

Status: Point in time view as at 25/08/2000.

Changes to legislation: Criminal Justice and Public Order Act 1994, SCHEDULE 10 is up to date with all changes known to be in force on or before 30 June 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)

SCHEDULE 10 **U.K.**

Section 168(2).

CONSEQUENTIAL AMENDMENTS

Extent Information

E1 The provisions of Sch. 10 are co-extensive with the enactments they affect, see [s. 172\(16\)](#)

Bail: exclusion in homicide and rape cases

- 1 In section 2 of the ^{M1}Habeas Corpus Act 1679 (bail for persons released from custody under habeas corpus while awaiting trial), after the words “brought as aforesaid shall” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Marginal Citations

M1 1679 c. 2.

Evidence of accused in criminal proceedings

- 2 In section 1 of the ^{M2}Criminal Evidence Act 1898 (competency of accused to give evidence in criminal proceedings), proviso (b) shall be omitted.

Marginal Citations

M2 1898 c. 36.

Evidence of accused in criminal proceedings

- 3 In section 1 of the ^{M3}Criminal Evidence Act (Northern Ireland) 1923 (competency of accused to give evidence in criminal proceedings)—
- (a) after the words “Provided as follows:—” there shall be inserted the following proviso—
 - “(a) A person so charged shall not be called as a witness in pursuance of this Act except upon his own application;”;
 - (b) proviso (b) shall be omitted.

Marginal Citations

M3 1923 c. 9 (N.I.).

Responsibility for fine for breach of requirements of secure training order

^{F14}

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Textual Amendments

F1 Sch. 10 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Bail: exclusion in homicide and rape cases

F25

Textual Amendments

F2 Sch. 10 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Bail: exclusion in homicide or rape cases

- 6 In section 37(1) of the ^{M4}Criminal Justice Act 1948 (power of High Court to grant bail on case stated or application for certiorari)—
- (a) in paragraph (b), after the word “may” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”; and
 - (b) in paragraph (d), after the word “may” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Marginal Citations

M4 1948 c. 58.

Modernisation of “servant” in Prison Act

- 7 In section 3(1) of the ^{M5}Prison Act 1952 (officers and servants at prisons), for the word “servants” there shall be substituted the words “employ such other persons”.

Marginal Citations

M5 1952 c. 52.

Use of young offender institutions as secure training centres

- 8 In section 37(4) of the Prison Act 1952 (prisons not deemed closed where used as remand centres etc.), at the end, there shall be inserted the words “or secure training centre”.

Young offenders absconding from secure training centres

- 9 (1) Section 49 of the ^{M6}Prison Act 1952 (persons unlawfully at large) shall be amended as follows.
- (2) In subsection (1), after the words “young offenders institution” there shall be inserted the words “or a secure training centre”.

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(3) In subsection (2), for the words between “detained in a” and “is unlawfully” there shall be substituted the words “ young offenders institution or in a secure training centre ”.

(4) In subsection (2), in proviso (a), for the words after “prison” there shall be substituted the words “ remand centre, young offenders institution or secure training centre ”.

Marginal Citations

M6 1952 c. 52.

Bail: exclusion in homicide and rape cases

- 10 In section 4(2) of the ^{M7}Administration of Justice Act 1960 (power of High Court to grant bail to persons appealing to the House of Lords), after the words “Divisional Court shall” there shall be inserted the words “ , subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Marginal Citations

M7 1960 c. 65.

Young offenders: application of prison rules

- 11 In section 23(4) of the ^{M8}Criminal Justice Act 1961 (which applies provisions relating to prison rules to other institutions), before the words “and remand centres” there shall be inserted the words “ secure training centres ”.

Marginal Citations

M8 1961 c. 39.

Young offenders: transfer, supervision and recall within British Islands

- 12 (1) Part III of the ^{M9}Criminal Justice Act 1961 (transfer, supervision and recall within British Islands) shall have effect with the following amendments.
- (2) In section 29—
- (a) in subsection (1), for the words from “youth custody centre” to “young offenders institution” there shall be substituted the words “ or institution for young offenders to which this subsection applies ”;
- (b) after subsection (2), there shall be inserted the following subsection—
- “(2A) The institutions for young offenders to which subsection (1) above applies are the following: a remand centre, young offenders institution or secure training centre and, in Northern Ireland, a young offenders centre.”
- (3) In section 30—

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- (a) in subsection (3), for the words between “prison” and “in any part” there shall be substituted the words “ or institution for young offenders to which this subsection applies ”;
- (b) after subsection (3), there shall be inserted the following subsection—
 - “(3A) The institutions for young offenders to which subsection (3) above applies are the following: a young offenders institution or secure training centre and, in Northern Ireland, a young offenders centre.”.
- (4) In section 32, in subsection (2), after paragraph (k), there shall be inserted the following paragraph—
 - “(l) sections 1 and 3 of the Criminal Justice and Public Order Act 1994.”.
- (5) In section 38(3), for paragraph (a), there shall be substituted the following paragraph—
 - “(a) the expression “imprisonment or detention” means imprisonment, custody for life, detention in a young offenders institution or in a secure training centre or detention under an equivalent sentence passed by a court in the Channel Islands or the Isle of Man;”.

