

*Status: Point in time view as at 12/02/2007.*

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## SCHEDULES

VALID FROM 03/12/2012

### SCHEDULE 1

Section 49

#### CONSEQUENTIAL AMENDMENTS RELATING TO MINIMUM SENTENCES

.....

VALID FROM 01/04/2008

### SCHEDULE 2

Section 51

#### WEAPONS ETC.: CORRESPONDING PROVISIONS FOR NORTHERN IRELAND

.....

PROSPECTIVE

### SCHEDULE 3

Section 52

#### FOOTBALL BANNING ORDERS AND FOOTBALL-RELATED CONSEQUENTIAL AMENDMENTS

##### PART 1

##### FOOTBALL BANNING ORDERS

##### *Introductory*

1 The Football Spectators Act 1989 (c. 37) is amended as follows.

##### *Banning orders: bail conditions*

2 (1) In section 14A (banning orders on conviction of an offence), after subsection (4B) insert—

“(4BA) If the court adjourns or further adjourns any proceedings under subsection (4A) or (4B), the court may remand the offender.

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(4BB) A person who, by virtue of subsection (4BA), is remanded on bail may be required by the conditions of his bail—

- (a) not to leave England and Wales before his appearance before the court, and
- (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.”

(2) In subsection (4C) of that section, omit “ But ” and after “a warrant” insert “ under subsection (4B) above ”.

(3) In section 14B (banning orders on a complaint), after subsection (4) insert—

“(5) If the magistrates' court adjourns proceedings on an application under this section, the court may remand the person in respect of whom the application is made.

(6) A person who, by virtue of subsection (5) above, is remanded on bail under section 128 of the Magistrates' Courts Act 1980 may be required by the conditions of his bail—

- (a) not to leave England and Wales before his appearance before the court, and
- (b) if the control period relates to a regulated football match outside the United Kingdom or to an external tournament which includes such matches, to surrender his passport to a police constable, if he has not already done so.”

*Appeals against decisions not to make banning orders*

3 (1) In section 14A (banning order made on conviction for an offence), after subsection (5) insert—

“(5A) The prosecution has a right of appeal against a failure by the court to make a banning order under this section—

- (a) where the failure is by a magistrates' court, to the Crown Court; and
- (b) where it is by the Crown Court, to the Court of Appeal.

(5B) An appeal under subsection (5A)(b) may be brought only if the Court of Appeal gives permission or the judge who decided not to make an order grants a certificate that his decision is fit for appeal.

(5C) An order made on appeal under this section (other than one directing that an application be re-heard by the court from which the appeal was brought) is to be treated for the purposes of this Part as if it were an order of the court from which the appeal was brought.”

(2) In section 14D (appeals against banning orders made on complaint), after subsection (1) insert—

“(1A) An appeal lies to the Crown Court against the dismissal by a magistrates' court of an application for the making of a banning order under section 14B above.”

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- (3) In subsection (2) of that section, for “the appeal” substitute “ an appeal under this section ”.

*Applications for banning orders under section 14B*

- 4 (1) In section 14B (banning orders made on a complaint)—
- (a) for subsection (1) substitute—
- “(1) An application for a banning order in respect of any person may be made by—
- (a) the relevant chief officer, or
- (b) the Director of Public Prosecutions,
- if it appears to him that the condition in subsection (2) is met.”;
- (b) after subsection (1) insert—
- “(1A) In subsection (1) “the relevant chief officer” means—
- (a) the chief officer of police of any police force maintained for a police area; or
- (b) the chief constable of the British Transport Police Force.”
- (2) In section 21B(4) (summary measures: reference to a court), for “the chief officer of police for the area in which the person resides or appears to reside” substitute “ the relevant chief officer ”.

*Notification obligations under banning orders*

- 5 (1) Section 14E (banning orders: general) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) A banning order must require the person subject to the order to give notification of the events mentioned in subsection (2B) to the enforcing authority.
- (2B) The events are—
- (a) a change of any of his names;
- (b) the first use by him after the making of the order of a name for himself that was not disclosed by him at the time of the making of the order;
- (c) a change of his home address;
- (d) his acquisition of a temporary address;
- (e) a change of his temporary address or his ceasing to have one;
- (f) his becoming aware of the loss of his travel authorisation;
- (g) receipt by him of a new travel authorisation;
- (h) an appeal made by him in relation to the order;
- (i) an application made by him under section 14H(2) for termination of the order;
- (j) an appeal made by him under section 23(3) against the making of a declaration of relevance in respect of an offence of which he has been convicted.

