

SCHEDULE 9

Section 168(1).

MINOR AMENDMENTS

Poaching: increase in penalties

- 1 (1) The Game Act 1831 shall be amended as follows.
- (2) In section 30 (trespassing in search or pursuit of game)—
 - (a) for the words “level 1” there shall be substituted the words “level 3”; and
 - (b) for the words “level 3” there shall be substituted the words “level 4
- (3) In section 32 (searching for or pursuing game with a gun and using violence, etc.), for the words “level 4” there shall be substituted the words “level 5”.
- (4) The Game (Scotland) Act 1832 shall be amended as follows.
- (5) In section 1 (trespassing in search or pursuit of game)—
 - (a) for the words “level 1” there shall be substituted the words “level 3”; and
 - (b) for the words “level 3” there shall be substituted the words “level 4”.
- (6) In section 6 (penalty for assaults on persons acting under the Act), for the words “level 1” there shall be substituted the words “level 3”.
- (7) The amendments made by this paragraph shall not apply to offences committed before this paragraph comes into force.

Sexual offences: procurement of women

- 2 In sections 2(1) and 3(1) of the Sexual Offences Act 1956 (procurement of women to have unlawful sexual intercourse by threats or false pretences), the word “unlawful” shall be omitted.

Electronic transmission of obscene material

- 3 In section 1(3) of the Obscene Publications Act 1959 (definition of publication for purposes of that Act), in paragraph (b), after the words “projects it” there shall be inserted the words “, or, where the matter is data stored electronically, transmits that data.”.

Poaching: forfeiture of vehicles

- 4 After section 4 of the Game Laws (Amendment) Act 1960 there shall be inserted the following section—

“4A Forfeiture of vehicles.

- (1) Where a person is convicted of an offence under section thirty of the Game Act 1831 as one of five or more persons liable under that section and the court is satisfied that any vehicle belonging to him or in his possession or under his control at the relevant time has been used for the purpose of committing or facilitating the commission of the offence, the court may make an order for forfeiture under this subsection in respect of that vehicle.

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- (2) The court may make an order under subsection (1) above whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restriction on forfeiture in any enactment.
- (3) Facilitating the commission of the offence shall be taken for the purposes of subsection (1) above to include the taking of any steps after it has been committed for the purpose of—
 - (a) avoiding apprehension or detection; or
 - (b) removing from the land any person or property connected with the offence.
- (4) An order under subsection (1) above shall operate to deprive the offender of his rights, if any, in the vehicle to which it relates, and the vehicle shall (if not already in their possession) be taken into the possession of the police.
- (5) Where any vehicle has been forfeited under subsection (1) above, a magistrates' court may, on application by a claimant of the vehicle, other than the offender from whom it was forfeited under subsection (1) above, make an order for delivery of the vehicle to the applicant if it appears to the court that he is the owner of the vehicle.
- (6) No application shall be made under subsection (5) above by any claimant of the vehicle after the expiration of six months from the date on which an order in respect of the vehicle was made under subsection (1) above.
- (7) No such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the vehicle or that he did not know, and had no reason to suspect, that the vehicle was likely to be used for a purpose mentioned in subsection (1) above.
- (8) An order under subsection (5) above shall not affect the right of any person to take, within the period of six months from the date of an order under subsection (5) above, proceedings for the recovery of the vehicle from the person in possession of it in pursuance of the order, but on the expiration of that period the right shall cease.
- (9) The Secretary of State may make regulations for the disposal of vehicles, and for the application of the proceeds of sale of vehicles, forfeited under subsection (1) above where no application by a claimant of the property under subsection (5) above has been made within the period specified in subsection (6) above or no such application has succeeded.
- (10) The regulations may also provide for the investment of money and the audit of accounts.
- (11) The power to make regulations under subsection (9) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section, “relevant time”, in relation to a person convicted of an offence such as is mentioned in subsection (1) above, means the time when the vehicle was used for the purpose of committing or facilitating the commission of the offence, or the time of the issue of a summons in respect of the offence.”