Marginal Citations
 M9 1961 c. 39.

Payment of damages by police authority

F313

Textual Amendments
 F3 Sch. 10 para. 13 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), Sch. 9 Pt. I

Cross-border enforcement: extension of protection

F414

Textual Amendments
 F4 Sch. 10 para. 14 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), Sch. 9 Pt. I

Bail: exclusion in homicide and rape cases

15 In section 22(1) of the ^{M10}Criminal Justice Act 1967 (power of High Court to grant bail), after the word “may”, there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

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Marginal Citations

M10 1967 c. 80.

Young offenders: detention under secure training order

16 Section 67 of the ^{M11}Criminal Justice Act 1967 (computation of sentences of imprisonment or detention passed in England and Wales) shall be amended by the insertion in subsection (5), after paragraph (b), of the following paragraph—

“(c) to secure training orders under section 1 of the Criminal Justice and Public Order Act 1994;”.

Marginal Citations

M11 1967 c. 80.

Payment of damages by Scottish police authority

^{F5}17

Textual Amendments

F5 Sch. 10 para. 17 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(1), Sch. 9 Pt. I

Assaults on constables etc.

18 In section 41 of the Police (Scotland) Act 1967 (assaults on constables etc.), after subsection (2), there shall be inserted the following subsection—

“(3) This section also applies to a constable who is a member of a police force maintained in England and Wales or in Northern Ireland when he is executing a warrant or otherwise acting in Scotland by virtue of any enactment conferring powers on him in Scotland.”.

Bail: exclusion in homicide and rape cases

19 In section 8(2)(a) of the ^{M12}Criminal Appeal Act 1968 (powers of Court of Appeal on retrial), after the words “custody or” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Marginal Citations

M12 1968 c. 19.

Bail: exclusion in homicide and rape cases

20 In section 11(5) of the Criminal Appeal Act 1968 (powers of Court of Appeal on quashing interim hospital order), after the word “may” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

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Bail: exclusion in homicide and rape cases

- 21 In section 16(3)(b) of the Criminal Appeal Act 1968 (powers of Court of Appeal on allowing an appeal against a finding that a person is under a disability), after the word “may” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Bail: exclusion in homicide and rape cases

- 22 In section 19(1) of the Criminal Appeal Act 1968 (power of Court of Appeal to grant bail), after the word “may”, there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Bail: exclusion in homicide and rape cases

- 23 In section 36 of the Criminal Appeal Act 1968 (power of Court of Appeal to grant bail on appeal by defendant), after the word “may” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994 ”.

Young offenders: possession of firearms

- 24 (1) The ^{M13}Firearms Act 1968 shall be amended as follows.
- (2) In section 21 (possession of firearms by persons previously convicted of crime)—
- (a) in subsection (2), after the word “Scotland” there shall be inserted the words “ or who has been subject to a secure training order ”; and
- (b) for subsection (2A) there shall be substituted—
- “(2A) For the purposes of subsection (2) above, “the date of his release” means—
- (a) in the case of a person sentenced to imprisonment with an order under section 47(1) of the Criminal Law Act 1977 (prison sentence partly served and partly suspended), the date on which he completes service of so much of the sentence as was by that order required to be served in prison;
- (b) in the case of a person who has been subject to a secure training order—
- (i) the date on which he is released from detention under the order;
- (ii) the date on which he is released from detention ordered under section 4 of the Criminal Justice and Public Order Act 1994; or
- (iii) the date halfway through the total period specified by the court in making the order,
- whichever is the later.”.
- (3) In section 52(1) (forfeiture and disposal of firearms), in paragraph (a), after the word “Scotland” there shall be inserted the words “ or is subject to a secure training order ”.

Marginal Citations

M13 1968 c. 27.

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Cross-border enforcement: extension of protection

25 In section 7 of the ^{M14}Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (assaults on, and obstruction of, constables), after subsection (3), there shall be inserted the following subsection—

“(4) This section also applies to a constable who is a member of a police force maintained in England and Wales or Scotland when he is executing a warrant or otherwise acting in Northern Ireland by virtue of any statutory provision conferring powers on him in Northern Ireland.”.

Marginal Citations

M14 1968 c. 28 (N.I.).

Sexual offences: male rape

26 In section 9(2) of the ^{M15}Theft Act 1968 (offences which if intended by a trespasser constitute burglary), for the words “raping any woman” there shall be substituted the words “raping any person”.

Marginal Citations

M15 1968 c. 31

Payment of damages by Police Authority for Northern Ireland

^{F627}

Textual Amendments

F6 Sch. 10 para. 27 repealed (22.8.1996) by 1996 c. 16, ss. 103, 104(4), Sch. 9 Pt. 1

Jury service: penalty for serving when not qualified

28 In section 20(5) of the ^{M16}Juries Act 1974 (offences in connection with jury service), at the end of paragraph (d) there shall be inserted “; or

(e) knowing that he is not qualified for jury service by reason of section 40 of the Criminal Justice and Public Order Act 1994, serves on a jury,”.

Marginal Citations

M16 1974 c. 23.

