



# Criminal Justice Act 1991

## 1991 CHAPTER 53

### PART I

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

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

- C1** Pt. I (ss. 1-31) applied (E.W.) (1.10.1997) by 1997 c. 43, **ss. 28(9)**, 33(3)-(5); S.I. 1997/2200, **art.2** (subject to savings in **art. 5**)
- Pt. I (ss. 1-31) modified (E.W.) (1.1.1998) by 1997 c. 43, **s. 35(4)(b)**; S.I. 1997/2200, **art.3** (subject to savings in **art. 5**)
- Pt. I (ss. 1-31) extended (with modifications) (E.W.) (1.1.1998) by 1997 c. 43, **s. 35(7)(b)**; S.I. 1997/2200, **art.3** (subject to savings in **art. 5**)
- Pt. I (ss. 1-31) extended (with modifications) (E.W.) (30.9.1998) by 1998 c. 37, **s. 61(4)** (with Sch. 9 para. 4); S.I. 1998/2327, **art.2(1)(n)**.
- Pt. I (ss. 1-31) extended (with modifications) (E.W.) (30.9.1998) by 1998 c. 37, **s. 69(11)**; S.I. 1998/2327, **art.2(1)(o)**
- Pt. I (ss. 1-31) applied (E.W.) (30.9.1998) by 1998 c. 37, **s. 18(2)**; S.I. 1998/2327, **art.2(1)(f)**.
- Pt. I (ss. 1-31) extended (E.W.) (1.4.2000) by 1998 c. 37, **ss. 73(4)**; S.I. 1999/3426, **art. 3(a)**
- Pt. I (ss. 1-31) applied (E.W.) (30.9.1998) by 1997 c. 43, **ss. 37(4)(5)** (as substituted (E.W.) (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 51(2)**; S.I. 1998/2327, **art.2(1)(w)**).
- Pt. I (ss. 1-31) extended (E.W.) (30.9.1998) by 1997 c. 43, **ss. 37(4)(5)** (as substituted (E.W.) (30.9.1998) by 1998 c. 37, s. 106, **Sch.7 para. 51(2)**; S.I. 1998/2327, **art.2(1)(w)**).
- Pt. I (ss. 1-31) restricted (E.W.) (26.6.2000) by 1999 c. 23, **s. 4(4)(a)**, (with Sch. 7 paras. 3(3), 5(2)); S.I. 2000/1587, **art. 2(a)**

#### *Custodial sentences*

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**Textual Amendments**

**F1** S. 1 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt.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

**F2** .....

**Textual Amendments**

**F2** S. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F3** .....

**Textual Amendments**

**F3** S. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F4** .....

**Textual Amendments**

**F4** S. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F5** .....

**Textual Amendments**

**F5** S. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Community sentences*

**F6** .....

**Textual Amendments**

**F6** S. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F7** .....

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**Textual Amendments**

**F7** S. 7 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Probation and community service orders*

**F8** .....

**Textual Amendments**

**F8** S. 8 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F9** .....

**Textual Amendments**

**F9** S. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F10** .....

**Textual Amendments**

**F10** S. 10 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F11** .....

**Textual Amendments**

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

*Curfew orders*

**F12** .....

**Textual Amendments**

**F12** S. 12 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F13** .....

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**Textual Amendments**

**F13** S. 13 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Orders: supplemental*

<sup>F14</sup>**14** .....

**Textual Amendments**

**F14** S. 14 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F15</sup>**15** .....

**Textual Amendments**

**F15** S. 15 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**16 Reciprocal enforcement of certain orders.**

Schedule 3 to this Act shall have effect for making provision for and in connection with—

<sup>F16</sup>(a) .....

(b) the making and amendment in Scotland or Northern Ireland of [<sup>F17</sup>certain] orders relating to persons residing in England and Wales.

**Textual Amendments**

**F16** S. 16(a) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F17** Word in s. 16(b) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 134**

**Commencement Information**

**II** S. 16 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Financial penalties*

**17 Increase of certain maxima.**

(1) In section 37 (standard scale of fines) of the <sup>M1</sup>Criminal Justice Act 1982 (“the 1982 Act”) and section 289G of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1975 (corresponding Scottish provision), for subsection (2) there shall be substituted the following subsection—

“(2) The standard scale is shown below—

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<i>Level on the scale</i>	<i>Amount of fine</i>
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000”.

(2) Part I of the <sup>M3</sup>Magistrates’ Courts Act 1980 (“the 1980 Act”) shall be amended as follows—

- (a) in section 24(3) and (4) (maximum fine on summary conviction of young person for indictable offence) <sup>F18</sup> . . . , for “£400” there shall be substituted “£1,000”;
- (b) in section 24(4) (maximum fine on summary conviction of child for indictable offence) <sup>F18</sup> . . . , for “£100” there shall be substituted “£250”; and
- (c) in section 32(9) (maximum fine on summary conviction of offence triable either way), for “c£2,000” there shall be substituted “£5,000”;

and in section 289B(6) of the Criminal Procedure (Scotland) Act 1975 (interpretation), in the definition of “prescribed sum”, for “£2,000” there shall be substituted “£5,000”.

(3) Schedule 4 to this Act shall have effect as follows—

- (a) in each of the provisions mentioned in column 1 of Part I (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted the amount specified in column 4;
- (b) in each of the provisions mentioned in column 1 of Part II (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted the level on the standard scale specified in column 4;
- (c) in each of the provisions mentioned in column 1 of Part III (the general description of which is given in column 2), for the amount specified in column 3 there shall be substituted a reference to the statutory maximum;
- (d) the provisions set out in Part IV shall be substituted for Schedule 6A to the 1980 Act (fines that may be altered under section 143); and
- (e) <sup>F19</sup> . . . . .

**Extent Information**

**E1** S. 17 extends to England and Wales; s. 17(1)(2) also extend to Scotland see s. 102(4)(5)

**Textual Amendments**

**F18** S. 17(2)(a)(b) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F19** S. 17(3)(e) repealed (20.9.1993) by 1993 c. 36, ss. 65(3), 79(14), Sch. 3 para. 1(1), **Sch. 6 Pt. I**; S.I. 1993/1968, art. 2(2), **Sch. 2**, Appendix.

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

**C2** S. 17(1)(2) restricted (S.) (1.9.1992) by S.I. 1992/333, **art. 4A** (as inserted by S.I. 1992/2118, **art. 4**)

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**Commencement Information**

**I2** S. 17 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2)

**Marginal Citations**

- M1** 1982 c. 48.
- M2** 1975 c. 21.
- M3** 1980 c. 43.

<sup>F20</sup> **18** .....

**Textual Amendments**

**F20** S. 18 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F21</sup> **19** .....

**Textual Amendments**

**F21** S. 19 repealed (20.9.1993) by 1993 c. 36, ss. 65(2)(4), 79(14), **Sch. 6 Pt.1**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix.

<sup>F22</sup> **20** .....

**Textual Amendments**

**F22** S. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F23</sup> **20A False statements as to financial circumstances.**

- (1) A person who is charged with an offence who, in furnishing a statement of his financial circumstances in response to an official request—
  - (a) makes a statement which he knows to be false in a material particular;
  - (b) recklessly furnishes a statement which is false in a material particular; or
  - (c) knowingly fails to disclose any material fact,
 shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

<sup>F24</sup> [ A person who is charged with an offence who fails to furnish a statement of his financial circumstances in response to an official request shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.]

- (2) For the purposes of this section an official request is a request which—
  - (a) is made by the [<sup>F25</sup>designated officer for] the magistrates’ court or the appropriate officer of the Crown Court, as the case may be; and

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- (b) is expressed to be made for informing the court, in the event of his being convicted, of his financial circumstances for the purpose of determining the amount of any fine the court may impose [<sup>F26</sup>and how it should be paid].
- (3) Proceedings in respect of an offence under this section may, notwithstanding anything in section 127(1) of the 1980 Act (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.]

**Textual Amendments**

- F23** S. 20A inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 43**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A
- F24** S. 20A(1A) inserted (5.4.2004) by Courts Act 2003 (c. 39), **ss. 95(2)**, 110; S.I. 2004/174, **art. 3**
- F25** Words in s. 20A(2)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 350**; S.I. 2005/910, **art. 3**
- F26** Words in s. 20A(2)(b) inserted (5.4.2004) by Courts Act 2003 (c. 39), **ss. 95(3)**, 110; S.I. 2004/174, **art. 3**

*Financial penalties: supplemental*

<sup>F27</sup>**21** .....

**Textual Amendments**

- F27** S. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F28</sup>**22** .....

**Textual Amendments**

- F28** S. 22 repealed (20.9.1993) by 1993 c. 36, ss. 65(3)(4), 79(14), Sch. 3 para. 4, **Sch. 6 Pt.I**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix.

**23 Default in other cases.**

- (1) In the [<sup>F29</sup>Table in] paragraph 1 of Schedule 4 to the 1980 Act (maximum periods of imprisonment for default in paying fines etc.), for the entries relating to amounts not exceeding £5,000 there shall be substituted the following entries—

“An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days

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An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months”.

(2) For the Table in section 407(1A) of the <sup>M4</sup>Criminal Procedure (Scotland) Act 1975 (maximum period of imprisonment for failure to pay fine or find caution) there shall be substituted the following Table—

<i>“Amount of fine or caution</i>	<i>Maximum period of imprisonment</i>
An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years.”

(3) In Schedule 16 (repeals) to the 1988 Act, the entry relating to subsection (8) of section 41 of the <sup>M5</sup>Administration of Justice Act 1970 shall cease to have effect; and that subsection (discretion of Crown Court to specify extended period of imprisonment in default of payment of compensation) shall have effect as if that entry had not been enacted.

