

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 24(4).

### SCHEDULE 2A TO THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

#### “SCHEDULE 2A

Section 54(2C).

#### RETENTION AND DISPOSAL OF PROPERTY SEIZED UNDER SECTION 54(2A) OF THIS ACT

##### *Application*

- 1 This schedule applies to property seized under section 54(2A) of this Act.

##### *Retention*

- 2 (1) Subject to sub-paragraph (2) below, property to which this Schedule applies may be retained for a period of twenty-eight days beginning with the day on which it was seized.
- (2) Where proceedings for an offence are instituted within the period specified in sub-paragraph (1) above against any person, the property may be retained for a period beginning on the day on which it was seized and ending on the day when—
- (a) the prosecutor certifies that the property is not, or is no longer, required as a production in criminal proceedings or for any purpose relating to such proceedings;
  - (b) the accused in such proceedings—
    - (i) is sentenced or otherwise dealt with for the offence; or
    - (ii) is acquitted of the offence; or
  - (c) the proceedings are expressly abandoned by the prosecutor or are deserted *simpliciter*.

##### *Arrangements for custody of property*

- 3 (1) Subject to the proviso to section 17(3)(b) of the <sup>M1</sup>Police (Scotland) Act 1967 (duty to comply with instructions received from prosecutor), the chief constable shall, in accordance with the provisions of this Schedule, make such arrangements as he considers appropriate for the care, custody, return or disposal of property to which this Schedule applies.
- (2) Any reference in this Schedule to property being in the possession of, delivered by or disposed of by, the chief constable includes a reference to its being in the possession of, delivered by or disposed of by, another person under arrangements made under sub-paragraph (1) above.

##### *Disposal*

- 4 Where the period of retention permitted by paragraph 2 above expires and the chief constable has reason to believe that the person from whom the property was seized is

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- not the owner or the person having right to possession of it, he shall take reasonable steps to ascertain the identity of the owner or of the person with that right and to notify him of the procedures determined under paragraph 5(1) below.
- 5 (1) Subject to sub-paragraphs (5) and (6) below, the owner or any person having right to possession of any property to which this Schedule applies and which, at the expiry of the period of retention permitted by paragraph 2 above, is in the possession of the chief constable may at any time prior to its disposal under paragraph 6 below claim that property in accordance with such procedure as the chief constable may determine.
- (2) Subject to sub-paragraphs (3), (5) and (6) below, where the chief constable considers that the person making a claim in accordance with the procedure determined under sub-paragraph (1) above is the owner of the property or has a right to possession of it, he shall deliver the property to the claimant.
- (3) Subject to sub-paragraph (4) below, the chief constable may impose such conditions connected with the delivery to the claimant of property under sub-paragraph (2) above as he thinks fit and, without prejudice to that generality, such conditions may relate to the payment of such reasonable charges (including any reasonable expenses incurred in relation to the property by or on behalf of him) as he may determine.
- (4) No condition relating to the payment of any charge shall be imposed by the chief constable on the owner or person having right of possession of the property where he is satisfied that that person did not know, and had no reason to suspect, that the property to which this Schedule applies was likely to be used in a manner which gave rise to its seizure.
- (5) This paragraph does not apply where the period of retention expires in such manner as is mentioned in paragraph 2(2)(b)(i) above and the court by which he was convicted has made a suspended forfeiture order or a restraint order in respect of the property to which this Schedule applies.
- (6) This paragraph shall cease to apply where at any time—
- (a) the property to which this Schedule applies—
    - (i) is seized under any other power available to a constable; or
    - (ii) passes into the possession of the prosecutor; or
  - (b) proceedings for an offence are instituted, where the property to which this Schedule applies is required as a production.
- 6 (1) Where this sub-paragraph applies, the chief constable may—
- (a) sell property to which this Schedule applies; or
  - (b) if in his opinion it would be impracticable to sell such property, dispose of it.
- (2) Sub-paragraph (1) above applies—
- (a) at any time after the expiry of the relevant period where, within that period—
    - (i) no claim has been made under paragraph 5 above; or
    - (ii) any such a claim which has been made has been rejected by the chief constable; and
  - (b) where a claim has been made under paragraph 5 above and not determined within the relevant period, at any time after the rejection of that claim by the chief constable.

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- (3) In sub-paragraph (2) above, the “relevant period” means a period of six months beginning with the day on which the period of retention permitted by paragraph 2 above expired.
- (4) Sections 71, 72 and 77(1) of this Act shall apply to a disposal under this paragraph as they apply to a disposal under section 68 of this Act.

#### *Appeals*

- 7 (1) A claimant under sub-paragraph (2) of paragraph 5 above may appeal to the sheriff against any decision of the chief constable made under that paragraph as respects the claim.
- (2) The previous owner of any property disposed of for value under paragraph 6 above may appeal to the sheriff against any decision of the chief constable made under section 72 of this Act as applied by sub-paragraph (4) of that paragraph.
- (3) Subsections (3) to (5) of section 76 of this Act shall apply to an appeal under this paragraph as they apply to an appeal under that section.

#### *Interpretation*

- 8 In this Schedule—
- “chief constable” means the chief constable for the police area in which the property to which this Schedule applies was seized, and includes a constable acting under the direction of the chief constable for the purposes of this Schedule;
- “restraint order” shall be construed in accordance with section 28(1) of the <sup>M2</sup>Proceeds of Crime (Scotland) Act 1995;
- “suspended forfeiture order” shall be construed in accordance with section 21(2) of that Act.”

#### **Marginal Citations**

- M1** 1967 c.77.  
**M2** 1995 c.43.

## SCHEDULE 2

Section 41(11).

### THE YOUTH JUSTICE BOARD: FURTHER PROVISIONS

#### **Commencement Information**

- II** Sch. 2 wholly in force; Sch. 2 not in force at Royal Assent see s. 121; Sch. 2 paras 1-2 in force for certain purposes at 1.8.1998 by 1998/1883; Sch. 2 in force at 30.9.1998 to the extent that it is not already in force by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

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### *Membership*

- 1 The Secretary of State shall appoint one of the members of the Board to be their chairman.

#### **Commencement Information**

- I2** Sch. 2 para. 1 wholly in force; Sch. 2 para. 1 not in force at Royal Assent. In force at 1.8.1998 for the purpose of making appointments under para. 1 of Sch. 2 by S.I. 1998/1883, art. 2(e); wholly in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

- 2 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member of the Board, or as chairman of the Board, in accordance with the terms of his appointment.
- (2) An appointment as a member of the Board may be full-time or part-time.
- (3) The appointment of a person as a member of the Board, or as chairman of the Board, shall be for a fixed period of not longer than five years.
- (4) Subject to sub-paragraph (5) below, a person whose term of appointment as a member of the Board, or as chairman of the Board, expires shall be eligible for re-appointment.
- (5) No person may hold office as a member of the Board for a continuous period which is longer than ten years.
- (6) A person may at any time resign his office as a member of the Board, or as chairman of the Board, by notice in writing addressed to the Secretary of State.
- (7) The terms of appointment of a member of the Board, or the chairman of the Board, may provide for his removal from office (without cause being assigned) on notice from the Secretary of State of such length as may be specified in those terms, subject (if those terms so provide) to compensation from the Secretary of State; and in any such case the Secretary of State may remove that member from office in accordance with those terms.
- (8) Where—
- (a) the terms of appointment of a member of the Board, or the chairman of the Board, provide for compensation on his removal from office in pursuance of sub-paragraph (7) above; and
  - (b) the member or chairman is removed from office in pursuance of that sub-paragraph,
- the Board shall pay to him compensation of such amount, and on such terms, as the Secretary of State may with the approval of the Treasury determine.
- (9) The Secretary of State may also at any time remove a person from office as a member of the Board if satisfied—
- (a) that he has without reasonable excuse failed to discharge his functions as a member for a continuous period of three months beginning not earlier than six months before that time;
  - (b) that he has been convicted of a criminal offence;
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

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- (d) that he is unable or unfit to discharge his functions as a member.
- (10) The Secretary of State shall remove a member of the Board, or the chairman of the Board, from office in pursuance of this paragraph by declaring his office as a member of the Board to be vacant and notifying that fact in such manner as the Secretary of State thinks fit; and the office shall then become vacant.
- (11) If the chairman of the Board ceases to be a member of the Board he shall also cease to be chairman.

#### Commencement Information

- I3** Sch. 2 para. 2 wholly in force; Sch. 2 para. 2 not in force at Royal Assent. In force at 1.8.1998 for the purpose of making appointments under para. 1 of Sch. 2 by S.I. 1998/1883, art. 2(e). Wholly in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Members and employees

- 3 (1) The Board shall—
- (a) pay to members of the Board such remuneration;
  - (b) pay to or in respect of members of the Board any such allowances, fees, expenses and gratuities; and
  - (c) pay towards the provision of pensions to or in respect of members of the Board any such sums,
- as the Board are required to pay by or in accordance with directions given by the Secretary of State.
- (2) Where a member of the Board was, immediately before becoming a member, a participant in a scheme under section 1 of the <sup>M3</sup>Superannuation Act 1972, the Minister for the Civil Service may determine that his term of office as a member shall be treated for the purposes of the scheme as if it were service in the employment or office by reference to which he was a participant in the scheme; and his rights under the scheme shall not be affected by sub-paragraph (1)(c) above.
- (3) Where—
- (a) a person ceases to hold office as a member of the Board otherwise than on the expiry of his term of appointment; and
  - (b) it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation,
- the Secretary of State may direct the Board to make to the person a payment of such amount as the Secretary of State may determine.

#### Commencement Information

- I4** Sch. 2 para. 3 wholly in force; Sch. 2 para. 3 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** 1972 c.11.

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- 4 (1) The Board may appoint a chief executive and such other employees as the Board think fit, subject to the consent of the Secretary of State as to their number and terms and conditions of service.
- (2) The Board shall—
- (a) pay to employees of the Board such remuneration; and
  - (b) pay to or in respect of employees of the Board any such allowances, fees, expenses and gratuities,
- as the Board may, with the consent of the Secretary of State, determine.
- (3) Employment by the Board shall be included among the kinds of employment to which a scheme under section 1 of the <sup>M4</sup>Superannuation Act 1972 may apply.

**Commencement Information**

**I5** Sch. 2 para. 4 wholly in force; Sch. 2 para. 4 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** 1972 c.11.

- 5 The Board shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to paragraph 3(2) or 4(3) above in the sums payable out of money provided by Parliament under the <sup>M5</sup>Superannuation Act 1972.

**Commencement Information**

**I6** Sch. 2 para. 5 wholly in force; Sch. 2 para. 5 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**

**M5** 1972 c.11.

*House of Commons disqualification*

- 6 In Part II of Schedule 1 to the <sup>M6</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted at the appropriate place the following entry— “ The Youth Justice Board for England and Wales ”.

**Commencement Information**

**I7** Sch. 2 para. 6 wholly in force; Sch. 2 para. 6 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**

**M6** 1975 c.24.

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### *Procedure*

- 7 (1) The arrangements for the procedure of the Board (including the quorum for meetings) shall be such as the Board may determine.
- (2) The validity of any proceedings of the Board (or of any committee of the Board) shall not be affected by—
- (a) any vacancy among the members of the Board or in the office of chairman of the Board; or
  - (b) any defect in the appointment of any person as a member of the Board or as chairman of the Board.

#### **Commencement Information**

**18** Sch. 2 para. 7 wholly in force; Sch. 2 para. 7 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)

### *Annual reports and accounts*

- 8 (1) As soon as possible after the end of each financial year of the Board, the Board shall send to the Secretary of State a report on the discharge of their functions during that year.
- (2) The Secretary of State shall lay before each House of Parliament, and cause to be published, a copy of every report sent to him under this paragraph.

#### **Commencement Information**

**19** Sch. 2 para. 8 wholly in force; Sch. 2 para. 8 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)

- 9 (1) The Board shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
  - (b) prepare a statement of accounts in respect of each financial year of the Board.
- (2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may, with the consent of the Treasury, direct.
- (3) The Board shall send a copy of the statement of accounts to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement of accounts; and
  - (b) lay a copy of the statement of accounts and of his report before each House of Parliament.

#### **Commencement Information**

**110** Sch. 2 para. 9 wholly in force; Sch. 2 para. 9 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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- 10 For the purposes of this Schedule the Board’s financial year shall be the period of twelve months ending with 31st March; but the first financial year of the Board shall be the period beginning with the date of establishment of the Board and ending with the first 31st March which falls at least six months after that date.

**Commencement Information**

- I11** Sch. 2 para. 10 wholly in force; Sch. 2 para. 10 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)

*Expenses*

- 11 The Secretary of State shall out of money provided by Parliament pay to the Board such sums towards their expenses as he may determine.

**Commencement Information**

- I12** Sch. 2 para. 11 wholly in force; Sch. 2 para. 11 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)

SCHEDULE 3

Section 52(6).

PROCEDURE WHERE PERSONS ARE SENT FOR TRIAL UNDER SECTION 51

*Regulations*

- 1 The Attorney General shall by regulations provide that, where a person is sent for trial under section 51 of this Act on any charge or charges, copies of the documents containing the evidence on which the charge or charges are based shall, on or before the relevant date—
- (a) be served on that person; and
  - (b) be given to the Crown Court sitting at the place specified in the notice under subsection (7) of that section.
- (2) In sub-paragraph (1) above “the relevant date” means the date prescribed by the regulations.

