of that Act made by the Order may include modifications broadly corresponding to those made by any of paragraphs 1 to 10 above.

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*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## SCHEDULE 3

Section 48.

### TRANSFERS WITHIN THE BRITISH ISLANDS OF RESPONSIBILITY FOR OFFENDERS CONDITIONALLY DISCHARGED FROM HOSPITAL

#### PART I

#### AMENDMENTS OF THE 1983 ACT

##### *Transfers from England and Wales to Scotland*

1 After section 80 of the 1983 Act there shall be inserted the following section—

**“80A Transfer of responsibility for patients to Scotland.**

- (1) If it appears to the Secretary of State, in the case of a patient who—
  - (a) is subject to a restriction order under section 41 above; and
  - (b) has been conditionally discharged under section 42 or 73 above,
 that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Scotland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Scotland; and
  - (b) as if he were subject to a restriction order under the corresponding enactment in force in Scotland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

##### *Transfers from England and Wales to Northern Ireland*

2 After section 81 of the 1983 Act there shall be inserted the following section—

**“81A Transfer of responsibility for patients to Northern Ireland.**

- (1) If it appears to the Secretary of State, in the case of a patient who—
  - (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
  - (b) has been conditionally discharged under section 42 or 73 above,
 that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.

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**Status:** Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
  - (b) as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

*Transfers from Northern Ireland to England and Wales*

3 After section 82 of the 1983 Act there shall be inserted the following section—

**“82A Transfer of responsibility for patients to England and Wales from Northern Ireland.**

- (1) If it appears to the relevant Minister, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under Article 47(1) or 55(1) of the <sup>M53</sup>Mental Health (Northern Ireland) Order 1986; and
  - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,
- that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
  - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.
- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

**Marginal Citations**

**M53** S.I. 1986/596 (N.I.4).

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*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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*Transfers from England and Wales to the Islands*

4 After section 83 of the 1983 Act there shall be inserted the following section—

**“83A Transfer of responsibility for patients to Channel Islands or Isle of Man.**

If it appears to the Secretary of State, in the case of a patient who—

- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
  - (b) has been conditionally discharged under section 42 or 73 above,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”

*Transfers from the Islands to England and Wales*

5 After section 85 of the 1983 Act there shall be inserted the following section—

**“85A Responsibility for patients transferred from Channel Islands or Isle of Man.**

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 83A above.
- (2) The patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
  - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where the patient was immediately before the transfer subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.”

**PART II**

AMENDMENTS OF THE 1984 ACT

*Transfers from Scotland to England and Wales*

**Status:** Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.

**Changes to legislation:** Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F289** Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

*Transfers from Scotland to Northern Ireland*

F289<sup>7</sup> .....

**Textual Amendments**

**F289** Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

*Transfers from Northern Ireland to Scotland*

F289<sup>8</sup> .....

**Textual Amendments**

**F289** Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

*Transfers from the Islands to Scotland*

F289<sup>9</sup> .....

**Textual Amendments**

**F289** Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

*Transfers from Scotland to the Islands*

F289<sup>10</sup> .....

**Textual Amendments**

**F289** Sch. 3 paras. 6-10 repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

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## SCHEDULE 4

Section 55.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Army Act 1955 (c.18)*

- 1 (1) After subsection (3) of section 70 of the Army Act 1955 (civil offences) there shall be inserted the following subsection—
- “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”
- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—
- “(1A) Where—
- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,
- the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”
- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 70(3A) above ”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

#### **Commencement Information**

**I10** Sch. 4 para. 1 partly in force: Sch. 4 para. 1 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 1(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 1(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2)(a)

#### *Air Force Act 1955 (c.19)*

- 2 (1) After subsection (3) of section 70 of the Air Force Act 1955 (civil offences) there shall be inserted the following subsection—
- “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the

*Status:* Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 70(3A) above ”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

#### Commencement Information

- III** Sch. 4 para. 2 partly in force: Sch. 4 para. 2 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 2(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 2(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2(a))

#### Naval Discipline Act 1957 (c.53)

- 3 (1) After subsection (1) of section 42 of the Naval Discipline Act 1957 (civil offences) there shall be inserted the following subsection—

“(1A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 43A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or



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*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

- (3) In subsection (6A) of section 43AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.
- (4) In paragraph 3(1) of Schedule 4A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “ or falls to be imposed under section 42(1A) above ”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “ Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act) ”.