#### **Extent Information**

**E2** S. 23 extends to England and Wales only except as mentioned in s. 102(4) - (6).

#### **Textual Amendments**

**F29** Words in s. 23(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 135**



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#### Commencement Information

**I3** S. 23 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M4** 1975 c. 21.

**M5** 1970 c. 31.

## 24 Recovery of fines etc. by deductions from income support.

- (1) The Secretary of State may by regulations provide that where a fine has been imposed on an offender by a magistrates' court, or a sum is required to be paid by a compensation order which has been made against an offender by such a court, and (in either case) the offender is entitled to income support [<sup>F30</sup>, a jobseeker's allowance [<sup>F31</sup>, state pension credit or an <sup>F32</sup>... employment and support allowance]]
- (a) the court may apply to the Secretary of State asking him to deduct sums from any amounts payable to the offender by way of [<sup>F33</sup>that benefit], in order to secure the payment of any sum which is or forms part of the fine or compensation; and
- (b) the Secretary of State may deduct sums from any such amounts and pay them to the court towards satisfaction of any such sum.
- (2) The regulations may include—
- (a) provision that, before making an application, the court shall make an enquiry as to the offender's means;
- [<sup>F34</sup>(aa) provision that the court may require the offender to provide prescribed information in connection with an application;]
- (b) provision allowing or requiring adjudication as regards an application, and provision as to [<sup>F35</sup>appeals to appeal tribunals constituted under Chapter I of Part I of the Social Security Act 1998 and decisions under section 9 or 10 of that Act];
- (c) provision as to the circumstances and manner in which and the times at which sums are to be deducted and paid;
- (d) provision as to the calculation of such sums (which may include provision to secure that amounts payable to the offender by way of income support [<sup>F36</sup>, a jobseeker's allowance [<sup>F37</sup>, state pension credit or an <sup>F38</sup>... employment and support allowance]] do not fall below prescribed figures);
- (e) provision as to the circumstances in which the Secretary of State is to cease making deductions;
- (f) provision requiring the Secretary of State to notify the offender, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of notification; and
- (g) provision that, where the whole amount to which the application relates has been paid, the court shall give notice of that fact to the Secretary of State.
- [<sup>F39</sup>(2A) An offender who fails to provide information required by the court by virtue of subsection (2)(aa) commits an offence.
- (2B) An offender commits an offence if, in providing information required by the court by virtue of that subsection, he—
- (a) makes a statement which he knows to be false in a material particular,

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- (b) recklessly provides a statement which is false in a material particular, or
  - (c) knowingly fails to disclose any material fact.
- (2C) A person guilty of an offence under subsection (2A) or (2B) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.]
- (3) In subsection (1) above—
- (a) the reference to a fine having been imposed by a magistrates’ court includes a reference to a fine being treated, by virtue of [<sup>F40</sup>section 140 of the Powers of Criminal Courts (Sentencing) Act 2000], as having been so imposed; and
  - (b) the reference to a sum being required to be paid by a compensation order which has been made by a magistrates’ court includes a reference to a sum which is required to be paid by such an order being treated, by virtue of section 41 of the <sup>M6</sup>Administration of Justice Act 1970, as having been adjudged to be paid on conviction by such a court.
  - [<sup>F41</sup>(c) the reference in paragraph (a) to “the court” includes a reference to a court to which the function in that paragraph has been transferred by virtue of a transfer of fine order under section 89(1) or (3) or 90(1)(a) of the 1980 Act (power of magistrates’ court to make transfer of fine order) or under section [<sup>F42</sup>section 222(1)(a) or (b) of the Criminal Procedure (Scotland) Act 1995] (analogous provision as respects Scotland) and a reference to a court to which that function has been remitted by virtue of section 196(2) of the said Act of 1975 (enforcement of fine imposed by High Court of Justiciary).]
- [<sup>F43</sup>(3A) This section applies in relation to a surcharge imposed under section 161A of the Criminal Justice Act 2003 as if any reference in subsection (1) or (3) above to a fine included a reference to a surcharge.]
- (4) In this section—
- “fine” includes—
    - (a) a penalty imposed under [<sup>F44</sup>section 29 or 37 of the Vehicle Excise and Registration Act 1994] or section 102(3)(aa) of the <sup>M7</sup>Customs and Excise Management Act 1979 (penalties imposed for certain offences in relation to vehicle excise licences);
    - (b) an amount ordered to be paid, in addition to any penalty so imposed, under [<sup>F44</sup>section 30, 36 or 38 of the Vehicle Excise and Registration Act 1994] (liability to additional duty);
    - (c) an amount ordered to be paid by way of costs which is, by virtue of section 41 of the <sup>M8</sup>Administration of Justice Act 1970, treated as having been adjudged to be paid on a conviction by a magistrates’ court;
  - [<sup>F45</sup> ...
  - “income support” means income support within the meaning of the <sup>M9</sup>Social Security Act 1986, either alone or together with any [<sup>F46</sup>... [<sup>F47</sup>incapacity] benefit, [<sup>F48</sup>or retirement pension] which is paid by means of the same instrument of payment;
  - “prescribed” means prescribed by regulations made by the Secretary of State.
- (5) In the application of this section to Scotland—
- (a) references in subsections (1) and (2) above to a magistrates’ court shall be construed as references to a court; and

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(b) in subsection (3) above, for paragraphs (a) and (b) there shall be substituted the following paragraphs—

“(a) the reference to a fine having been imposed by a court includes a reference to a fine being treated, by virtue of [F49] section 211(4) of the Criminal Procedure (Scotland) Act 1995], as having been so imposed; and

(b) the reference to a compensation order having been made by a court includes a reference to such an order being treated, by virtue of [F50] section 252 of the Criminal Procedure (Scotland) Act 1995], as having been so made.”

### Textual Amendments

- F30** Words in s. 24(1) substituted (2.7.2002 for specified purposes and otherwise 6.10.2003) by [State Pension Credit Act 2002 \(c. 16\)](#), ss. 14, 22(2)(3), [Sch. 2 para. 31\(a\)](#); S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, [art. 2](#)
- F31** Words in s. 24(1) substituted (18.3.2008 for certain purposes and 27.10.2008 otherwise) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, [Sch. 3 para. 8\(a\)](#); S.I. 2008/787, [art. 2\(1\)\(4\)](#), [Sch.](#)
- F32** Words in s. 24(1) repealed (with effect from 27.10.2008 in accordance with s. 109(3) of the amending Act) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 109\(1\)\(a\)](#), 150(1)(d)
- F33** Words in s. 24(1)(a) substituted (11.6.1996) by 1995 c. 18, s. 41(4), [Sch. 2 para. 21](#); S.I. 1996/1509, [art. 2](#), [Sch.](#)
- F34** S. 24(2)(aa) inserted (E.W.) (5.4.2004) by [Courts Act 2003 \(c. 39\)](#), [ss. 96\(1\)\(2\)](#), 110; S.I. 2004/174, [art. 3](#)
- F35** Words in s. 24(2)(b) substituted (18.10.1998 for specified provisions, 29.11.1999 for further specified provisions, otherwise prosp.) by 1998 c. 14, s. 86(1), [Sch. 7 para. 55](#); S.I. 1999/2860, [art. 2](#), [Sch. 1](#) (with [art. 5](#) and subject to transitional provisions in [Schs. 16-18](#)); S.I. 1999/3178, [art. 2](#), [Sch. 1](#) (subject to transitional provisions in [Schs. 21-23](#))
- F36** Words in s. 24(2)(d) substituted (2.7.2002 for specified purposes and otherwise 6.10.2003) by [State Pension Credit Act 2002 \(c. 16\)](#), ss. 14, 22(2)(3), [Sch. 2 para. 31\(b\)](#); S.I. 2002/1691, [art. 2](#); S.I. 2003/1766, [art. 2](#)
- F37** Words in s. 24(2)(d) substituted (18.3.2008 for certain purposes and 27.10.2008 otherwise) by [Welfare Reform Act 2007 \(c. 5\)](#), ss. 28, 70, [Sch. 3 para. 8\(a\)](#); S.I. 2008/787, [art. 2\(1\)\(4\)](#), [Sch.](#)
- F38** Words in s. 24(2)(d) repealed (with effect from 27.10.2008 in accordance with s. 109(3) of the amending Act) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 109\(1\)\(a\)](#), 150(1)(d)
- F39** S. 24(2A)-(2C) inserted (E.W.) (5.4.2004) by [Courts Act 2003 \(c. 39\)](#), [ss. 96\(3\)](#), 110; S.I. 2004/174, [art. 3](#)
- F40** Words in s. 24(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), [Sch. 9 para. 136](#)
- F41** S. 24(3)(c) inserted (3.2.1995) by 1994 c. 33, [s. 47\(3\)](#); S.I. 1995/127, [art. 2\(1\)](#), [Sch. 1](#)
- F42** Words in s. 24(3)(c) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), [Sch. 4 para. 80\(2\)\(c\)](#)
- F43** S. 24(3A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60; [Sch. 10 para. 30](#); S.I. 2007/602, [art. 2\(b\)\(c\)](#)
- F44** Words in s. 24(4) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66(1), [Sch. 3 para. 30](#) (with s. 57(4))
- F45** S. 24(4): definition of "income-related employment and support allowance" repealed (with effect from 27.10.2008 in accordance with s. 109(3) of the amending Act) by [Welfare Reform Act 2012 \(c. 5\)](#), [ss. 109\(1\)\(b\)](#), 150(1)(d)
- F46** Words in s. 24(4) repealed (7.10.1996) by 1995 c. 18, s. 41(5), [Sch. 3](#); S.I. 1996/2208, [art. 2](#)
- F47** Word in s. 24(4) substituted (13.4.1995) by 1994 c. 18, s. 11(1), [Sch. 1 Pt. II para. 55](#); S.I. 1994/2926, [art. 2](#), [Sch. Pt. IV](#)
- F48** Words in definition of "income support" in s. 24(4) substituted (6.4.2001) by 1999 c. 30, s. 70, [Sch. 8 Pt. III para. 27](#); S.I. 2000/2958, [art. 2\(6\)\(b\)](#) (subject to arts. 3, 4)

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**F49** S. 24(5)(a): words in subsection (3)(a) as it applies to Scotland substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 80(2)(a)**

**F50** S. 24(5)(b): words in subsection (3)(b) as it applies to Scotland substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 80(2)(b)**

**Commencement Information**

**I4** S. 24 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**Marginal Citations**

**M6** 1970 c. 31.

**M7** 1979 c. 2.

**M8** 1970 c. 31.

**M9** 1986 c. 50.

*Miscellaneous*

**F51**<sup>25</sup> .....

**Textual Amendments**

**F51** S. 25 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**26 Alteration of certain penalties.**

(1) In section 7 of the <sup>M10</sup>Theft Act 1968 (theft), for the words “ten years” there shall be substituted the words “seven years”.

(2) For subsections (3) and (4) of section 9 of that Act (burglary) there shall be substituted the following subsections—

“(3) A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding—

- (a) where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;
- (b) in any other case, ten years.

(4) References in subsections (1) and (2) above to a building, and the reference in subsection (3) above to a building which is a dwelling, shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.”

**F52**<sup>(3)</sup> .....

(4) In section 51(4) of the <sup>M11</sup>Criminal Law Act 1977 (penalties for bomb hoaxes)—

- (a) in paragraph (a), for the words “three months” there shall be substituted the words “six months”; and
- (b) in paragraph (b), for the words “five years” there shall be substituted the words “seven years”.