**Commencement Information**

- I13** Sch. 3 para. 1 partly in force; Sch. 3 para. 1 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8) Sch. 3 para. 1 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2)



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### *Applications for dismissal*

- 2 (1) A person who is sent for trial under section 51 of this Act on any charge or charges may, at any time—
- (a) after he is served with copies of the documents containing the evidence on which the charge or charges are based; and
  - (b) before he is arraigned (and whether or not an indictment has been preferred against him),
- apply orally or in writing to the Crown Court sitting at the place specified in the notice under subsection (7) of that section for the charge, or any of the charges, in the case to be dismissed.
- (2) The judge shall dismiss a charge (and accordingly quash any count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.
- (3) No oral application may be made under sub-paragraph (1) above unless the applicant has given to the Crown Court sitting at the place in question written notice of his intention to make the application.
- (4) Oral evidence may be given on such an application only with the leave of the judge or by his order; and the judge shall give leave or make an order only if it appears to him, having regard to any matters stated in the application for leave, that the interests of justice require him to do so.
- (5) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that he might have given.
- (6) If the charge, or any of the charges, against the applicant is dismissed—
- (a) no further proceedings may be brought on the dismissed charge or charges except by means of the preferment of a voluntary bill of indictment; and
  - (b) unless the applicant is in custody otherwise than on the dismissed charge or charges, he shall be discharged.
- (7) Crown Court Rules may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—
- (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
  - (b) as to the contents and form of notices or other documents;
  - (c) as to the manner in which evidence is to be submitted; and
  - (d) as to persons to be served with notices or other material.

#### **Commencement Information**

**I14** Sch. 3 para. 2 wholly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 2 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2

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of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 2 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

### *Reporting restrictions*

- 3 (1) Except as provided by this paragraph, it shall not be lawful—
- (a) to publish in Great Britain a written report of an application under paragraph 2(1) above; or
  - (b) to include in a relevant programme for reception in Great Britain a report of such an application,
- if (in either case) the report contains any matter other than that permitted by this paragraph.
- (2) An order that sub-paragraph (1) above shall not apply to reports of an application under paragraph 2(1) above may be made by the judge dealing with the application.
- (3) Where in the case of two or more accused one of them objects to the making of an order under sub-paragraph (2) above, the judge shall make the order if, and only if, he is satisfied, after hearing the representations of the accused, that it is in the interests of justice to do so.
- (4) An order under sub-paragraph (2) above shall not apply to reports of proceedings under sub-paragraph (3) above, but any decision of the court to make or not to make such an order may be contained in reports published or included in a relevant programme before the time authorised by sub-paragraph (5) below.
- (5) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an application under paragraph 2(1) above containing any matter other than that permitted by sub-paragraph (8) below where the application is successful.
- (6) Where—
- (a) two or more persons were jointly charged; and
  - (b) applications under paragraph 2(1) above are made by more than one of them,
- sub-paragraph (5) above shall have effect as if for the words “the application is” there were substituted the words “ all the applications are ”.
- (7) It shall not be unlawful under this paragraph to publish or include in a relevant programme a report of an unsuccessful application at the conclusion of the trial of the person charged, or of the last of the persons charged to be tried.
- (8) The following matters may be contained in a report published or included in a relevant programme without an order under sub-paragraph (2) above before the time authorised by sub-paragraphs (5) and (6) above, that is to say—
- (a) the identity of the court and the name of the judge;
  - (b) the names, ages, home addresses and occupations of the accused and witnesses;
  - (c) the offence or offences, or a summary of them, with which the accused is or are charged;
  - (d) the names of counsel and solicitors engaged in the proceedings;

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- (e) where the proceedings are adjourned, the date and place to which they are adjourned;
  - (f) the arrangements as to bail;
  - (g) whether legal aid was granted to the accused or any of the accused.
- (9) The addresses that may be published or included in a relevant programme under sub-paragraph (8) above are addresses—
- (a) at any relevant time; and
  - (b) at the time of their publication or inclusion in a relevant programme.
- (10) If a report is published or included in a relevant programme in contravention of this paragraph, the following persons, that is to say—
- (a) in the case of a publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
  - (b) in the case of a publication of a written report otherwise than as part of a newspaper or periodical, the person who publishes it;
  - (c) in the case of the inclusion of a report in a relevant programme, any body corporate which is engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of the editor of a newspaper;
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (11) Proceedings for an offence under this paragraph shall not, in England and Wales, be instituted otherwise than by or with the consent of the Attorney General.
- (12) Sub-paragraph (1) above shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports of court proceedings.
- (13) In this paragraph—
- “publish”, in relation to a report, means publish the report, either by itself or as part of a newspaper or periodical, for distribution to the public;
  - “relevant programme” means a programme included in a programme service (within the meaning of the <sup>M7</sup>Broadcasting Act 1990);
  - “relevant time” means a time when events giving rise to the charges to which the proceedings relate occurred.

#### Commencement Information

**I15** Sch. 3 para. 3 wholly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 3 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 3 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### Marginal Citations

**M7** 1990 c.42.

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*Power of justice to take depositions etc.*

- 4 (1) Sub-paragraph (2) below applies where a justice of the peace for any commission area is satisfied that—
- (a) any person in England and Wales (“the witness”) is likely to be able to make on behalf of the prosecutor a written statement containing material evidence, or produce on behalf of the prosecutor a document or other exhibit likely to be material evidence, for the purposes of proceedings for an offence for which a person has been sent for trial under section 51 of this Act by a magistrates’ court for that area; and
  - (b) the witness will not voluntarily make the statement or produce the document or other exhibit.
- (2) In such a case the justice shall issue a summons directed to the witness requiring him to attend before a justice at the time and place appointed in the summons, and to have his evidence taken as a deposition or to produce the document or other exhibit.
- (3) If a justice of the peace is satisfied by evidence on oath of the matters mentioned in sub-paragraph (1) above, and also that it is probable that a summons under sub-paragraph (2) above would not procure the result required by it, the justice may instead of issuing a summons issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.
- (4) A summons may also be issued under sub-paragraph (2) above if the justice is satisfied that the witness is outside the British Islands, but no warrant may be issued under sub-paragraph (3) above unless the justice is satisfied by evidence on oath that the witness is in England and Wales.
- (5) If—
- (a) the witness fails to attend before a justice in answer to a summons under this paragraph;
  - (b) the justice is satisfied by evidence on oath that the witness is likely to be able to make a statement or produce a document or other exhibit as mentioned in sub-paragraph (1)(a) above;
  - (c) it is proved on oath, or in such other manner as may be prescribed, that he has been duly served with the summons and that a reasonable sum has been paid or tendered to him for costs and expenses; and
  - (d) it appears to the justice that there is no just excuse for the failure,
- the justice may issue a warrant to arrest the witness and to bring him before a justice at the time and place specified in the warrant.
- (6) Where—
- (a) a summons is issued under sub-paragraph (2) above or a warrant is issued under sub-paragraph (3) or (5) above; and
  - (b) the summons or warrant is issued with a view to securing that the witness has his evidence taken as a deposition,
- the time appointed in the summons or specified in the warrant shall be such as to enable the evidence to be taken as a deposition before the relevant date.
- (7) If any person attending or brought before a justice in pursuance of this paragraph refuses without just excuse to have his evidence taken as a deposition, or to produce the document or other exhibit, the justice may do one or both of the following—

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- (a) commit him to custody until the expiration of such period not exceeding one month as may be specified in the summons or warrant or until he sooner has his evidence taken as a deposition or produces the document or other exhibit;
  - (b) impose on him a fine not exceeding £2,500.
- (8) A fine imposed under sub-paragraph (7) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (9) If in pursuance of this paragraph a person has his evidence taken as a deposition, the clerk of the justice concerned shall as soon as is reasonably practicable send a copy of the deposition to the prosecutor and the Crown Court.
- (10) If in pursuance of this paragraph a person produces an exhibit which is a document, the clerk of the justice concerned shall as soon as is reasonably practicable send a copy of the document to the prosecutor and the Crown Court.
- (11) If in pursuance of this paragraph a person produces an exhibit which is not a document, the clerk of the justice concerned shall as soon as is reasonably practicable inform the prosecutor and the Crown Court of that fact and of the nature of the exhibit.
- (12) In this paragraph—  
“prescribed” means prescribed by rules made under section 144 of the 1980 Act;  
“the relevant date” has the meaning given by paragraph 1(2) above.

#### Commencement Information

**I16** Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 4 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 4 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### *Use of depositions as evidence*

- 5 (1) Subject to sub-paragraph (3) below, sub-paragraph (2) below applies where in pursuance of paragraph 4 above a person has his evidence taken as a deposition.
- (2) Where this sub-paragraph applies the deposition may without further proof be read as evidence on the trial of the accused, whether for an offence for which he was sent for trial under section 51 of this Act or for any other offence arising out of the same transaction or set of circumstances.
- (3) Sub-paragraph (2) above does not apply if—  
(a) it is proved that the deposition was not signed by the justice by whom it purports to have been signed;  
(b) the court of trial at its discretion orders that sub-paragraph (2) above shall not apply; or  
(c) a party to the proceedings objects to sub-paragraph (2) above applying.

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- (4) If a party to the proceedings objects to sub-paragraph (2) applying the court of trial may order that the objection shall have no effect if the court considers it to be in the interests of justice so to order.

#### Commencement Information

**I17** Sch. 3 para. 5 wholly in force; Sch. 3 para. 5 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 5 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 5 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### *Power of Crown Court to deal with summary offence*

- 6 (1) This paragraph applies where a magistrates' court has sent a person for trial under section 51 of this Act for offences which include a summary offence.
- (2) If the person is convicted on the indictment, the Crown Court shall consider whether the summary offence is related to the offence that is triable only on indictment or, as the case may be, any of the offences that are so triable.
- (3) If it considers that the summary offence is so related, the court shall state to the person the substance of the offence and ask him whether he pleads guilty or not guilty.
- (4) If the person pleads guilty, the Crown Court shall convict him, but may deal with him in respect of the summary offence only in a manner in which a magistrates' court could have dealt with him.
- (5) If he does not plead guilty, the powers of the Crown Court shall cease in respect of the summary offence except as provided by sub-paragraph (6) below.
- (6) If the prosecution inform the court that they would not desire to submit evidence on the charge relating to the summary offence, the court shall dismiss it.
- (7) The Crown Court shall inform the clerk of the magistrates' court of the outcome of any proceedings under this paragraph.
- (8) If the summary offence is one to which section 40 of the <sup>M8</sup>Criminal Justice Act 1988 applies, the Crown Court may exercise in relation to the offence the power conferred by that section; but where the person is tried on indictment for such an offence, the functions of the Crown Court under this paragraph in relation to the offence shall cease.
- (9) Where the Court of Appeal allows an appeal against conviction of an indictable-only offence which is related to a summary offence of which the appellant was convicted under this paragraph—
- (a) it shall set aside his conviction of the summary offence and give the clerk of the magistrates' court notice that it has done so; and
  - (b) it may direct that no further proceedings in relation to the offence are to be undertaken;

and the proceedings before the Crown Court in relation to the offence shall thereafter be disregarded for all purposes.

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- (10) A notice under sub-paragraph (9) above shall include particulars of any direction given under paragraph (b) of that sub-paragraph in relation to the offence.
- (11) The references to the clerk of the magistrates' court in this paragraph shall be construed in accordance with section 141 of the 1980 Act.
- (12) An offence is related to another offence for the purposes of this paragraph if it arises out of circumstances which are the same as or connected with those giving rise to the other offence.

#### Commencement Information

**I18** Sch. 3 para. 6 wholly in force; Sch. 3 para. 6 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 6 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 6 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### Marginal Citations

**M8** 1988 c.33.

#### *Procedure where no indictable-only offence remains*

- 7 (1) Subject to paragraph 13 below, this paragraph applies where—
  - (a) a person has been sent for trial under section 51 of this Act but has not been arraigned; and
  - (b) the person is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment.
- (2) Everything that the Crown Court is required to do under the following provisions of this paragraph must be done with the accused present in court.
- (3) The court shall cause to be read to the accused each count of the indictment that charges an offence triable either way.
- (4) The court shall then explain to the accused in ordinary language that, in relation to each of those offences, he may indicate whether (if it were to proceed to trial) he would plead guilty or not guilty, and that if he indicates that he would plead guilty the court must proceed as mentioned in sub-paragraph (6) below.
- (5) The court shall then ask the accused whether (if the offence in question were to proceed to trial) he would plead guilty or not guilty.
- (6) If the accused indicates that he would plead guilty the court shall proceed as if he had been arraigned on the count in question and had pleaded guilty.
- (7) If the accused indicates that he would plead not guilty, or fails to indicate how he would plead, the court shall consider whether the offence is more suitable for summary trial or for trial on indictment.
- (8) Subject to sub-paragraph (6) above, the following shall not for any purpose be taken to constitute the taking of a plea—

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- (a) asking the accused under this paragraph whether (if the offence were to proceed to trial) he would plead guilty or not guilty;
- (b) an indication by the accused under this paragraph of how he would plead.

#### Commencement Information

**I19** Sch. 3 para. 7 partly in force; Sch. 3 para. 7 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 7 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); Sch. 3 para. 7 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 8 (1) Subject to paragraph 13 below, this paragraph applies in a case where—
- (a) a person has been sent for trial under section 51 of this Act but has not been arraigned;
  - (b) he is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment;
  - (c) he is represented by a legal representative;
  - (d) the Crown Court considers that by reason of his disorderly conduct before the court it is not practicable for proceedings under paragraph 7 above to be conducted in his presence; and
  - (e) the court considers that it should proceed in his absence.
- (2) In such a case—
- (a) the court shall cause to be read to the representative each count of the indictment that charges an offence triable either way;
  - (b) the court shall ask the representative whether (if the offence in question were to proceed to trial) the accused would plead guilty or not guilty;
  - (c) if the representative indicates that the accused would plead guilty the court shall proceed as if the accused had been arraigned on the count in question and had pleaded guilty;
  - (d) if the representative indicates that the accused would plead not guilty, or fails to indicate how the accused would plead, the court shall consider whether the offence is more suitable for summary trial or for trial on indictment.
- (3) Subject to sub-paragraph (2)(c) above, the following shall not for any purpose be taken to constitute the taking of a plea—
- (a) asking the representative under this section whether (if the offence were to proceed to trial) the accused would plead guilty or not guilty;
  - (b) an indication by the representative under this paragraph of how the accused would plead.