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Custody officers: ineligibility for jury service

29 In Part I of Schedule 1 to the ^{M17}Juries Act 1974, in Group B (ineligibility for jury service of certain persons concerned with the administration of justice), after the entry for prisoner custody officers within the meaning of Part IV of the ^{M18}Criminal Justice Act 1991, there shall be inserted the following entry—

“Custody officers within the meaning of Part I of the Criminal Justice and Public Order Act 1994”.

Marginal Citations

M17 1974 c. 23.

M18 1991 c. 53.

Rehabilitation of offenders subject to secure training orders

30 In section 5(6) of the ^{M19}Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences), after paragraph (c), there shall be inserted the following paragraph, preceded by the word “or”—

“(d) a secure training order under section 1 of the Criminal Justice and Public Order Act 1994;”.

Marginal Citations

M19 1974 c. 53.

Prisoner custody officers: ineligibility for jury service

^{F7}31

Textual Amendments

F7 Sch. 10 para. 31 repealed (31.7.1996) by S.I. 1996/1141 (N.I. 6), art. 32(3), Sch. 5; S.R. 1996/267, rule 2

Bail: exclusion in homicide and rape cases

32 In section 4 of the ^{M20}Bail Act 1976 (entitlement to bail), after subsection (7), there shall be inserted the following subsection—

“(8) This section is subject to section 25 of the Criminal Justice and Public Order Act 1994 (exclusion of bail in cases of homicide and rape).”.

Marginal Citations

M20 1976 c. 63.

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Police bail: variation by magistrates

- 33 In section 4(2) of the ^{M21}Bail Act 1976 (occasions for implementation of right to bail), in paragraph (b), after the words “for bail” there shall be inserted the words “ or for a variation of the conditions of bail ”.

Marginal Citations

M21 1976 c.63.

Bail: no right for persons offending while on bail

- 34 In Part III of Schedule 1 to the Bail Act 1976, in paragraph 2, at the end, there shall be inserted the words “ ; and so as respects the reference to an offence committed by a person on bail in relation to any period before the coming into force of paragraph 2A of Part 1 of this Schedule. ”.

Sexual offences: male rape

- 35 (1) The ^{M22}Sexual Offences (Amendment) Act 1976 shall be amended as follows.
- (2) In section 1(2) (reasonable grounds for belief in consent to intercourse), after the word “woman” there shall be inserted the words “ or man ”.
- (3) In section 2(3) (restrictions on evidence at trials for rape etc.), after the word “woman” there shall be inserted the words “ or man ”.
- (4) In section 7(2) (interpretation of terms used in the Act)—
- (a) the words from “references” to “only);” shall be omitted; and
- (b) for the words “and section 46 of that Act” there shall be substituted the words “ section 46 of the Sexual Offences Act 1956 ”.

Marginal Citations

M22 1976 c. 82.

Sexual offences: male rape

- 36 (1) Section 4 of the ^{M23}Sexual Offences (Amendment) Act 1976 (anonymity of complainants in rape etc. cases) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a)—
- (i) after the word “woman” in both places where it occurs there shall be inserted the words “ or man ”;
- (ii) for the words “woman’s name nor her address” there shall be substituted the words “ name nor the address of the woman or man ”;
- (iii) after the words “of her” there shall be inserted the words “ or him ”;

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- (iv) for the words “her lifetime” there shall be substituted the words “that person’s lifetime”; and
- (v) for the words “identify her” there shall be substituted the words “identify that person”; and
- (b) in paragraph (b)—
 - (i) after the word “woman” there shall be inserted the words “ or man ”; and
 - (ii) for the words “her lifetime” there shall be substituted the words “that person’s lifetime”.
- (3) In subsection (5A), after the word “woman” there shall be inserted the words “ or man ”.
- (4) In subsection (5B), for the words “woman’s peace or comfort” there shall be substituted the words “peace or comfort of the woman or man”.
- (5) In subsection (6), in the definition of “complainant”, after the word “woman” there shall be inserted the words “ or man ”.

Marginal Citations

M23 1976 c. 82.

Indecent photographs etc.

- 37 (1) The ^{M24}Protection of Children Act 1978 shall be amended as follows.
- (2) In section 2(3), after the words “proceedings under this Act” there shall be inserted the words “ relating to indecent photographs of children ”.
- (3) In section 4—
- (a) in subsection (1), after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and
 - (b) in subsection (2), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.
- (4) In section 5(2), (5) and (6), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.

Marginal Citations

M24 1978 c. 37.

Indecent photographs etc. (Northern Ireland)

- 38 (1) The ^{M25}Protection of Children (Northern Ireland) Order 1978 shall be amended as follows.
- (2) In Article 4(1)—
- (a) after the word “photograph” there shall be inserted the words “ or pseudo-photograph ”; and

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- (b) after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.
- (3) In Article 5(3) and (5), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.
- (4) In Article 6(1), after the word “photographs” there shall be inserted the words “ or pseudo-photographs ”.
- (5) In Article 7(1), after the word “Order” there shall be inserted the words “ relating to indecent photographs of children ”.

Marginal Citations

M25 [S.I. 1978/1047 \(N.I.17\)](#).

Secure training orders: absence of accused

- 39 In section 11(3) of the ^{M26}Magistrates’ Courts Act 1980 (certain sentences and orders not to be made in absence of accused), after the word “make” there shall be inserted the words “ a secure training order or ”.