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Magistrates' courts' jurisdiction in cases involving children and young persons

- 5 In section 18 of the Children and Young Persons Act 1963 (jurisdiction of magistrates' courts in certain cases involving children and young persons)—
- (a) in paragraph (a), for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”; and
 - (b) in paragraph (b), for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

Service of documents by first class post

- 6 (1) In section 9(8) of the Criminal Justice Act 1967 (which relates to the service of a written statement to be admitted as evidence in criminal proceedings)—
- (a) in paragraph (c), after the word “service” there shall be inserted the words “or by first class post”; and
 - (b) in paragraph (d), after the word “service” there shall be inserted the words “or by first class post”.
- (2) In section 11(7) of the Criminal Justice Act 1967 (which provides for the means by which a notice of alibi may be given), after the word “service” there shall be inserted the words “or by first class post”.
- (3) In section 1 of the Road Traffic Offenders Act 1988 (which requires warning of prosecution for certain offences to be given), after subsection (1), there shall be inserted the following subsection—
- “(1A) A notice required by this section to be served on any person may be served on that person—
- (a) by delivering it to him;
 - (b) by addressing it to him and leaving it at his last known address; or
 - (c) by sending it by registered post, recorded delivery service or first class post addressed to him at his last known address.”.

Transfers of proceedings

- 7 In section 11 of the Criminal Justice Act 1967 (notice of alibi), in subsection (8)—
- (a) in the definition of “the prescribed period” (as amended by paragraph 2 of Schedule 2 to the Criminal Justice Act 1987), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”; and
 - (b) after that definition there shall be inserted the following definition—
- ““relevant transfer provision” means—
- (a) section 4 of the Criminal Justice Act 1987; or
 - (b) section 53 of the Criminal Justice Act 1991.”.

Offences aggravated by possession of firearms

- 8 In Schedule 1 to the Firearms Act 1968 (which lists the offences to which section 17(2) (possession of firearms when committing or being arrested for specified offences) relates)—
- (a) in paragraph 4, after the word “Theft” there shall be inserted the word “robbery”; and

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(b) after paragraph 5, there shall be inserted the following paragraphs—

“5A An offence under section 90(1) of the Criminal Justice Act 1991 (assaulting prisoner custody officer).

5B An offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting secure training centre custody officer).”.

Notice of proceedings

9 In section 34(2) of the Children and Young Persons Act 1969 (which requires notice of certain proceedings to be given to a probation officer), for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

Treatment of mental condition of offenders placed on probation

10 (1) Paragraph 5 of Schedule 1A to the Powers of Criminal Courts Act 1973 (requirement in probation order for treatment of offender’s mental condition) shall be amended as follows.

(2) In sub-paragraph (2)—

(a) after the words “such part” there shall be inserted the words “or parts”; and

(b) after the words “medical practitioner” there shall be inserted the words “or a chartered psychologist (or both, for different parts)”.

(3) In sub-paragraph (3)(c), after the words “medical practitioner” there shall be inserted the words “or chartered psychologist (or both)”.

(4) In sub-paragraphs (6) and (8), after the words “medical practitioner” (wherever they occur) there shall be inserted the words “or chartered psychologist”.

(5) In sub-paragraph (10), after the words “In this paragraph” there shall be inserted the words “—

“chartered psychologist” means a person for the time being listed in the British Psychological Society’s Register of Chartered Psychologists; and”.

Rehabilitation of offenders placed on probation

11 (1) In section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences)—

(a) in Table A in subsection (2), in the entry relating to fines or other sentences subject to rehabilitation under that Act, after the words “subsections (3)” there shall be inserted the words “, (4A)”.

(b) in subsection (4), the words “or placed on probation,” and “or probation order” shall be omitted; and

(c) after subsection (4), there shall be inserted the following subsection—

“(4A) Where in respect of a conviction a person was placed on probation, the rehabilitation period applicable to the sentence shall be—

(a) in the case of a person aged eighteen years or over at the date of his conviction, five years from the date of conviction;

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- (b) in the case of a person aged under the age of eighteen years at the date of his conviction, two and a half years from the date of conviction or a period beginning with the date of conviction and ending when the probation order ceases or ceased to have effect, whichever is the longer.”.