#### Commencement Information

**I20** Sch. 3 para. 8 partly in force; Sch. 3 para. 8 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 8 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); Sch. 3 para. 8 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))



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- 9 (1) This paragraph applies where the Crown Court is required by paragraph 7(7) or 8(2) (d) above to consider the question whether an offence is more suitable for summary trial or for trial on indictment.
- (2) Before considering the question, the court shall afford first the prosecutor and then the accused an opportunity to make representations as to which mode of trial would be more suitable.
- (3) In considering the question, the court shall have regard to—
- (a) any representations made by the prosecutor or the accused;
  - (b) the nature of the case;
  - (c) whether the circumstances make the offence one of a serious character;
  - (d) whether the punishment which a magistrates' court would have power to impose for it would be adequate; and
  - (e) any other circumstances which appear to the court to make it more suitable for the offence to be dealt tried in one way rather than the other.

#### Commencement Information

**I21** Sch. 3 para. 9 fully in force; Sch. 3 para. 9 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 9 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327, art. 4\(2\)](#); Sch. 3 para. 9 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283, art. 2](#) (subject to transitional provisions in [art. 3](#))

- 10 (1) This paragraph applies (unless excluded by paragraph 15 below) where the Crown Court considers that an offence is more suitable for summary trial.
- (2) The court shall explain to the accused in ordinary language—
- (a) that it appears to the court more suitable for him to be tried summarily for the offence, and that he can either consent to be so tried or, if he wishes, be tried by a jury; and
  - (b) that if he is tried summarily and is convicted by the magistrates' court, he may be committed for sentence to the Crown Court under section 38 of the 1980 Act if the convicting court is of such opinion as is mentioned in subsection (2) of that section.
- (3) After explaining to the accused as provided by sub-paragraph (2) above the court shall ask him whether he wishes to be tried summarily or by a jury, and—
- (a) if he indicates that he wishes to be tried summarily, shall remit him for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial;
  - (b) if he does not give such an indication, shall retain its functions in relation to the offence and proceed accordingly.

#### Commencement Information

**I22** [Sch. 3 para. 10](#) wholly in force; [Sch. 3 para. 10](#) not in force at Royal Assent see [s. 121](#). In force at 30.9.1998 for certain purposes by [S.I. 1998/2327, art. 2\(1\)](#); (subject to savings in [arts. 5-8](#)); [Sch. 3 para. 10](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified

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in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 3 para. 10](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 11 If the Crown Court considers that an offence is more suitable for trial on indictment, the court—
- (a) shall tell the accused that it has decided that it is more suitable for him to be tried for the offence by a jury; and
  - (b) shall retain its functions in relation to the offence and proceed accordingly.

#### Commencement Information

**I23** Sch. 3 para. 11 wholly in force; Sch. 3 para. 11 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 11 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); Sch. 3 para. 11 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 12 (1) Where the prosecution is being carried on by the Attorney General, the Solicitor General or the Director of Public Prosecutions and he applies for an offence which may be tried on indictment to be so tried—
- (a) sub-paragraphs (4) to (8) of paragraph 7, sub-paragraphs (2)(b) to (d) and (3) of paragraph 8 and paragraphs 9 to 11 above shall not apply; and
  - (b) the Crown Court shall retain its functions in relation to the offence and proceed accordingly.
- (2) The power of the Director of Public Prosecutions under this paragraph to apply for an offence to be tried on indictment shall not be exercised except with the consent of the Attorney General.

#### Commencement Information

**I24** Sch. 3 para. 12 partly in force; Sch. 3 para. 12 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); Sch. 3 para. 12 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); Sch. 3 para. 12 in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 13 (1) This paragraph applies, in place of paragraphs 7 to 12 above, in the case of a child or young person who—
- (a) has been sent for trial under section 51 of this Act but has not been arraigned; and
  - (b) is charged on an indictment which (following amendment of the indictment, or as a result of an application under paragraph 2 above, or for any other reason) includes no offence that is triable only on indictment.
- (2) The Crown Court shall remit the child or young person for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial unless—
- (a) he is charged with such an offence as is mentioned in subsection (2) of section 53 of the 1933 Act (punishment of certain grave crimes) and the

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- Crown Court considers that if he is found guilty of the offence it ought to be possible to sentence him in pursuance of subsection (3) of that section; or
- (b) he is charged jointly with an adult with an offence triable either way and the Crown Court considers it necessary in the interests of justice that they both be tried for the offence in the Crown Court.

(3) In sub-paragraph (2) above “adult” has the same meaning as in section 51 of this Act.

#### Commencement Information

**I25** Sch. 3 para. 13 wholly in force; Sch. 3 para. 13 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 13 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 13 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### *Procedure for determining whether offences of criminal damage etc. are summary offences*

- 14 (1) This paragraph applies where the Crown Court has to determine, for the purposes of this Schedule, whether an offence which is listed in the first column of Schedule 2 to the 1980 Act (offences for which the value involved is relevant to the mode of trial) is a summary offence.
- (2) The court shall have regard to any representations made by the prosecutor or the accused.
- (3) If it appears clear to the court that the value involved does not exceed the relevant sum, it shall treat the offence as a summary offence.
- (4) If it appears clear to the court that the value involved exceeds the relevant sum, it shall treat the offence as an indictable offence.
- (5) If it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, the court shall ask the accused whether he wishes the offence to be treated as a summary offence.
- (6) Where sub-paragraph (5) above applies—
- (a) if the accused indicates that he wishes the offence to be treated as a summary offence, the court shall so treat it;
- (b) if the accused does not give such an indication, the court shall treat the offence as an indictable offence.
- (7) In this paragraph “the value involved” and “the relevant sum” have the same meanings as in section 22 of the 1980 Act (certain offences triable either way to be tried summarily if value involved is small).

#### Commencement Information

**I26** Sch. 3 para. 14 partly in force; Sch. 3 para. 14 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 14 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 14 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

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*Power of Crown Court, with consent of legally-represented accused, to proceed in his absence*

- 15 (1) The Crown Court may proceed in the absence of the accused in accordance with such of the provisions of paragraphs 9 to 14 above as are applicable in the circumstances if—
- (a) the accused is represented by a legal representative who signifies to the court the accused's consent to the proceedings in question being conducted in his absence; and
  - (b) the court is satisfied that there is good reason for proceeding in the absence of the accused.
- (2) Sub-paragraph (1) above is subject to the following provisions of this paragraph which apply where the court exercises the power conferred by that sub-paragraph.
- (3) If, where the court has considered as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for summary trial, paragraph 10 above shall not apply and—
- (a) if the legal representative indicates that the accused wishes to be tried summarily, the court shall remit the accused for trial to a magistrates' court acting for the place where he was sent to the Crown Court for trial;
  - (b) if the legal representative does not give such an indication, the court shall retain its functions and proceed accordingly.
- (4) If, where the court has considered as required by paragraph 7(7) or 8(2)(d) above, it appears to the court that an offence is more suitable for trial on indictment, paragraph 11 above shall apply with the omission of paragraph (a).
- (5) Where paragraph 14 above applies and it appears to the court for any reason not clear whether the value involved does or does not exceed the relevant sum, sub-paragraphs (5) and (6) of that paragraph shall not apply and—
- (a) the court shall ask the legal representative whether the accused wishes the offence to be treated as a summary offence;
  - (b) if the legal representative indicates that the accused wishes the offence to be treated as a summary offence, the court shall so treat it;
  - (c) if the legal representative does not give such an indication, the court shall treat the offence as an indictable offence.

**Commencement Information**

**I27** Sch. 3 para. 15 partly in force; Sch. 3 para. 15 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); Sch. 3 para. 15 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 3 para. 15 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

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## SCHEDULE 4

Section 64(5).

### ENFORCEMENT ETC. OF DRUG TREATMENT AND TESTING ORDERS

#### *Preliminary*

- 1 Schedule 2 to the 1991 Act (enforcement etc. of community orders) shall be amended as follows.

#### *Meaning of “relevant order” etc.*

- 2 (1) In sub-paragraph (1) of paragraph 1 (preliminary)—
- (a) after the words “a probation order,” there shall be inserted the words “a drug treatment and testing order, ”; and
  - (b) in paragraph (a), for the words “probation or community service order” there shall be substituted the words “probation, community service or drug treatment and testing order”.
- (2) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—
- “(4) In this Schedule, references to the court responsible for a drug treatment and testing order shall be construed in accordance with section 62(9) of the Crime and Disorder Act 1998.”

#### *Breach of requirements of order*

- 3 In sub-paragraph (2) of paragraph 2 (issue of summons or warrant), for the words “before a magistrates’ court acting for the petty sessions area concerned” there shall be substituted the following paragraphs—
- “(a) except where the relevant order is a drug treatment and testing order, before a magistrates’ court acting for the petty sessions area concerned;
  - (b) in the excepted case, before the court responsible for the order.”
- 4 In sub-paragraph (1) of paragraph 4 (powers of Crown Court), after the word “Where” there shall be inserted the words “under paragraph 2 or”.
- 5 In sub-paragraph (2) of paragraph 5 (exclusions), for the words “is required by a probation order to submit to treatment for his mental condition, or his dependency on drugs or alcohol,” there shall be substituted the following paragraphs—
- “(a) is required by a probation order to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol; or
  - (b) is required by a drug treatment and testing order to submit to treatment for his dependency on or propensity to misuse drugs.”

*Status: Point in time view as at 01/12/1998.*

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### *Revocation of order*

- 6 (1) In sub-paragraph (1) of paragraph 7 (revocation of order by magistrates' court), after the words "the petty sessions area concerned" there shall be inserted the words " or, where the relevant order is a drug treatment and testing order for which a magistrates' court is responsible, to that court ".
- (2) In sub-paragraph (3) of that paragraph—
- (a) after the words "a probation order" there shall be inserted the words " or drug treatment and testing order "; and
  - (b) after the word "supervision" there shall be inserted the words " or, as the case may be, treatment ".
- 7 (1) After sub-paragraph (1) of paragraph 8 (revocation of order by Crown Court) there shall be inserted the following sub-paragraph—
- “(1A) This paragraph also applies where—
- (a) a drug treatment and testing order made by the Crown Court is in force in respect of an offender; and
  - (b) the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other manner for the offence in respect of which the order was made.”
- (2) In sub-paragraph (3) of that paragraph—
- (a) after the words "a probation order" there shall be inserted the words " or drug treatment and testing order "; and
  - (b) after the word "supervision" there shall be inserted the words " or, as the case may be, treatment ".
- 8 In sub-paragraph (1) of paragraph 9 (revocation of order following custodial sentence), for paragraph (a) there shall be substituted the following paragraph—
- “(a) an offender in respect of whom a relevant order is in force is convicted of an offence—
- (i) by a magistrates' court other than a magistrates' court acting for the petty sessions area concerned; or
  - (ii) where the relevant order is a drug treatment and testing order, by a magistrates' court which is not responsible for the order; and”.

### *Amendment of order*

- 9 In sub-paragraph (1) of paragraph 12 (amendment by reason of change of residence), after the words "a relevant order" there shall be inserted the words " (other than a drug treatment and testing order) ".
- 10 After paragraph 14 there shall be inserted the following paragraph—

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### **Amendment of drug treatment and testing order**

- “14A(1) Without prejudice to the provisions of section 63(2), (7) and (9) of the Crime and Disorder Act 1998, the court responsible for a drug treatment and testing order may by order—
- (a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b) below; or
  - (b) amend the order on an application by that officer under sub-paragraph (3)(c) below.
- (2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—
- (a) he shall make a report in writing to that effect to the responsible officer; and
  - (b) that officer shall apply to the court for the variation or cancellation of the requirement.
- (3) Where the responsible officer is of the opinion—
- (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider;
  - (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled; or
  - (c) that the order should be so amended as to provide for each subsequent review under section 63 of the Crime and Disorder Act 1998 to be made without a hearing instead of at a review hearing, or vice versa,
- he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.
- (4) The court—
- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
  - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 61(2) of the Crime and Disorder Act 1998 or to increase it above the maximum so specified.
- (5) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—
- (a) revoke the order; and
  - (b) deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.
- (6) In dealing with the offender under sub-paragraph (5)(b) above, the court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
  - (b) may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.

*Status: Point in time view as at 01/12/1998.*

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- (7) Paragraph 6A above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 3 above, but as if for the words “paragraph 3(1)(d) above” there were substituted the words “paragraph 14A(5)(b) below”.
- (8) In this paragraph—  
“review hearing” has the same meaning as in section 63 of the Crime and Disorder Act 1998;  
“the treatment requirement” and “the testing requirement” have the same meanings as in Chapter I of Part IV of that Act.”
- 11 In paragraph 16 (order not to be amended pending appeal), after the words “paragraph 13 or 15 above” there shall be inserted the words “ or, except with the consent of the offender, under paragraph 14A above ”.
- 12 (1) In sub-paragraph (1) of paragraph 18 (notification of amended order), after the words “a relevant order” there shall be inserted the words “ (other than a drug treatment and testing order) ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—  
“(1A) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the clerk to the court shall forthwith give copies of the amending order to the responsible officer.”
- (3) In sub-paragraph (2) of that paragraph, after the words “sub-paragraph (1)” there shall be inserted the words “ or (1A) ”.

## SCHEDULE 5

Sections 68(3) and 70(5).