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- (5) The power saved by subsection (1) of section 70 of the 1982 Act (vagrancy offences) shall not include, in the case of an offence mentioned in paragraph (b)(i) of that subsection (sleeping rough), power to impose a fine which exceeds level 1 on the standard scale.

#### Extent Information

**E3** S. 26 extends to England and Wales; s. 26(3)(4) also extend to Scotland see s. 102(4)(5)

#### Textual Amendments

**F52** S. 26(3) repealed (16.10.1992) by [Protection of Badgers Act 1992 \(c. 51\)](#), s. 15(2)(3), Sch.

#### Commencement Information

**I5** S. 26 wholly in force; s. 26(3) in force (E.W.) at 25.10.1991, s. 26(4)(5) in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2)(3)(4), Schs. 2, 3; s. 26(3) in force (S.) at 9.12.1991 see s. 102(2)(3) and S.I. 1991/2706, art. 2(1)(2); s. 26 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

#### Marginal Citations

**M10** 1968 c. 60.

**M11** 1977 c. 45.

## 27 Treatment of offenders under 1983 Act.

- (1) After section 39 of the 1983 Act there shall be inserted the following section—

### “39A Information to facilitate guardianship orders.

Where a court is minded to make a guardianship order in respect of any offender, it may request the local social services authority for the area in which the offender resides or last resided, or any other local social services authority that appears to the court to be appropriate—

- (a) to inform the court whether it or any other person approved by it is willing to receive the offender into guardianship; and
- (b) if so, to give such information as it reasonably can about how it or the other person could be expected to exercise in relation to the offender the powers conferred by section 40(2) below;

and that authority shall comply with any such request.”

- (2) After section 54 of that Act there shall be inserted the following section—

### “54A Reduction of period for making hospital orders.

- (1) The Secretary of State may by order reduce the length of the periods mentioned in sections 37(4) and (5) and 38(4) above.
- (2) An order under subsection (1) above may make such consequential amendments of sections 40(1) and 44(3) above as appear to the Secretary of State to be necessary or expedient.”

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- (3) In section 143(2) of that Act (general provisions as to regulations, orders and rules), after the words “this Act” there shall be inserted the words “or any order made under section 54A above”.

**Commencement Information**

**I6** S. 27 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Supplemental*

<sup>F53</sup>**28** .....

**Textual Amendments**

**F53** S. 28 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F54</sup>**29** .....

**Textual Amendments**

**F54** S. 29 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**30 Rules, regulations and orders.**

- (1) Any power of the Secretary of State <sup>F55</sup> . . . to make rules, regulations or orders under this Part—
  - (a) shall be exercisable by statutory instrument; and
  - (b) shall include power to make different provision for different cases or classes of case.
- (2) A statutory instrument containing any rules, regulations or order under this Part <sup>F56</sup> . . . shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F55** Words in s. 30(1) repealed (20.9.1993) by 1993 c. 36, s. 79(14), **Sch. 6 Pt. I**; S.I. 1993/1968, art. 2(2), **Sch. 2**, Appendix.

**F56** Words in s. 30(2) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**Commencement Information**

**I7** S. 30 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

<sup>F57</sup>**31** .....

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### Textual Amendments

**F57** S. 31 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

## F58F59 PART II

### EARLY RELEASE OF PRISONERS

### Textual Amendments

**F58** Pt. 2 (ss. 32-51) repealed (4.4.2005) by **The Criminal Justice Act 2003** (c. 44), ss. 303(a), 332, 336, **Sch. 37 Pt. 7**; S.I. 2005/950, **art. 2**, Sch. 1 para. 44(k) (subject to art. 2(1), Sch. 2 (as amended by S.I. 2005/2122, art. 2)) and subject to amendments:  
(15.1.2007) by **Police and Justice Act 2006** (c. 48), ss. 42, 53, **Sch. 13 para. 33**; S.I. 2006/3364, **art. 2(d)(e)**;  
(1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008** (S.I. 2008/912), art. 3, **Sch. 1 para. 9(2)(3)**;  
(7.4.2008) by **The Early Removal of Short-Term and Long-Term Prisoners (Amendment of Requisite Period) Order 2008** (S.I. 2008/977), **art. 2**;  
(9.6.2008 for certain purposes and 31.10.2009 otherwise) by **Criminal Justice and immigration Act 2008** (c. 4), ss. 26(2)-(6), 153; S.I. 2008/1466, **art. 2(a)** (subject to art. 3); S.I. 2009/2606, **art. 3(b)**;  
(9.6.2008) by 1984 c. 49, **Sch. para. 2(2A)** (as inserted by **Criminal Justice and immigration Act 2008** (c. 4), ss. 148, 153, Sch. 26 paras. 19(4)(b); S.I. 2008/1466, **art. 2** (subject to art. 4));  
(9.6.2008) by **Criminal Justice and Immigration Act 2008** (c. 4), ss. 148, 153, **Sch. 26 para. 29(2)(5)**; S.I. 2008/1466, **art. 2(c)**;  
(14.7.2008) by **Criminal Justice and immigration Act 2008** (c. 4), ss. 28(2)(3)(a)(b)(4)(5), 32(1), 149, 153, Sch. 28 Pt. 2 (with Sch. 27 para. 10); S.I. 2008/1586, **art. 2(1)**, Sch. 1;  
(3.11.2008) by **Criminal Justice and immigration Act 2008** (c. 4), ss. 33(5)(6), 148, 149, 153, Sch. 26 para. 29(3)(4), Sch. 28 Pt. 2; S.I. 2008/2712, **art. 2**, Sch. (subject to arts. 3, 4);  
(2.8.2010) by **Coroners and Justice Act 2009** (c. 25), ss. 145(2)(3), 178, 182, **Sch. 23 Pt. 5** (with s. 180, Sch. 22 para. 43); S.I. 2010/1858, **art. 2(e)(i)**;  
**F59** Pt. 2: transitional provisions for the repeal by 2003 c. 44, s. 303(a) and specified transitional and savings provisions in S.I. 2005/950, Sch. 2 revoked (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), ss. 121(3), 151(1), **Sch. 14 para. 17**; S.I. 2012/2906, art. 2(d)(l)

## PART III

### CHILDREN AND YOUNG PERSONS

#### *Children's evidence*

## 52 Competence of children as witnesses.

F133

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### Textual Amendments

**F133** S. 52 repealed (24.7.2002) by 1999 c. 23, s. 67(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(iv)(aa)

## 53 Notices of transfer in certain cases involving children.

- [<sup>F134</sup>(1) If a person has been charged with an offence to which section 32(2) of the 1988 Act applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions is of the opinion—
- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;
  - (b) that a child who is alleged—
    - (i) to be a person against whom the offence was committed; or
    - (ii) to have witnessed the commission of the offence,
 will be called as a witness at the trial; and
  - (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court,
- a notice (“notice of transfer”) certifying that opinion may be [<sup>F135</sup>given] by or [<sup>F135</sup>to] behalf of the Director on the magistrates’ court in whose jurisdiction the offence has been charged.
- (2) A notice of transfer shall be [<sup>F136</sup>given] before the magistrates’ court begins to inquire into the case as examining justices.
  - (3) On the [<sup>F137</sup>giving] of a notice of transfer the functions of the magistrates’ court shall cease in relation to the case except as provided by paragraphs 2 and 3 of Schedule 6 to this Act or by [<sup>F138</sup>regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012].
  - (4) The decision to [<sup>F139</sup>give] a notice of transfer shall not be subject to appeal or liable to be questioned in any court.
  - (5) Schedule 6 to this Act (which makes further provision in relation to notices of transfer) shall have effect.
  - (6) In this section “child” means a person who—
    - (a) in the case of an offence falling within section 32(2)(a) or (b) of the 1988 Act, is under fourteen years of age or, if he was under that age when any such video recording as is mentioned in section 32A(2) of that Act was made in respect of him, is under fifteen years of age; or
    - (b) in the case of an offence falling within section 32(2)(c) of that Act, is under seventeen years of age or, if he was under that age when any such video recording was made in respect of him, is under eighteen years of age.
  - (7) Any reference in subsection (6) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) of that Act includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.



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[<sup>F140</sup>(8) This section shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.]]

#### Textual Amendments

- F134** S. 53 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 62\(2\)](#), [Sch. 37 Pt. 4](#); S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5); S.I. 2012/2574, art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4)
- F135** Words in s. 53(1) substituted (3.2.1995) by [1994 c. 33](#), s. 168(1), [Sch. 9 para. 49\(a\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#), Appendix A
- F136** Words in s. 53(2) substituted (3.2.1995) by [1994 c. 33](#), s. 168(1), [Sch. 9 para. 49\(b\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#), Appendix A
- F137** Words in s. 53(3) substituted (3.2.1995) by [1994 c. 33](#), s. 168(1), [Sch. 9 para. 49\(c\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#), Appendix A
- F138** Words in s. 53(3) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 40](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F139** Words in s. 53(4) substituted (3.2.1995) by [1994 c. 33](#), s. 168(1), [Sch. 9 para. 49\(d\)](#); S.I. 1995/127, art. 2(1), [Sch. 1](#), Appendix A
- F140** S. 53(8) inserted (4.1.1998 for certain purposes, otherwise 15.1.2001) by [1998 c. 37](#), s. 119, [Sch. 8 para. 93](#); S.I. 1998/2327, art. 4(2)(c) (subject to art. 3); S.I. 2000/3283, art. 2(c).

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

- C32** S. 53(7) modified (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 63(1)(2), 94, [Sch. 6 para. 19\(a\)](#); S.I. 2008/2504, art. 2(a)

#### Commencement Information

- I24** S. 53 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), [Sch. 2](#).

[<sup>F141</sup>54 **Video recordings of testimony from child witnesses.**

After section 32 of the 1988 Act (evidence through television links) there shall be inserted the following section—

**“ Video recordings of testimony from child witnesses.**

- (1) This section applies in relation to the following proceedings, namely—
- (a) trials on indictment for any offence to which section 32(2) above applies;
  - (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
  - (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
- (2) In any such proceedings a video recording of an interview which—
- (a) is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
  - (b) relates to any matter in issue in the proceedings,

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may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.

- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—
- (a) it appears that the child witness will not be available for cross-examination;
  - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
  - (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;

and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.

- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (5) Where a video recording is admitted under this section—
- (a) the child witness shall be called by the party who tendered it in evidence;
  - (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—
- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
  - (b) no such statement shall be capable of corroborating any other evidence given by him;

and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).

- (7) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting,

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counselling, procuring or inciting the commission of, an offence falling within that paragraph.