#### Commencement Information

- I12** Sch. 4 para. 3 partly in force: Sch. 4 para. 3 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 3(1), so far as relating to offences whose corresponding civil offences are offences to which s. 2 would apply, and para. 3(2)(4) in force at 1.10.1997 by S.I. 1997/2200, art. 2(1)(1)(2)(a)

#### *Children and Young Persons Act 1963 (c.37)*

F290<sup>4</sup> .....

#### Textual Amendments

- F290** Sch. 4 para. 4 repealed (15.12.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 5; S.I. 2004/3033, art. 3(1)(2)(e)(i)

#### *Criminal Justice Act 1967 (c.80)*

5 F291<sup>(1)</sup> .....

- (2) In subsection (4) of section 72 of that Act (power of magistrates to issue warrants for escaped prisoners and mental patients), after the words “restricting his discharge” there shall be inserted the words “ or in pursuance of a hospital direction and a limitation direction ”.

#### Textual Amendments

- F291** Sch. 4 para. 5(1) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

*Status:* Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Criminal Appeal Act 1968 (c.19)*

6 (1) In subsection (1) of section 50 of the Criminal Appeal Act 1968 (meaning of sentence)—

(a) after paragraph (b) there shall be inserted the following paragraph—

“(bb) a hospital direction and a limitation direction under that Part;”;

F292 (b) .....

F293 (2) .....

**Textual Amendments**

**F292** Sch. 4 para. 6(1)(b) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 137(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

**F293** Sch. 4 para. 6(2) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 44(4)(o) (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))

**Commencement Information**

**I13** Sch. 4 para. 6 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 6(1)(a) in force at 1.10.1997 by S.I. 1997/2200, **art. 2(1)(2)**, otherwise not in force

*Immigration Act 1971 (c.77)*

F2947 .....

**Textual Amendments**

**F294** Sch. 4 para. 7 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 44(4)(o) (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))

*Powers of Criminal Courts Act 1973 (c.62)*

F2958 .....

**Textual Amendments**

**F295** Sch. 4 para. 8 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Rehabilitation of Offenders Act 1974 (c.53)*

F2969 .....

*Status:* Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
*Changes to legislation:* Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**  
**F296** Sch. 4 para. 9 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 137(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Magistrates' Courts Act 1980 (c.43)*

10 <sup>F297</sup>(1) .....

(2) For subsection (3) of section 85 of that Act (power to remit fine) there shall be substituted the following subsections—

“(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

(3) In calculating any reduction required by subsection (2) or (2A) above any fraction of a day or hour shall be left out of account.”

**Textual Amendments**  
**F297** Sch. 4 para. 10(1) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (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))  
**Commencement Information**  
**I14** Sch. 4 para. 10 not in force at Royal Assent, see s. 57(2). Sch. 4 para. 10(1) in force at 1.10.1997 and Sch. 4 para. 10(2) in force at 1.3.1998 by S.I. 1997/2200, **arts. 2, 3** (para. 10(2) in force subject to savings in art. 5)

*Criminal Justice Act 1982 (c.48)*

<sup>F298</sup>11 .....

**Textual Amendments**  
**F298** Sch. 4 para. 11 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 137(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Mental Health Act 1983 (c.20)*

12 <sup>F299</sup>(1) .....

(2) After that subsection there shall be inserted the following subsection—

“(1A) In the case of an offence the sentence for which would otherwise fall to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act

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1997, nothing in that subsection shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.”

