



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART V

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Remands and committals*

#### **97 Remands and committals of children and young persons.**

- (1) In subsection (4) of section 23 of the 1969 Act (remands and committals to local authority accommodation), for the words “Subject to subsection (5) below,” there shall be substituted the words “ Subject to subsections (5) and (5A) below, ”.
- (2) In subsection (5) of that section, for the words “a young person who has attained the age of fifteen” there shall be substituted the words “ a child who has attained the age of twelve, or a young person, who (in either case) is of a prescribed description ”.
- (3) After that subsection there shall be inserted the following subsection—

“(5A) A court shall not impose a security requirement in respect of a child or young person who is not legally represented in the court unless—

  - (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
  - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.”
- (4) In subsection (12) of that section, after the definition of “imprisonable offence” there shall be inserted the following definition—

““prescribed description” means a description prescribed by reference to age or sex or both by an order of the Secretary of State;”.
- (5) Section 20 of the 1994 Act (which has not been brought into force and is superseded by this section) is hereby repealed.

*Status: Point in time view as at 07/09/2004.*

*Changes to legislation: Crime and Disorder Act 1998, Part V is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

- II** S. 97 wholly in force at 1.6.1999; S. 97 not in force at Royal Assent see s. 121; In force at 30.9.1998 for the purpose of making an order under section 23 of the 1969 Act by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); s. 97 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, art. 2(d)

## 98 Remands and committals: alternative provision for 15 or 16 year old boys.

- (1) Section 23 of the 1969 Act shall have effect with the modifications specified in subsections (2) to (6) below in relation to any male person who—
- (a) is of the age of 15 or 16; and
  - (b) is not of a description prescribed for the purposes of subsection (5) of that section.
- [<sup>F1</sup>; and
- (c) is not remanded in connection with proceedings under the Extradition Act 2003.]
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “ then, unless he is remanded to a remand centre or a prison in pursuance of subsection (4)(b) or (c) below, ”.
- (3) For subsections (4) to (5A) there shall be substituted the following subsections—
- “(4) Where a court, after consultation with a probation officer, a social worker of a local authority social services department or a member of a youth offending team, declares a person to be one to whom subsection (5) below applies—
- (a) it shall remand him to local authority accommodation and require him to be placed and kept in secure accommodation, if—
    - (i) it also, after such consultation, declares him to be a person to whom subsection (5A) below applies; and
    - (ii) it has been notified that secure accommodation is available for him;
  - (b) it shall remand him to a remand centre, if paragraph (a) above does not apply and it has been notified that such a centre is available for the reception from the court of persons to whom subsection (5) below applies; and
  - (c) it shall remand him to a prison, if neither paragraph (a) nor paragraph (b) above applies.
- (4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—
- (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
  - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (5) This subsection applies to a person who—

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- (a) is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
- (b) has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,

if (in either case) the court is of opinion that only remanding him to a remand centre or prison, or to local authority accommodation with a requirement that he be placed and kept in secure accommodation, would be adequate to protect the public from serious harm from him.

(5A) This subsection applies to a person if the court is of opinion that, by reason of his physical or emotional immaturity or a propensity of his to harm himself, it would be undesirable for him to be remanded to a remand centre or a prison.”

(4) In subsection (6)—

- (a) for the words “imposes a security requirement in respect of a young person” there shall be substituted the words “declares a person to be one to whom subsection (5) above applies”; and
- (b) for the words “subsection (5) above” there shall be substituted the words “that subsection”.

(5) In subsection (7), after the words “a security requirement” there shall be inserted the words “(that is to say, a requirement imposed under subsection (4)(a) above that the person be placed and kept in secure accommodation)”.

(6) After subsection (9) there shall be inserted the following subsection—

“(9A) Where a person is remanded to local authority accommodation without the imposition of a security requirement, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, subsection (4) above shall apply.”

(7) Section 62 of the 1991 Act (which is superseded by this section) shall cease to have effect.

#### Textual Amendments

**F1** S. 98(1)(c) and preceding word inserted (1.1.2004) by Extradition Act 2003 (c. 41), ss. 201(10), 221; S.I. 2003/3103, art. 2 (with arts. 3-5 (as amended by S.I. 2003/3258, art. 2(2); S.I. 2003/3312, art. 2(2))

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

**C1** S. 98 amended (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 4, 7 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 3(a)(ii) (with Sch. 2 para. 2)

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### *Release and recall of prisoners*

## **99 Power to release short-term prisoners on licence.**

Immediately before section 35 of the 1991 Act there shall be inserted the following section—