### ENFORCEMENT ETC. OF REPARATION AND ACTION PLAN ORDERS

#### **Commencement Information**

**I28** Sch. 5 wholly in force; Sch. 5 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)

#### *Preliminary*

- 1 In this Schedule—  
“the appropriate court”, in relation to a reparation order or action plan order, means the youth court acting for the petty sessions area for the time being named in the order in pursuance of section 67(9) or, as the case may be, section 69(9) of this Act;  
“local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the 1989 Act).



*Status: Point in time view as at 01/12/1998.*

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### *General power to discharge or vary order*

- 2 (1) If while a reparation order or action plan order is in force in respect of an offender it appears to the appropriate court, on the application of the responsible officer or the offender, that it is appropriate to make an order under this sub-paragraph, the court may make an order discharging the reparation order or action plan order or varying it—
  - (a) by cancelling any provision included in it; or
  - (b) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that could have been included in the order if the court had then had power to make it and were exercising the power.
- (2) Where an application under this paragraph for the discharge of a reparation order or action plan order is dismissed, no further application for its discharge shall be made under this paragraph by any person except with the consent of the appropriate court.

### *Failure to comply with order*

- 3 (1) This paragraph applies where a reparation order or action plan order is in force and it is proved to the satisfaction of the appropriate court, on the application of the responsible officer, that the offender has failed to comply with any requirement included in the order.
- (2) The court—
  - (a) whether or not it also makes an order under paragraph 2 above, may order the offender to pay a fine of an amount not exceeding £1,000, or make an attendance centre order or curfew order in respect of him; or
  - (b) if the reparation order or action plan order was made by a youth court, may discharge the order and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made; or
  - (c) if the reparation order or action plan order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) For the purposes of sub-paragraph (2)(b) and (c) above, a reparation order or action plan order made on appeal from a decision of a magistrates' court or the Crown Court shall be treated as if it had been made by a magistrates' court or the Crown Court, as the case may be.
- (4) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—
  - (a) particulars of the offender's failure to comply with the requirement in question; and
  - (b) such other particulars of the case as may be desirable;and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (5) Where—

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- (a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court; and
- (b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,

that court may deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.

- (6) Where the Crown Court deals with an offender under sub-paragraph (5) above, it shall revoke the reparation order or action plan order if it is still in force.
- (7) A fine imposed under this paragraph shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (8) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the reparation order or action plan order.

*Presence of offender in court, remands etc.*

- 4 (1) Where the responsible officer makes an application under paragraph 2 or 3 above to the appropriate court, he may bring the offender before the court and, subject to sub-paragraph (9) below, the court shall not make an order under that paragraph unless the offender is present before it.
- (2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, the court to which an application under paragraph 2 or 3 above is made may issue a summons or warrant for the purpose of securing the attendance of the offender before it.
- (3) Subsections (3) and (4) of section 55 of the 1980 Act (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section and as if in subsection (3) after the word “summons” there were inserted the words “cannot be served or”.
- (4) Where the offender is arrested in pursuance of a warrant under sub-paragraph (2) above and cannot be brought immediately before the appropriate court, the person in whose custody he is—
  - (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
  - (b) shall within that period bring him before a youth court.
- (5) Where an offender is, under sub-paragraph (4) above, brought before a youth court other than the appropriate court, that court may—
  - (a) direct that he be released forthwith; or
  - (b) subject to sub-paragraph (6) below, remand him to local authority accommodation.
- (6) Where the offender is aged 18 or over at the time when he is brought before the court, he shall not be remanded to local authority accommodation but may instead be remanded—

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- (a) to a remand centre, if the court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or
  - (b) to a prison, if it has not been so notified.
- (7) Where an application is made to a court under paragraph 2(1) above, the court may remand (or further remand) the offender to local authority accommodation if—
- (a) a warrant has been issued under sub-paragraph (2) of this paragraph for the purpose of securing the attendance of the offender before the court; or
  - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 2(1) above.
- (8) A court remanding an offender to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the local authority for the area in which the offender resides or, where it appears to the court that he does not reside in the area of a local authority, the local authority—
- (a) specified by the court; and
  - (b) in whose area the offence or an offence associated with it was committed.
- (9) A court may make an order under paragraph 2 above in the absence of the offender if the effect of the order is one or more of the following, that is to say—
- (a) discharging the reparation order or action plan order;
  - (b) cancelling a requirement included in the reparation order or action plan order;
  - (c) altering in the reparation order or action plan order the name of any area;
  - (d) changing the responsible officer.

### *Supplemental*

- 5 (1) The provisions of section 17 of the 1982 Act (attendance centre orders) shall apply for the purposes of paragraph 3(2)(a) above but as if—
- (a) in subsection (1), for the words from “has power” to “probation order” there were substituted the words “considers it appropriate to make an attendance centre order in respect of any person in pursuance of paragraph 3(2) of Schedule 5 to the Crime and Disorder Act 1998”; and
  - (b) subsection (13) were omitted.
- (2) Sections 18 and 19 of the 1982 Act (discharge and variation of attendance centre order and breach of attendance centre orders or attendance centre rules) shall also apply for the purposes of that paragraph but as if there were omitted—
- (a) from subsection (4A) of section 18 and subsections (3) and (5) of section 19, the words “, for the offence in respect of which the order was made,” and “for that offence”; and
  - (b) from subsection (4B) of section 18 and subsection (6) of section 19, the words “for an offence”.
- (3) The provisions of section 12 of the 1991 Act (curfew orders) shall apply for the purposes of paragraph 3(2)(a) above but as if—
- (a) in subsection (1), for the words from the beginning to “before which he is convicted” there were substituted the words “Where a court considers it

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- appropriate to make a curfew order in respect of any person in pursuance of paragraph 3(2)(a) of Schedule 5 to the Crime and Disorder Act 1998, the court ”; and
- (b) in subsection (8), for the words “on conviction” there were substituted the words “ on the date on which his failure to comply with a requirement included in the reparation order or action plan order was proved to the court ”.
- (4) Schedule 2 to the 1991 Act (enforcement etc. of community orders), so far as relating to curfew orders, shall also apply for the purposes of that paragraph but as if—
- (a) the power conferred on the magistrates’ court by each of paragraphs 3(1)(d) and 7(2)(a)(ii) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the reparation order or action plan order, in any manner in which the appropriate court could deal with him for that failure to comply if it had just been proved to the satisfaction of that court;
- (b) the power conferred on the Crown Court by paragraph 4(1)(d) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with such a requirement, in any manner in which that court could deal with him for that failure to comply if it had just been proved to its satisfaction;
- (c) the reference in paragraph 7(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
- (d) the power conferred on the Crown Court by paragraph 8(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the reparation order or action plan order, in any manner in which the appropriate court (if that order was made by a magistrates’ court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure to comply if it had just been proved to the satisfaction of that court.
- (5) For the purposes of the provisions mentioned in sub-paragraph (4)(a) and (d) above, as applied by that sub-paragraph, if the reparation order or action plan order is no longer in force the appropriate court’s powers shall be determined on the assumption that it is still in force.
- (6) If while an application to the appropriate court in pursuance of paragraph 2 or 3 above is pending the offender attains the age of 18 years, the court shall, subject to paragraph 4(6) above, deal with the application as if he had not attained that age.
- (7) The offender may appeal to the Crown Court against—
- (a) any order made under paragraphs 2 or 3 above, except an order made or which could have been made in his absence (by virtue of paragraph 4(9) above);
- (b) the dismissal of an application under paragraph 2 above to discharge a reparation order or action plan order.

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## SCHEDULE 6

Section 94(2).

### DRUG TREATMENT AND TESTING ORDERS: AMENDMENT OF THE 1995 ACT

#### Commencement Information

**I29** Sch. 6 wholly in force; Sch. 6 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)

## PART I

### AMENDMENTS RELATING TO COMBINATION OF ORDERS

- 1 In section 228(1) (probation orders), for the words “section 245D” there shall be substituted the words “sections 234J and 245D”.
- 2 (1) Section 232 (failure to comply with requirements of probation orders) shall be amended as follows.
  - (2) In subsection (3A)—
    - (a) for the words “a restriction of liberty order” there shall be substituted—
      - “(a) a restriction of liberty order; or
      - (b) a restriction of liberty order and a drug treatment and testing order.”; and
    - (b) at the end there shall be added the words “ or, as the case may be, the restriction of liberty order and the drug treatment and testing order. ”
  - (3) After that subsection there shall be inserted the following subsection—

“(3B) Where the court intends to sentence an offender under subsection (2)(b) above and the offender is by virtue of section 234J of this Act subject to a drug treatment and testing order, it shall, before sentencing the offender under that paragraph, revoke the drug treatment and testing order.”
- 3 For section 245D there shall be substituted the following section—

**“245D Combination of restriction of liberty order with other orders.**

  - (1) Subsection (3) applies where the court—
    - (a) intends to make a restriction of liberty order under section 245A(1) of this Act; and
    - (b) considers it expedient that the offender should also be subject to a probation order made under section 228(1) of this Act or to a drug treatment and testing order made under section 234B(2) of this Act or to both such orders.
  - (2) In deciding whether it is expedient to make a probation order or a drug treatment and testing order by virtue of paragraph (b) of subsection (1) above, the court shall—

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- (a) have regard to the circumstances, including the nature of the offence and the character of the offender; and
  - (b) obtain a report as to the circumstances and character of the offender.
- (3) Where this subsection applies, the court, notwithstanding sections 228(1), 234B(2) and 245A(1) of this Act, may make a restriction of liberty order and either or both of a probation order and a drug treatment and testing order.
- (4) Where the court makes a restriction of liberty order and a probation order by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—
- (a) any person responsible for monitoring the offender’s compliance with the restriction of liberty order; and
  - (b) the officer of the local authority who is to supervise the probationer.
- (5) Where the court makes a restriction of liberty order and a drug treatment and testing order by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—
- (a) any person responsible for monitoring the offender’s compliance with the restriction of liberty order;
  - (b) the treatment provider, within the meaning of section 234C(1) of this Act; and
  - (c) the officer of the local authority who is appointed or assigned to be the supervising officer under section 234C(6) of this Act.
- (6) Where the court makes a restriction of liberty order, a probation order and a drug treatment and testing order the clerk of the court shall send copies of each of the orders to the persons mentioned—
- (a) in subsection (4) above;
  - (b) in paragraph (b) of subsection (5) above; and
  - (c) in paragraph (c) of that subsection, if that person would not otherwise receive such copies.
- (7) Where the offender by an act or omission fails to comply with a requirement of an order made by virtue of subsection (3) above—
- (a) if the failure relates to a requirement contained in a probation order and is dealt with under section 232(2)(c) of this Act, the court may, in addition, exercise the powers conferred by section 234G(2)(b) of this Act in relation to a drug treatment and testing order to which the offender is subject by virtue of subsection (3) above and by section 245F(2) of this Act in relation to the restriction of liberty order;
  - (b) if the failure relates to a requirement contained in a drug treatment and testing order and is dealt with under section 234G(2)(b) of this Act, the court may, in addition, exercise the powers conferred by section 232(2)(c) of this Act in relation to a probation order to which the offender is subject by virtue of subsection (3) above and by section 245F(2)(b) of this Act in relation to the restriction of liberty order; and
  - (c) if the failure relates to a requirement contained in a restriction of liberty order and is dealt with under section 245F(2)(b) of this Act, the court may, in addition, exercise the powers conferred by

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section 232(2)(c) of this Act in relation to a probation order and by section 234G(2)(b) of this Act in relation to a drug treatment and testing order to which, in either case, the offender is subject by virtue of subsection (3) above.

(8) In any case to which this subsection applies, the offender may, without prejudice to subsection (7) above, be dealt with as respects that case under section 232(2) or, as the case may be, section 234G or section 245F(2) of this Act but he shall not be liable to be otherwise dealt with as respects that case.

(9) Subsection (8) applies in a case where—

- (a) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a probation order to which he is subject by virtue of subsection (3) above;
- (b) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a drug treatment and testing order to which he is subject by virtue of subsection (3) above;
- (c) the offender by an act or omission fails to comply with a requirement contained in each of a restriction of liberty order, a probation order and a drug treatment and testing order to which he is subject by virtue of subsection (3) above.”

4 (1) Section 245G (disposal on revocation of restriction of liberty order) shall be amended as follows.

(2) In subsection (2), for the words from “by” to the end there shall be substituted the words “by virtue of section 245D(3) of this Act, subject to a probation order or a drug treatment and testing order or to both such orders, it shall, before disposing the offender under subsection (1) above—

- (a) where he is subject to a probation order, discharge that order;
- (b) where he is subject to a drug treatment and testing order, revoke that order; and
- (c) where he is subject to both such orders, discharge the probation order and revoke the drug treatment and testing order.”

(3) After subsection (2) there shall be added—

“(3) Where the court orders a probation order discharged or a drug treatment and testing order revoked the clerk of the court shall forthwith give copies of that order to the persons mentioned in subsection (4) or, as the case may be, (5) of section 245D of this Act.

(4) Where the court orders a probation order discharged and a drug treatment and testing order revoked, the clerk of the court shall forthwith give copies of that order to the persons mentioned in section 245D(6) of this Act.”

## PART II

### AMENDMENTS RELATING TO APPEALS

5 In section 106 (solemn appeals), in paragraph (d), after the words “probation order” there shall be inserted the words “ , drug treatment and testing order ”.