Marginal Citations

M26 [1980 c. 43](#).

Procedure for young offenders in cases of grave crimes

- 40 In section 24(1)(a) of the Magistrates’ Courts Act 1980 (exception to summary trial of children or young persons) the words “he has attained the age of 14 and” shall be omitted.

Bail: exclusion in homicide and rape cases

- 41 In section 29(4)(b) of the Magistrates’ Courts Act 1980 (person under 18 remitted to youth court for trial), after the word “may” there shall be inserted the words “ , subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Bail: exclusion in homicide and rape cases

- ^{F8}42

Textual Amendments

F8 [Sch. 10 para. 42](#) repealed (1.4.2000) by [1998 c. 37, s. 120\(2\)](#), [Sch. 10](#) (with [Sch. 9](#)); [S.I. 1999/3426, art. 3\(c\)](#)

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Police bail

- 43 In section 43(1) of the Magistrates’ Courts Act 1980 (bail under the ^{M27}Police and Criminal Evidence Act 1984), after the words “bail under” there shall be inserted the words “ Part IV of ”.

Marginal Citations

M27 1984 c. 60.

Bail: exclusion in homicide or rape cases

- 44 In section 113(1) of the Magistrates’ Courts Act 1980 (power of magistrates’ court to grant bail on appeal to Crown Court or by way of case stated), after the word “may” there shall be inserted the words “ , subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Prisoner custody officers: ineligibility for jury service

- 45 In Part I of Schedule 1 to the ^{M28}Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (which makes ineligible for jury service persons connected with the administration of justice), in Group B, after paragraph (o) there shall be inserted the following paragraph—
“(oo) prisoner custody officers within the meaning of section 114(1) of the Criminal Justice and Public Order Act 1994;”.

Marginal Citations

M28 1980 c. 55.

Young offenders: detention in the custody of a constable and others

- 46 In section 6 of the ^{M29}Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a constable)—
- (a) in subsection (1), after the words “remand centre” there shall be inserted the words “ secure training centre ”;
 - (b) in subsection (2), after the words “remand centre” there shall be inserted the words “ secure training centre ”; and
 - (c) after the subsection (3) inserted by section 94 of this Act, there shall be inserted the following subsection—
“(4) Any reference in this section to a constable includes a reference to a custody officer (within the meaning of section 12 of the Criminal Justice and Public Order Act 1994) acting in pursuance of escort arrangements (within the meaning of Schedule 1 to that Act).”.

Marginal Citations

M29 1980 c. 57.

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Detention by constables and officers of a prison etc.: maximum period

F⁹47

Textual Amendments

F9 Sch. 10 para. 47 repealed (31.3.1996) by 1995 c. 20, s. 117(2), Sch. 7 Pt. I; S.I. 1996/517, art. 3(2) (subject to transitional provisions in arts. 4-6, Sch. 2)

Bail: exclusion in homicide and rape cases

48 In section 81(1) of the ^{M30}Supreme Court Act 1981 (power of Crown Court to grant bail), after the word “may”, there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Marginal Citations

M30 1981 c. 54.

Young offenders: legal representation

F¹⁰49

Textual Amendments

F10 Sch. 10 para. 49 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Young offenders: early release

50 In section 32 of the ^{M31}Criminal Justice Act 1982 (early release by order of classes of prisoners and other persons), after subsection (7), there shall be inserted the following subsection—

“(7A) Subsections (1) and (4) above shall apply in relation to secure training centres and persons detained in such centres as they apply, by virtue of section 43(5) of the Prison Act 1952, to young offenders institutions and to persons detained in such institutions.”.

Marginal Citations

M31 1982 c. 48.

Bail: exclusion in homicide and rape cases

51 In section 51(4) of the ^{M32}Mental Health Act 1983 (power of court to remit or release on bail detained person), after the words “above or” there shall be inserted the words “, subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

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Marginal Citations

M32 1983 c. 20.

Video recordings

- 52 (1) The ^{M33}Video Recordings Act 1984 shall be amended as follows.
- (2) In section 13, after subsection (2), there shall be inserted the following subsection—
- “(3) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”.
- (3) For section 15 there shall be substituted the following section—

“15 Time limit for prosecutions.

- (1) No prosecution for an offence under this Act shall be brought after the expiry of the period of three years beginning with the date of the commission of the offence or one year beginning with the date of its discovery by the prosecutor, whichever is earlier.
- (2) In Scotland, the reference in subsection (1) above to the date of discovery by the prosecutor shall be construed as a reference to the date on which evidence sufficient in the opinion of the Lord Advocate to warrant proceedings came to his knowledge.
- (3) For the purposes of subsection (2) above—
- (a) a certificate signed by the Lord Advocate or on his behalf and stating the date on which evidence came to his knowledge shall be conclusive evidence of that fact;
 - (b) a certificate purporting to be signed as mentioned in paragraph (a) above shall be presumed to be so signed unless the contrary is proved; and
 - (c) a prosecution shall be deemed to be brought on the date on which a warrant to apprehend or to cite the accused is granted provided that the warrant is executed without undue delay.”.

Marginal Citations

M33 1984 c. 39.