### **“34A Power to release short-term prisoners on licence.**

- (1) Subject to subsection (2) below, subsection (3) below applies where a short-term prisoner aged 18 or over is serving a sentence of imprisonment for a term of three months or more.
- (2) Subsection (3) below does not apply where—
  - (a) the sentence is an extended sentence within the meaning of section 58 of the Crime and Disorder Act 1998;
  - (b) the sentence is for an offence under section 1 of the <sup>M1</sup>Prisoners (Return to Custody) Act 1995;
  - (c) the sentence was imposed under paragraph 3(1)(d) or 4(1)(d) of Schedule 2 to this Act in a case where the prisoner had failed to comply with a requirement of a curfew order;
  - (d) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the <sup>M2</sup>Mental Health Act 1983;
  - (e) the prisoner is liable to removal from the United Kingdom for the purposes of section 46 below;
  - (f) the prisoner has been released on licence under this section at any time and has been recalled to prison under section 38A(1)(a) below;
  - (g) the prisoner has been released on licence under this section or section 36 below during the currency of the sentence, and has been recalled to prison under section 39(1) or (2) below;
  - (h) the prisoner has been returned to prison under section 40 below at any time; or
  - (j) the interval between—
    - (i) the date on which the prisoner will have served the requisite period for the term of the sentence; and
    - (ii) the date on which he will have served one-half of the sentence, is less than 14 days.
- (3) After the prisoner has served the requisite period for the term of his sentence, the Secretary of State may, subject to section 37A below, release him on licence.
- (4) In this section “the requisite period” means—
  - (a) for a term of three months or more but less than four months, a period of 30 days;
  - (b) for a term of four months or more but less than eight months, a period equal to one-quarter of the term;
  - (c) for a term of eight months or more, a period that is 60 days less than one-half of the term.
- (5) The Secretary of State may by order made by statutory instrument—
  - (a) repeal the words “aged 18 or over” in subsection (1) above;

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- (b) amend the definition of “the requisite period” in subsection (4) above; and
  - (c) make such transitional provision as appears to him necessary or expedient in connection with the repeal or amendment.
- (6) No order shall be made under subsection (5) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”

#### Marginal Citations

- M1 1995 c.16.
- M2 1983 c.20.

### 100 Curfew condition to be included in licence.

(1) After section 37 of the 1991 Act there shall be inserted the following section—

#### “37A Curfew condition to be included in licence under section 34A.

- (1) A person shall not be released under section 34A(3) above unless the licence includes a condition (“the curfew condition”) which—
  - (a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be an approved probation hostel); and
  - (b) includes requirements for securing the electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but shall not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition shall remain in force until the date when the released person would (but for his release) have served one-half of his sentence.
- (4) The curfew condition shall include provision for making a person responsible for monitoring the released person’s whereabouts during the periods for the time being specified in the condition; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) The power conferred by subsection (4) above—
  - (a) shall be exercisable by statutory instrument; and
  - (b) shall include power to make different provision for different cases or classes of case or for different areas.
- (6) Nothing in this section shall be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons’ whereabouts in any particular part of England and Wales;
- (7) In this section “approved probation hostel” has the same meaning as in the Probation Service Act 1993.”

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(2) Immediately before section 39 of the 1991 Act there shall be inserted the following section—

**“38A Breach of curfew condition.**

(1) If it appears to the Secretary of State, as regards a person released on licence under section 34A(3) above—

- (a) that he has failed to comply with the curfew condition;
- (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in that condition; or
- (c) that it is necessary to do so in order to protect the public from serious harm from him,

the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison.

(2) A person whose licence under section 34A(3) above is revoked under this section—

- (a) may make representations in writing with respect to the revocation;
- (b) on his return to prison, shall be informed of the reasons for the revocation and of his right to make representations.

(3) The Secretary of State, after considering any representations made under subsection (2)(b) above or any other matters, may cancel a revocation under this section.

(4) Where the revocation of a person’s licence is cancelled under subsection (3) above, the person shall be treated for the purposes of sections 34A(2)(f) and 37(1B) above as if he had not been recalled to prison under this section.

(5) On the revocation under this section of a person’s licence under section 34A(3) above, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

(6) In this section “the curfew condition” has the same meaning as in section 37A above.”