(9) In this section—

“statement” includes any representation of fact, whether made in words or otherwise;

“video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.

(10) A magistrates’ court inquiring into an offence as examining justices under section 6 of the Magistrates’ Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.

(11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.

(12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.”]

#### Textual Amendments

**F141** S. 54 repealed (24.7.2002 except insofar as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(iv)(bb)

#### Commencement Information

**I25** S. 54 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 55 Further amendments of enactments relating to children’s evidence.

(1) In section 103 of the 1980 Act (evidence of children in committal proceedings) subsection (3)(a) shall cease to have effect and for subsection (5) there shall be substituted the following subsection—

“(5) In this section “child” has the same meaning as in section 53 of the Criminal Justice Act 1991.”

(2) In subsection (1) of section 32 of the 1988 Act (evidence through television links)—

(a) for the words from “on a trial” to “1968” there shall be substituted the words “in proceedings to which subsection (1A) below applies”; and

(b) <sup>F142</sup>for paragraph (b) there shall be substituted the following paragraph—

“(b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies.”.]

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

“(1A) This subsection applies—

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- (a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968; and
- (b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.”

(4) [F143] After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where, in the case of any proceedings before a youth court—

- (a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and
- (b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,

the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the purposes of this subsection by the justices acting for the petty sessions area for which the court acts.

(3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.”]

F144(5) .....

(6) [F145] After subsection (5) of that section there shall be inserted the following subsection—

“(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”]

(7) After section 34 of the 1988 Act there shall be inserted the following section—

**“34A Cross-examination of alleged child victims.**

(1) No person who is charged with an offence to which section 32(2) above applies shall cross-examine in person any witness who—

- (a) is alleged—
  - (i) to be a person against whom the offence was committed; or
  - (ii) to have witnessed the commission of the offence; and
- (b) is a child, or is to be cross-examined following the admission under section 32A above of a video recording of testimony from him.

(2) Subsection (7) of section 32A above shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”

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#### Textual Amendments

- F142** S. 55(2)(b) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F143** S. 55(4) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F144** S. 55(5) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 33
- F145** S. 55(6) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)

#### Commencement Information

- I26** S. 55 wholly in force at 1.10.1992, see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### *Responsibilities of parent or guardian*

#### **56 Attendance at court of parent or guardian.**

Subsection (1) of section 34 (attendance at court of parent or guardian) of the 1933 Act shall cease to have effect and after that section there shall be inserted the following section—

##### **“34A Attendance at court of parent or guardian.**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—
- may in any case; and
  - shall in the case of a child or a young person who is under the age of sixteen years,
- require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.
- (2) In relation to a child or young person for whom a local authority have parental responsibility and who—
- is in their care; or
  - is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,
- the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.”

*Status: Point in time view as at 01/04/2013.*

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**Commencement Information**

**I27** S. 56 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

<sup>F146</sup>**57** .....

**Textual Amendments**

**F146** S. 57 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F147</sup>**58** .....

**Textual Amendments**

**F147** S. 58 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Detention etc. pending trial*

**59 Detention at a police station.**

In section 38 of the <sup>M20</sup>Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for subsections (6) and (6A) there shall be substituted the following subsections—

“(6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1) above, the custody officer shall, unless he certifies—

- (a) that, by reason of such circumstances as are specified in the certificate, it is impracticable for him to do so; or
- (b) in the case of an arrested juvenile who has attained the age of 15 years, that no secure accommodation is available and that keeping him in other local authority accommodation would not be adequate to protect the public from serious harm from him,

secure that the arrested juvenile is moved to local authority accommodation.

(6A) In this section—

“local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989);

“secure accommodation” means accommodation provided for the purpose of restricting liberty;

“sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;

and any reference, in relation to an arrested juvenile charged with a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death

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or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.”

#### Commencement Information

**I28** S. 59 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M20** 1984 c. 60.

### 60 Remands and committals to local authority accommodation.

<sup>F148</sup>(1) .....

(2) In section 37 of the 1980 Act (committal of young person to Crown Court for sentence)

- (a) in subsection (1), for the words “17 years old” there shall be substituted the words “18 years old”;
- (b) in subsection (2), for the words “A person committed in custody under subsection (1) above” there shall be substituted the words “Where a person committed in custody under subsection (1) above is not less than 17 years old, he”; and
- (c) after that subsection there shall be inserted the following subsection—

“(3) Where a person committed in custody under subsection (1) above is less than 17 years old—

- (a) he shall be committed to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989) and
- (b) the court by which he is so committed shall impose a security requirement within the meaning of section 23 of the Children and Young Persons Act 1969.”

(3) In the case of a child or young person who has been remanded <sup>F149</sup>... to local authority accommodation [<sup>F150</sup>under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012] by a youth court or a magistrates’ court other than a youth court, any application under section 25 of the <sup>M21</sup>Children Act 1989 (use of accommodation for restricting liberty) shall, notwithstanding anything in section 92(2) of that Act or section 65 of the 1980 Act, be made to that court.

#### Textual Amendments

**F148** S. 60(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 27; S.I. 2012/2906, art. 2(j)

**F149** Words in s. 60(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 28(a); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

**F150** Words in s. 60(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 28(b); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

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**Commencement Information**

**I29** S. 60 wholly in force at 1.6.1999; s. 60(3) in force at 14.10.1991 see s. 102(2)(3) and [S.I. 1991/2208, art. 2\(1\), Sch. 1](#); s. 60(1)(2)(a) in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333, art. 2\(2\), Sch. 2](#); s. 60(2)(b)(c) in force at 1.6.1999 by [S.I. 1999/1280, art. 3, Sch. 2](#).  
 S. 60(2)(b)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see [S.I. 1992/333, art. 2\(5\), Sch. 3](#)(which art. 2(5), Sch. 3 was revoked (16.1999) by [S.I. 1999/1280, art. 2](#))

**Marginal Citations**

**M21** 1989 c. 41.

<sup>F151</sup>**61 Provision by local authorities of secure accommodation.**

.....

**Textual Amendments**

**F151** S. 61 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 29](#); [S.I. 2012/2906, art. 2\(j\)](#) (with art. 7(2)(3))

<sup>F152</sup>**61A Cost of secure accommodation.**

.....

**Textual Amendments**

**F152** S. 61A omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 30](#); [S.I. 2012/2906, art. 2\(j\)](#)

**62** <sup>F153</sup>**Transitory provisions pending provision of secure accommodation.**

- (1) In relation to any time before such day as the Secretary of State may by order made by statutory instrument appoint, section 23 of the 1969 Act as substituted by section 60(1) above shall have effect with the following modifications.
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “then, unless he is declared by the court, after consultation with a probation officer or a social worker of a local authority social services department, to be a person to whom subsection (5) below applies”.
- (3) For subsections (4) and (5) there shall be substituted the following subsections—
  - “(4) Where a court declares a person to be one to whom subsection (5) below applies, it shall remand him—
    - (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
    - (b) to a prison, if it has not been so notified.
  - (4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—



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- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
  - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (5) This subsection applies to a young person who is male and has attained the age of fifteen, but only if—
- (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
  - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,
- and (in either case) the court is of opinion that only remanding him to a remand centre or prison would be adequate to protect the public from serious harm from him.”
- (4) In subsection (6)—
- (a) for the words “imposes a security requirement in respect of a young person” there shall be substituted the words “declares a person to be one to whom subsection (5) above applies”; and
  - (b) for the words “subsection (5) above” there shall be substituted the words “that subsection”.
- (5) In subsections (7) and (9), the words “without imposing a security requirement” shall be omitted.
- (6) After subsection (9) there shall be inserted the following subsection—
- “(9A) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, he shall cease to be remanded to local authority accommodation and subsection (4) above shall apply.”
- (7) In subsection (12), the definition of “secure accommodation” shall be omitted.

**Textual Amendments**

**F153** S. 62 repealed and superseded (1.6.1999) by 1998 c. 37, ss. 98(7), 120(1), Sch. 10; S.I. 1999/1279, art. 2

*Young offenders*

*Status: Point in time view as at 01/04/2013.*

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**Textual Amendments**

**F154** S. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F155</sup>**64** .....

**Textual Amendments**

**F155** S. 64 repealed (9.1.1995) by 1993 c. 33, s. 168(3), **Sch.11**; S.I. 1994/3192, art.2, **Sch.**

**65 Supervision of young offenders after release.**

[<sup>F156</sup>(1) .....

[<sup>F157</sup>(1A) Where the supervision is to be provided by [<sup>F158</sup>an officer of a local probation board], [<sup>F158</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.

[<sup>F159</sup>(1AA) Where the supervision is to be provided by an officer of a provider of probation services, the officer of a provider of probation services shall be an officer acting in the local justice area in which the offender resides for the time being.]

(1B) Where the supervision is to be provided by—

- (a) a social worker of a local authority <sup>F160</sup>...; or
- (b) a member of a youth offending team,

the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.]

(2) The supervision period ends on the offender’s 22nd birthday if it has not ended before.

(3) Subject to subsection (2) above, where the offender is released otherwise than on licence under Part II of this Act, the supervision period begins on his release and ends three months from his release.

(4) Subject to subsection (2) above, where the offender is released on licence under Part II of this Act and the licence expires less than three months from his release, the supervision period begins on the expiry of the licence and ends three months from his release.

(5) Where a person is under supervision under this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.

[<sup>F161</sup>(5A) The requirements that may be specified in a notice under subsection (5) above include—

- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
- (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);

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- (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board [<sup>F162</sup>, an officer of a provider of probation services] or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
  - (b) his term of detention was imposed for a trigger offence; and
  - (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.
- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.
- (5D) The function of giving such an instruction as is mentioned in subsection (5A)(c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.]
- (6) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (5) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to an appropriate custodial sentence for a period not exceeding 30 days,
- but not liable to be dealt with in any other way.
- (7) In subsection (6) above “appropriate custodial sentence” means—
- (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced; and
  - (b) a sentence of detention in a young offender institution, if he has not attained that age.
- (8) A person released from a custodial sentence passed under subsection (6) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.
- [<sup>F163</sup>(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.]]