Interim possession order: power of entry

- 53 In section 17 of the ^{M34}Police and Criminal Evidence Act 1984 (police powers of entry to effect arrest etc.)—
- (a) in subsection (1)(c), after sub-paragraph (iii), there shall be inserted the following sub-paragraph—
- “(iv) section 76 of the Criminal Justice and Public Order Act 1994 (failure to comply with interim possession order);”;

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- (b) in subsection (3), after the words “subsection (1)(c)(ii)” there shall be inserted the words “ or (iv) ”.

Marginal Citations

M34 1984 c. 60.

Bail: exclusion in homicide and rape cases

- 54 In section 38(1) of the Police and Criminal Evidence Act 1984 (duty of custody officer to release on bail or without bail after charge), after the word “shall” there shall be inserted the words “ , subject to section 25 of the Criminal Justice and Public Order Act 1994, ”.

Searches of persons detained at police stations

- 55 In section 54(1)(b) of the Police and Criminal Evidence Act 1984 (searches of persons detained at police stations), for the words “under section 47(5) above” there shall be substituted the words “ , as a person falling within section 34(7), under section 37 above ”.

Fingerprinting: speculative searches

- 56 In section 61 of the Police and Criminal Evidence Act 1984 (which regulates the taking of fingerprints)—
- (a) after subsection (7) there shall be inserted the following subsection—
- “(7A) If a person’s fingerprints are taken at a police station, whether with or without the appropriate consent—
- (a) before the fingerprints are taken, an officer shall inform him that they may be the subject of a speculative search; and
- (b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken.”; and
- (b) in subsection (8), after the word “them” there shall be inserted the words “ and, in the case falling within subsection (7A) above, the fact referred to in paragraph (b) of that subsection ”.

Intimate samples: speculative searches

- 57 In section 62 of the ^{M35}Police and Criminal Evidence Act 1984 (which regulates the taking of intimate body samples)—
- (a) after subsection (7) there shall be inserted the following subsection—
- “(7A) If an intimate sample is taken from a person at a police station—
- (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
- (b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.”; and

Status: Point in time view as at 25/08/2000.

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- (b) in subsection (8), after the words “subsection (7)” there shall be inserted the words “ or (7A) ”.

Marginal Citations

M35 1984 c.60.

Non-intimate samples: speculative searches

58 In section 63 of the ^{M36}Police and Criminal Evidence Act 1984 (which regulates the taking of non-intimate body samples)—

- (a) after the subsection (8A) inserted by section 55 of this Act, there shall be inserted the following subsection—

“(8B) If a non-intimate sample is taken from a person at a police station, whether with or without the appropriate consent—

- (a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and
(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.”; and

- (b) in subsection (9), after the words “(8A)” there shall be inserted the words “ or (8B) ”.

Marginal Citations

M36 1984 c.60.

Sexual offences: male rape and buggery

59 In Part I of Schedule 5 to the ^{M37}Police and Criminal Evidence Act 1984 (serious arrestable offences mentioned in section 116(2)(a) of that Act), for item 7 (buggery) there shall be substituted—

Buggery with a person under the age of 16.”.

Marginal Citations

M37 1984 c. 60.

Trespassory assemblies

60 In section 15(1) of the ^{M38}Public Order Act 1986 (delegation of functions), for “14” there shall be substituted “ 14A ”.

Status: Point in time view as at 25/08/2000.

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Marginal Citations

M38 1986 c. 64.

Inferences from accused's silence

- 61 (1) The ^{M39}Criminal Evidence (Northern Ireland) Order 1988 shall be amended as follows.
- (2) In Article 3(1)(a), after the word “questioned” there shall be inserted the words “under caution”.
- (3) In Article 4—
- (a) in paragraph (1)—
- (i) for the words “to (7)” there shall be substituted the words “and (4)”;
- (ii) in sub-paragraph (b), the words “be called upon to” shall be omitted;
- (iii) for the words from “if” onwards there shall be substituted the words “, at the conclusion of the evidence for the prosecution, his legal representative informs the court that the accused will give evidence or, where he is unrepresented, the court ascertains from him that he will give evidence”;
- (b) for paragraphs (2) and (3) there shall be substituted the following paragraph—
- “(2) Where this paragraph applies, the court shall, at the conclusion of the evidence for the prosecution, satisfy itself (in the case of proceedings on indictment conducted with a jury, in the presence of the jury) that the accused is aware that the stage has been reached at which evidence can be given for the defence and that he can, if he wishes, give evidence and that, if he chooses not to give evidence, or having been sworn, without good cause refuses to answer any question, it will be permissible for the court or jury to draw such inferences as appear proper from his failure to give evidence or his refusal, without good cause, to answer any question.”;
- (c) in paragraph (4)—
- (i) at the beginning there shall be inserted the words “Where this paragraph applies,”;
- (ii) in sub-paragraph (a), for the words “from the refusal as appear proper” there shall be substituted the words “as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question”;
- (d) in paragraph (5), for the words “refusal to be sworn” there shall be substituted the words “failure to do so”; and
- (e) paragraphs (9) and (10) shall be omitted.
- (4) In Article 5(1)(b), for the words “the constable” there shall be substituted the words “that or another constable investigating the case”.
- (5) In Article 5(2), after sub-paragraph (a), for the word “and” there shall be substituted the following sub-paragraph—