**Commencement Information**

**I2** S. 100 wholly in force at 28.1.1999; S. 100 not in force at Royal Assent see s. 121; S. 100(1) in force at 30.9.1998 for the purpose of making orders under s. 37A of the 1991 Act by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); S. 100 in force at 28.1.1999 by S.I. 1998/3263, art. 3

**101 Early release: two or more sentences.**

(1) For subsection (2) of section 51 of the 1991 Act (interpretation of Part II) there shall be substituted the following subsections—

“(2) For the purposes of any reference in this Part, however expressed, to the term of imprisonment to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

- (a) the sentences were passed on the same occasion; or

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- (b) where they were passed on different occasions, the person has not been released under this Part at any time during the period beginning with the first and ending with the last of those occasions.
- (2A) Where a suspended sentence of imprisonment is ordered to take effect, with or without any variation of the original term, the occasion on which that order is made shall be treated for the purposes of subsection (2) above as the occasion on which the sentence is passed.
- (2B) Where a person has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term—
- (a) nothing in this Part shall require the Secretary of State to release him in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the others;
  - (b) nothing in this Part shall require the Secretary of State or the Board to consider his release in respect of any of the terms unless and until the Secretary of State or the Board is required to consider his release, or the Secretary of State is required to release him, in respect of each of the others;
  - (c) on and after his release under this Part he shall be on licence for so long, and subject to such conditions, as is required by this Part in respect of any of the sentences; and
  - (d) the date mentioned in section 40(1) above shall be taken to be that on which he would (but for his release) have served each of the sentences in full.
- (2C) Where a person has been sentenced to one or more terms of imprisonment and to one or more life sentences (within the meaning of section 34 of the <sup>M3</sup>Crime (Sentences) Act 1997), nothing in this Part shall—
- (a) require the Secretary of State to release the person in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the life sentences; or
  - (b) require the Secretary of State or the Board to consider the person's release in respect of any of the terms unless and until the Secretary of State or the Board is required to consider his release in respect of each of the life sentences.
- (2D) Subsections (2B) and (2C) above shall have effect as if the term of an extended sentence (within the meaning of section 58 of the Crime and Disorder Act 1998) included the extension period (within the meaning of that section)."
- (2) After subsection (3) of section 34 of the 1997 Act (interpretation of Chapter II) there shall be inserted the following subsection—
- "(4) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment, nothing in this Chapter shall require the Secretary of State to release the person in respect of any of the life sentences unless and until the Secretary of State is required to release him in respect of each of the terms."

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**Commencement Information**

**I3** S. 101 wholly in force; S. 101 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**Marginal Citations**

**M3** 1997 c.43.

**F<sup>2</sup>102** .....

**Textual Amendments**

**F2** S. 102 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

**103 Recall to prison of short-term prisoners.**

- (1) This section has effect for the purpose of securing that, subject to section 100(2) above, the circumstances in which prisoners released on licence under Part II of the 1991 Act may be recalled to prison are the same for short-term prisoners as for long-term prisoners.
- (2) Section 38 of the 1991 Act (breach of licence conditions by short-term prisoners) shall cease to have effect.
- (3) In subsection (1) of section 39 of the 1991 Act (recall of long-term prisoners while on licence), after the words “in the case of a” there shall be inserted the words “ short-term or ”.

**104 Release on licence following recall to prison.**

- (1) In subsection (3) of section 33 of the 1991 Act (duty to release short-term and long-term prisoners), for the word “unconditionally” there shall be substituted the words “ on licence ”.
- (2) After subsection (1) of section 37 of that Act (duration and conditions of licences) there shall be inserted the following subsection—
  - “(1A) Where a prisoner is released on licence under section 33(3) or (3A) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.”

**Commencement Information**

**I4** S. 104 wholly in force; S. 104 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**105 Release on licence following return to prison.**

After section 40 of the 1991 Act there shall be inserted the following section—



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**“40A Release on licence following return to prison.**

- (1) This section applies (in place of sections 33, 33A, 37(1) and 39 above) where a court passes on a person a sentence of imprisonment which—
  - (a) includes, or consists of, an order under section 40 above; and
  - (b) is for a term of twelve months or less.
- (2) As soon as the person has served one-half of the sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) Where the person is so released, the licence shall remain in force for a period of three months.
- (4) If the person fails to comply with such conditions as may for the time being be specified in the licence, he shall be liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to a sentence of imprisonment for a term not exceeding the relevant period,but not liable to be dealt with in any other way.
- (5) In subsection (4) above “the relevant period” means a period which is equal in length to the period between the date on which the failure occurred or began and the date of the expiry of the licence.
- (6) As soon as a person has served one-half of a sentence passed under subsection (4) above, it shall be the duty of the Secretary of State to release him, subject to the licence if it is still subsisting.”

**Commencement Information**

**I5** S. 105 wholly in force; S. 105 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

*Miscellaneous*

**106 Pre-consolidation amendments.**

The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments there specified, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of certain enactments relating to the powers of courts to deal with offenders or defaulters.

**Commencement Information**

**I6** S. 106 wholly in force; S. 106 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

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## 107 Amendments to Chapter I of Part II of 1997 Act.

- (1) Chapter I of Part II of the 1997 Act (which relates to the effect of determinate custodial sentences) shall be amended as follows.
- (2) Sections 8 and 10 to 27 are hereby repealed.
- <sup>F3</sup>(3) .....
- <sup>F3</sup>(4) .....
- <sup>F3</sup>(5) .....