- (2) The amendments made by this paragraph shall apply only in relation to persons placed on probation after the date on which this paragraph comes into force.

Transfers of proceedings

- 12 In section 3 of the Bail Act 1976 (general provisions)—
 - (a) in subsection (8A) (inserted by paragraph 9 of Schedule 2 to the Criminal Justice Act 1987), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”; and
 - (b) after subsection (9) there shall be inserted the following subsection—
 - “(10) In subsection (8A) above “relevant transfer provision” means—
 - (a) section 4 of the Criminal Justice Act 1987, or
 - (b) section 53 of the Criminal Justice Act 1991.”.

Anonymity of victims of certain offences

- 13 In section 4 of the Sexual Offences (Amendment) Act 1976 (anonymity of victims in rape etc. cases), after subsection (6) there shall be inserted the following subsection—
 - “(6A) For the purposes of this section, where it is alleged or there is an accusation that an offence of incitement to rape or conspiracy to rape has been committed, the person who is alleged to have been the intended victim of the rape shall be regarded as the alleged victim of the incitement or conspiracy or, in the case of an accusation, as the complainant.”.

Execution of warrants for non-payment

- 14 (1) In section 38A(6) of the Criminal Law Act 1977 (execution of warrants for imprisonment for non-payment of fine), for the words “the age of 17 years” there shall be substituted the words “the age of 18 years”.
- (2) In section 38B(6) of the Criminal Law Act 1977 (execution of warrants for commitment for non-payment of due sum), for the words “the age of 17 years” there shall be substituted the words “the age of 18 years”.

Committals for sentence

- 15 In section 38 of the Magistrates' Courts Act 1980 (power of magistrates' court to commit offender to Crown Court for sentence), in subsection (2)(b)—
 - (a) the words from “committed” to “21 years old” shall be omitted; and
 - (b) for the words “sentence of imprisonment” there shall be substituted the words “custodial sentence”.

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Conditional or absolute discharge: appeal to Crown Court

- 16 In section 108(1A) of the Magistrates' Courts Act 1980 (right of appeal to Crown Court in case of conditional or absolute discharge), for the words “Section 13” there shall be substituted the words “Section 1C”.

Transfers of proceedings

- 17 In section 76 of the Supreme Court Act 1981 (alteration by Crown Court of place of trial) (as amended by paragraph 10 of Schedule 2 to the Criminal Justice Act 1987)—

- (a) in subsection (1), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”;
- (b) in subsection (3), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”; and
- (c) after subsection (4) there shall be inserted the following subsection—

“(5) In this section “relevant transfer provision” means—

- (a) section 4 of the Criminal Justice Act 1987, or
- (b) section 53 of the Criminal Justice Act 1991.”.

The amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 51 of Schedule 4 to this Act.

Transfers of proceedings

- 18 In section 77 of the Supreme Court Act 1981 (date of trial) (as amended by paragraph 11 of Schedule 2 to the Criminal Justice Act 1987)—

- (a) in subsection (1), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”;
- (b) in subsection (2), after the words “committed by a magistrates' court” there shall be inserted the words “or in respect of whom a notice of transfer under a relevant transfer provision has been given”;
- (c) in subsection (3), after the words “committal for trial” there shall be inserted the words “or of a notice of transfer”; and
- (d) after subsection (3), there shall be inserted the following subsection—

“(4) In this section “relevant transfer provision” means—

- (a) section 4 of the Criminal Justice Act 1987, or
- (b) section 53 of the Criminal Justice Act 1991.”.

The amendments made by this paragraph shall cease to have effect on the coming into force of the amendments made by paragraph 52 of Schedule 4 to this Act.

Transfers of proceedings

- 19 In section 81 of the Supreme Court Act 1981 (bail by Crown Court)—

- (a) in subsection (1)(a) (as amended by paragraph 12 of Schedule 2 to the Criminal Justice Act 1987), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”; and
- (b) after subsection (6), there shall be inserted the following subsection—

“(7) In subsection (1) above “relevant transfer provision” means—

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- (a) section 4 of the Criminal Justice Act 1987, or
- (b) section 53 of the Criminal Justice Act 1991.”.