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- “(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates’ court to the Crown Court under Article 3 of that Order); and”.
- (6) In Article 5, after paragraph 3, there shall be inserted the following paragraph—
- “(3A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.”.
- (7) In Article 6(1)(b), for the words “the constable” there shall be substituted the words “that or another constable investigating the case”.
- (8) In Article 6(2), after sub-paragraph (a), for the word “and” there shall be substituted the following sub-paragraph—
- “(aa) a judge, in deciding whether to grant an application made by the accused under Article 5 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (application for dismissal of charge where a case of fraud has been transferred from a magistrates’ court to the Crown Court under Article 3 of that Order); and”.
- (9) In Article 6, after paragraph 2, there shall be inserted the following paragraph—
- “(2A) This Article applies in relation to officers of customs and excise as it applies in relation to constables.”.
- (10) In Article 6(3), for the words “do so” there shall be substituted the words “comply with the request”.

Marginal Citations

M39 S.I. 1988/1987 (N.I.20).

Samples: application to terrorist suspects

- 62 (1) The ^{M40}Prevention of Terrorism (Temporary Provisions) Act 1989 shall be amended as provided in sub-paragraphs (2) and (3) below.
- (2) In section 15 (provisions supplementary to powers to arrest and detain suspected persons), after subsection (10), there shall be inserted the following subsections—
- “(11) Section 62(1) to (11) of the Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall apply to the taking of an intimate sample from a person under subsection (9) above as if—
- (a) for subsection (2) there were substituted—
- (?) An officer may only give an authorisation under subsection (1) or (1A) above for the taking of an intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which section 14

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- of the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or
- (b) whether he is subject to an exclusion order under that Act;
- or if the officer has reasonable grounds for suspecting that person's involvement in an offence under any of the provisions mentioned in subsection (1)(a) of that section and for believing that an intimate sample will tend to confirm or disprove his involvement"; and
- (b) in subsection (6), after the word "includes", there were inserted the words "where relevant".
- (12) In this section, "intimate sample" has the same meaning as in section 65 of the ^{M41}Police and Criminal Evidence Act 1984.
- (13) Section 63(1) to (9) of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall apply to the taking of a non-intimate sample from a person by a constable under subsection (9) above as if—
- (a) for subsection (4) there were substituted—
- (“ An officer may only give an authorisation under subsection (3) above for the taking of a non-intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or
- (b) whether he is subject to an exclusion order under that Act;
- or if the officer has reasonable grounds for suspecting that person's involvement in an offence under any of the provisions mentioned in subsection (1)(a) of that section and for believing that a non-intimate sample will tend to confirm or disprove his involvement"; and
- (b) in subsection (7), after the word "includes" there were inserted the words "where relevant".
- (14) In this section, "non-intimate sample" has the same meaning as in section 65 of the Police and Criminal Evidence Act 1984.”.
- (3) In Schedule 5, in paragraph 7 (provisions supplementary to powers to detain persons pending examination etc.), after sub-paragraph (6), there shall be inserted the following sub-paragraphs—
- “(6A) Section 62(1) to (11) of the Police and Criminal Evidence Act 1984 (regulation of taking of intimate samples) shall apply to the taking of an intimate sample from a person under sub-paragraph (5) above as if—
- (a) for subsection (2) there were substituted—
- (“ An officer may only give an authorisation under subsection (1) or (1A) above for the taking of an intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989 applies; or

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- (b) whether he is subject to an exclusion order under that Act; or
 - (c) whether there are grounds for suspecting that he has committed an offence under section 8 of that Act”; and
 - (b) in subsection (6), after the word “includes”, there were inserted the words “where relevant”.
- (6B) In this paragraph, “intimate sample” has the same meaning as in section 65 of the Police and Criminal Evidence Act 1984.
- (6C) Section 63 (1) to (9) of the Police and Criminal Evidence Act 1984 (regulation of taking of non-intimate samples) shall apply to the taking of a non-intimate sample from a person by a constable under subparagraph (5) above as if—
- (a) for subsection (4) there were substituted—
- “(An officer may only give an authorisation under subsection (3) above for the taking of a non-intimate sample if he is satisfied that it is necessary to do so in order to assist in determining—
- (a) whether that person is or has been concerned in the commission, preparation or instigation of acts of terrorism to which paragraph 2 of Schedule 5 to the Prevention of Terrorism (Temporary Provisions) Act 1989 applies;
 - (b) whether he is subject to an exclusion order under that Act; or
 - (c) whether there are grounds for suspecting that he has committed an offence under section 8 of that Act”; and
 - (b) in subsection (7), after the word “includes”, there were inserted the words “where relevant”.
- (6D) In this paragraph, “non-intimate sample” has the same meaning as in section 65 of the Police and Criminal Evidence Act 1984.”.
- (4) In consequence of the foregoing amendments—
- (a) in section 62 of the ^{M42}Police and Criminal Evidence Act 1984 (which regulates the taking of intimate body samples), at the end there shall be inserted the following subsection—
 - “(12) Nothing in this section, except as provided in section 15(11) and (12) of, and paragraph 7(6A) and (6B) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism provisions.”;
 - (b) in section 63 of the Police and Criminal Evidence Act 1984 (which regulates the taking of non-intimate body samples), at the end there shall be inserted the following subsection—
 - “(10) Nothing in this section, except as provided in section 15(13) and (14) of, and paragraph 7(6C) and (6D) of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989, applies to a person arrested or detained under the terrorism provisions.”; and
 - (c) in section 28(2) of the ^{M43}Prevention of Terrorism (Temporary Provisions) Act 1989 (extent), in paragraph (b) (provisions extending only to England and Wales), after the words “section 15(10)” there shall be inserted the words “ to (14) ” and after the words “paragraph 7(6)” there shall be inserted the words “ to (6D) ”.