### Textual Amendments

**F3** S. 107(3)-(5) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### Commencement Information

**I7** S. 107 wholly in force; s. 107 not in force at Royal Assent see s. 121; in force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

## 108 Repeal of Chapter I of Part III of Crime and Punishment (Scotland) Act 1997.

Chapter I of Part III of the <sup>M4</sup>Crime and Punishment (Scotland) Act 1997 (early release of prisoners) shall cease to have effect.

### Commencement Information

**I8** S. 108 wholly in force; S. 108 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

### Marginal Citations

**M4** 1997 c.48.

## 109 Transitional provisions in relation to certain life prisoners.

- (1) Section 16 of the <sup>M5</sup>Crime and Punishment (Scotland) Act 1997 (designated life prisoners) shall have effect and shall be deemed always to have had effect with the amendments made by subsections (2) and (3) below.
- (2) In subsection (2), at the beginning there shall be inserted the words “Except in a case to which subsection (3A) or (3B) below applies,”.
- (3) After subsection (3) there shall be inserted the following subsections—
  - “(3A) This subsection applies in a case where a person—
    - (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
    - (b) has been released on licence, other than under section 3 of the 1993 Act, whether before or on that date.
  - (3B) This subsection applies in a case where a person—

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- (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
- (b) has been released on licence, other than under section 3 of the 1993 Act, after that date without his case having been considered under subsection (2) above.

(3C) In a case to which subsection (3A) or (3B) applies, Part I of the 1993 Act shall apply as if the person were a designated life prisoner, within the meaning of section 2 of that Act, whose licence had been granted under subsection (4) of that section on his having served the designated part of his sentence.”

- (4) Where, prior to the commencement of this section, a certificate has been issued under subsection (2) of section 16 of the <sup>M6</sup>Crime and Punishment (Scotland) Act 1997 in respect of a case to which subsection (3A) of that section applies, the certificate shall be disregarded.

#### Marginal Citations

- M5 [1997 c.48.](#)
- M6 [1997 c.48.](#)

### 110 Calculation of period of detention at customs office etc. where person previously detained.

In section 24 of the <sup>M7</sup>Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), in subsection (4)—

- (a) for the words from “he” to “be” there shall be substituted the words “ and is ”; and
- (b) after the word “detention” there shall be inserted the words “ , the period of six hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention ”.

#### Commencement Information

- I9 [S. 110](#) wholly in force; [S. 110](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

#### Marginal Citations

- M7 [1995 c.39.](#)

### 111 Early release in Scotland: two or more sentences.

- (1) After section 1 of the 1993 Act there shall be inserted the following section—

#### “1A Application to persons serving more than one sentence.

Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act—

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- (a) nothing in this Part of this Act shall require the Secretary of State to release him in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the other terms;
  - (b) nothing in this Part of this Act shall require the Secretary of State or the Parole Board to consider his release in respect of any of the terms unless and until the Secretary of State or the Parole Board is required to consider his release, or the Secretary of State is required to release him, in respect of each of the other terms; and
  - (c) where he is released on licence under this Part of this Act, he shall be on a single licence which—
    - (i) shall (unless revoked) remain in force until the date on which he would (but for his release) have served in full all the sentences in respect of which he has been so released; and
    - (ii) shall be subject to such conditions as may be specified or required by this Part of this Act in respect of any of the sentences.”
- (2) After subsection (7) of section 16 of the 1993 Act (orders for return to prison on commission of further offence) there shall be inserted the following subsection—
- “(8) Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act, the date mentioned in subsection (1) (a) above shall be taken to be that on which he would (but for his release) have served all of the sentences in full.”
- (3) For subsection (5) of section 27 of the 1993 Act (interpretation of Part I) there shall be substituted the following subsection—
- “(5) For the purposes of any reference, however expressed, in this Part of this Act to the term of imprisonment or other detention to which a person has been sentenced or which, or any part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—
- (a) the sentences were passed at the same time; or
  - (b) where the sentences were passed at different times, the person has not been released under this Part of this Act at any time during the period beginning with the passing of the first sentence and ending with the passing of the last.”
- (4) In sub-paragraph (1) of paragraph 6B of Schedule 6 to the 1993 Act (aggregation of old and new sentences)—
- (a) for the words “a prisoner” there shall be substituted the words “an existing prisoner”;
  - (b) the word “and” after head (a) shall cease to have effect;
  - (c) in head (b), for the words “that date” there shall be inserted the words “the date on which section 111 of the Crime and Disorder Act 1998 comes into force”; and
  - (d) after head (b) there shall be inserted the following—
- “; and

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*Status: Point in time view as at 07/09/2004.*

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- (c) he has not at any time prior to the passing of the sentence or sentences mentioned in head (b) above been released from the sentence or sentences mentioned in head (a) above under the existing provisions.”