Electronic transmission of obscene material (Scotland)

- 20 In section 51(8) of the Civic Government (Scotland) Act 1982, after the words “otherwise reproducing” there shall be inserted the words “, or, where the material is data stored electronically, transmitting that data”.

Fines for breach of attendance centre orders or rules

- 21 In section 19 of the Criminal Justice Act 1982 (breach of attendance centre orders or rules), for the subsection (3A) inserted by section 67(5) of the Criminal Justice Act 1991 there shall be substituted the following subsection—

“(3A) A fine imposed under subsection (3) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.”.

Video recordings

- 22 In section 1 of the Video Recordings Act 1984 (which provides for the interpretation of, among other terms, “video work” and “video recordings”)—

- (a) in subsection (2), in paragraph (a), the word “or” before the words “magnetic tape” shall be omitted and after those words there shall be inserted the words “or any other device capable of storing data electronically”; and
- (b) in subsection (3), the word “or” before the words “magnetic tape” shall be omitted and after those words there shall be inserted the words “or any other device capable of storing data electronically”.

Standard period of validity of search warrants

- 23 In the following enactments there shall be omitted the words from “within” to “warrant” (which prescribe the period of validity of warrants under those enactments for which section 16(3) of the Police and Criminal Evidence Act 1984 prescribes a standard period of one month), namely—

- (a) section 4(2) of the Protection of Children Act 1978; and
- (b) section 17(1) of the Video Recordings Act 1984.

Transfers of proceedings

- 24 In section 62(10) of the Police and Criminal Evidence Act 1984 (power of court to draw inferences from failure of accused to consent to provide intimate sample), after paragraph (a) there shall be inserted the following paragraph—

“(aa) a judge, in deciding whether to grant an application made by the accused under—

- (i) section 6 of the Criminal Justice Act 1987 (application for dismissal of charge of serious fraud in respect of which notice of transfer has been given under section 4 of that Act); or
- (ii) paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (application for dismissal of charge of violent or sexual

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offence involving child in respect of which notice of transfer has been given under section 53 of that Act); and”.

Transfers of proceedings

- 25 In section 16 of the Prosecution of Offences Act 1985 (defence costs)—
- (a) in subsection (2)(aa) (inserted by paragraph 14 of Schedule 2 to the Criminal Justice Act 1987), for the words “section 4 of the Criminal Justice Act 1987” there shall be substituted the words “a relevant transfer provision”; and
 - (b) after subsection (11) there shall be inserted the following subsection—
 - “(12) In subsection (2)(aa) “relevant transfer provision” means—
 - (a) section 4 of the Criminal Justice Act 1987, or
 - (b) section 53 of the Criminal Justice Act 1991.”.

Award of costs against accused

- 26 In section 18(5) of the Prosecution of Offences Act 1985 (award of costs against accused), for the words “the age of seventeen” there shall be substituted the words “the age of eighteen”.

Transfers of proceedings

- 27 In section 22 of the Prosecution of Offences Act 1985 (time limits for preliminary stages of criminal proceedings), in subsection (11), in the definition of “custody of the Crown Court”, after paragraph (c) (inserted by paragraph 104 of Schedule 15 to the Criminal Justice Act 1988), there shall be inserted the following paragraph, preceded by the word “, or”, namely—
- “(d) paragraph 2(1)(a) of Schedule 6 to the Criminal Justice Act 1991 (custody after transfer order in certain cases involving children).”.

Confiscation orders in drug trafficking cases: variation of sentences

- 28 In section 1A of the Drug Trafficking Offences Act 1986 (inserted by section 8 of the Criminal Justice Act 1993) (power of court to postpone determinations required before a confiscation order can be made), after subsection (9) there shall be inserted the following subsection—
- “(9A) Where the court has sentenced the defendant under subsection (7) above during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned in section 1(5)(b)(ii) or (iii) of this Act so long as it does so within a period corresponding to that allowed by section 47(2) or (3) of the Supreme Court Act 1981 (time allowed for varying a sentence) but beginning with the end of the specified period.”.