(3) In subsection (4) of that section, the words “in the event of such an order being made by the court” shall cease to have effect.

<sup>F300</sup>(4) . . . . .

(5) After subsection (4) of that section there shall be inserted the following subsection—

“(5) The preceding provisions of this section shall have effect as if—

- (a) the reference in subsection (1) to a transfer direction and a restriction direction having been given in respect of a person serving a sentence of imprisonment included a reference to a hospital direction and a limitation direction having been given in respect of a person sentenced to imprisonment;
- (b) the reference in subsection (2) to a restriction direction included a reference to a limitation direction; and
- (c) references in subsections (3) and (4) to a transfer direction included references to a hospital direction.”

(6) In section 54 of that Act (requirements as to medical evidence), after the words “38(1)” there shall be inserted the words “ 45A(2) ”.

(7) In subsection (2) of section 61 of that Act (review of treatment)—

- (a) after the words “restriction order” there shall be inserted the words “ , limitation direction ”; and
- (b) in paragraph (b), after the words “section 41(6)” there shall be inserted the words “ , 45B(3) ”.

<sup>F301</sup>(8) . . . . .

(9) In section 70(a) of that Act (applications to tribunals concerning restricted patients), after the words “hospital order” there shall be inserted the words “ , hospital direction ”.

(10) In subsection (1) of section 74 of that Act (restricted patients), after the words “who is subject to” there shall be inserted the words “ a limitation direction or ”.

(11) In subsection (5) of that section, after the word “above” there shall be inserted the words “ the relevant hospital direction and the limitation direction or, as the case may be, ”.

(12) In subsection (6) of that section, after the words “references to”, in the second place where they occur, there shall be inserted the words “ the hospital direction and the limitation direction or, as the case may be, to ”.

(13) In section 75(1)(b) of that Act (applications and references concerning conditionally discharged restricted patients), after the words “hospital order” there shall be inserted the words “ , hospital direction ”.

(14) In subsection (1) of section 79 of that Act (interpretation of Part V), after the words “restriction order” there shall be inserted the words “ , limitation direction ”.

(15) In subsection (2) of that section—

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- (a) after the words “ “the relevant hospital order”” there shall be inserted the words “ , “the relevant hospital direction” ”; and
  - (b) after the words “the hospital order” there shall be inserted the words “ , the hospital direction ”.
- (16) After subsection (3) of section 92 of that Act (interpretation of Part VI) there shall be inserted the following subsections—
- “(4) Sections 80 to 85A above shall have effect as if—
- (a) any hospital direction under section 45A above were a transfer direction under section 47 above; and
  - (b) any limitation direction under section 45A above were a restriction direction under section 49 above.
- (5) Sections 80(5), 81(6) and 85(4) above shall have effect as if any reference to a transfer direction given while a patient was serving a sentence of imprisonment imposed by a court included a reference to a hospital direction given by a court after imposing a sentence of imprisonment on a patient.”
- (17) In subsection (1) of section 117 of that Act (after-care), after the words “transferred to a hospital in pursuance of” there shall be inserted the words “ a hospital direction made under section 45A above or ”.
- (18) In subsection (3) of section 143 of that Act (general provisions as to regulations, orders and rules), after the word “section” there shall be inserted the word “ 45A(10), ”.
- (19) In subsection (1) of section 145 of that Act (interpretation)—
- (a) after the definition of “hospital” there shall be inserted the following definition—
 

““hospital direction” has the meaning given in section 45A(3)(a) above;”;
  - (b) after the definition of “interim hospital order” there shall be inserted the following definition—
 

““limitation direction” has the meaning given in section 45A(3)(b) above;”.