(5) After that paragraph there shall be inserted the following paragraph—

“6C

(1) This paragraph applies where—

- (a) an existing prisoner was, at the relevant date, serving a sentence or sentences of imprisonment, on conviction of an offence, passed before that date;
- (b) on or after the date on which section 111 of the Crime and Disorder Act 1998 comes into force he is, or has been, sentenced to a further term or terms of imprisonment on conviction of an offence, to be served wholly or partly concurrently with the sentence or sentences mentioned in head (a); and
- (c) the sentences do not fall to be treated as a single term by virtue of paragraph 6B(2)(a) above.

(2) In a case to which this paragraph applies the Secretary of State shall not release, or be required to consider the release of, the prisoner unless and until the requirements for release, or for consideration of his release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

(3) In a case to which this paragraph applies the Parole Board shall not be required to consider the release of the prisoner unless and until the requirements for release, or for consideration for release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

(4) In a case to which this paragraph applies, where the prisoner is released on licence, he shall be on a single licence which—

- (a) shall (unless revoked) remain in force until the later of—
  - (i) the date on which he would have been discharged from prison on remission of part of his sentence or sentences under the existing provisions if, after his release, he had not forfeited remission of any part of that sentence under those provisions; or
  - (ii) the date on which he would (but for his release) have served in full all the sentences in respect of which he was released on licence and which were imposed after the relevant date; and
- (b) shall be deemed to be granted under the new provisions and, subject to sub-paragraph (5) below, those provisions so far as relating to conditions of licences, and recall or return to prison, shall apply as they apply in respect of a prisoner on licence in respect of a sentence passed after the relevant date.

(5) In the application of section 16 to a person whose licence is deemed to be granted under the new provisions by virtue of sub-paragraph (4)(b) above, the reference to the original sentence (within the meaning of that section) shall be construed as a reference to the further term or terms mentioned in head (b) of sub-paragraph (1) above.”

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- (6) Subject to subsection (7) below, the amendments made by subsections (1) to (5) above apply where one or more of the sentences concerned was passed after the commencement of this section.
- (7) Where the terms of two or more sentences passed before the commencement of this section have been treated, by virtue of section 27(5) of, or paragraph 6B of Schedule 6 to, the 1993 Act, as a single term for the purposes of Part I of that Act, they shall continue to be so treated after that commencement.
- (8) In relation to a prisoner released on licence at any time under section 16(7)(b) of the 1993 Act, section 17(1)(a) of that Act shall have effect as if after the word “Act” there were inserted the words “ or a short term prisoner has been released on licence by virtue of section 16(7)(b) of this Act ”.

**Commencement Information**

**I10** S. 111 wholly in force; s. 111(8) in force at Royal Assent see s. 121(2) S. 111 wholly in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**112 Restriction on consecutive sentences for released prisoners: Scotland.**

After section 204 of the 1995 Act there shall be inserted the following section—

**“204A Restriction on consecutive sentences for released prisoners.**

A court sentencing a person to imprisonment or other detention shall not order or direct that the term of imprisonment or detention shall commence on the expiration of any other such sentence from which he has been released at any time under the existing or new provisions within the meaning of Schedule 6 to the <sup>M8</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993.”

**Commencement Information**

**I11** S. 112 wholly in force; S. 112 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

**Marginal Citations**

**M8** 1993 c.9.

**113 Deputy authorising officer under Part III of Police Act 1997.**

<sup>F4</sup>(1) .....

(2) In subsection (3) of that section, for paragraphs (a) and (b) there shall be substituted the words “ he holds the rank of assistant chief constable in that Service or Squad ”.

<sup>F4</sup>(3) .....

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#### Textual Amendments

- F4** S. 113(1) and (3) repealed (25.9.2000) by 2000 c. 23, s. 82(2), **Sch. 5** (with s. 82(3)); S.I. 2000/2543, **art. 2**

#### Commencement Information

- I12** S. 113 wholly in force; S. 113 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

### Supplemental

#### 114 Orders and regulations.

- (1) Any power of a Minister of the Crown [<sup>F5</sup>or of the National Assembly for Wales] to make an order or regulations under this Act—
  - (a) is exercisable by statutory instrument; and
  - (b) includes power to make such transitional provision as appears to him necessary or expedient in connection with any provision made by the order or regulations.
- (2) A statutory instrument containing an order under section [<sup>F6</sup>1A,]<sup>[F7</sup>5(1A), (2) or (3), 6A(1) or 10(6) above (other than one made by the National Assembly for Wales), or containing] regulations under paragraph 1 of Schedule 3 to this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order under section [<sup>F8</sup>38(5) or 41(6)] above shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