Transfer of fraud cases

- 29 In section 4 of the Criminal Justice Act 1987 (transfer of certain fraud cases to Crown Court), in subsection (1)(b)(ii), for the words “seriousness and complexity” there shall be substituted the words “seriousness or complexity”.

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Fraud cases: preparatory hearings

- 30 In section 7 of the Criminal Justice Act 1987 (preparatory hearings for certain fraud cases), in subsection (1), for the words “seriousness and complexity” there shall be substituted the words “seriousness or complexity”.

Transfers of proceedings

- 31 In section 25(1) of the Criminal Justice Act 1988 (principle to be followed by court in certain proceedings), in paragraph (a), after head (iii) there shall be inserted the following—

“(iv) on the hearing of an application under paragraph 5 of Schedule 6 to the Criminal Justice Act 1991 (applications for dismissal of charges in certain cases involving children transferred from magistrates' court to Crown Court); or”.

Evidence through television links

- 32 In section 32 of the Criminal Justice Act 1988 (evidence through television links), in subsection (3B) (inserted by section 55(4) of the Criminal Justice Act 1991), for the words “subsection (3) above” there shall be substituted the words “subsection (3A) above”.

Competence of children

- 33 In section 33A of the Criminal Justice Act 1988 (inserted by section 52(1) of the Criminal Justice Act 1991), after subsection (2) there shall be inserted the following subsection—

“(2A) A child’s evidence shall be received unless it appears to the court that the child is incapable of giving intelligible testimony.”.

Reviews of sentencing

- 34 In section 35 of the Criminal Justice Act 1988 (kinds of case referable for review of sentence)—

- (a) in subsection (3), for the words following “case” there shall be substituted the following words—

“—

(a) of a description specified in an order under this section; or

(b) in which sentence is passed on a person—

(i) for an offence triable only on indictment; or

(ii) for an offence of a description specified in an order under this section”; and

- (b) in subsection (4), after the word “case”, there shall be inserted the words “of a description specified in the order or to any case

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Assaulting prisoner custody officer triable with indictable offence

35 In section 40(3) of the Criminal Justice Act 1988 (summary offences triable with indictable offences), after paragraph (a), there shall be inserted the following paragraphs—

- “(aa) an offence under section 90(1) of the Criminal Justice Act 1991 (assaulting a prisoner custody officer);
- (ab) an offence under section 13(1) of the Criminal Justice and Public Order Act 1994 (assaulting a secure training centre custody officer)”.

Confiscation orders: variation of sentence

36 In section 72A of the Criminal Justice Act 1988 (inserted by section 28 of the Criminal Justice Act 1993) (power of court to postpone determinations required before a confiscation order can be made), after subsection (9) there shall be inserted the following subsection—

- “(9A) Where the court has sentenced the defendant under subsection (7) above during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned in section 72(5)(b) or (c) above so long as it does so within a period corresponding to that allowed by section 47(2) or (3) of the Supreme Court Act 1981 (time allowed for varying a sentence) but beginning with the end of the specified period.”.

Extradition from the United Kingdom

37 (1) The Extradition Act 1989 shall be amended as follows.

(2) In section 2(4) (law of, and conduct in, parts or dependencies of foreign States)—

- (a) for the words “subsections (1) to (3) above” there shall be substituted the words “this Act, except Schedule 1”; and
- (b) at the end there shall be inserted the following paragraph preceded by the word “; but”—

“(d) reference shall be made to the law of the colony or dependency of a foreign state or of a designated Commonwealth country, and not (where different) to the law of the foreign state or Commonwealth country, to determine the level of punishment applicable to conduct in that colony or dependency.”.