#### Textual Amendments

**F299** Sch. 4 para. 12(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(o\)](#) (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(1))

**F300** Sch. 4 para. 12(4) repealed (30.9.1998) by [1998 c. 37](#), ss. 119, 120(2), [Sch. 8 para. 137\(c\)](#), **Sch.10**; [S.I. 1998/2327](#), **art. 2(2)(pp)(3)(x)**.

**F301** Sch. 4 para. 12(8) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), s. 56(1), **Sch. 11 Pt. 5**; [S.I. 2008/1210](#), art. 2(d)

#### Commencement Information

**I15** Sch. 4 para. 12 partly in force; Sch. 4 para. 12 not in force at Royal Assent, see s. 57(2); Sch. 4 para. 12(1) (and (2) for specified purposes) in force at 1.10.1997 by [S.I. 1997/2200](#), **art. 2**; Sch. 4 para. 12(2) in force at 1.12.1999 to the extent not already in force by [S.I. 1999/3096](#), **art. 2(e)**

**Status:** Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.  
**Changes to legislation:** Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*Criminal Justice Act 1988 (c.33)*

F302 13 .....

**Textual Amendments**

**F302** Sch. 4 para. 13 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (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))

*Prevention of Terrorism (Temporary Provisions) Act 1989 (c.4)*

PROSPECTIVE

14 In sub-paragraph (5) of paragraph 9 of Schedule 2 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (exemption from exclusion orders), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words [F303“ section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”].

**Textual Amendments**

**F303** Words in Sch. 4 para. 14 substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 187(4)

*Criminal Justice Act 1991 (c.53)*

- 15 F304(1) .....
- F304(2) .....
- F304(3) .....
- F304(4) .....
- F304(5) .....
- F304(6) .....
- F304(7) .....
- F304(8) .....
- F304(9) .....
- F305(10) .....
- F304(11) .....
- F304(12) .....
- F304(13) .....

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*Changes to legislation:* Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

- F304** Sch. 4 para. 15(1)-(9)(11)-(13) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F305** Sch. 4 para. 15(10) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(o) (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))

**Modifications etc. (not altering text)**

- C54** Sch. 4 para. 15 excluded (1.1.1998) by S.I. 1997/2200, **art. 5(1)**

**Commencement Information**

- I16** Sch. 4 para. 15 wholly in force at 1.12.1999; Sch. 4 para. 15 not in force at Royal Assent, see s. 57(2); Sch. 4 para. 15 in force for specified purposes at 1.10.1997 by S.I. 1997/2200, **art. 2**; Sch. 4 para. 15 in force at 1.12.1999 to the extent not already in force by S.I. 1999/3096, **art. 2(e)**

*Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

- 16 (1) In section 10(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (meaning of transferred life prisoner), for the words “section 26 of the Criminal Justice Act 1961” there shall be substituted the words “ paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997 ”.
- (2) In Schedule 6 to that Act, in paragraph 1, in the definition of “new provisions”, after the word “Act” where it last occurs, there shall be inserted the words “ and the Repatriation of Prisoners Act 1984 as it has effect by virtue of paragraphs 6 and 7 of Schedule 2 to the Crime (Sentences) Act 1997 ”.

*Criminal Justice and Public Order Act 1994 (c.33)*

F306<sup>17</sup> .....

**Textual Amendments**

- F306** Sch. 4 para. 17 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

SCHEDULE 5

Section 56(1).

TRANSITIONAL PROVISIONS AND SAVINGS

*Sentences for offences committed before the commencement of Chapter I of Part II*

F307<sup>1</sup> .....



*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F307** Sch. 5 para. 1 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Consecutive sentences for offences committed before and after that commencement*

**F308**<sub>2</sub> .....

**Textual Amendments**

**F308** Sch. 5 para. 2 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Concurrent sentences for offences committed before and after that commencement*

**F309**<sub>3</sub> .....

**Textual Amendments**

**F309** Sch. 5 para. 3 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Crediting of periods of remand in custody*

**F310**<sub>4</sub> .....

**Textual Amendments**

**F310** Sch. 5 para. 4 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

*Duty to release certain life prisoners*

5 **F311**(1) .....