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(2C) A notification required by a banning order by virtue of subsection (2A) must be given before the end of the period of seven days beginning with the day on which the event in question occurs and—

- (a) in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address;
- (b) in the case of a first use of a previously undisclosed name, must specify that name; and
- (c) in the case of a receipt of a new travel authorisation, must give details of that travel authorisation.”

(3) In subsection (3) (under which a banning order must, unless there are exceptional circumstances, impose a requirement as to the surrender of the passport of the subject) omit “ , unless it appears to the court that there are exceptional circumstances, ”.

(4) Omit subsection (4) (where exceptional circumstances exist court must state in open court what they are).

(5) After subsection (7) insert—

“(8) In this section—

- “declaration of relevance” has the same meaning as in section 23;
- “home address”, in relation to any person, means the address of his sole or main residence;
- “loss” includes theft or destruction;
- “new” includes replacement;
- “temporary address”, in relation to any person, means the address (other than his home address) of a place at which he intends to reside, or has resided, for a period of at least four weeks.”

(6) In relation to times before the commencement of section 39(2) of the Identity Cards Act 2006 (c. 15), the references to a travel authorisation in subsections (2B) and (2C) of section 14E of the Football Spectators Act 1989 (c. 37) shall have effect as references to a passport.

(7) Sub-paragraphs (3) and (4) apply—

- (a) to a banning order made after the commencement of those sub-paragraphs; and
- (b) for the purposes of any appeal falling to be determined after the commencement of those sub-paragraphs.

#### *Duration of banning orders*

6 In section 14F(5) (duration of banning orders), for “three” substitute “ five ” and for “two” substitute “ three ”.

#### *Notices during control periods*

7 In section 19 (functions of enforcing authority and local police), after subsection (2E)(b) insert—

- “(c) must require him to notify the enforcing authority within the time period specified in the notice of each address at which he intends

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to stay, or has stayed, for one night or more in a period which is the control period in relation to a regulated football match.”

*Deemed receipt of notices and other documents*

- 8 (1) In section 25 (service of documents), after subsection (1) insert—
- “(1A) A notice or other document served in accordance with subsection (1) on a person who is the subject of a banning order is to be deemed to be received by him at the time when it is served unless he proves otherwise.”
- (2) In section 21(7) (service of notices under section 19), after “subsection (6) above” insert “ (instead of section 25(1A)) ”.

*New relevant offence*

- 9 (1) In paragraph 1 of Schedule 1 (offences), in sub-paragraphs (c), (k) and (q) after “under section” insert “ 4A or ”.
- (2) An offence is not a relevant offence by virtue of sub-paragraph (1) if it was committed before the commencement of this paragraph.

**PART 2**

CONSEQUENTIAL AMENDMENTS

*Meaning of “spectator” in Part 1*

- 10 For section 1(6) of the Football Spectators Act 1989 (c. 37) (definition of “authorised spectator”) substitute—
- “(6) A person is not to be regarded as a “spectator” in relation to a designated football match if the principal purpose of his being on the premises is to provide services in connection with the match, or to report on it.”

*General provisions relating to licences to admit spectators*

- 11 In section 10(17) of that Act (licences to admit spectators: general), for “, the licensing authority or the Football Membership Authority” substitute “ or the licensing authority ”.

*Declarations of relevance*

- 12 In section 23 of that Act (provisions about declarations of relevance), at the end insert—
- “(5) In this section “declaration of relevance” means a declaration by a court for the purposes of Schedule 1 to this Act that an offence related to football matches, or that it related to one or more particular football matches.”

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*Periods relevant to football matches*

- 13 For paragraph 4(2) of Schedule 1 to that Act (meaning of period relevant to a football match) substitute—
- “(2) For the purposes of this Schedule each of the following periods is “relevant to” a football match to which this Schedule applies—
- (a) in the case of a match which takes place on the day on which it is advertised to take place, the period—
- (i) beginning 24 hours before whichever is the earlier of the start of the match and the time at which it was advertised to start; and
- (ii) ending 24 hours after it ends;
- (b) in the case of a match which does not take place on the day on which it was advertised to take place, the period—
- (i) beginning 24 hours before the time at which it was advertised to start on that day; and
- (ii) ending 24 hours after that time.”