(3) In section 7 (procedure for making and implementing extradition requests)—

(a) in subsection (1)—

(i) after the word “made” there shall be inserted the words “to the Secretary of State”;

(ii) for paragraph (a) there shall be substituted the following paragraph—

“(a) by—

- (i) an authority in a foreign state which appears to the Secretary of State to have the function of making extradition requests in that foreign state, or

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- (ii) some person recognised by the Secretary of State as a diplomatic or consular representative of a foreign state; or” and
- (iii) after paragraph (b), there shall be inserted the words—

“and an extradition request may be made by facsimile transmission and an authority to proceed issued without waiting to receive the original”;

- (b) in subsection (2)—
 - (i) in paragraph (c), after the word “warrant” there shall be inserted the words “or a duly authenticated copy of a warrant”; and
 - (ii) in paragraph (d), after the word “certificate” there shall be inserted the words “or a duly authenticated copy of a certificate”; and
- (c) after subsection (6), there shall be inserted the following subsection—

“(7) Where an extradition request is made by facsimile transmission this Act (including subsection (2) above) shall have effect as if the foreign documents so sent were the originals used to make the transmission and receivable in evidence accordingly.”.

Remands and committals of young persons to secure accommodation

- 38 In section 21 of the Children Act 1989 (provision of accommodation for children on remand, etc.), in subsection (2)(c)(i), after the words “on remand” there shall be inserted the words “(within the meaning of the section)”.

Non-intimate samples: samples of hair

- 39 In Article 63 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (regulation of taking of non-intimate samples), at the end, there shall be inserted the following paragraph—

“(10) Where a sample of hair other than pubic hair is to be taken the sample may be taken either by cutting hairs or by plucking hairs with their roots so long as no more are plucked than the person taking the sample reasonably considers to be necessary (in point of quantity or quality) for the purpose of enabling information to be produced by means of analysis used or to be used in relation to the sample.”.

Pre-sentence reports

- 40 (1) The Criminal Justice Act 1991 shall be amended as follows.
- (2) In section 3 (requirement to obtain pre-sentence reports before passing custodial sentences)—
- (a) in subsection (2), the words from the beginning to “indictment,” shall be omitted;
 - (b) after subsection (2), there shall be inserted the following subsection—

“(2A) In the case of an offender under the age of eighteen years, save where the offence or any other offence associated with it is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (2) above or subsection (4A) below unless

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there exists a previous pre-sentence report obtained in respect of the offender and the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.”;

- (c) in subsection (4)—
 - (i) the words from “which is” to “applies” shall be omitted;
 - (ii) for the words “comply with that subsection” there shall be substituted the words “obtain and consider a pre-sentence report before forming an opinion referred to in subsection (1) above”; and
 - (iii) in paragraph (a), after the word “shall” there shall be inserted the words “, subject to subsection (4A) below,”; and
- (d) after subsection (4) there shall be inserted the following subsection—

“(4A) Subsection (4)(a) above does not apply if the court is of the opinion—

- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report, or
- (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.”.

- (3) In section 7 (requirement to obtain pre-sentence reports before passing certain community sentences)—

- (a) in subsection (3), at the beginning, there shall be inserted the words “Subject to subsection (3A) below,”;
- (b) after subsection (3), there shall be inserted the following subsections—

“(3A) Subsection (3) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(3B) In the case of an offender under the age of eighteen years, save where the offence or any other offence associated with it is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (3A) above or subsection (5) below unless there exists a previous pre-sentence report obtained in respect of the offender and the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.”;

- (c) in subsection (4)—
 - (i) for the words “comply with” there shall be substituted the words “obtain and consider a pre-sentence report before forming an opinion referred to in”; and
 - (ii) in paragraph (a), after the word “shall” there shall be inserted the words “, subject to subsection (5) below,”;
- (d) after subsection (4) there shall be inserted the following subsection—

“(5) Subsection (4)(a) above does not apply if the court is of the opinion—

- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report, or

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- (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.”.

Curfew orders

- 41 In section 12 of the Criminal Justice Act 1991 (curfew orders) after subsection (4) there shall be inserted the following subsection—

“(4A) A court shall not make a curfew order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.”.

Fines

- 42 (1) Sections 18 and 20 of the Criminal Justice Act 1991 (which relate respectively to the fixing of fines and financial circumstances orders) shall be amended as provided in sub-paragraphs (2) and (3) below.