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- (5) For the purposes of section 27 of the Prevention of Terrorism (Temporary Provisions) Act 1989 (temporary provisions), the amendments made by this paragraph shall be treated, as from the time when those amendments come into force, as having been continued in force by the order under subsection (6) of that section which has effect at that time.

Marginal Citations

- M40** 1989 c. 4.
M41 1984 c. 60.
M42 1984 c. 60.
M43 1989 c. 4.

Prevention of terrorism: consents for prosecutions etc.

- 63 (1) The Prevention of Terrorism (Temporary Provisions) Act 1989 shall be amended as follows.
- ^{F11}(2)
- (3) In section 19(1) (consents required for prosecutions), after paragraph (a), there shall be inserted the following paragraph—
- “(aa) in England and Wales for an offence under section 13A, 16A or 16B except by or with the consent of the Director of Public Prosecutions;”.
- (4) In section 28(2) (extent), in paragraph (a) (provisions not extending to Northern Ireland), for the words “and section 15(1)”, there shall be substituted the words “, sections 13A and 15(1) and Part IVA ”.
- (5) For the purposes of section 27 (temporary provisions), the amendments made by this paragraph shall be treated, as from the time when those amendments come into force, as having been continued in force by the order under subsection (6) of that section which has effect at that time.

Textual Amendments

- F11** Sch. 10 para. 63(2) repealed (25.8.1996) by 1996 c. 22, ss. 62(1), 63(7), Sch. 7 Pt. 1

Commencement Information

- I1** Sch. 10 para. 63 wholly in force at 3.2.1995; Sch. 10 para. 63 partly in force at Royal Assent see s. 172; Sch. 10 para. 63 so far as not already in force, comes into force at 3.2.1995 by S.I. 1995/127, art. 2(1), Sch. 1 APPENDIX B

Young offenders: powers to search and to test for drugs

- 64 In section 19(4) of the ^{M44}Prisons (Scotland) Act 1989 (remand centres and young offenders institutions), for the words “and 41” there shall be substituted the words “ 41, 41A and 41B ”.

Status: Point in time view as at 25/08/2000.

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Commencement Information

I2 Sch. 10 para. 64 wholly in force at 3.2.1995; [Sch. 10 para. 64](#) not in force at Royal Assent see [s. 172](#); [Sch. 10 para. 64](#) in force for specified purposes at 9.1.1995 by [S.I. 1994/3192](#), [art. 2](#), [Sch.](#); [Sch. 10 para. 64](#) so far as not already in force comes into force at 3.2.1995 by [S.I. 1995/127](#), [art. 2\(1\)](#), [Sch. 1 ANNEX B](#)

Marginal Citations

M44 [1989 c. 45](#).

Non-appearance of accused: plea of guilty

^{F12}65

Textual Amendments

F12 [Sch. 10 para. 65](#) repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168, [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

Young offenders: secure training order a custodial sentence

^{F13}66

Textual Amendments

F13 [Sch. 10 para. 66](#) repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168, [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

Bail: exclusion in homicide and rape cases

^{F14}67

Textual Amendments

F14 [Sch. 10 para. 67](#) repealed (25.8.2000) by [2000 c. 6](#), ss. 165, 168, [Sch. 12 Pt. I](#) (with [Sch. 11 paras. 1, 2](#))

Contracted out prisons: exclusion of search powers

68 In section 87(3) of the ^{M45}Criminal Justice Act 1991 (provisions of Prison Act 1952 not applying to contracted out prisons), after the word “officers” there shall be inserted the words “ and section 8A (powers of search by authorised employees) ”.

Marginal Citations

M45 [1952 c. 52](#).

Status: Point in time view as at 25/08/2000.

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Testing prisoners for drugs: director's function

- 69 In section 87(4) of the Criminal Justice Act 1991 (certain functions as governor to be functions of director of contracted out prisons), after “13(1)” insert “16A”.

The Parole Board

- 70 For Schedule 5 to the Criminal Justice Act 1991 (supplementary provisions about the Parole Board) there shall be substituted the following Schedule—

“SCHEDULE
5 U.K.

THE PAROLE BOARD: SUPPLEMENTARY PROVISIONS

Status and capacity

- 1 (1) The Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board's property shall not be regarded as property of, or held on behalf of, the Crown.
- (2) It shall be within the capacity of the Board as a statutory corporation to do such things and enter into such transactions as are incidental to or conducive to the discharge of its functions under Part II of this Act.