#### Textual Amendments

- F5** Words in s. 114(1) inserted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(13)(a), 108(2)(4)**; S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**
- F6** Word in s. 114(2) inserted (2.12.2002) by Police Reform Act 2002 (c. 30), **s. 62(2)**; S.I. 2002/2750, **art. 2(a)(vii)**
- F7** Words in s. 114(2) substituted (1.10.2002 for E. and 1.4.2003 for W.) by Police Reform Act 2002 (c. 30), **ss. 97(13)(b), 108(2)(4)**; S.I. 2002/2306, **art. 2(f)(viii)**; S.I. 2003/525, **art. 2**
- F8** Words in s. 114(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 199**

#### 115 Disclosure of information.

- (1) Any person who, apart from this subsection, would not have power to disclose information—
  - (a) to a relevant authority; or
  - (b) to a person acting on behalf of such an authority,shall have power to do so in any case where the disclosure is necessary or expedient for the purposes of any provision of this Act.
- (2) In subsection (1) above “relevant authority” means—
  - (a) the chief officer of police for a police area in England and Wales;

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- (b) the chief constable of a police force maintained under the <sup>M9</sup>Police (Scotland) Act 1967;
- (c) a police authority within the meaning given by section 101(1) of the <sup>M10</sup>Police Act 1996;
- (d) a local authority, that is to say—
  - (i) in relation to England, a county council, a district council, a London borough council [<sup>F9</sup>, a parish council] or the Common Council of the City of London;
  - (ii) in relation to Wales, a county council [<sup>F10</sup>, a county borough council or a community council] ;
  - (iii) in relation to Scotland, a council constituted under section 2 of the <sup>M11</sup>Local Government etc. (Scotland) Act 1994;
- (e) a [<sup>F11</sup>local probation board] in England and Wales;
- [<sup>F12</sup>(ea) a Strategic Health Authority;]
- (f) a health authority;
- [<sup>F13</sup>(g) a Primary Care Trust].

#### Textual Amendments

- F9** Words in s. 115(2)(d)(i) inserted (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\), ss. 97\(14\)\(a\), 108\(2\)\(4\); S.I. 2002/2306, art. 2\(f\)\(viii\); S.I. 2003/525, art. 2](#)
- F10** Words in s. 115(2)(d)(ii) substituted (1.10.2002 for E. and 1.4.2003 for W.) by [Police Reform Act 2002 \(c. 30\), ss. 97\(14\)\(b\), 108\(2\)\(4\); S.I. 2002/2306, art. 2\(f\)\(viii\); S.I. 2003/525, art. 2](#)
- F11** Words in s. 115(2)(e) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 151; S.I. 2001/919, art. 2\(f\)\(ii\)](#)
- F12** S. 115(2)(ea) inserted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\), reg. 4, Sch. 1 Pt. 1 para. 25\(6\)](#)
- F13** S. 115(2)(g) added (8.2.2000) by [The Health Act 1999 \(Supplementary, Consequential etc. Provisions\) Order 2000 \(S.I. 2000/90\), arts. 1, 3\(1\), Sch. 1 para. 35\(7\)](#)

#### Commencement Information

- I13** S. 115 wholly in force; S. 115 not in force at Royal Assent see s. 121; In force at 30.9.1998 by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in arts. 5-8)

#### Marginal Citations

- M9** 1967 c.77.  
**M10** 1996 c.16.  
**M11** 1994 c.39.

## 116 Transitory provisions.

- (1) The Secretary of State may by order provide that, in relation to any time before the commencement of section 73 above, a court shall not make an order under—
- (a) section 1 of the 1994 Act (secure training orders); or
  - (b) subsection (3)(a) of section 4 of that Act (breaches of supervision requirements),
- unless it has been notified by the Secretary of State that accommodation at a secure training centre, or accommodation provided by a local authority for the purpose of



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restricting the liberty of children and young persons, is immediately available for the offender, and the notice has not been withdrawn.

(2) An order under this section may provide that sections 2 and 4 of the 1994 Act shall have effect, in relation to any such time, as if—

(a) for subsections (2) and (3) of section 2 there were substituted the following subsection—

“(2) Where accommodation for the offender at a secure training centre is not immediately available—

(a) the court shall commit the offender to accommodation provided by a local authority for the purpose of restricting the liberty of children and young persons until such time as accommodation for him at such a centre is available; and

(b) the period of detention in the centre under the order shall be reduced by the period spent by the offender in the accommodation so provided.”;

(b) in subsection (5) of that section, for the words “subsections (2)(a)(ii) and (4)(b) apply” there were substituted the words “subsection (4)(b) applies”;

(c) for subsection (8) of that section there were substituted the following subsection—

“(8) In this section “local authority” has the same meaning as in the <sup>M12</sup>Children Act 1989.”; and

(d) in subsection (4) of section 4, for the words “paragraphs (a), (b) and (c) of subsection (2) and subsections (5), (7) and (8) of section 2” there were substituted the words “paragraphs (a) and (b) of subsection (2) and subsections (7) and (8) of section 2”.