- (2) In section 18—

- (a) for subsection (1), there shall be substituted the following subsection—

“(1) Before fixing the amount of any fine to be imposed on an offender who is an individual, a court shall inquire into his financial circumstances.”; and

- (b) in subsection (3), after the word “fine” there shall be inserted the words “to be imposed on an offender (whether an individual or other person)

- (3) In section 20, in subsections (1), (1A), (1B), (1C), (2) and (3) for the words “a person” and “any person” there shall be substituted the words “an individual” and “any individual”.

- (4) In section 57(4) of that Act (application to local authorities of power to order fines to be paid by a parent or guardian), paragraph (b) shall be omitted.

- (5) The amendments made by this paragraph apply in relation to offenders convicted (but not sentenced) before the date on which this paragraph comes into force as they apply in relation to offenders convicted after that date.

False statements as to financial circumstances

- 43 After section 20 of the Criminal Justice Act 1991 there shall be inserted the following section—

“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

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(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.

- (2) For the purposes of this section an official request is a request which—
- (a) is made by the clerk of the magistrates' court or the appropriate officer of the Crown Court, as the case may be; and
 - (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.
- (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.”.

Effect of previous probation orders and discharges

- 44 (1) Section 29 of the Criminal Justice Act 1991 (as substituted by section 66(6) of the Criminal Justice Act 1993) (effect of previous convictions and offending while on bail and treatment of certain orders as sentences and convictions) shall be amended as follows.
- (2) In subsection (4), for the words “conditional discharge order” there shall be substituted the words “an order discharging the offender absolutely or conditionally”.
- (3) After subsection (4) there shall be inserted the following subsections—
- “(5) A conditional discharge order made after 30th September 1992 (which, by virtue of section 1A of the Powers of Criminal Courts Act 1973, would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.
- (6) A conviction in respect of which an order discharging the offender absolutely or conditionally was made after 30th September 1992 (which, by virtue of section 1C of the Powers of Criminal Courts Act 1973, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.”.
- (4) The amendments made by this paragraph shall apply in relation to offenders convicted (but not sentenced) before the date on which this paragraph comes into force as they apply in relation to offenders convicted after that date.

Sexual offences

- 45 (1) In section 31(1) of the Criminal Justice Act 1991 (which defines, amongst other expressions, “sexual offence”), for that definition, there shall be substituted the following definition—
- ““sexual offence” means any of the following—
- (a) an offence under the Sexual Offences Act 1956, other than an offence under section 30, 31 or 33 to 36 of that Act;

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- (b) an offence under section 128 of the Mental Health Act 1959;
- (c) an offence under the Indecency with Children Act 1960;
- (d) an offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape;
- (e) an offence under section 54 of the Criminal Law Act 1977;
- (f) an offence under the Protection of Children Act 1978;
- (g) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit any of the offences in paragraphs (a) to (f) above;
- (h) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit any of those offences;
- (i) an offence of inciting another to commit any of those offences;”.

- (2) The amendment made by this paragraph shall apply in relation to offenders convicted (but not sentenced) before the date on which this paragraph comes into force as it applies in relation to offenders convicted after that date.

Discretionary life prisoners

- 46 (1) In section 34 of the Criminal Justice Act 1991 (duty to release discretionary life prisoners after they have served the relevant part of their sentence and the Parole Board has directed their release)—

- (a) in subsection (6), for the words after “sentence” there shall be substituted the following words—

“—

- (a) account shall be taken of any corresponding relevant period; but
- (b) no account shall be taken of any time during which the prisoner was unlawfully at large within the meaning of section 49 of the Prison Act 1952 (“the 1952 Act”).”; and

- (b) after that subsection, there shall be inserted the following subsection—

“(6A) In subsection (6)(a) above, “corresponding relevant period” means the period corresponding to the period by which a determinate sentence of imprisonment imposed on the offender would fall to be reduced under section 67 of the Criminal Justice Act 1967 (reduction of sentences to take account of police detention or remands in custody).”.

- (2) In paragraph 9(2) of Schedule 12 to that Act (application of early release provisions of the Act to existing life prisoners), after paragraph (b) there shall be inserted the following paragraph, preceded by the word “and”—

“(c) in section 34 of this Act, paragraph (a) of subsection (6) and subsection (6A) were omitted.”.