*Status: Point in time view as at 01/12/1998.*

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- 6 (1) Section 108 (right of appeal of prosecutor) shall be amended as follows.
- (2) In subsection (1), after paragraph (d) there shall be inserted the following paragraph—
- “(dd) a drug treatment and testing order;”.
- (3) In subsection (2)(b)(iii), for the word “or”, where it first occurs, there shall be substituted the word “to”.
- 7 (1) Section 175 (appeals in summary cases) shall be amended as follows.
- (2) In subsection (2)(c), after the words “probation order” there shall be inserted the words “, drug treatment and testing order”.
- (3) In subsection (4), after paragraph (d) there shall be inserted the following paragraph—
- “(dd) a drug treatment and testing order;”.
- (4) In subsection (4A)(b)(iii), for the word “or”, where it first occurs, there shall be substituted the word “to”.

## SCHEDULE 7

Section 106.

### PRE-CONSOLIDATION AMENDMENTS: POWERS OF CRIMINAL COURTS

#### Commencement Information

**I30** Sch. 7 wholly in force; Sch. 7 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)

### *Children and Young Persons Act 1933 (c.12)*

- 1 (1) In subsection (1A) of section 55 of the 1933 Act (power to order parent or guardian to pay fine etc.), in paragraph (a), for the words “section 15(2A)” there shall be substituted the words “section 15(3)(a)”.
- (2) For paragraph (b) of that subsection there shall be substituted the following paragraphs—
- “(b) a court would impose a fine on a child or young person under section 19(3) of the <sup>M9</sup>Criminal Justice Act 1982 (breach of attendance centre order or attendance centre rules); or
- (bb) a court would impose a fine on a child or young person under paragraph 3(1)(a) or 4(1)(a) of Schedule 2 to the <sup>M10</sup>Criminal Justice Act 1991 (breach of requirement of a relevant order (within the meaning given by that Schedule) or of a combination order);”.
- (3) After subsection (5) of that section there shall be added the following subsection—
- “(6) In relation to any other child or young person, references in this section to his parent shall be construed in accordance with section 1 of the <sup>M11</sup>Family Law Reform Act 1987.”



*Status: Point in time view as at 01/12/1998.*

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#### Marginal Citations

**M9** 1982 c.48.

**M10** 1991 c.53.

**M11** 1987 c.42.

#### *Criminal Justice Act 1967 (c.80)*

- 2 (1) In subsection (1)(b)(i) of section 56 of the Criminal Justice Act 1967 (committal for sentence for offences tried summarily), for the words from “section 93” to “34 to 36” there shall be substituted the words “ section 34, 35 or 36 ”.
- (2) In subsection (2) of that section, for the words from “section 8(6)” to the end there shall be substituted the words “ section 1B(5) of the <sup>M12</sup>Powers of Criminal Courts Act 1973 (conditionally discharged person convicted of further offence) and section 24(2) of that Act (offender convicted during operational period of suspended sentence). ”
- (3) Subsection (3) of that section shall cease to have effect.
- (4) For subsection (5) of that section there shall be substituted the following subsections—
- “(5) Where under subsection (1) above a magistrates’ court commits a person to be dealt with by the Crown Court in respect of an offence, the Crown Court may after inquiring into the circumstances of the case deal with him in any way in which the magistrates’ court could deal with him if it had just convicted him of the offence.
- (5A) Subsection (5) above does not apply where under subsection (1) above a magistrates’ court commits a person to be dealt with by the Crown Court in respect of a suspended sentence, but in such a case the powers under section 23 of the <sup>M13</sup>Powers of Criminal Courts Act 1973 (power of court to deal with suspended sentence) shall be exercisable by the Crown Court.
- (5B) Without prejudice to subsections (5) and (5A) above, where under subsection (1) above or any enactment to which this section applies a magistrates’ court commits a person to be dealt with by the Crown Court, any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates’ court shall not be discharged or exercised by that court but shall instead be discharged or may instead be exercised by the Crown Court.
- (5C) Where under subsection (1) above a magistrates’ court commits a person to be dealt with by the Crown Court in respect of an offence triable only on indictment in the case of an adult (being an offence which was tried summarily because of the offender’s being under 18 years of age), the Crown Court’s powers under subsection (5) above in respect of the offender after he attains the age of 18 years shall be powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000;

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- (b) to deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

(5D) For the purposes of this section the age of an offender shall be deemed to be that which it appears to the court to be after considering any available evidence.”

(5) Subsection (13) of that section shall cease to have effect.

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

**C1** Sch. 7 para. 2(4) excluded (19.9.1998) by S.I. 1998/2327, art. 6(1)

**Marginal Citations**

**M12** 1973 c.62.

**M13** 1973 c.62.

*Children and Young Persons Act 1969 (c.54)*

- 3 After subsection (8) of section 7 of the 1969 Act (alterations in treatment of young offenders etc.) there shall be added the following subsection—

“(9) The reference in subsection (8) above to a person’s parent shall be construed in accordance with section 1 of the <sup>M14</sup>Family Law Reform Act 1987 (and not in accordance with section 70(1A) of this Act).”

**Marginal Citations**

**M14** 1987 c.42.

- 4 In section 12 of the 1969 Act (power to include requirements in supervision orders), after subsection (3) there shall be added the following subsection—

“(4) Directions given by the supervisor by virtue of subsection (2)(b) or (c) above shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M15</sup>Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

**Marginal Citations**

**M15** 1991 c.53.

*Status: Point in time view as at 01/12/1998.*

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- 5 (1) In subsection (1) of section 12B of the 1969 Act (power to include in supervision order requirements as to mental treatment)—
- (a) for the words “medical practitioner”, in the first place where they occur, there shall be substituted the words “registered medical practitioner”;
  - (b) for the words “his detention in pursuance of a hospital order under Part III” there shall be substituted the words “the making of a hospital order or guardianship order within the meaning”;
  - (c) in paragraph (a), for the words “fully registered medical practitioner” there shall be substituted the words “registered medical practitioner”;
  - (d) after that paragraph there shall be inserted the following paragraph—
    - “(aa) treatment by or under the direction of a chartered psychologist specified in the order;”;
  - (e) in paragraph (b), for the words “a place” there shall be substituted the words “an institution or place”; and
  - (f) in paragraph (c), for the words “the said Act of 1983” there shall be substituted the <sup>M16</sup>words “the Mental Health Act 1983”.
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) In subsection (1) of this section “registered medical practitioner” means a fully registered person within the meaning of the <sup>M17</sup>Medical Act 1983 and “chartered psychologist” means a person for the time being listed in the British Psychological Society’s Register of Chartered Psychologists.”
- (3) After subsection (2) of that section there shall be added the following subsection—
- “(3) Subsections (2) and (3) of section 54 of the <sup>M18</sup>Mental Health Act 1983 shall have effect with respect to proof for the purposes of subsection (1) above of a supervised person’s mental condition as they have effect with respect to proof of an offender’s mental condition for the purposes of section 37(2) (a) of that Act.”

**Marginal Citations**

**M16** 1983 c.20.

**M17** 1983 c.54.

**M18** 1983 c.20.

- 6 In section 16(11) of the 1969 Act (provisions supplementary to section 15), the words “seventeen or” shall cease to have effect.
- 7 (1) In subsection (1)(a) of section 16A of the 1969 Act (application of sections 17 to 19 of Criminal Justice Act 1982), for the words “section 15(2A) or (4)” there shall be substituted the words “section 15(3)(a)”.
- (2) In subsection (2)(b) of that section—
- (a) in sub-paragraph (i), after the word “from” there shall be inserted the words “subsection (4A) of section 18 and”; and

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(b) in sub-paragraph (ii), for the words “subsection (6)” there shall be substituted the words “subsection (4B) of section 18 and subsection (6) of section 19”.

8 In section 34(1)(c) of the 1969 Act (power of Secretary of State to amend references to young person), the words “7(7), 7(8),” shall cease to have effect.

9 Section 69(5) of the 1969 Act (power to include in commencement order certain consequential provisions) shall cease to have effect.

10 In section 70 of the 1969 Act (interpretation), for subsections (1A) and (1B) there shall be substituted the following subsections—

“(1A) In the case of a child or young person—

(a) whose father and mother were not married to each other at the time of his birth, and

(b) with respect to whom a residence order is in force in favour of the father,

any reference in this Act to the parent of the child or young person includes (unless the contrary intention appears) a reference to the father.

(1B) In subsection (1A) of this section, the reference to a child or young person whose father and mother were not married to each other at the time of his birth shall be construed in accordance with section 1 of the <sup>M19</sup>Family Law Reform Act 1987 and “residence order” has the meaning given by section 8(1) of the <sup>M20</sup>Children Act 1989.”

#### Marginal Citations

**M19** 1987 c.42.

**M20** 1989 c.41.

11 In Schedule 6 to the 1969 Act (repeals), the entries relating to sections 55, 56(1) and 59(1) of the 1933 Act (which entries have never come into force or are spent) are hereby repealed.

#### *Criminal Justice Act 1972 (c.71)*

12 Section 49 of the Criminal Justice Act 1972 (community service order in lieu of warrant of commitment for failure to pay fine etc.) shall cease to have effect.

#### *Powers of Criminal Courts Act 1973 (c.62)*

13 (1) In subsection (6) of section 1 of the 1973 Act (deferment of sentence), for the words “13(1), (2) and (5)” there shall be substituted the words “13(1) to (3) and (5)”.

(2) In subsection (8) of that section, for paragraph (a) there shall be substituted the following paragraph—

“(a) is power to deal with him, in respect of the offence for which passing of sentence has been deferred, in any way in which the court which deferred passing sentence could have dealt with him; and”.

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- 14 (1) In subsection (9) of section 1B of the 1973 Act (commission of further offence by person conditionally discharged), for the words from “those which” to the end there shall be substituted the words “powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
  - (b) to deal with the offender for that offence in any way in which a magistrates’ court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.”
- (2) Subsection (10) of that section (which is superseded by provision inserted by this Schedule in section 57 of the 1973 Act) shall cease to have effect.
- 15 In section 1C(1) of the 1973 Act (effect of absolute or conditional discharge)—
- (a) in paragraph (a), for the words “the following provisions” there shall be substituted the words “section 1B”; and
  - (b) paragraph (b) and the word “and” immediately preceding it shall cease to have effect.
- 16 In section 2(1) of the 1973 Act (probation orders), the words from “For the purposes” to “available evidence” (which are superseded by provision inserted by this Schedule in section 57 of the 1973 Act) shall cease to have effect.
- 17 Section 11 of the 1973 Act (which is superseded by the paragraph 8A inserted by this Schedule in Schedule 2 to the 1991 Act) shall cease to have effect.

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

**C2** Sch. 7 para. 17 excluded (19.9.1998) by S.I. 1998/2327, art. 6(2)

- 18 (1) For subsection (2) of section 12 of the 1973 Act (supplementary provision as to probation and discharge) there shall be substituted the following subsection—
- “(2) Where an order for conditional discharge has been made on appeal, for the purposes of this Act it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
  - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.”
- (2) In subsection (3) of that section, for the words from “any question whether a probationer” to “period of conditional discharge,” there shall be substituted the words “any question whether any person in whose case an order for conditional discharge has been made has been convicted of an offence committed during the period of conditional discharge”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—

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“(4) Nothing in section 1A of this Act shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of any offence, from making an order for costs against the offender or imposing any disqualification on him or from making in respect of the offence an order under section 35 or 43 of this Act or section 28 of the <sup>M21</sup>Theft Act 1968.”

**Marginal Citations**

**M21** 1968 c.60.

- 19 (1) In subsection (1) of section 14 of the 1973 Act (community service orders in respect of convicted persons), after the word “imprisonment”, in the first place where it occurs, there shall be inserted the words “ (not being an offence the sentence for which is fixed by law or falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M22</sup>Crime (Sentences) Act 1997) ”.
- (2) In that subsection, after the words “young offenders” there shall be inserted the words “ ; and for the purposes of this subsection a sentence falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M23</sup>Crime (Sentences) Act 1997 if it is required by that provision and the court is not of the opinion there mentioned ”.
- (3) In subsection (7) of that section, for the words “paragraph (b)(i) or (ii)” there shall be substituted the words “ paragraph (b) ”.
- (4) Subsection (8) of that section shall cease to have effect.

**Marginal Citations**

**M22** 1997 c.43.

**M23** 1997 c.43.

- 20 For subsection (3) of section 15 of the 1973 Act (obligations of person subject to community service order) there shall be substituted the following subsection—

“(3) The instructions given by the relevant officer under this section shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M24</sup>Criminal Justice Act 1991) to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

**Marginal Citations**

**M24** 1991 c.53.

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- 21 In section 21(3)(b) of the 1973 Act (meaning of “sentence of imprisonment” for purposes of restriction on imposing sentences of imprisonment on persons not legally represented), after the words “contempt of court” there shall be inserted the words “ or any kindred offence ”.
- 22 In subsection (3) of section 22 of the 1973 Act (suspended sentences of imprisonment)—
- (a) for the words “make a probation order in his case in respect of another offence” there shall be substituted the words “ impose a community sentence in his case in respect of that offence or any other offence ”; and
  - (b) at the end there shall be inserted the words “ ; and in this subsection “community sentence” has the same meaning as in Part I of the <sup>M25</sup>Criminal Justice Act 1991. ”

**Marginal Citations**

M25 1991 c.53.