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### Textual Amendments

- F156** S. 65 repealed (3.12.2012 for the repeal of s. 65(1)) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 63](#), [Sch. 37 Pt. 7](#); [S.I. 2012/2905](#), art. 3(1)
- F157** S. 65(1A)(1B) inserted (30.9.1998 for areas specified in [S.I. 1998/2327](#), [Sch. 1](#) and subject to art. 9 of that S.I., and otherwise 1.4.2000) by [1998 c. 37](#), s. 119, [Sch. 8 para. 94\(2\)](#); [S.I. 1998/2327](#), arts. 3(1)(b), 9, [Sch. 1](#); [S.I. 2000/924](#), [art. 2\(c\)](#)
- F158** Words in s. 65(1)(a)(1A) substituted (1.4.2001) by [2000 c. 43](#), s. 74, [Sch. 7 Pt. I para. 4\(1\)\(a\)\(b\)\(2\)](#); [S.I. 2001/919](#), [art. 2\(f\)\(i\)](#)
- F159** S. 65(1AA) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 9\(4\)\(b\)](#)
- F160** Words in s. 65(1B)(a) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), [art. 2\(2\)\(g\)](#); [S.I. 2006/885](#), [art. 2\(2\)\(h\)](#)
- F161** S. 65(5A)-(5D) inserted (1.2.2001 as regards subsections (5A)(a)(b), and (5C) in so far as it applies to subsections (5A)(a)(b) and 20.6.2001 for specified purposes and otherwise 2.7.2001 as regards subsections (5A)(c)(5B)(5D) and (5C) insofar as it applies to (5A)(c)) by [2000 c. 43](#), s. [63\(2\)](#); [S.I. 2000/3302](#), [art. 3](#); [S.I. 2001/2232](#), [art. 2\(h\)\(i\)-\(iv\)](#)
- F162** Words in s. 65(5A) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 9\(4\)\(c\)](#)
- F163** S. 65(9)(10) inserted (20.6.2001 for specified purposes and otherwise 2.7.2001) by [2000 c. 43](#), s. [63\(3\)](#); [S.I. 2001/2232](#), [art. 2\(h\)\(v\)\(vi\)](#)

### Modifications etc. (not altering text)

- C33** S. 65 applied (1.10.1997) by [1997 c. 43](#), ss. 41, 56(1), [Sch. 1 Pt. II paras. 8\(2\)\(4\), 9\(2\)\(4\)](#), [Sch. 5 paras. 9\(1\)\(a\)\(b\), 10\(1\)\(b\)\(c\)](#); [S.I. 1997/2200](#), [art. 2\(1\)](#).  
s. 65 modified (25.8.2000) by [2000 c. 6](#), ss. [99\(2\)](#), 168(1)

### Commencement Information

- I30** S. 65 wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch. 2](#).

**F164** **66** .....

### Textual Amendments

- F164** S. 66 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

**F165** **67** .....

### Textual Amendments

- F165** S. 67 repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168(1), [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

### Miscellaneous

## 68 Persons aged 17 to be treated as young persons for certain purposes.

The following enactments, namely—

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- (a) the Children and Young Persons Acts 1933 to 1969;
- (b) section 43(3) of the 1952 Act (remand centres, young offender institutions etc.);
- (c) section 5(2) of the <sup>M22</sup>Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders); and
- (d) the 1980 Act,

shall have effect subject to the amendments specified in Schedule 8 to this Act, being amendments which, for certain purposes of those enactments, have the effect of substituting the age of 18 years for the age of 17 years.

**Commencement Information**

**I31** S. 68 wholly in force (except for specified purposes see S.I. 1992/333, art. 2(4)) at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**

**Marginal Citations**

**M22** 1974 c. 53.

**69 Non-appearance of persons aged 16 or 17: plea of guilty.**

**F166** .....

**Textual Amendments**

**F166** S. 69 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

**70 Renaming of juvenile courts etc.**

- (1) Juvenile courts shall be renamed youth courts and juvenile court panels shall be renamed youth court panels.
- (2) Any reference to juvenile courts or juvenile court panels in any enactment passed or instrument made before the commencement of this section shall be construed in accordance with subsection (1) above.

**Commencement Information**

**I32** S. 70 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

**71 Amendments to service law.**

**F167** .....

**Textual Amendments**

**F167** S. 71 repealed (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

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**72 Repeal of certain provisions not brought in force.**

F168 .....

**Textual Amendments**  
F168 S. 72 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), Sch. 1 Pt. 3

**PART IV**

PROVISION OF SERVICES

**Modifications etc. (not altering text)**  
C34 Pt. IV (ss. 73-92) applied (30.6.1999) by 1999 c. 9, s. 1(2), Sch. 1 as added by 1991 c. 56, Sch. 4A para. 13(2)(a)

*Probation services*

F169 73 .....

**Textual Amendments**  
F169 S. 73 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

F170 74 .....

**Textual Amendments**  
F170 S. 74 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

F171 75 .....

**Textual Amendments**  
F171 S. 75 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

*Court security*

**76 Provision of court security officers.**

F172 .....

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**Textual Amendments**

**F172** S. 76 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 351, Sch 10; S.I. 2005/910, art. 3(y)(aa)

**77 Powers and duties of court security officers.**

**F173** .....

**Textual Amendments**

**F173** S. 77 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 351, Sch 10; S.I. 2005/910, art. 3(y)(aa)

**78 Protection of court security officers.**

**F174** .....

**Textual Amendments**

**F174** S. 78 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 351, Sch 10; S.I. 2005/910, art. 3(y)(aa)

**[<sup>F175</sup>79 Duties of responsible authorities.**

(1) In section 55(2) (duties of local authorities outside Greater London) of the Justices of the Peace Act 1979 (“the 1979 Act”), for paragraph (b) there shall be substituted the following paragraphs—

“(b) the sums payable under Part II of this Act on account of a person’s salary or expenses as justices’ clerk for the non-metropolitan county or metropolitan district or any part thereof, the remuneration of any staff employed by the magistrates’ courts committee to assist him and the remuneration of any court security officers employed (whether by that committee or the council) under section 76(2)(a) of the Criminal Justice Act 1991, together with—

(i) secondary Class I contributions payable in respect of any such person, staff or officers under Part I of the Social Security Act 1975, and

(ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;

(bb) the sums payable under any contract entered into (whether by the magistrates’ courts committee or the council) under section 76(2)(b) of the Criminal Justice Act 1991;”.

(2) In section 58(2) of that Act (corresponding arrangements in the inner London area), for paragraph (b) there shall be substituted the following paragraphs—

“(b) the sums payable by way of salary or expenses to justices’ clerks and other officers employed by the committee of magistrates and the remuneration of any court security officers employed (whether by that

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committee or the Receiver) under section 76(2)(a) of the Criminal Justice Act 1991, together with—

- (i) secondary Class I contributions payable in respect of any such officers under Part I of the Social Security Act 1975, and
  - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;
- (bb) the sums payable under any contract entered into (whether by the committee of magistrates or the Receiver) under section 76(2)(b) of the Criminal Justice Act 1991;”.]

#### Textual Amendments

**F175** S. 79 repealed (1.4.1995 so far as it applies to s. 55(2) of the 1979 Act and otherwise *prosp.*) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(v)**

#### Commencement Information

**I33** S. 79 wholly in force at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 1**.

#### Marginal Citations

**M23** 1979 c. 55.

### *Prisoner escorts*

#### **80 Arrangements for the provision of prisoner escorts.**

(1) The Secretary of State may make arrangements for any of the following functions, namely—

- [<sup>F176</sup>(a) the delivery of prisoners from one set of relevant premises to another;]
- (b) the custody of prisoners held on [<sup>F177</sup>the premises of any court] (whether or not they would otherwise be in the custody of the court) and their production before the court;
- [<sup>F178</sup>(c) the custody of prisoners temporarily held in a prison in the course of delivery from one prison to another; and]
- (e) the custody of prisoners while they are outside a prison for temporary purposes,

to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.

[<sup>F179</sup>(1A) In paragraph (a) of subsection (1) above “relevant premises” means a court, prison, police station or hospital; and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside England and Wales.]

(2) Arrangements made by the Secretary of State under this section (“prisoner escort arrangements”) may include entering into contracts with other persons for the provision by them of prisoner custody officers.

(3) Any person who, under [<sup>F180</sup>a warrant or a hospital order or remand], is responsible for the performance of any such function as is mentioned in subsection (1) above shall be deemed to have complied with [<sup>F180</sup>the warrant, order or remand] if he does all that he



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reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements.

[<sup>F181</sup>(4) In this section—

“hospital” has the same meaning as in the <sup>M24</sup>Mental Health Act 1983;

“hospital order” means an order for a person’s admission to hospital made under section 37, 38 or 44 of that Act, section 5 of the <sup>M25</sup>Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the <sup>M26</sup>Criminal Appeal Act 1968;

“hospital remand” means a remand of a person to hospital under section 35 or 36 of the Mental Health Act 1983;

“warrant” means a warrant of commitment, a warrant of arrest or a warrant under section 46, 47, 48, 50 or 74 of that Act.]

#### Textual Amendments

**F176** S. 80(1)(a) substituted (3.11.1994) by 1994 c. 33, s. 93(1)(a).

**F177** Words in s. 80(1)(b) substituted (3.11.1994) by 1994 c. 33, s. 93(1)(b).

**F178** S. 80(1)(c) substituted (3.11.1994) for s. 80(1)(c)(d) by 1994 c. 33, s. 93(1)(c).

**F179** S. 80(1A) inserted (3.11.1994) by 1994 c. 33, s. 93(2).

**F180** Words in s. 80(3) substituted (3.11.1994) by 1994 c. 33, s. 93(3).

**F181** S. 80(4) inserted (3.11.1994) by 1994 c. 33, s. 93(4).

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

**C35** S. 80: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(g)

#### Commencement Information

**I34** S. 80 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

#### Marginal Citations

**M24** 1983 c. 20.

**M25** 1964 c. 84.

**M26** 1968 c. 19.

## 81 Monitoring etc. of prisoner escort arrangements.

(1) Prisoner escort arrangements shall include the appointment of—

- (a) a prisoner escort monitor, that is to say, a Crown servant whose duty it shall be to keep the arrangements under review and to report on them to the Secretary of State; and
- (b) a panel of lay observers whose duty it shall be to inspect the conditions in which prisoners are transported or held in pursuance of the arrangements and to make recommendations to the Secretary of State.

(2) It shall also be the duty of a prisoner escort monitor to investigate and report to the Secretary of State on—

- (a) any allegations made against prisoner custody officers acting in pursuance of prisoner escort arrangements; and
- (b) any alleged breaches of discipline on the part of prisoners for whose delivery or custody such officers so acting are responsible.

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- (3) Any expenses incurred by members of lay panels may be defrayed by the Secretary of State to such extent as he may with the approval of the Treasury determine.