*Amendments of other enactments*

- 14 (1) In each of the enactments specified in sub-paragraph (2), for “declaration of relevance under” substitute “ declaration of relevance, within the meaning of section 23 of”.
- (2) Those provisions are—
- (a) section 50(1)(h) of the Criminal Appeal Act 1968 (c. 19); and
- (b) section 108(3) of the Magistrates' Courts Act 1980 (c. 43).
- (3) This paragraph does not apply in relation to declarations made before the commencement of paragraph 12.
- 15 In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2) after paragraph (fa) insert—
- “(faa) where it appears to him appropriate to do so, to have the conduct of applications made by him for orders under section 14B of the Football Spectators Act 1989 (banning orders made on complaint);”.

SCHEDULE 4

Section 54

FORFEITURE AND DETENTION OF VEHICLES ETC.

- 1 The Sexual Offences Act 2003 (c. 42) is amended as follows.

**Commencement Information**

**II** Sch. 4 para. 1 in force at 12.2.2007 by S.I. 2007/74, art. 2(b)

- 2 After section 60 (sections 57 to 59: interpretation and jurisdiction) insert—

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### **“60A Forfeiture of land vehicle, ship or aircraft**

- (1) This section applies if a person is convicted on indictment of an offence under sections 57 to 59.
- (2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—
  - (a) owned the vehicle at the time the offence was committed;
  - (b) was at that time a director, secretary or manager of a company which owned the vehicle;
  - (c) was at that time in possession of the vehicle under a hire-purchase agreement;
  - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement; or
  - (e) was driving the vehicle in the course of the commission of the offence.
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
  - (a) owned the ship or aircraft at the time the offence was committed;
  - (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft;
  - (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement;
  - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement;
  - (e) was at that time a charterer of the ship or aircraft; or
  - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—
  - (a) in the case of a ship, if subsection (5) or (6) applies;
  - (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention to use it in the course of the commission of an offence under sections 57 to 59.
- (6) This subsection applies where a ship's gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (8) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle, ship or aircraft unless the person has been given an opportunity to make representations.

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### **60B Detention of land vehicle, ship or aircraft**

- (1) If a person has been arrested for an offence under sections 57 to 59, a constable or a senior immigration officer may detain a relevant vehicle, ship or aircraft—
  - (a) until a decision is taken as to whether or not to charge the arrested person with that offence;
  - (b) if the arrested person has been charged, until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
  - (c) if he has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- (2) A vehicle, ship or aircraft is a relevant vehicle, ship or aircraft, in relation to an arrested person if it is a land vehicle, ship or aircraft which the constable or officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 60A.
- (3) A person (other than the arrested person) may apply to the court for the release of a land vehicle, ship or aircraft on the grounds that—
  - (a) he owns the vehicle, ship or aircraft;
  - (b) he was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement; or
  - (c) he is a charterer of the ship or aircraft.
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the vehicle, ship or aircraft on condition that it is made available to the court if—
  - (a) the arrested person is convicted; and
  - (b) an order for its forfeiture is made under section 60A.
- (5) In this section, “court” means—
  - (a) in relation to England and Wales—
    - (i) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court;
    - (ii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;
  - (b) in relation to Northern Ireland—
    - (i) if the arrested person has not been charged, a magistrates' court for the county court division in which he was arrested;
    - (ii) if he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court for the county court division in which he was charged;
    - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.
- (6) In this section, “senior immigration officer” means an immigration officer (appointed or employed as such under the Immigration Act 1971) not below the rank of chief immigration officer.

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### 60C Sections 60A and 60B: interpretation

(1) In this section and sections 60A and 60B, unless the contrary intention appears—

“aircraft” includes hovercraft;

“captain” means master (of a ship) or commander (of an aircraft);

“land vehicle” means any vehicle other than a ship or aircraft;

“ship” includes every description of vessel used in navigation.

(2) In sections 60A and 60B, a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.”