Membership

- 2 (1) The Board shall consist of a chairman and not less than four other members appointed by the Secretary of State.
- (2) The Board shall include among its members—
- (a) a person who holds or has held judicial office;
 - (b) a registered medical practitioner who is a psychiatrist;
 - (c) a person appearing to the Secretary of State to have knowledge and experience of the supervision or after-care of discharged prisoners; and
 - (d) a person appearing to the Secretary of State to have made a study of the causes of delinquency or the treatment of offenders.
- (3) A member of the Board—
- (a) shall hold and vacate office in accordance with the terms of his appointment;
 - (b) may resign his office by notice in writing addressed to the Secretary of State;
- and a person who ceases to hold office as a member of the Board shall be eligible for re-appointment.

Payments to members

- 3 (1) The Board may pay to each member such remuneration and allowances as the Secretary of State may determine.

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- (2) The Board may pay or make provision for paying to or in respect of any member such sums by way of pension, allowances or gratuities as the Secretary of State may determine.
- (3) If a person ceases to be a member otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances that make it right that he should receive compensation, the Secretary of State may direct the Board to make to that person a payment of such amount as the Secretary of State may determine.
- (4) A determination or direction of the Secretary of State under this paragraph requires the approval of the Treasury.

Proceedings

- 4 (1) Subject to the provisions of section 32(5) of this Act, the arrangements relating to meetings of the Board shall be such as the Board may determine.
- (2) The arrangements may provide for the discharge, under the general direction of the Board, of any of the Board's functions by a committee or by one or more of the members or employees of the Board.
- (3) The validity of the proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Staff

- 5 (1) The Board may appoint such number of employees as it may determine.
- (2) The remuneration and other conditions of service of the persons appointed under this paragraph shall be determined by the Board.
- (3) Any determination under sub-paragraph (1) or (2) shall require the approval of the Secretary of State given with the consent of the Treasury.
- (4) The Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Board.
- 6 (1) Employment with the Board shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) at the end of the list of Other Bodies there shall be inserted— "Parole Board."
- (2) The Board shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to this paragraph in the sums payable under the Superannuation Act 1972 out of money provided by Parliament.

Financial provisions

- 7 (1) The Secretary of State shall pay to the Board—
 - (a) any expenses incurred or to be incurred by the Board by virtue of paragraph 3 or 5; and

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- (b) with the consent of the Treasury, such sums as he thinks fit for enabling the Board to meet other expenses.
- (2) Any sums required by the Secretary of State for making payments under subparagraph (1) shall be paid out of money provided by Parliament.

Authentication of Board's seal

- 8 The application of the seal of the Board shall be authenticated by the signature of the Chairman or some other person authorised for the purpose.

Presumption of authenticity of documents issued by Board

- 9 Any document purporting to be an instrument issued by the Board and to be duly executed under the seal of the Board or to be signed on behalf of the Board shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

Accounts and audit

- 10 (1) It shall be the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts;
 - (b) to prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may direct with the approval of the Treasury; and
 - (c) to send copies of each such statement to the Secretary of State and the Comptroller and Auditor General not later than 31st August next following the end of the financial year to which the statement relates.
- (2) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts sent to him by the Board and shall lay a copy of every such statement and of his report before each House of Parliament.
- (3) In this paragraph, “financial year” means the period beginning with the date on which the Board is incorporated and ending with the next following 31st March, and each successive period of twelve months.

Reports

- 11 The Board shall as soon as practicable after the end of each financial year make to the Secretary of State a report on the performance of its functions during the year; and the Secretary of State shall lay a copy of the report before Parliament.”.

Bail: exclusion in homicide and rape cases

- 71 In Schedule 6 to the ^{M46}Criminal Justice Act 1991 (procedure on notice of transfer in certain cases involving children), in paragraph 2(1), after the word “1976” where it occurs first there shall be inserted the words “, section 25 of the Criminal Justice and Public Order Act 1994 ”.

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Marginal Citations

M46 1991 c. 53.

Probation officers for offenders subject to secure training orders

72 In section 4 of the ^{M47}Probation Service Act 1993 (functions of probation committee)—

(a) in subsection (1), after paragraph (d), there shall be inserted the following paragraph—

“(dd) to make arrangements for the selection, from the probation officers appointed for or assigned to a petty sessions area within their probation area, of an officer to supervise any person subject to supervision by a probation officer under a secure training order (within the meaning of section 1 of the Criminal Justice and Public Order Act 1994) naming as that petty sessions area the petty sessions area within which the person to be supervised resides for the time being;” and

(b) in subsection (4), for the words “paragraph (c) or (d)” there shall be substituted the words “ paragraph (c), (d) or (dd) ”.

Marginal Citations

M47 1993 c. 47.

Secure training orders: cost of supervision by probation officer

73 In section 17 of the ^{M48}Probation Service Act 1993 (probation committee expenditure)—

(a) in subsection (1), for the words “and (5)” there shall be substituted the words “ (5) and (5A) ”; and

(b) after subsection (5) there shall be inserted the following subsection—

“(5A) Nothing in sections 18 or 19 requires there to be paid out of the metropolitan police fund or defrayed by a local authority any expenses of a probation committee which are defrayed by the Secretary of State under section 3(6) of the Criminal Justice and Public Order Act 1994.”.

Marginal Citations

M48 1993 c. 47.

Status:

Point in time view as at 25/08/2000.

Changes to legislation:

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