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

**C36** S. 81(1)(a)(2): transfer of functions (20.4.2000) by S.I. 2000/1160, **art. 4(1)(2)(b)**

**Commencement Information**

**I35** S. 81 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

**82 Powers and duties of prisoner custody officers acting in pursuance of such arrangements.**

- (1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have the following powers, namely—
- (a) to search in accordance with rules made by the Secretary of State any prisoner for whose delivery or custody he is responsible in pursuance of the arrangements; and
  - (b) to search any other person who is in or is seeking to enter any place where any such prisoner is or is to be held, and any article in the possession of such a person.
- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer shall have the following duties as respects prisoners for whose delivery or custody he is responsible in pursuance of prisoner escort arrangements, namely—
- (a) to prevent their escape from lawful custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part;
  - (d) to attend to their wellbeing; and
  - (e) to give effect to any directions as to their treatment which are given by a court, and the Secretary of State may make rules with respect to the performance by prisoner custody officers of their duty under paragraph (d) above.
- <sup>F182</sup>(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which the Crown Court or a magistrates' court is sitting, it shall be his duty to give effect to any order of that court made—
- (a) in the case of the Crown Court, under <sup>F183</sup>section 142 of the Powers of Criminal Courts (Sentencing) Act 2000]](power of Court to order search of persons before it); or
  - (b) in the case of a magistrates' court, under section 80 of the 1980 Act (application of money found on defaulter).
- (5) The powers conferred by subsection (1) above, and the powers arising by virtue of subsections (3) and (4) above, shall include power to use reasonable force where necessary.

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- (6) 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.

#### Textual Amendments

**F182** S. 82(4) substituted (3.11.1994) by 1994 c. 33, s. 94(1)

**F183** Words in s. 82(4) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 146

#### Commencement Information

**I36** S. 82 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

### [83] <sup>F184</sup>**Breaches of discipline by prisoners under escort.**

- (1) This section applies where a prisoner for whose delivery or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison.
- (2) For the purposes of such prison rules as relate to disciplinary offences, the prisoner shall be deemed to have been—
- in the custody of the governor of the prison; or
  - in the case of a contracted out prison, in the custody of its director,
- at all times during the period for which the prisoner custody officer was so responsible.
- (3) In the case of any breach by the prisoner at any time during that period of such prison rules as so relate, a disciplinary charge may be laid against him by the prisoner custody officer.
- (4) Nothing in this section shall enable a prisoner to be punished under prison rules for any act or omission of his for which he has already been punished by a court.
- (5) In this section “prison rules”, in relation to a prison situated in a part of the British Islands outside England and Wales, means rules made under any provision of the law of that part which corresponds to section 47 of the 1952 Act.]

#### Textual Amendments

**F184** S. 83 substituted (3.11.1994) by 1994 c. 33, s.95.

### *Contracted out prisons*

### [84] <sup>F185</sup>**Contracting out prisons etc.**

- (1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract so provides) for the running by sub-contractors of his, of any prison or part of a prison.
- (2) While a contract under this section for the running of a prison or part of a prison is in force—

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- (a) the prison or part shall be run subject to and in accordance with sections 85 and 86 below, the 1952 Act (as modified by section 87 below) and prison rules; and
  - (b) in the case of a part, that part and the remaining part shall each be treated for the purposes of sections 85 to 88A below as if they were separate prisons.
- (3) Where the Secretary of State grants a lease or tenancy of land for the purposes of any contract under this section, none of the following enactments shall apply to it, namely—
- (a) Part II of the <sup>M27</sup>Landlord and Tenant Act 1954 (security of tenure);
  - (b) section 146 of the <sup>M28</sup>Law of Property Act 1925 (restrictions on and relief against forfeiture);
  - (c) section 19(1), (2) and (3) of the <sup>M29</sup>Landlord and Tenant Act 1927 and the <sup>M30</sup>Landlord and Tenant Act 1988 (covenants not to assign etc.); and
  - (d) the <sup>M31</sup>Agricultural Holdings Act 1986.

In this subsection “lease or tenancy” includes an underlease or sub-tenancy.

- (4) In this Part—

“contracted out prison” means a prison or part of a prison for the running of which a contract under this section is for the time being in force;

“the contractor”, in relation to a contracted out prison, means the person who has contracted with the Secretary of State for the running of it; and

“sub-contractor”, in relation to a contracted out prison, means a person who has contracted with the contractor for the running of it or any part of it.]

#### Textual Amendments

**F185** S. 84 substituted (3.11.1994) by 1994 c. 33, s.96.

#### Marginal Citations

**M27** 1954 c. 56.

**M28** 1925 c. 20.

**M29** 1927 c. 36.

**M30** 1988 c. 26.

**M31** 1986 c. 5.

## 85 Officers of contracted out prisons.

- (1) Instead of a governor, every contracted out prison shall have—
- (a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the Secretary of State; and
  - (b) a controller, who shall be a Crown servant appointed by the Secretary of State; and every officer of such a prison who performs custodial duties shall [<sup>F186</sup>(subject to section 86B)] be a prisoner custody officer who is authorised to perform such duties [<sup>F187</sup>or a prison officer who is temporarily attached to the prison].
- (2) <sup>F188</sup>. . . , the director shall have such functions as are conferred on him by the 1952 Act (as modified by section 87 below) or as may be conferred on him by prison rules.

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- (3) <sup>F189</sup> .....
- (4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—
- (a) to keep under review, and report to the Secretary of State on, the running of the prison by or on behalf of the director; and
  - (b) to investigate, and report to the Secretary of State on, any allegations made against prisoner custody officers performing custodial duties at the prison [<sup>F190</sup> or prison officers who are temporarily attached to the prison].
- (5) [<sup>F191</sup>The contractor and any sub-contractor of his shall each]be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.

#### Textual Amendments

- F186** Words in s. 85(1) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 18(3), 41(1); S.I. 2007/3001, art. 2(1)(c)
- F187** Words in s. 85(1) inserted (3.11.1994) by 1994 c. 33, s. 97(1).
- F188** Words in s. 85(2) repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 39, 41(1), Sch. 5 Pt. 2; S.I. 2007/3001, art. 2(1)(t)(iii)
- F189** S. 85(3) repealed (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 19, 39, 41(1), Sch. 5 Pt. 2; S.I. 2007/3001, art. 2(1)(t)(iii)
- F190** Words in s. 85(4)(b) inserted (3.11.1994) by 1994 c. 33, s. 97(2).
- F191** Words in s. 85(5) substituted (3.11.1994) by 1994 c. 33, s. 101(1).

#### Commencement Information

- I37** S. 85 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

## 86 Powers and duties of prisoner custody officers employed at contracted out prisons.

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers, namely—
- (a) to search in accordance with prison rules any prisoner who is confined in the prison; and
  - (b) to search [<sup>F192</sup>in accordance with prison rules] any other person who is in or is seeking to enter the prison, and any article in the possession of such a person.
- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to [<sup>F193</sup>submit to an intimate search (within the meaning of section 164(5) of the Customs and Excise Management Act 1979)].
- (3) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following duties as respects prisoners confined in the prison, namely—
- (a) to prevent their escape from lawful custody;
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
  - (c) to ensure good order and discipline on their part; and

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(d) to attend to their wellbeing.

(4) The powers conferred by subsection (1) above, and the powers arising by virtue of subsection (3) above, shall include power to use reasonable force where necessary.

#### Textual Amendments

**F192** Words in s. 86(1)(b) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 16(1)(a), 41(1); S.I. 2007/3001, art. 2(1)(a)

**F193** Words in s. 86(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 16(1)(b), 41(1); S.I. 2007/3001, art. 2(1)(a)

#### Commencement Information

**I38** S. 86 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

### [<sup>F194</sup>86A Power of prisoner custody officers to detain suspected offenders

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers in relation to any person who is in or is seeking to enter the prison (other than a prisoner confined in the prison).
- (2) Where the officer has reason to believe that the person is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952, the officer may—
  - (a) require the person to wait with him for the arrival of a constable for such period as may be necessary (not exceeding two hours); and
  - (b) use reasonable force to prevent the person from making off while subject to a requirement under paragraph (a).
- (3) A person who makes off while subject to such a requirement is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (4) In subsection (2), a reference to an offence under a particular provision includes a reference to any offence consisting of an attempt to commit, incitement or conspiracy to commit, or aiding, abetting, counselling or procuring the commission of, an offence under that provision.]

#### Textual Amendments

**F194** S. 86(A) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 17(1), 41(1); S.I. 2007/3001, art. 2(1)(b)

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

**C37** S. 86A(2) modified (temp.) (1.11.2007) by The Offender Management Act 2007 (Commencement No.1 and Transitional Provisions) Order 2007 (S.I. 2007/3001), art. 2(2)

**C38** S. 86A(4) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1)(2), 94, Sch. 6 para. 19(b); S.I. 2008/2504, art. 2(a)

### [<sup>F195</sup>86B Powers of authorised persons to perform custodial duties

- (1) In this section—

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“restricted activity” means an activity which is (apart from this section) required by section 85(1) to be carried out by an officer of a contracted-out prison who is—

- (a) a prisoner custody officer authorised to perform custodial duties; or
- (b) a prison officer temporarily attached to the prison; and

“worker”, in relation to a contracted out prison, means a person who works at the prison, other than an officer mentioned above.

- (2) The Secretary of State may by order specify descriptions of restricted activity that may be the subject of authorisations under subsection (3) given to workers at a contracted-out prison.
- (3) A worker at a contracted-out prison may carry out any activity of a description specified under subsection (2), but only if and to the extent that he is for the time being authorised to do so by the director of the prison.
- (4) The director may give such authorisation—
  - (a) in general or specific terms, subject to any limitations or conditions he considers appropriate; and
  - (b) to one or more particular workers or to any worker who is (or comes to be) within a specified description of workers at the prison.
- (5) Nothing in an order or authorisation under this section is to be taken as authorising the use of force.
- (6) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F195** S. 86(B) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 18(2), 41(1); S.I. 2007/3001, art. 2(1)(c)

#### 87 Consequential modifications of 1952 Act.

- (1) In relation to a contracted out prison, the provisions of the 1952 Act specified in subsections (2) to (8) below shall have effect subject to the modifications so specified.
- (2) In section 7(1) (prison officers), the reference to a governor shall be construed as a reference to a director and a controller.
- [<sup>F196</sup>(3) Section 8 (powers of prison officers) shall not apply (but this does not affect the powers of a prison officer who is temporarily attached to the prison).]
- (4) In sections [<sup>F197</sup>8A(3), (4) and (5)] 10(5), 12(3), 13(1) [<sup>F198</sup>16A][<sup>F199</sup>16B]and 19(1) and (3) (various functions of the governor of a prison), references to the governor shall be construed as references to the director.
- [<sup>F200</sup>(4A) Section 11 (ejectment of prison officers and their families refusing to quit) shall not apply.]
- (5) In section 12(1) and (2) (place of confinement of prisoners), any reference to a prisoner or prisoners shall be construed as a reference to a remand prisoner or prisoners.]