Committals for sentence

- 47 In section 40(3) of the Criminal Justice Act 1991 (power of magistrates' court to commit offender convicted of new offence during currency of previous sentence to Crown Court for sentence), in paragraph (b), for the words from “in accordance with” to the end there shall be substituted the words “; and the Crown Court to

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which he has been so committed may make such an order with regard to him as is mentioned in subsection (2) above.”.

Extradited persons: sentence of imprisonment to reflect custody

- 48 (1) In section 47 of the Criminal Justice Act 1991 (computation of sentences of imprisonment of persons extradited to United Kingdom), in subsection (4), in the definition of “extradited to the United Kingdom”, after paragraph (iv), there shall be inserted the following paragraph, preceded by the word “or”—

“(v) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;”.

- (2) In each of sections 218(3) and 431(3) of the Criminal Procedure (Scotland) Act 1975 (corresponding provisions for Scotland), after paragraph (c) there shall be inserted the following paragraph—

“(cc) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;”.

Transfers of proceedings

- 49 In section 53 of the Criminal Justice Act 1991 (notices of transfer in certain cases involving children)—

- (a) in subsection (1), for the words “served” and “on” there shall be substituted the words “given” and “to”;
- (b) in subsection (2), for the word “served” there shall be substituted the word “given”;
- (c) in subsection (3), for the word “service” there shall be substituted the word “giving”; and
- (d) in subsection (4), for the word “serve” there shall be substituted the word “give”.

Community sentences: binding over of parent or guardian

- 50 In section 58(2) of the Criminal Justice Act 1991 (power of court to bind over parent or guardian of young offender), at the end, there shall be inserted the following paragraph—

“Where the court has passed on the relevant minor a community sentence (within the meaning of section 6 above) it may include in the recognisance a provision that the minor’s parent or guardian ensure that the minor complies with the requirements of that sentence.”.

Confiscation orders in terrorist-related activities cases: variation of sentences

- 51 (1) In section 48 of the Northern Ireland (Emergency Provisions) Act 1991 (postponed confiscation orders etc.), after subsection (3B) there shall be inserted the following subsection—

“(3C) Where the court has sentenced the defendant under subsection (2) or (3) above during the specified period it may, after the end of that period, vary the sentence by imposing a fine or making any such order as is mentioned

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in subsection (5)(b) or (c) below so long as it does so within a period corresponding to that allowed by section 49(2) or (3) of the Judicature (Northern Ireland) Act 1978 (time allowed for varying a sentence) but beginning with the end of the specified period.”.

- (2) For the purposes of section 69 of the Northern Ireland (Emergency Provisions) Act 1991 (temporary provisions) the amendment made in that Act by this paragraph shall be treated, as from the time when this paragraph comes into force, as having been continued in force by the order made under subsection (3) of that section which has effect at that time.

Anonymity of victims of certain offences

- 52 (1) The Sexual Offences (Amendment) Act 1992 shall be amended as follows.
- (2) In section 2(1) (offences to which the Act applies), after paragraph (e) there shall be inserted the following paragraphs—
- “(f) any conspiracy to commit any of those offences;
 - (g) any incitement of another to commit any of those offences.”.
- (3) In section 6 (interpretation)—
- (a) after subsection (2) there shall be inserted the following subsection—
- “(2A) For the purposes of this Act, where it is alleged or there is an accusation that an offence of conspiracy or incitement of another to commit an offence mentioned in section 2(1)(a) to (d) has been committed, the person against whom the substantive offence is alleged to have been intended to be committed shall be regarded as the person against whom the conspiracy or incitement is alleged to have been committed.
- In this subsection, “the substantive offence” means the offence to which the alleged conspiracy or incitement related.”; and
- (b) in subsection (3), after the words “references in” there shall be inserted the words “subsection (2A) and in

Application of 1993 Act powers to pre-commencement offences

- 53 Section 78(6) of the Criminal Justice Act 1993 (application of Act to pre-commencement offences) shall have effect, and be deemed always to have had effect, with the substitution, for the words from “or the powers” to the end, of the words “and, where it confers a power on the court, shall not apply in proceedings instituted before the coming into force of that provision.”.