



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART V

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Supplemental*

#### 114 Orders and regulations.

- (1) Any power of a Minister of the Crown [<sup>F1</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>F2</sup>1A,]<sup>[F3</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>F4</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

- F1** 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](#)
- F2** 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\(a\)\(vii\)](#)
- F3** 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](#)
- F4** Words in s. 114(3) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\), Sch. 9 para. 199](#)

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## 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;
  - (b) the chief constable of a police force maintained under the <sup>M1</sup>Police (Scotland) Act 1967;
  - (c) a police authority within the meaning given by section 101(1) of the <sup>M2</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>F5</sup>, a parish council] or the Common Council of the City of London;
    - (ii) in relation to Wales, a county council [<sup>F6</sup>, a county borough council or a community council] ;
    - (iii) in relation to Scotland, a council constituted under section 2 of the <sup>M3</sup>Local Government etc. (Scotland) Act 1994;
  - (e) a [<sup>F7</sup>local probation board] in England and Wales;
  - [<sup>F8</sup>(ea) a Strategic Health Authority;]
  - (f) a health authority;
  - [<sup>F9</sup>(g) a Primary Care Trust].

### Textual Amendments

- F5** 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](#)
- F6** 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](#)
- F7** 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\(f\)\(ii\)](#)
- F8** 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\(6\)](#)
- F9** 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

- I1** 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

- M1** 1967 c.77.  
**M2** 1996 c.16.  
**M3** 1994 c.39.

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## 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 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>M4</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) ”; and

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- (ii) for the words “the term” there were substituted the word “it”; and
- (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>M5</sup>Criminal Justice 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

- M4 1989 c.41.  
 M5 1991 c.53.

## 117 General interpretation.

(1) In this Act—

- “the 1933 Act” means the <sup>M6</sup>Children and Young Persons Act 1933;
- “the 1969 Act” means the <sup>M7</sup>Children and Young Persons Act 1969;
- “the 1973 Act” means the <sup>M8</sup>Powers of Criminal Courts Act 1973;
- “the 1980 Act” means the <sup>M9</sup>Magistrates’ Courts Act 1980;
- “the 1982 Act” means the <sup>M10</sup>Criminal Justice Act 1982;
- “the 1984 Act” means the <sup>M11</sup>Police and Criminal Evidence Act 1984;
- “the 1985 Act” means the <sup>M12</sup>Prosecution of Offences Act 1985;
- “the 1989 Act” means the <sup>M13</sup>Children Act 1989;
- “the 1991 Act” means the <sup>M14</sup>Criminal Justice Act 1991;
- “the 1994 Act” means the <sup>M15</sup>Criminal Justice and Public Order Act 1994;
- “the 1997 Act” means the <sup>M16</sup>Crime (Sentences) Act 1997;
- “caution” has the same meaning as in Part V of the <sup>M17</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>M18</sup>Peace Act 1997;
- “custodial sentence” has the same meaning as in [<sup>F10</sup>the Powers of Criminal Courts (Sentencing) Act 2000];
- “guardian” has the same meaning as in the 1933 Act;
- [<sup>F11</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.

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(2) In this Act—

“the 1993 Act” means the <sup>M19</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993; and

“the 1995 Act” means the <sup>M20</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.

#### Textual Amendments

**F10** 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**

**F11** 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

**M6** 1933 c.12.

**M7** 1969 c.54.

**M8** 1973 c.62.

**M9** 1980 c.43.

**M10** 1982 c.48.

**M11** 1984 c.60.

**M12** 1985 c.23.

**M13** 1989 c.41.

**M14** 1991 c.53.

**M15** 1994 c.33.

**M16** 1997 c.43.

**M17** 1997 c.50.

**M18** 1997 c.25.

**M19** 1993 c.9.

**M20** 1995 c.46.

## 118 Provision for Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M21</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

**I2** 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

**M21** 1974 c.28.

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## <sup>F12</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.

### Textual Amendments

**F12** 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>M22</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

**I3** 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

**M22** 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.

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- (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);
  - (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>F13</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>M23</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](#)

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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**

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**

**F13** 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**

**M23** 1984 c.47.



**Status:**

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