- 23 (1) In section 31 of the 1973 Act (powers etc. of Crown Court in relation to fines and forfeited recognizances), the following provisions shall cease to have effect—
- (a) in subsection (3A), the words “Subject to subsections (3B) and (3C) below,”;
  - (b) subsections (3B) and (3C); and
  - (c) in subsection (4), the words “4 or”.
- (2) In subsection (6) of that section—
- (a) the words “about committal by a magistrates’ court to the Crown Court” shall cease to have effect; and
  - (b) after the words “dealt with him” there shall be inserted the words “ or could deal with him ”.
- (3) In subsection (8) of that section, for the words “(2) to (3C)” there shall be substituted the words “ (2) to (3A) ”.
- 24 (1) In subsection (2) of section 32 of the 1973 Act (enforcement etc. of fines imposed and recognizances forfeited by Crown Court), for the words “section 85(1)” there shall be substituted the words “ section 85(2) ”.
- (2) In subsection (3) of that section, after the words “to the Crown Court” there shall be inserted the words “ (except the reference in subsection (1)(b) above) ”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) A magistrates’ court shall not, under section 85(1) or 120 of the <sup>M26</sup>Magistrates’ Courts Act 1980 as applied by subsection (1) above, remit the whole or any part of a fine imposed by, or sum due under a recognizance forfeited by—
- (a) the Crown Court,

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- (b) the criminal division of the Court of Appeal, or
  - (c) the House of Lords on appeal from that division,
- without the consent of the Crown Court.”

(4) Subsection (5) of that section shall cease to have effect.

**Marginal Citations**

**M26** 1980 c.43.

25 In section 46 of the 1973 Act (reports of probation officers), after subsection (2) there shall be added the following subsection—

“(3) For the purposes of this section—

- (a) references to an offender’s parent shall be construed in accordance with section 1 of the <sup>M27</sup>Family Law Reform Act 1987; and
- (b) “guardian” has the same meaning as in the <sup>M28</sup>Children and Young Persons Act 1933.”

**Marginal Citations**

**M27** 1987 c.42.

**M28** 1933 c.12.

26 (1) For subsection (5) of section 57 of the 1973 Act (interpretation) there shall be substituted the following subsection—

“(5) Where a compensation order or supervision order has been made on appeal, for the purposes of this Act (except section 26(5)) it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.”

(2) After subsection (6) of that section there shall be added the following subsection—

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

27 (1) In paragraph 2 of Schedule 1A to the 1973 Act (additional requirements in probation orders), for sub-paragraph (7) there shall be substituted the following sub-paragraph—

“(7) Instructions given by a probation officer under sub-paragraph (4) or (6) above shall, as far as practicable, be such as to avoid—



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- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M29</sup>Criminal Justice Act 1991) to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”
- (2) In paragraph 3 of that Schedule, for sub-paragraph (4) there shall be substituted the following sub-paragraph—
  - “(4) Instructions given by a probation officer under sub-paragraph (3) above shall, as far as practicable, be such as to avoid—
    - (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M30</sup>Criminal Justice Act 1991) to which he may be subject; and
    - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”
- (3) In paragraph 5 of that Schedule, for the words “duly qualified medical practitioner”, wherever they occur, there shall be substituted the words “ registered medical practitioner ”.
- (4) In that paragraph (both as amended by subsection (3) of section 38 of the 1997 Act and so far as that paragraph has effect without that amendment), in sub-paragraph (4), after the words “have been” there shall be inserted the words “ or can be ”.
- (5) In sub-paragraph (10) of that paragraph, before the definition of “chartered psychologist” there shall be inserted the following definition—
  - ““registered medical practitioner” means a fully registered person within the meaning of the <sup>M31</sup>Medical Act 1983;”.
- (6) In paragraph 6 of that Schedule (both as amended by subsection (4) of section 38 of the 1997 Act and so far as that paragraph has effect without that amendment), in sub-paragraph (4), after the words “have been” there shall be inserted the words “ or can be ”.
- (7) Sub-paragraph (7) of that paragraph shall cease to have effect.

**Marginal Citations**

**M29** 1991 c.53.

**M30** 1991 c.53.

**M31** 1983 c.54.

*Magistrates’ Courts Act 1980 (c.43)*

- 28      In section 30(2)(a) of the 1980 Act (remand for medical examination), for the words “duly qualified medical practitioner” there shall be substituted the words “ registered medical practitioner ”.

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- 29 (1) In subsection (2) of section 38 of the 1980 Act (committal for sentence on summary trial of offence triable either way), the words “, in accordance with section 56 of the Criminal Justice Act 1967,” shall cease to have effect.
- (2) After that subsection there shall be inserted the following subsection—
- “(2A) Where the court commits a person under subsection (2) above, section 56 of the <sup>M32</sup>Criminal Justice Act 1967 (which enables a magistrates’ court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.”

#### Marginal Citations

M32 1967 c.80.

- 30 (1) In subsection (2) of section 38A of the 1980 Act (committal for sentence on indication of guilty plea to offence triable either way), the words “, in accordance with section 56 of the Criminal Justice Act 1967,” shall cease to have effect.
- (2) In subsection (5) of that section, for the words “the court might have dealt with him” there shall be substituted the words “ the magistrates’ court could deal with him if it had just convicted him of the offence ”.
- (3) After that subsection there shall be inserted the following subsection—
- “(5A) Where the court commits a person under subsection (2) above, section 56 of the <sup>M33</sup>Criminal Justice Act 1967 (which enables a magistrates’ court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.”

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

C3 Sch. 7 para. 30(2) excluded (19.9.1998) by S.I. 1998/2327, art. 6(1)

#### Marginal Citations

M33 1967 c.80.

- 31 In section 39(6)(b) of the 1980 Act (cases where magistrates’ court may remit offender to another such court for sentence), for the words “section 34 or 36” there shall be substituted the words “ section 34, 35 or 36 ”.
- 32 In section 85(1)(a) of the 1980 Act (power to remit fine), for the words “section 74” there shall be substituted the words “ section 77 ”.

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*Criminal Justice Act 1982 (c.48)*

- 33 In section 3(1) of the 1982 Act (restriction on imposing custodial sentences on persons under 21 not legally represented)—
- (a) in paragraph (a), the words “under section 1A above” shall cease to have effect;
  - (b) in paragraph (c), for the words “section 8(2)” there shall be substituted the words “ section 8(1) or (2) ”; and
  - (c) in paragraph (d), for the words “section 53(2)” there shall be substituted the words “ section 53(1) or (3) ”.
- 34 (1) In subsection (3) of section 13 of the 1982 Act (conversion of sentence of detention in a young offender institution to sentence of imprisonment), for the words “section 15 below” there shall be substituted the words “ section 65 of the <sup>M34</sup>Criminal Justice Act 1991 (supervision of young offenders after release) ”.
- (2) In subsection (6) of that section, for the words “section 8(2)” there shall be substituted the words “ section 8(1) or (2) ”.

**Marginal Citations**

**M34** 1991 c.53.

- 35 In subsection (2) of section 16 of the 1982 Act (meaning of “attendance centre”), for the words from “of orders made” to the end there shall be substituted the words “ of orders made under section 17 below. ”
- 36 (1) In subsection (1) of section 17 of the 1982 Act (attendance centre orders), for the words “Subject to subsections (3) and (4) below,” there shall be substituted the words “ Where a person under 21 years of age is convicted by or before a court of an offence punishable with imprisonment (not being an offence the sentence for which is fixed by law or falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M35</sup>Crime (Sentences) Act 1997), or ”.
- (2) In that subsection, for paragraph (a) there shall be substituted the following paragraph—
- “(a) would have power, but for section 1 above, to commit a person under 21 years of age to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone, or”.
- (3) In that subsection, in paragraph (b), for the words “any such person” there shall be substituted the words “ a person under 21 years of age ” and after that paragraph there shall be inserted the following paragraph—
- “(bb) has power to deal with a person under 16 years of age under that Part of that Schedule for failure to comply with any of the requirements of a curfew order, or”.

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

“(1A) For the purposes of subsection (1) above—

- (a) the reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders; and
- (b) a sentence falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M36</sup>Crime (Sentences) Act 1997 if it is required by that provision and the court is not of the opinion there mentioned.”

(5) For subsection (8) of that section there shall be substituted the following subsection—

“(8) The times at which an offender is required to attend at an attendance centre shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M37</sup>Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

#### Marginal Citations

**M35** 1997 c.43.

**M36** 1997 c.43.

**M37** 1991 c.53.

37 (1) In section 18 of the 1982 Act (discharge and variation of attendance centre orders), for subsection (4A) there shall be substituted the following subsections—

“(4A) Any power conferred by this section—

- (a) on a magistrates’ court to discharge an attendance centre order made by such a court, or
- (b) on the Crown Court to discharge an attendance centre order made by the Crown Court,

includes power to deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(4B) A person sentenced by a magistrates’ court under subsection (4A) above for an offence may appeal to the Crown Court against the sentence.”

(2) Subsection (7) of that section shall cease to have effect.

(3) In that section, after subsection (9) there shall be added the following subsections—

“(10) Where an offender has been ordered to attend at an attendance centre in default of the payment of a sum of money or for such a failure or abstention

*Status: Point in time view as at 01/12/1998.*

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as is mentioned in section 17(1)(a) above, subsection (4A) above shall have effect in relation to the order as if the words “, for the offence in respect of which the order was made,” and “for that offence” were omitted.

(11) Where an attendance centre order has been made on appeal, for the purposes of this section it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and subsection (4A) above shall have effect in relation to an attendance centre order made on appeal as if the words “if the order had not been made” were omitted.”

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

C4 Sch. 7 para. 37(2)(3) excluded (19.9.1998) by S.I. 1998/2327, art. 6(3)

38 (1) In subsection (1) of section 19 of the 1982 Act (breaches of attendance centre orders or attendance centre rules), for the words “has been made” there shall be substituted the words “is in force”.

(2) In subsection (5) of that section, after the word “failed” there shall be inserted the words “without reasonable excuse”.

(3) After subsection (7) of that section there shall be added the following subsections—

“(8) Where an offender has been ordered to attend at an attendance centre in default of the payment of a sum of money or for such a failure or abstention as is mentioned in section 17(1)(a) above, subsections (3) and (5) above shall have effect in relation to the order as if the words “, for the offence in respect of which the order was made,” and “for that offence” were omitted.

(9) Where an attendance centre order has been made on appeal, for the purposes of this section it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and, in relation to an attendance centre order made on appeal, subsection (3)

(a) above shall have effect as if the words “if the order had not been made” were omitted and subsection (5) above shall have effect as if the words “if it had not made the order” were omitted.”

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

C5 Sch. 7 para. 38(3) excluded (19.9.1998) by S.I. 1998/2327, art. 6(3)

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*Criminal Justice Act 1988 (c.33)*

- 39 Paragraph 40 of Schedule 15 to the Criminal Justice Act 1988 (minor and consequential amendments) shall cease to have effect.

*Criminal Justice Act 1991 (c.53)*

- 40 In section 11 of the 1991 Act (orders combining probation and community service), after subsection (1) there shall be inserted the following subsection—

“(1A) The reference in subsection (1) above to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.”

- 41 (1) In subsection (5)(c) of section 12 of the 1991 Act (curfew orders), for the words “supervising officer” there shall be substituted the words “responsible officer”.

- (2) After subsection (6A) of that section there shall be inserted the following subsection—

“(6B) The court by which a curfew order is made shall give a copy of the order to the offender and to the person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the order.”

- (3) After subsection (7) of that section there shall be added the following subsection—

“(8) References in this section to the offender’s being under the age of sixteen years are references to his being under that age on conviction.”

- 42 In section 31(1) of the 1991 Act (interpretation of Part I), in paragraph (b) of the definition of “custodial sentence”, for the words “section 53” there shall be substituted the words “section 53(3)”.

- 43 (1) In subsection (3) of section 40 of the 1991 Act (convictions during currency of original sentences), for the words from “for sentence” to the end there shall be substituted the words “to be dealt with under subsection (3A) below”.

- (2) After that subsection there shall be inserted the following subsections—

“(3A) Where a person is committed to the Crown Court under subsection (3) above, the Crown Court may order him to be returned to prison for the whole or any part of the period which—

- (a) begins with the date of the order; and
- (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) above.

(3B) Subsection (3)(b) above shall not be taken to confer on the magistrates’ court a power to commit the person to the Crown Court for sentence for the new

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offence, but this is without prejudice to any such power conferred on the magistrates' court by any other enactment.”

- (3) In subsection (4) of that section, for the words “subsection (2)” there shall be substituted the words “ subsection (2) or (3A) ”.

44 In each of subsections (3)(b) and (4)(a) of section 57 of the 1991 Act (responsibility of parent or guardian for financial penalties), for the words “section 35(4)(a)” there shall be substituted the words “ section 35(4) ”.

45 In section 58 of the 1991 Act (binding over of parent or guardian), after subsection (8) there shall be added the following subsection—

“(9) For the purposes of this section—

- (a) “guardian” has the same meaning as in the 1933 Act; and
- (b) taking “care” of a person includes giving him protection and guidance and “control” includes discipline.”

46 (1) In paragraph 1 of Schedule 2 to the 1991 Act (enforcement etc. of community orders), after sub-paragraph (4) there shall be added the following sub-paragraph—

“(5) Where a probation order, community service order, combination order or curfew order has been made on appeal, for the purposes of this Schedule it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates' court, to have been made by a magistrates' court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.”

(2) In each of paragraphs 3(1) and 4(1) of that Schedule, for paragraph (c) there shall be substituted the following paragraph—

“(c) where—

- (i) the relevant order is a probation order and the offender is under the age of twenty-one years, or
- (ii) the relevant order is a curfew order and the offender is under the age of sixteen years,

and the court has been notified as required by subsection (1) of section 17 of the 1982 Act, it may (subject to paragraph 6(6) below) make in respect of him an order under that section (attendance centre orders); or”.

(3) In paragraph 4(1) of that Schedule—

- (a) after the word “failed” there shall be inserted the words “ without reasonable excuse ”; and
- (b) in paragraph (d), for the words “by or before the court” there shall be substituted the words “ before the Crown Court ”.

(4) In paragraph 6 of that Schedule, in sub-paragraph (1), for the words “or (b)” there shall be substituted the words “ , (b) or (c) ”.