**F312**(2) .....

(3) Section 28(7) of this Act shall have effect as if—

- (a) any reference of a prisoner's case made to the Parole Board under section 32(2) or 34(4) of the 1991 Act had been made under section 28(6) of this Act; and
- (b) any such reference made under section 39(4) of that Act had been made under section 32(4) of this Act.

*Status: Point in time view as at 29/06/2022. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Crime (Sentences) Act 1997 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F311** Sch. 5 para. 5(1) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and note to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(3), Sch. 7 Pt. II para. 144, **Sch. 8**
- F312** Sch. 5 para. 5(2) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(a), **Sch. 10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### *Life prisoners transferred to England and Wales*

**F313**<sup>6</sup> .....

#### Textual Amendments

- F313** Sch. 5 para. 6 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### *Recall of life prisoners while on licence*

- 7 (1) Section 32(3) and (4) of this Act shall have effect as if any life prisoner recalled to prison under subsection (1) or (2) of section 39 of the 1991 Act had been recalled to prison under <sup>F314</sup>... section 32 of this Act.
- (2) Section 32(4) of this Act shall have effect as if any representations made by a life prisoner under section 39(3) of the 1991 Act had been made under section 32(3) of this Act.

#### Textual Amendments

- F314** Words in Sch. 5 para. 7 repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 28 Pt. 2**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(2)(b)

#### *Transfers of prisoners: general*

**F315**<sup>8</sup> .....

#### Textual Amendments

- F315** Sch. 5 para. 8 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### *Transfers of prisoners from England and Wales to Scotland*

9 <sup>F316</sup>(1) .....

- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;

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- (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
- (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

**Textual Amendments**

**F316** Sch. 5 para. 9(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, art. 2(2)(pp)(3)(x).

*Transfers of prisoners from England and Wales to Northern Ireland*

10 <sup>F317</sup>(1) .....

- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—
  - (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
  - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
  - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

**Textual Amendments**

**F317** Sch. 5 para. 10(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(b), **Sch.10**; S.I. 1998/2327, art. 2(2)(pp)(3)(x).

*Transfers of prisoners from Scotland to England and Wales*

11 <sup>F318</sup>(1) .....

- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 10 of Schedule 1 to this Act shall have effect as if—
  - (a) references in sub-paragraph (2) to [<sup>F319</sup>sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the <sup>M54</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”)] were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 of, and Schedule 1 to, [<sup>F319</sup>the Prisons (Scotland) Act 1989 (“the 1989 Act”)] and any rules made under section 18 or 39 of that Act;
  - (b) references in sub-paragraph (5) to [<sup>F320</sup>sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and

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- (c) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act<sup>F321</sup> . . . were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3)<sup>F321</sup> . . . In sub-paragraph (2) above—
- (a) the reference to section 19(4) of the 1989 Act is a reference to that provision so far as it applies section 24 of that Act in relation to persons detained in young offenders institutions; and
- (b) any reference to the existing provisions is a reference to the existing provisions within the meaning of Schedule 6 to the 1993 Act.

#### Textual Amendments

**F318** Sch. 5 para. 11(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(c), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

**F319** Words in Sch. 5 para. 11(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(2)(a)**; S.I. 1998/2327, **art. 2(2)(pp)**.

**F320** Words in Sch. 5 para. 11(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(2)(b)**; S.I. 1998/2327, **art. 2(2)(pp)**.

**F321** Words in Sch. 5 para. 11(2)(c)(3) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(c), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### Modifications etc. (not altering text)

**C55** Sch. 5 para. 11(3) amended (1.7.1999) by S.I. 1999/1280, arts. 1(2), 4, **Sch. 2 Pt. I para. 130**(12); S.I. 1998/3178, **art. 3**)

#### Marginal Citations

**M54** 1993 c.9.

### *Transfers of prisoners from Scotland to Northern Ireland*

12<sup>F322</sup>(1) . . . . .

- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to [<sup>F323</sup>sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the<sup>M55</sup>Prisoners and Criminal Proceedings (Scotland) Act (“the 1993 Act”)] were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43, and Schedule 1 to, [<sup>F323</sup>the Prisons (Scotland) Act 1989 (“the 1989 Act”)] and any rules made under section 18 or 39 of that Act;
- (b) references in sub-paragraph (4) to [<sup>F324</sup>sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act] were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
- (c) the reference in sub-paragraph (6) to any provision of Part I of the 1993 Act<sup>F325</sup> . . . were a reference to any provision of the said Schedule 6 or the 1989 Act.

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(3) Sub-paragraph (3) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

#### Textual Amendments

- F322** Sch. 5 para. 12(1) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(d), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.
- F323** Words in Sch. 5 para. 12(2)(a) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(3)(a)**; S.I. 1998/2327, **art. 2(2)(pp)**.
- F324** Words in Sch. 5 para. 12(2)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 138(3)(b)**; S.I. 1998/2327, **art. 2(2)(pp)**.
- F325** Words in Sch. 5 para. 12(2)(c) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 138(1)(d), **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### Marginal Citations

- M55** 1993 c.9.

#### Interpretation

13 In this Schedule—

“life prisoner” has the same meaning as in Chapter II of Part II of this Act;  
“term of imprisonment” includes a sentence of detention in a young offender institution or under section 53 of the 1933 Act.

#### SCHEDULE 6

Section 56(2).

#### REPEALS

#### Modifications etc. (not altering text)

- C56** Sch. 6 excluded (1.1.1998) by S.I. 1997/2200, **art. 5(1)(6)**

#### Commencement Information

- I17** Sch. 6 in force in force at 1.10.1997 for specified purposes by S.I. 1997/2200, **art. 2(1)(o)(p)(3)**
- I18** Sch. 6 in force at 4.4.2005 for specified purposes by S.I. 2005/932, **art. 2(1)(2)(b)** (with art. 2(3))
- I19** Sch. 6 in force at 3.12.2012 for specified purposes by S.I. 2012/2901, **art. 2(b)**

Chapter	Short title	Extent of repeal
9 & 10 Eliz. 2 c.39.	Criminal Justice Act 1961.	Part III.  In section 36(1), the words “or under Part III”.  In section 38, in subsection (3), the words “of Part III and” and, in subsection (6), the words “and of any enactment

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		referred to in Part III of this Act”.
		In section 39, in subsection (1), the definitions of “appropriate institution” and “responsible Minister”, and subsection (1A).
		In section 42, in subsection (1), the words “Part III except section thirty-three” and, in subsection (2), the words “Part III”.
1967 c.80.	Criminal Justice Act 1967.	Section 67.
1973 c.62.	Powers of Criminal Courts Act 1973.	In section 2(3), the words from “and the court” to the end.
		In section 14(2), the words “the offender consents and”.
		In section 42(1), the words “or section 62 of the Criminal Justice Act 1967”.
1983 c.20.	Mental Health Act 1983.	In section 37(4), the words “in the event of such an order being made by the court”.
		In section 47(1), the words “(not being a mental nursing home)”.
		In Schedule 1, in Part II, in paragraph 5, the word “and” immediately following subparagraph (a).
1991 c.53.	Criminal Justice Act 1991.	In section 4(1), the words “section 3(1) above applies and”.
		In section 12, in subsection (1), the words “of or over the age of sixteen years” and, in subsection (5), the words from “and the court” to the end.
		F326
		...
		F326
		...
		In Schedule 2, in paragraph 14, in sub-paragraph (2)

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(b), the words from “being treatment” to the end.

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**Textual Amendments**

**F326** Entries in Sch. 6 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 139, **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.



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