#### Commencement Information

**I2** Sch. 4 para. 2 in force at 12.2.2007 by S.I. 2007/74, art. 2(b)

3 In section 142(2) (provisions extending to Northern Ireland), in paragraph (a) for “to 60” substitute “to 60C”.

#### Commencement Information

**I3** Sch. 4 para. 3 in force at 12.2.2007 by S.I. 2007/74, art. 2(b)

## SCHEDULE 5

Section 65

### REPEALS

#### Commencement Information

**I4** Specified repeal in force at Royal Assent, but Sch. 5 not otherwise in force at Royal Assent, see s. 66(2)(d)

#### *Short title and chapter*

Firearms Act 1968 (c. 27)

#### *Extent of repeal*

In section 3(1)(a), the word “or” at the end.  
Section 23(4).

In section 40(2), the words from “to firearms” to “therein”.

In section 51A(1)(a)(i), the word “or” at the end.

In Part 1 of Schedule 6, the entry for section 23(4).

In paragraph 7 of Part 2 of Schedule 6, the words “or (4)”.

In paragraph 8 of Part 2 of Schedule 6, the words “or (4)” in the second place they appear.

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Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)	The whole Act.
Magistrates' Courts Act 1980 (c. 43)	In section 24(1B), the “or” at the end of paragraph (a).
Mental Health Act 1983 (c. 20)	In section 37(1A), the “or” at the end of paragraph (b).
Criminal Justice Act 1988 (c. 33)	In section 36(2)(b), the “or” at the end of sub-paragraph (ii). Section 141(3).
Football Spectators Act 1989 (c. 37)	In section 1— (a) subsection (3); (b) in subsection (4), paragraph (b) and the word “and” immediately preceding it; (c) subsections (5) and (8A). Sections 2 to 7. In section 10— (a) in subsection (8), paragraph (c) and the word “or” immediately preceding it; (b) in subsection (12), paragraph (b). In section 14A(4C), the word “But”. In section 14E— (a) in subsection (3), the words “, unless it appears to the court that there are exceptional circumstances,”; (b) subsection (4). In section 19(2B)(b), the words “and the order imposes a requirement as to the surrender by him of his passport”. In section 22A(1), the definition of “declaration of relevance”. In Schedule 1, in paragraph 1(a), “2(1), 5(7)”. In section 27— (a) in subsection (4), the words “section 3 or”; (b) subsection (5).
Criminal Justice Act 1991 (c. 53)	In Schedule 11, paragraph 23.
Criminal Justice and Public Order Act 1994 (c. 33)	In section 166— (a) in subsection (2)(a), the words “by the home club or”; (b) in subsection (7)(b), the words “the home club or”. In the table in Part 3 of Schedule 8, the entry relating to offences under section 19 of the Firearms Act 1968 (c. 27).
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 29.
Data Protection Act 1998 (c. 29)	In Schedule 15, paragraph 9.

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Crime and Disorder Act 1998 (c. 37)	In section 18(1), the definition of “sex offender order”. In section 51A(12), the “or” at the end of paragraph (b).
Football (Offences and Disorder) Act 1999 (c. 21)	Section 2(3).
Access to Justice Act 1999 (c. 22)	In Schedule 13— (a) paragraph 94; (b) in paragraph 158, the words “7(7)(b) and”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In section 164(3), the “or” at the end of paragraph (b). In Schedule 9, paragraph 60.
Football (Disorder) Act 2000 (c. 25)	Section 5(2). In Schedule 2, paragraphs 12, 13 and 20.
Football (Disorder) (Amendment) Act 2002 (c. 12)	The whole Act.
Mobile Telephones (Re-programming) Act 2002 (c. 31)	In section 1(1)(a), the word “or” at the end.
Licensing Act 2003 (c. 17)	In Schedule 6, paragraph 74.
Anti-social Behaviour Act 2003 (c. 38)	Section 37(3). In section 38, subsections (2), (4), (5)(a) to (c) and (5)(e).
Courts Act 2003 (c. 39)	In Schedule 8, the unnumbered paragraph after paragraph 200 and paragraph 331.
Criminal Justice Act 2003 (c. 44)	In section 150, the “or” at the end of paragraph (c). In Schedule 26, paragraphs 27 and 41.

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