*Status: Point in time view as at 01/12/1998.*

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(5) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—

“(3A) A community service order shall not be made under paragraph 3(1)(b) or 4(1)(b) above in respect of a person who is under the age of sixteen years.”

(6) For sub-paragraph (5) of that paragraph there shall be substituted the following sub-paragraph—

“(5) Where the provisions of this Schedule have effect as mentioned in sub-paragraph (4) above in relation to a community service order under paragraph 3(1)(b) or 4(1)(b) above—

- (a) the power conferred on the court by each of paragraphs 3(1)(d) and 4(1)(d) above and paragraph 7(2)(a)(ii) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any manner in which the court could deal with him if that failure to comply had just been proved to the satisfaction of the court;
- (b) the reference in paragraph 7(1)(b) below to the offence in respect of which the order was made shall be construed as a reference to the failure to comply in respect of which the order was made; and
- (c) the power conferred on the court by paragraph 8(2)(b) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any manner in which the court which made the original order could deal with him if that failure had just been proved to the satisfaction of that court;

and in this sub-paragraph “the original order” means the relevant order the failure to comply with whose requirements led to the making of the community service order under paragraph 3(1)(b) or 4(1)(b).”

(7) After sub-paragraph (5) of that paragraph there shall be added the following sub-paragraph—

“(6) The provisions of sections 17 to 19 of the 1982 Act (making, discharge, variation and breach of attendance centre order) shall apply for the purposes of paragraphs 3(1)(c) and 4(1)(c) above but as if there were omitted—

- (a) subsection (13) of section 17;
- (b) from subsection (4A) of section 18 and subsections (3) and (5) of section 19, the words “, for the offence in respect of which the order was made,” and “for that offence”.”

(8) After paragraph 6 of that Schedule there shall be inserted the following paragraph—

“6A (1) Where a relevant order was made by a magistrates’ court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under paragraph 3(1)(d) above by that or any other court in respect of the offender after he has attained the age of 18 years shall be powers to do either or both of the following—



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- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
  - (b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (2) In sub-paragraph (1)(b) above any reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.”
- (9) In paragraph 7(5) of that Schedule, after the word “above” there shall be inserted the words “ for an offence ”.
- (10) In paragraph 8(2) of that Schedule, for paragraph (b) there shall be substituted the following paragraph—
  - “(b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which the court which made the order could deal with him if he had just been convicted of that offence by or before the court which made the order.”
- (11) After paragraph 8 of that Schedule there shall be inserted the following paragraph—

“8A (1) This paragraph applies where a probation order is in force in respect of any offender and on the application of the offender or the responsible officer it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—

  - (a) for the probation order to be revoked; and
  - (b) for an order to be made under section 1A(1)(b) of the 1973 Act discharging the offender conditionally for the offence for which the probation order was made.

(2) No application may be made under paragraph 7 above for a probation order to be revoked and replaced with an order for conditional discharge under section 1A(1)(b) of the 1973 Act; but otherwise nothing in this paragraph shall affect the operation of paragraphs 7 and 8 above.

(3) Where this paragraph applies and the probation order was made by a magistrates' court—

  - (a) the magistrates' court dealing with the application may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
  - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.

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- (4) Where this paragraph applies and the probation order was made by the Crown Court, the magistrates' court may send the application to the Crown Court to be heard by that court, and if it does so shall also send to the Crown Court such particulars of the case as may be desirable.
- (5) Where an application under this paragraph is heard by the Crown Court by virtue of sub-paragraph (4) above—
- (a) the Crown Court may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
  - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (6) For the purposes of sub-paragraphs (3) and (5) above, subsection (1) of section 1A of the 1973 Act shall apply as if—
- (a) for the words from the beginning to “may make an order either” there were substituted the words “Where paragraph 8A of Schedule 2 to the <sup>M38</sup>Criminal Justice Act 1991 applies, the court which under sub-paragraph (3) or (5) of that paragraph has power to dispose of the application may (subject to the provisions of that sub-paragraph) make an order in respect of the offender”; and
  - (b) paragraph (a) of that subsection were omitted.
- (7) An application under this paragraph may be heard in the offender's absence if—
- (a) the application is made by the responsible officer; and
  - (b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;
- and where the application is so heard section 1A(3) of the 1973 Act shall not apply.
- (8) No application may be made under this paragraph while an appeal against the probation order is pending.
- (9) Without prejudice to paragraph 11 below, on the making of an order under section 1A(1)(b) of the 1973 Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.
- (10) Each of sections 1(11), 2(9) and 66(4) of the Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.”

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(12) After paragraph 11 of that Schedule there shall be inserted the following paragraphs—

“11A Paragraph 6A above shall apply for the purposes of paragraphs 7 and 8 above as it applies for the purposes of paragraph 3 above, but as if in paragraph 6A(1) for the words “powers exercisable under paragraph 3(1)(d) above” there were substituted the words “powers to deal with the offender which are exercisable under paragraph 7(2)(a)(ii) or 8(2)(b) below”.

11B Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 1A(1)(b) of the 1973 Act and—

(a) the order for conditional discharge is not made in the circumstances mentioned in section 1B(9) of the 1973 Act (order made by magistrates’ court in the case of an offender under eighteen in respect of offence triable only on indictment in the case of an adult), but

(b) the relevant order was made in those circumstances, section 1B(9) of the 1973 Act shall apply as if the order for conditional discharge had been made in those circumstances.”

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

C6 Sch. 7 para. 46(1)(2)(8) excluded (19.9.1998) by S.I. 1998/2327, art. 6(4)

**Marginal Citations**

M38 1991 c.53.

*Crime (Sentences) Act 1997 (c.43)*

47 Section 1 of the 1997 Act (conditions relating to mandatory and minimum custodial sentences) shall cease to have effect.

48 (1) In subsection (2) of section 3 of the 1997 Act (minimum of seven years for third class A drug trafficking offence)—

(a) for the words “specific circumstances” there shall be substituted the words “particular circumstances”; and

(b) for the words “the prescribed custodial sentence unjust” there shall be substituted the words “it unjust to do so”.

(2) In subsection (3) of that section, for the words “specific circumstances” there shall be substituted the words “particular circumstances”.

*Status: Point in time view as at 01/12/1998.*

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- 49 (1) In subsection (2) of section 4 of the 1997 Act (minimum of three years for third domestic burglary)—
- (a) for the words “specific circumstances” there shall be substituted the words “particular circumstances”; and
  - (b) for the words “the prescribed custodial sentence unjust” there shall be substituted the words “it unjust to do so”.
- (2) In subsection (3) of that section, for the words “specific circumstances” there shall be substituted the words “particular circumstances”.
- 50 (1) In subsection (2)(a) of section 35 of the 1997 Act (community sentences for fine defaulters), for the words “and (11)” there shall be substituted the words “, (10) and (11)”.
- (2) In subsection (5) of that section, paragraph (c) shall cease to have effect.
- (3) In that subsection, the word “and” at the end of paragraph (d) shall cease to have effect and after paragraph (e) there shall be added the following paragraphs—
- “(f) the reference in paragraph 7(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
  - (g) the power conferred by paragraph 7(2)(a)(ii) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
  - (h) paragraph 8(2)(b) of that Schedule shall not apply.”
- (4) In subsection (7) of that section, for the words “section 12(5)” there shall be substituted the words “section 12(6)”.
- (5) In subsection (8) of that section, the word “and” at the end of paragraph (a) shall cease to have effect and after paragraph (b) there shall be added the following paragraphs—
- “(c) the reference in paragraph 7(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
  - (d) the power conferred by paragraph 7(2)(a)(ii) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
  - (e) paragraph 8(2)(b) of that Schedule shall not apply.”
- (6) In subsection (10) of that section, for the words “subsection (2)(b)” there shall be substituted the words “subsection (2)(a) or (b)”.

VALID FROM 04/01/1999

- 51 (1) In subsection (3) of section 37 of the 1997 Act (community sentences for persistent petty offenders)—

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- (a) in paragraph (a), for the words “(4) and (6)” there shall be substituted the words “ (4), (5A) and (6) ”; and
- (b) in paragraph (b), for the words “(5) and (6)” there shall be substituted the words “ (5), (5A) and (6) ”.

(2) For subsections (4) and (5) of that section there shall be substituted the following subsections—

“(4) In this section “community service order” has the same meaning as in the 1973 Act and—

- (a) section 14(2) of that Act; and
- (b) so far as applicable, the other provisions of that Act relating to community service orders and the provisions of Part I of the 1991 Act so relating,

shall have effect in relation to an order under subsection (3)(a) above as they have effect in relation to a community service order made under the 1973 Act in respect of an offender.

(5) In this section “curfew order” has the same meaning as in Part I of the 1991 Act and—

- (a) section 12(6) of that Act; and
- (b) so far as applicable, the other provisions of that Part relating to curfew orders,

shall have effect in relation to an order under subsection (3)(b) above as they have effect in relation to a curfew order made under that Act in respect of an offender.

(5A) A court shall not make an order under subsection (3)(a) or (b) above in respect of a person who on conviction is under 16.”

52 In section 50 of the 1997 Act (disclosure of pre-sentence reports), after subsection (6) there shall be added the following subsection—

“(7) In this section “guardian” has the same meaning as in the 1933 Act.”

53 In section 54 of the 1997 Act (general interpretation), after subsection (3) there shall be added the following subsection—

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

54 In section 55(2) of the 1997 Act (interpretation of minor and consequential amendments), for the words “in any case where” (in both places where they occur) there shall be substituted the word “ and ”.

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## SCHEDULE 8

Section 119.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Children and Young Persons Act 1933 (c.12)*

VALID FROM 01/04/2000

- 1 In subsection (4A) of section 49 of the 1933 Act (restrictions on reports of proceedings), for paragraph (e) there shall be substituted the following paragraph—
- “(e) where a detention and training order is made, the enforcement of any requirements imposed under section 76(6)(b) of the Crime and Disorder Act 1998.”
- 2 In subsection (1A) of section 55 of the 1933 Act (power of court to order parent or guardian to pay fine imposed on child or young person), after paragraph (c) there shall be inserted the words “or
- (d) a court would impose a fine on a child or young person under section 77(3) of the Crime and Disorder Act 1998 (breach of requirements of supervision under detention and training order) or paragraph 3 of Schedule 5 to that Act (breach of requirements of reparation order or action plan order),”.

#### Commencement Information

**I31** Sch. 8 para. 2 wholly in force; Sch. 8 para. 2 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

- 3 After subsection (1) of section 56 of the 1933 Act (powers of other courts to remit young offenders to youth courts) there shall be inserted the following subsection—
- “(1A) References in subsection (1) above to an offender’s being committed for trial include references to his being sent for trial under section 51 of the Crime and Disorder Act 1998.”

#### Commencement Information

**I32** Sch. 8 para. 3 wholly in force; Sch. 8 para. 3 not in force at Royal Assent, see s. 121; Sch. 8 para. 3 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 3 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

*Status: Point in time view as at 01/12/1998.*

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- 4 In section 58 of that Act (power of Secretary of State to send certain young offenders to approved schools), for the words “subsection (2)”, in both places where they occur, there shall be substituted the words “ subsection (3) ”.

#### Commencement Information

**I33** Sch. 8 para. 4 wholly in force; Sch. 8 para. 4 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

#### *Administration of Justice (Miscellaneous Provisions) Act 1933 (c.36)*

- 5 (1) In subsection (2) of section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 (procedure for indictment of offenders)—
- (a) after paragraph (ab) there shall be inserted the following paragraph—
- “(ac) the person charged has been sent for trial for the offence under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998 (“the 1998 Act”); or”; and
- (b) after paragraph (b) there shall be inserted the words “or
- (c) the bill is preferred under section 22B(3)(a) of the <sup>M39</sup>Prosecution of Offences Act 1985.”
- (2) After paragraph (iA) of the proviso to that subsection there shall be inserted the following paragraph—
- “(iB) in a case to which paragraph (ac) above applies, the bill of indictment may include, either in substitution for or in addition to any count charging an offence specified in the notice under section 51(7) of the 1998 Act, any counts founded on material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to that Act, was served on the person charged, being counts which may be lawfully joined in the same indictment;”.

#### Commencement Information

**I34** Sch. 8 para. 5 wholly in force; Sch. 8 para. 5 not in force at Royal Assent, see s. 121; Sch. 8 para. 5(1)(a)(2) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 5(1)(b) in force at 1.6.1999 by S.I. 1999/1279, art. 2(f); Sch. 8 para. 5(1)(a)(2) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### Marginal Citations

**M39** 1985 c.23.

*Status: Point in time view as at 01/12/1998.*

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VALID FROM 01/04/2000

*Prison Act 1952 (c.52)*

- 6 In subsection (1) of section 43 of the Prison Act 1952 (which enables certain institutions for young offenders to be provided and applies provisions of the Act to them), for paragraph (d) there shall be substituted the following paragraph—
- “(d) secure training centres, that is to say places in which offenders in respect of whom detention and training orders have been made under section 73 of the Crime and Disorder Act 1998 may be detained and given training and education and prepared for their release.”
- 7 (1) In subsection (1) of section 49 of that Act (persons unlawfully at large), for the words from “imprisonment” to “secure training centre” there shall be substituted the words “ imprisonment or custody for life or ordered to be detained in secure accommodation or in a young offenders institution ”.
- (2) In subsection (2) of that section—
- (a) for the words from “imprisonment” to “secure training centre” there shall be substituted the words “ imprisonment, or ordered to be detained in secure accommodation or in a young offenders institution ”; and
- (b) for the words from “in a prison” to “secure training centre” there shall be substituted the words “ in a prison or remand centre, in secure accommodation or in a young offenders institution ”.
- (3) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) In this section “secure accommodation” means—
- (a) a young offender institution;
- (b) a secure training centre; or
- (c) any other accommodation that is secure accommodation within the meaning given by section 75(7) of the Crime and Disorder Act 1998 (detention and training orders).”