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- (6) In section 13(2) (legal custody of prisoner), the reference to an officer of the prison shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison [<sup>F201</sup>or a prison officer who is temporarily attached to the prison].
- (7) In section 14(2) (cells), the reference to a prison officer shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison [<sup>F201</sup>or a prison officer who is temporarily attached to the prison].
- (8) Section 35 (vesting of prison property in the Secretary of State) shall have effect subject to the provisions of the contract entered into under section 84(1) above.

#### Textual Amendments

- F196** S. 87(3) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 20(2)**, 41(1); S.I. 2007/3001, **art. 2(1)(e)**
- F197** Words in s. 87(4) inserted (1.11.2007) by Offender Management Act 2007 (c. 21), **ss. 20(3)**, 41(1); S.I. 2007/3001, **art. 2(1)(e)**
- F198** Words in s. 87(4) inserted (9.1.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 69**; S.I. 1994/3192, **art. 2, Sch.**
- F199** Words in s. 87(4) inserted (21.5.1997) by 1997 c. 38, **ss.2**, 3(2).
- F200** S. 87(4A) inserted (3.11.1994) by 1994 c. 33, **s. 97(4)**.
- F201** Words in s. 87(6)(7) inserted (3.11.1994) by 1994 c. 33, **s. 97(5)**.

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

- C39** S. 87 has effect (9.7.1992) by S.I. 1992/1656, **art. 3** as if s. 87(5) were omitted (which S.I. is revoked (24.2.1993) by S.I. 1993/368, **art. 2**.)
- S. 87 has effect (24.02.1993) by S.I. 1993/368, **art. 4** as if subsection (5) were omitted.

#### Commencement Information

- I39** S. 87 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

## 88 Intervention by the Secretary of State.

- (1) This section applies where, in the case of a contracted out prison, it appears to the Secretary of State—
- that the director has lost, or is likely to lose, effective control of the prison or any part of it; and
  - that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a Crown servant to act as governor of the prison for the period—
- beginning with the time specified in the appointment; and
  - ending with the time specified in the notice of termination under subsection (4) below.
- (3) During that period—
- all the functions which would otherwise be exercisable by the director or the controller shall be exercisable by the governor;



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- (b) [<sup>F202</sup>the contractor and any sub-contractor of his shall each] do all that he reasonably can to facilitate the exercise by the governor of those functions; and
  - (c) the officers of the prison shall comply with any directions given by the governor in the exercise of those functions.
- (4) Where the Secretary of State is satisfied—
- (a) that the governor has secured effective control of the prison or, as the case may be, the relevant part of it; and
  - (b) that the governor's appointment is no longer necessary as mentioned in subsection (1)(b) above,
- he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.
- (5) As soon as practicable after making or terminating an appointment under this section, the Secretary of State shall give a notice of the appointment, or a copy of the notice of termination, to the contractor, [<sup>F203</sup>any sub-contractor of his,]the director and the controller.

#### Textual Amendments

**F202** Words in s. 88(3)(b) substituted (3.11.1994) by 1994 c. 33, s. 101(2).

**F203** Words in s. 88(5) inserted (3.11.1994) by 1994 c. 33, s. 101(3).

#### Commencement Information

**I40** S. 88 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

*[<sup>F204</sup>Contracted out functions*

#### Textual Amendments

**F204** S. 88A and cross heading inserted (3.11.1994) by 1994 c. 33, s.99.

#### <sup>F205</sup>**88A Contracted out functions at directly managed prisons.**

- (1) The Secretary of State may enter into a contract with another person for any functions at a directly managed prison to be performed by prisoner custody officers who are provided by that person and are authorised to perform custodial duties.
- (2) [<sup>F206</sup>Sections 86 and 86A] above shall apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison as [<sup>F207</sup>they apply] in relation to such an officer performing custodial duties at a contracted out prison.
- (3) In relation to a directly managed prison—
  - (a) the reference in section 13(2) of the 1952 Act (legal custody of prisoners) to an officer of the prison; and
  - (b) the reference in section 14(2) of that Act (cells) to a prison officer,shall each be construed as including a reference to a prisoner custody officer performing custodial duties at the prison in pursuance of a contract under this section.

*Status: Point in time view as at 01/04/2013.*

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- (4) Any reference in subsections (1) to (3) above to the performance of functions or custodial duties at a directly managed prison includes a reference to the performance of functions or such duties for the purposes of, or for purposes connected with, such a prison.
- (5) In this Part—  
“contracted out functions” means any functions which, by virtue of a contract under this section, fall to be performed by prisoner custody officers;  
“directly managed prison” means a prison which is not a contracted out prison.]

#### Textual Amendments

- F205** S. 88A and cross heading inserted (3.11.1994) by 1994 c. 33, s.99.
- F206** Words in s. 88A(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 17(2)(a), 41(1); S.I. 2007/3001, art. 2(1)(b)
- F207** Words in s. 88A(2) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), ss. 17(2)(b), 41(1); S.I. 2007/3001, art. 2(1)(b)

### Supplemental

#### 89 Certification of prisoner custody officers

- (1) In this Part “prisoner custody officer” means a person in respect of whom a certificate is for the time being in force certifying—  
(a) that he has been approved by the Secretary of State for the purpose of performing escort functions or custodial duties or both; and  
(b) that he is accordingly authorised to perform them.
- (2) The provisions of Schedule 10 to this Act shall have effect with respect to the certification of prisoner custody officers.
- (3) In this section and Schedule 10 to this Act—  
“custodial duties” means custodial duties at a [<sup>F208</sup>contracted out or directly managed prison];  
“escort functions” means the functions specified in section 80(1) above.

#### Textual Amendments

- F208** Words in s. 89(3) substituted (3.11.1994) by 1994 c. 33, s. 101(4).

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

- C40** S. 89: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(h)

#### Commencement Information

- I41** S. 89 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 06 August 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)*

## 90 Protection of prisoner custody officers.

- (1) Any person who assaults a prisoner custody officer
  - [<sup>F209</sup>(a) acting in pursuance of prisoner escort arrangements;
  - (b) performing custodial duties at a contracted out prison; or
  - (c) performing contracted out functions at a directly managed prison,]shall be liable on summary conviction to fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (2) Section 17(2) of the <sup>M32</sup>Firearms Act 1968 (additional penalty for possession of firearms when committing certain offences) shall apply to offences under subsection (1) above.
- (3) Any person who resists or wilfully obstructs a prisoner custody officer
  - [<sup>F209</sup>(a) acting in pursuance of prisoner escort arrangements;
  - (b) performing custodial duties at a contracted out prison; or
  - (c) performing contracted out functions at a directly managed prison,]shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) For the purposes of this section, a prisoner custody officer shall not be regarded as acting in pursuance of prisoner escort arrangements at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

### Textual Amendments

**F209** Words in s. 90(1)(3) substituted (3.11.1994) by 1994 c. 33, s. 101(5).

### Commencement Information

**I42** S. 90 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

### Marginal Citations

**M32** 1968 c. 27.

## 91 Wrongful disclosure of information.

- (1) A person who
  - [<sup>F210</sup>(a) is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison; or
  - (b) is or has been employed to perform contracted out functions at a directly managed prison,]shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular prisoner.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

*Status: Point in time view as at 01/04/2013.*

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**Textual Amendments**

**F210** Words in s. 91(1) substituted (3.11.1994) by 1994 c. 33, s. 101(6).

**Commencement Information**

**I43** S. 91 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

**92 Interpretation of Part IV.**

- (1) In this Part [<sup>F211</sup>unless the context otherwise requires]—
  - “contracted out prison” and “the contractor” have the meanings given by [<sup>F212</sup>section 84(4)] above;
  - [<sup>F213</sup>“contracted out functions” and “directly managed prison” have the meanings given by section 88A(5) above;]
  - <sup>F214</sup>.....
  - <sup>F215</sup>.....
  - “prison” includes a young offender institution or remand centre;
  - [<sup>F213</sup>“prison officer” means an officer of a directly managed prison;
  - “prison rules” means rules made under section 47 of the 1952 Act;]
  - [<sup>F216</sup>“prisoner” means any person for the time being detained in legal custody as a result of a requirement imposed by a court or otherwise that he be so detained;]
  - “prisoner custody officer” has the meaning given by section 89(1) above;
  - “prisoner escort arrangements” has the meaning given by section 80(2) above.
  - [<sup>F213</sup>“sub-contractor” has the meaning given by section 84(4) above.]

[<sup>F217</sup>(1A) Any reference in this Part to custodial duties at a contracted out prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.]

<sup>F218</sup>(2) .....

- (3) Sections 80, 81(1) and (2)(a), 82 and 89 to 91 above, subsection (1) above and Schedule 10 to this Act shall have effect as if—
  - (a) any reference in section 80(1), 81(1), 82 or 91 above to prisoners included a reference to persons [<sup>F219</sup>remanded [<sup>F220</sup>to local authority accommodation or youth detention accommodation under section 91 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012]] by virtue of a security requirement imposed under section 23(4) of the 1969 Act (remands and committals to local authority accommodation); and
  - (b) any reference in [<sup>F219</sup>section 80(1)(c) or (e) or (1A)] above to a prison included a reference to [<sup>F221</sup>accommodation in which a person is or is to be accommodated pursuant to such a remand].

[<sup>F222</sup>(4) In sections 80, 82 and 83 above, “prison”—

- (a) so far as relating to the delivery of prisoners to or from a prison situated in Scotland, includes a remand centre or young offenders institution within the meaning of section 19 of the <sup>M33</sup>Prisons (Scotland) Act 1989; and

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- (b) so far as relating to the delivery of prisoners to or from a prison situated in Northern Ireland, includes a remand centre or young offenders centre.]

#### Textual Amendments

- F211** Words in s. 92(1) inserted (3.11.1994) by 1994 c. 33, s. 101(7)(a).  
**F212** Words in s. 92(1) substituted (3.11.1994) by 1994 c. 33, s. 101(7)(b).  
**F213** Definitions in s. 92(1) inserted (3.11.1994) by 1994 c. 33, s. 101(7)(c)-(e).  
**F214** S. 92(1): definition of "court-house" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 352(2); Sch. 10, S.I. 2005/910, {art. 3(y)}  
**F215** S. 92(1): definition of "court security officer" repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 352(2); Sch. 10, S.I. 2005/910, {art. 3(y)}  
**F216** Definition in s. 92(1) substituted (3.11.1994) by 1994 c. 33, s. 93(5).  
**F217** S. 92(1A) inserted (3.11.1994) by 1994 c. 33, s. 98.  
**F218** S. 92(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110, Sch. 8 para. 352(3); Sch. 10, S.I. 2005/910, {art. 3(y)}  
**F219** Words in s. 92(3) substituted (3.11.1994) by 1994 c. 33, s. 93(6).  
**F220** Words in s. 92(3)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 31(a); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))  
**F221** Words in s. 92(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 31(b); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))  
**F222** S. 92(4) inserted (3.11.1994) by 1994 c. 33, s. 93(7).