(3) In relation to any time before the commencement of section 73 above, section 4 of the 1994 Act shall have effect as if after subsection (4) there were inserted the following subsection—

“(4A) A fine imposed under subsection (3)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.”

(4) In relation to any time before the commencement of section 73 above, section 1B of the 1982 Act (special provision for offenders under 18) shall have effect as if—

(a) in subsection (4), immediately before the words “a total term” there were inserted the words “a term or (in the case of an offender to whom subsection (6) below applies)”;

(b) in subsection (5)—

(i) immediately before the words “total term” there were inserted the words “term or (as the case may be)”;

(ii) for the words “the term” there were substituted the word “it”;

(c) for subsection (6) there were substituted the following subsection—

“(6) This subsection applies to an offender sentenced to two or more terms of detention in a young offender institution which are consecutive or wholly or partly concurrent if—

(a) the sentences were passed on the same occasion; or

(b) where they were passed on different occasions, the offender has not been released under Part II of the <sup>M13</sup>Criminal Justice

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Act 1991 at any time during the period beginning with the first and ending with the last of those occasions;  
 and in subsections (4) and (5) above “the total term”, in relation to such an offender, means the aggregate of those terms.”

(5) In this section “local authority” has the same meaning as in the 1989 Act.

#### Marginal Citations

M12 1989 c.41.

M13 1991 c.53.

### 117 General interpretation.

(1) In this Act—

“the 1933 Act” means the <sup>M14</sup>Children and Young Persons Act 1933;  
 “the 1969 Act” means the <sup>M15</sup>Children and Young Persons Act 1969;  
 “the 1973 Act” means the <sup>M16</sup>Powers of Criminal Courts Act 1973;  
 “the 1980 Act” means the <sup>M17</sup>Magistrates’ Courts Act 1980;  
 “the 1982 Act” means the <sup>M18</sup>Criminal Justice Act 1982;  
 “the 1984 Act” means the <sup>M19</sup>Police and Criminal Evidence Act 1984;  
 “the 1985 Act” means the <sup>M20</sup>Prosecution of Offences Act 1985;  
 “the 1989 Act” means the <sup>M21</sup>Children Act 1989;  
 “the 1991 Act” means the <sup>M22</sup>Criminal Justice Act 1991;  
 “the 1994 Act” means the <sup>M23</sup>Criminal Justice and Public Order Act 1994;  
 “the 1997 Act” means the <sup>M24</sup>Crime (Sentences) Act 1997;  
 “caution” has the same meaning as in Part V of the <sup>M25</sup>Police Act 1997;  
 “child” means a person under the age of 14;  
 “commission area” has the same meaning as in the Justices of the <sup>M26</sup>Peace Act 1997;  
 “custodial sentence” has the same meaning as in [<sup>F14</sup>the Powers of Criminal Courts (Sentencing) Act 2000];  
 “guardian” has the same meaning as in the 1933 Act;  
 [<sup>F15</sup>“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000;]  
 “prescribed” means prescribed by an order made by the Secretary of State;  
 “young person” means a person who has attained the age of 14 and is under the age of 18;  
 “youth offending team” means a team established under section 39 above.

(2) In this Act—

“the 1993 Act” means the <sup>M27</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993; and  
 “the 1995 Act” means the <sup>M28</sup>Criminal Procedure (Scotland) Act 1995.

(3) For the purposes of this Act, the age of a person shall be deemed to be that which it appears to the court to be after considering any available evidence.

*Status: Point in time view as at 07/09/2004.*

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#### Textual Amendments

- F14** S. 117(1): words in definition of “custodial sentence” substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 200**
- F15** S. 117(1): definition of “local probation board” inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 152**; S.I. 2001/919, **art. 2(f)(ii)**

#### Marginal Citations

- M14** 1933 c.12.  
**M15** 1969 c.54.  
**M16** 1973 c.62.  
**M17** 1980 c.43.  
**M18** 1982 c.48.  
**M19** 1984 c.60.  
**M20** 1985 c.23.  
**M21** 1989 c.41.  
**M22** 1991 c.53.  
**M23** 1994 c.33.  
**M24** 1997 c.43.  
**M25** 1997 c.50.  
**M26** 1997 c.25.  
**M27** 1993 c.9.  
**M28** 1995 c.46.

### 118 Provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the<sup>M29</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of sections 2 to 4, 34, 47(5), 57, 61 to 64 and 85 above—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Commencement Information

- I14** S. 118 wholly in force; S. 118 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

#### Marginal Citations

- M29** 1974 c.28.