#### Commencement Information

- I44** S. 92 partly in force; s. 92(3) not in force; s. 92(1) in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3; s. 92(2) in force at 1.4.1992 see S.I. 1992/333, art. 2(1), Sch. 1  
S. 92(3) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3

#### Marginal Citations

- M33** 1989 c. 45.

## PART V

### FINANCIAL AND OTHER PROVISIONS

#### Cash limits

#### 93 Cash limits for magistrates' courts.

<sup>F223</sup>(1) .....

- (2) In section 58 of that Act (corresponding arrangements in inner London area), after subsection (2) there shall be inserted the following subsection—

“(2A) Nothing in subsection (1) or (2) above shall require the Receiver to incur any expenditure or make any payment which would—

- (a) cause the net cost to him in any year of the matters mentioned in subsection (1) of section 59 of this Act to exceed the amount which, in relation to the Receiver and that year, is for the time being determined by the Secretary of State under subsection (3)(b) of that section; or

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- (b) cause his capital expenditure in any year in pursuance of functions under this Part of this Act to exceed the amount which, in relation to the Receiver and that year, is for the time being determined by the Secretary of State under subsection (4)(b) of that section;

and in determining any such net cost as is mentioned in paragraph (a) above there shall be disregarded any such capital expenditure as is mentioned in paragraph (b) above.”

F224(3) .....

F224(4) .....

**Textual Amendments**  
**F223** S. 93(1) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(w)**  
**F224** S. 93(3)(4) repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt.I.**

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**Commencement Information**  
**I45** S. 93 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(4)** and Sch. 3

F225**94** .....

**Textual Amendments**  
**F225** S. 94 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), **Sch.4**

*Miscellaneous*

**95 Information for financial and other purposes.**

- (1) The Secretary of State shall in each year publish such information as he considers expedient for the purpose of—
  - (a) enabling persons engaged in the administration of criminal justice to become aware of the financial implications of their decisions;
  - [<sup>F226</sup>(aa) enabling such persons to become aware of the relative effectiveness of different sentences—
    - (i) in preventing re-offending, and
    - (ii) in promoting public confidence in the criminal justice system; ]
  - (b) facilitating the performance by such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.
- (2) Publication under subsection (1) above shall be effected in such manner as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

*Status: Point in time view as at 01/04/2013.*

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**Textual Amendments**

**F226** S. 95(1)(aa) inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 175, 336, S.I. 2005/950, {art. 2}, Sch. 1 (subject to Sch. 2 (as amended by S.I. 2005/2122, art. 2))

**Commencement Information**

**I46** S. 95 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

<sup>F227</sup>96 .....

**Textual Amendments**

**F227** S. 96 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

<sup>F228</sup>97 .....

**Textual Amendments**

**F228** S. 97 repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

**PART VI**

**SUPPLEMENTAL**

**98 Expenses etc. under Act.**

There shall be paid out of money provided by Parliament—

- (a) any sums required by the Secretary of State for making payments under contracts entered into under section 13, 80 or 84 above <sup>F229</sup> . . .;
- (b) any sums so required for defraying the expenses of the Parole Board, or any expenses incurred by members of lay panels appointed under section 81 above;
- (c) any administrative expenses incurred by the Secretary of State under this Act; and
- (d) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

**Textual Amendments**

**F229** Words in s. 98(a) repealed (5.2.1994) by 1993 c. 47, ss. 32, 33(2), Sch.4

**Commencement Information**

**I47** S. 98 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

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## 99 General interpretation.

### (1) In this Act—

“the 1933 Act” means the <sup>M34</sup>Children and Young Persons Act 1933;

“the 1952 Act” means the <sup>M35</sup>Prison Act 1952;

“the 1967 Act” means the <sup>M36</sup>Criminal Justice Act 1967;

“the 1969 Act” means the <sup>M37</sup>Children and Young Persons Act 1969;

“the 1973 Act” means the <sup>M38</sup>Powers of Criminal Courts Act 1973;

<sup>F230</sup> . . .

“the 1980 Act” means the <sup>M39</sup>Magistrates’ Courts Act 1980;

“the 1982 Act” means the <sup>M40</sup>Criminal Justice Act 1982;

“the 1983 Act” means the <sup>M41</sup>Mental Health Act 1983;

“the 1988 Act” means the <sup>M42</sup>Criminal Justice Act 1988;

“child”, unless the contrary intention appears, means a person under the age of fourteen years;

[<sup>F231</sup>“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]

“prison rules” means rules made under section 47 of the 1952 Act;

“young person” means a person who has attained the age of fourteen years and is under the age of eighteen years.

[<sup>F232</sup>“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.]

- (2) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State, his age shall be deemed to be that which it appears to the court or the Secretary of State to be after considering any available evidence.

### Textual Amendments

**F230** Definition in s. 99(1) repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), **Sch. 6 Pt. I**.

**F231** S. 99(1): definition of “local probation board”

inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 110**; S.I. 2001/919, **art. 2(f)(ii)**

**F232** Definition of “youth offending team” in s. 99(1) inserted (30.9.1998 for areas specified in S.I. 1998/2327, **art. 3(1)**, **Sch. 1** and subject to art. 9 of that S.I., otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 95**; S.I. 1998/2327, **art. 3(1)(b)**; S.I. 2000/924, **art. 2(c)**

### Commencement Information

**I48** S. 99 wholly in force; s. 99(1) (save for the definitions of “child” and “young person”) in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1; s. 99 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

### Marginal Citations

**M34** 1933 c. 12.

**M35** 1952 c. 52.

**M36** 1967 c. 80.

**M37** 1969 c. 54.

**M38** 1973 c. 62.

**M39** 1980 c. 43.

**M40** 1982 c. 48.



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**M41** 1983 c. 20.

**M42** 1988 c. 33.

## 100 Minor and consequential amendments.

The enactments mentioned in Schedule 11 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the preceding provisions of this Act).

### Commencement Information

**I49** S. 100 wholly in force at 1.6.1999; S. 100 in force for certain purposes at 14.10.1991 and for further purposes at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1)(4) and Schs. 1 and 3; s. 100 in force for certain purposes at 1.4.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 1; s. 100 in force for certain purposes at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; s. 100 in force for certain purposes (1.6.1999) by S.I. 1999/1280, art. 3, Sch.  
S. 100 shall come into force for certain purposes on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2)

## 101 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 12 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>M43</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments mentioned in Schedule 13 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

### Commencement Information

**I50** S. 101 partly in force; s. 101(1) in force for certain purposes 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1; s. 101(1) in force for certain purposes at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(2) and Sch. 2; s. 101(2) in force for certain purposes at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3; s. 101 in force for certain purposes at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; s. 101 in force for certain purposes (1.6.1999) by S.I. 1999/1280, art. 3, Sch.  
S. 101 to come into force for certain purposes on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is repealed (1.6.1999) by S.I. 1999/1280, art. 2)

### Marginal Citations

**M43** 1978 c. 30.

## 102 Short title, commencement and extent.

- (1) This Act may be cited as the Criminal Justice Act 1991.

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- (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 provisions or for different purposes.
- (3) Without prejudice to the provisions of Schedule 12 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, namely—
- (a) this section;
  - (b) sections 16, 17(1) and (2), 24 and 26(3) and (4); and
  - (c) Schedule 3, paragraph 6 of Schedule 6, paragraph 5 of Schedule 8, <sup>F233</sup> . . . and, so far as relating to the <sup>M44</sup> Social Work (Scotland) Act 1968, Schedule 13, also extend to Scotland; and section 23(2) above and, in so far as relating to the <sup>M45</sup> Criminal Procedure (Scotland) Act 1975, Schedule 13 to this Act extend to Scotland only.
- (6) This section, section 16 above, Schedule 3 to this Act, <sup>F234</sup> . . . and, so far as relating to the <sup>M46</sup> Social Work (Scotland) Act 1968, Schedule 13 to this Act also extend to Northern Ireland.
- (7) An Order in Council under section 81(11) of the 1982 Act may direct that both or either of—
- (a) section 37 of that Act as amended by section 17(1) above; and
  - (b) section 32 of the 1980 Act as amended by section 17(2) above,
- shall extend, subject to such modifications as may be specified in the Order, to the Isle of Man or any of the Channel Islands.
- [<sup>F235</sup>(7A) Sections 80, 82 and 83 above, so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales, extend to that part of those Islands.]
- (8) Nothing in subsection (4) above affects the extent of this Act in so far as it amends or repeals any provision of the <sup>M47</sup> Army Act 1955, the <sup>M48</sup> Air Force Act 1955, the <sup>M49</sup> Naval Discipline Act 1957 or the <sup>M50</sup> Armed Forces Act 1991.

#### Subordinate Legislation Made

- P1** S. 102(2)(3) power exercised by S.I. 1991/2208  
S. 102(2)(3) power exercised by S.I. 1991/2706
- P2** S. 102(2)(3) power exercised (21.2.1992): different dates appointed for specified provisions by S.I. 1999/333, **art. 2(1)(2)** (as amended by S.I. 1999/2118)  
S. 102(2)(3) power partly exercised (11.12.1994): 9.1.1995 appointed day by 1994/3191
- P3** S. 102(2) power partly exercised (4.5.1999): 1.6.1999 appointed for specific provisions by S.I. 1999/1280, **art. 3, Sch.**

#### Textual Amendments

- F233** Words in s. 102(5)(c) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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**F234** Words in s. 102(6) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

**F235** S. 102(7A) inserted (3.11.1994) by 1994 c. 33, **s. 101(8)**.

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**Commencement Information**

**I51** S. 102 so far as not in force wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1

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**Marginal Citations**

**M44** 1968 c. 49.

**M45** 1975 c. 21.

**M46** 1968 c. 49.

**M47** 1955 c. 18.

**M48** 1955 c. 19.

**M49** 1957 c. 53.

**M50** 1991 c. 62.

**Status:**

Point in time view as at 01/04/2013.

**Changes to legislation:**

Criminal Justice Act 1991 is up to date with all changes known to be in force on or before 06 August 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.