### <sup>F16</sup>119 Minor and consequential amendments.

The enactments mentioned in Schedule 8 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

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#### Textual Amendments

**F16** S. 119 wholly in force; S. 119 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

### 120 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 9 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M30</sup> Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 10 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

**I15** S. 120 partly in force; S. 120 not in force at Royal Assent see s. 121; S. 120(1)(2) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Marginal Citations

**M30** 1978 c.30.

### 121 Short title, commencement and extent.

- (1) This Act may be cited as the Crime and Disorder Act 1998.
- (2) This Act, except this section, sections 109 and 111(8) above and paragraphs 55, 99 and 117 of Schedule 8 to this Act, shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes or different areas.
- (3) Without prejudice to the provisions of Schedule 9 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) Subject to subsections (5) to (12) below, this Act extends to England and Wales only.
- (5) The following provisions extend to Scotland only, namely—
  - (a) Chapter II of Part I;
  - (b) section 33;
  - (c) Chapter II of Part IV;
  - (d) sections 108 to 112 and 117(2); and
  - (e) paragraphs 55, 70, 71, 98 to 108, 115 to 124 and 140 to 143 of Schedule 8 and section 119 above so far as relating to those paragraphs.
- (6) The following provisions also extend to Scotland, namely—
  - (a) Chapter III of Part I;
  - (b) section 36(3) to (5);
  - (c) section 65(9);

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- (d) section 115;
  - (e) paragraph 3 of Schedule 3 to this Act and section 52(6) above so far as relating to that paragraph;
  - <sup>F17</sup>(f) .....
  - (g) paragraphs 1, 7(1) and (3), 14(1) and (2), 35, 36, 45, 135, 136 and 138 of Schedule 8 to this Act and section 119 above so far as relating to those paragraphs; and
  - (h) this section.
- (7) Sections 36(1), (2)(a), (b) and (d) and (6)(b) and section 118 above extend to Northern Ireland only.
- (8) Section 36(3)(b), (4) and (5) above, paragraphs 7(1) and (3), 45, 135 and 138 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to Northern Ireland.
- (9) Section 36(5) above, paragraphs 7(1) and (3), 45 and 134 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to the Isle of Man.
- (10) Section 36(5) above, paragraphs 7(1) and (3), 45 and 135 of Schedule 8 to this Act, section 119 above so far as relating to those paragraphs and this section also extend to the Channel Islands.
- (11) The repeals in Schedule 10 to this Act, and section 120(2) above so far as relating to those repeals, have the same extent as the enactments on which the repeals operate.
- (12) Section 9(4) of the <sup>M31</sup>Repatriation of Prisoners Act 1984 (power to extend Act to Channel Islands and Isle of Man) applies to the amendments of that Act made by paragraphs 56 to 60 of Schedule 8 to this Act; and in Schedule 1 to the 1997 Act—
- (a) paragraph 14 (restricted transfers between the United Kingdom and the Channel Islands) as applied in relation to the Isle of Man; and
  - (b) paragraph 19 (application of Schedule in relation to the Isle of Man),
- apply to the amendments of that Schedule made by paragraph 135 of Schedule 8 to this Act.

#### Subordinate Legislation Made

- P1** [S. 121](#) power partly exercised (31.7.1998): 1.8.1998 and 7.8.1998 appointed days for specified provisions by [S.I. 1998/1883](#)
- [S. 121](#) power partly exercised (19.9.1998): different dates appointed for specified provisions by [S.I. 1998/2327](#)
- [S. 121](#) power partly exercised (21.12.1998): different dates appointed for specified provisions by [S.I. 1998/3263](#)
- [S. 121](#) power partly exercised (4.5.1999): 1.6.1999 appointed for specified provisions by [S.I. 1999/1279](#), [art. 2](#)
- [S. 121](#) power partly exercised (28.10.1999): 1.11.1999 appointed for specified provisions by [S.I. 1999/2976](#), [art. 2](#)
- [S. 121](#) power partly exercised (15.12.1999): 1.4.2000 appointed for specified provisions by [S.I. 1999/3426](#), [art. 3](#) (with [art. 4](#))
- [S. 121](#) power partly exercised (28.3.2000): different dates appointed for specified provisions by [S.I. 2000/924](#), [arts. 2-5](#)

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S. 121 power partly exercised (15.12.2000): 15.1.2001 appointed for specified provisions by S.I. 2000/3283, **art. 2** (with art. 3)

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**Textual Amendments**

**F17** S. 121(6)(f) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

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**Marginal Citations**

**M31** 1984 c.47.

**Status:**

Point in time view as at 07/09/2004.

**Changes to legislation:**

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