**Extent Information**

**E1** Sch.8 para.7(2) extends to England and Wales only, see s. 121(6)(g).

VALID FROM 04/01/1999

*Criminal Procedure (Attendance of Witnesses) Act 1965 (c.69)*

- 8 In subsection (4) of section 2 of the Criminal Procedure (Attendance of Witnesses) Act 1965 (issue of witness summons on application to Crown Court), after the words “committed for trial” there shall be inserted the words “ , or sent for trial under section 51 of the Crime and Disorder Act 1998, ”.



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- I35** Sch. 8 para. 8 wholly in force; Sch. 8 para. 8 not in force at Royal Assent, see s. 121; Sch. 8 para. 8 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 8 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

#### Criminal Justice Act 1967 (c.80)

- 9 (1) In subsection (2) of section 56 of the Criminal Justice Act 1967 (committal for sentence for offences tried summarily)—
- (a) for the words “sections 37, 38 and 38A” there shall be substituted the words “sections 38 and 38A”; and
  - (b) for the words “section 17(3) of the Crime (Sentences) Act 1997 (committal for breach of conditions of release supervision order)” there shall be substituted the words “section 40(3)(b) of the <sup>M40</sup>Criminal Justice Act 1991 (committal for sentence for offence committed during currency of original sentence)”.
- (2) Subsection (6) of that section shall cease to have effect.

#### Commencement Information

- I36** Sch. 8 para. 9 wholly in force at 1.4.2000; Sch. 8 para. 9 not in force at Royal Assent see s. 121; Sch. 8 para. 9(1)(b) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 paras. 9(1)(a)(2) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b)

#### Marginal Citations

- M40** 1991 c.53.

- 10 In subsection (5) of section 67 of that Act (computation of sentences of imprisonment or detention passed in England and Wales)—
- (a) in paragraph (b), for the words “section 53(2)” there shall be substituted the words “section 53(3)”; and
  - (b) paragraph (c) shall cease to have effect.

#### Commencement Information

- I37** Sch. 8 para. 10 wholly in force at 1.4.2000; Sch. 8 para. 10 not in force at Royal Assent see s. 121; Sch. 8 para. 10(a) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 10(b) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b) (subject to savings in art. 4(5))

- 11 At the end of subsection (2) of section 104 of that Act (general provisions as to interpretation) there shall be inserted the words “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 Part II of the <sup>M41</sup>Criminal Justice Act 1991 at any time during the period beginning with the first and ending with the last of those occasions.”

**Commencement Information**

**I38** Sch. 8 para. 11 wholly in force; Sch. 8 para. 11 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M41** 1991 c.53.

*Criminal Appeal Act 1968 (c.19)*

VALID FROM 04/01/1999

- 12 In subsection (2) of section 9 of the Criminal Appeal Act 1968 (appeal against sentence following conviction on indictment), after the words “for either way offence)” there shall be inserted the words “ or paragraph 6 of Schedule 3 to the Crime and Disorder Act 1998 (power of Crown Court to deal with summary offence where person sent for trial for indictable-only offence) ”.

**Commencement Information**

**I39** Sch. 8 para. 12 wholly in force; Sch. 8 para. 12 not in force at Royal Assent, see s. 121; Sch. 8 para. 12 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 12 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

- 13 (1) In subsection (2) of section 10 of that Act (appeal against sentence in other cases dealt with at Crown Court), the words “(other than a supervision order within the meaning of that Part)” shall cease to have effect.
- (2) In subsection (3) of that section, after paragraph (c) there shall be inserted the following paragraph—
- “(cc) where the court makes such an order with regard to him as is mentioned in section 40(3A) of the Criminal Justice Act 1991.”

**Commencement Information**

**I40** Sch. 8 para. 13 wholly in force; Sch. 8 para. 13 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2)(subject to savings in arts. 5-8)

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2000

*Firearms Act 1968 (c.27)*

- 14 (1) In subsection (2) of section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), after the words “a secure training order” there shall be inserted the words “ or a detention and training order ”.
- (2) In subsection (2A) of that section, after paragraph (b) there shall be inserted the following paragraph—
- “(c) in the case of a person who has been subject to a detention and training order—
- (i) the date on which he is released from detention under the order;
- (ii) the date on which he is released from detention ordered under section 77 of the Crime and Disorder Act 1998; or
- (iii) the date of the half-way point of the term of the order,
- whichever is the later.”
- 15 In subsection (1) of section 52 of that Act (forfeiture and disposal of firearms), for the words “secure training order” there shall be substituted the words “detention and training order”.

*Children and Young Persons Act 1969 (c.54)*

- 16 In subsection (8) of section 7 of the 1969 Act (alterations in treatment of young offenders etc.), for the words from “person guilty” to “were begun” there shall be substituted the words “ child or young person guilty of an offence ”.

**Commencement Information**

- I41** Sch. 8 para. 16 wholly in force; Sch. 8 para. 16 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 17 In section 11 of the 1969 Act (supervision orders), for the words “a local authority designated by the order or of a probation officer” there shall be substituted the following paragraphs—
- “(a) a local authority designated by the order;
- (b) a probation officer; or
- (c) a member of a youth offending team,”

**Commencement Information**

- I42** Sch. 8 para. 17 wholly in force; Sch. 3 para. 17 not in force at Royal Assent see s. 121; Sch. 8 para. 17 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**1** (subject to savings in [art. 9](#)); [Sch. 8 para. 17](#) to the extent that it is not already in force, comes into force at 1.4.2000 by [S.I. 2000/924](#), [art. 2](#)

- 18 Section 12D of the 1969 Act (duty of court to state in certain cases that requirement in place of custodial sentence) shall cease to have effect.

**Commencement Information**

**I43** [Sch. 8 para. 18](#) wholly in force; [Sch. 8 para. 18](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

- 19 After subsection (3) of section 13 of the 1969 Act (selection of supervisor) there shall be inserted the following subsection—

“(4) Where a provision of a supervision order places a person under the supervision of a member of a youth offending team, the supervisor shall be a member of a team established by the local authority within whose area it appears to the court that the supervised person resides or will reside.”

**Commencement Information**

**I44** [Sch. 8 para. 19](#) wholly in force; [Sch. 3 para. 19](#) not in force at Royal Assent see [s. 121](#); [Sch. 8 para. 19](#) in force at 30.9.1998 in the areas specified in [Sch. 1](#) of the said S.I. by [S.I. 1998/2327](#), [art. 3\(1\)](#), [Sch. 1](#) (subject to savings in [art. 9](#)); [Sch. 8 para. 19](#) in force at 1.4.2000 to the extent that it is not already in force by [S.I. 2000/924](#), [art. 2](#)

- 20 (1) In subsection (8) of section 16 of the 1969 Act (provisions supplementary to section 15), after the words “under the preceding section” there shall be inserted the words “by a relevant court (within the meaning of that section)”.

(2) Subsection (10) of that section shall cease to have effect.

**Commencement Information**

**I45** [Sch. 8 para. 20](#) wholly in force; [Sch. 8 para. 20](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

- 21 After section 16A of the 1969 Act there shall be inserted the following section—

**“16B Application of section 12 of Criminal Justice Act 1991 etc.**

(1) The provisions of section 12 of the Criminal Justice Act 1991 (curfew orders) shall apply for the purposes of section 15(3)(a) of this Act but as if—

(a) in subsection (1), for the words from the beginning to “before which he is convicted” there were substituted the words “Where a court considers it appropriate to make a curfew order in respect of any

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- person in pursuance of section 15(3)(a) of the Children and Young Persons Act 1969, the court”; and
- (b) in subsection (8), for the words “on conviction” there were substituted the words “on the date on which his failure to comply with a requirement included in the supervision order was proved to the court”.
- (2) Schedule 2 to the <sup>M42</sup>Criminal Justice Act 1991 (enforcement etc. of community orders), so far as relating to curfew orders, shall also apply for the purposes of that section but as if—
- (a) the power conferred on the magistrates’ court by each of paragraphs 3(1)(d) and 7(2)(a)(ii) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the supervision order, in any manner in which the relevant court could deal with him for that failure to comply if it had just been proved to the satisfaction of that court;
- (b) the power conferred on the Crown Court by paragraph 4(1)(d) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with such a requirement, in any manner in which that court could deal with him for that failure to comply if it had just been proved to its satisfaction;
- (c) the reference in paragraph 7(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
- (d) the power conferred on the Crown Court by paragraph 8(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with a requirement included in the supervision order, in any manner in which the relevant court (if that order was made by a magistrates’ court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure to comply if it had just been proved to the satisfaction of that court.
- (3) For the purposes of the provisions mentioned in subsection (2)(a) and (d) above, as applied by that subsection, if the supervision order is no longer in force the relevant court’s powers shall be determined on the assumption that it is still in force.
- (4) In this section “relevant court” has the same meaning as in section 15 above.”

#### Commencement Information

**I46** Sch. 8 para. 21 wholly in force; Sch. 8 para. 21 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

**M42** 1991 c.53.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2000

22 In subsection (14) of section 23 of the 1969 Act (remands and committals to local authority accommodation), paragraph (a) shall cease to have effect.

23 In subsection (1) of section 70 of the 1969 Act (interpretation), after the definition of “young person” there shall be inserted the following definition—

““youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.”

**Commencement Information**

**I47** Sch. 8 para. 23 partly in force; Sch. 3 para. 23 not in force at Royal Assent see s. 121; Sch. 8 para. 23 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 23 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

*Superannuation Act 1972 (c.11)*

24 In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of that Act may apply), at the end of the list of “Other Bodies” there shall be inserted the following entry— “ Youth Justice Board for England and Wales. ”

**Commencement Information**

**I48** Sch. 8 para. 24 wholly in force; Sch. 8 para. 24 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Powers of Criminal Courts Act 1973 (c.62)*

25 After subsection (1) of section 1A of the 1973 Act (absolute and conditional discharge) there shall be inserted the following subsection—

“(1A) Subsection (1)(b) above has effect subject to section 66(4) of the Crime and Disorder Act 1998 (effect of reprimands and warnings).”

**Commencement Information**

**I49** Sch. 8 para. 25 wholly in force; Sch. 8 para. 25 not in force at Royal Assent, see s. 121; Sch. 8 para 25 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); Sch. 8 para. 25 in force at 1.4.2000 for specified purposes and at 1.6.2000 otherwise by S.I. 2000/924, arts. 3, 4, Sch.

26 (1) In subsection (1) of section 2 of the 1973 Act (probation orders), the words “by a probation officer” shall cease to have effect and for the words “the supervision of a probation officer” there shall be substituted the word “ supervision ”.

*Status: Point in time view as at 01/12/1998.*

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- (2) In subsection (2) of that section, for the words “a probation officer appointed for or assigned to that area” there shall be substituted the following paragraphs—
- “(a) a probation officer appointed for or assigned to that area; or
  - (b) where the offender is under the age of 18 years when the order is made, a member of a youth offending team established by a local authority specified in the order.”
- (3) After that subsection there shall be inserted the following subsection—
- “(2A) The local authority specified as mentioned in subsection (2)(b) above shall be the local authority within whose area it appears to the court that the offender resides or will reside.”
- (4) In subsection (4) of that section, for the words “the probation officer” there shall be substituted the words “the person”.
- (5) After that subsection there shall be inserted the following subsection—
- “(4A) In the case of an offender under the age of 18 years, the reference in subsection (4) above to a probation officer includes a reference to a member of a youth offending team.”
- (6) In subsection (6) of that section—
- (a) for the words “the probation officer” there shall be substituted the words “the person”; and
  - (b) for the words “that officer” there shall be substituted the words “that person”.

#### Commencement Information

**I50** Sch. 8 para. 26 wholly in force; Sch. 3 para. 26 not in force at Royal Assent see s. 121; Sch. 8 para. 26 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 26 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

- 27 (1) In subsection (4) of section 14 of the 1973 Act (community service orders), for the words from “a probation officer” to the end there shall be substituted the following paragraphs—
- “(a) a probation officer appointed for or assigned to the area for the time being specified in the order (whether under this subsection or by virtue of Part IV of Schedule 2 to the <sup>M43</sup>Criminal Justice Act 1991);
  - (b) a person appointed for the purposes of those provisions by the probation committee for that area; or
  - (c) in the case of an offender under the age of 18 years when the order is made, a member of a youth offending team established by a local authority for the time being specified in the order (whether under this subsection or by virtue of that Part).”
- (2) After that subsection there shall be inserted the following subsection—

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“(4A) The local authority specified as mentioned in subsection (4)(c) above shall be the local authority within whose area it appears to the court that the offender resides or will reside.”

(3) After subsection (8) of that section there shall be inserted the following subsection—

“(9) In the case of an offender under the age of 18 years, references in subsections (2), (5)(c) or (6) above to a probation officer include references to a member of a youth offending team.”

#### Commencement Information

**I51** Sch. 8 para. 27 wholly in force; Sch. 3 para. 27 not in force at Royal Assent see s. 121; Sch. 8 para. 27 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 27 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

#### Marginal Citations

**M43** 1991 c.53.

VALID FROM 04/01/1999

- 28 In subsection (2) of section 21 of the 1973 Act (restriction on imposing sentences of imprisonment etc. on persons not legally represented)—
- (a) after the words “sentence or trial,” there shall be inserted the words “ or sent to that Court for trial under section 51 of the Crime and Disorder Act 1998, ”; and
  - (b) for the words “which committed him” there shall be substituted the words “ which committed or sent him ”.

#### Commencement Information

**I52** Sch. 8 para. 28 wholly in force; Sch. 8 para. 28 not in force at Royal Assent, see s. 121; Sch. 8 para. 28 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 28 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

VALID FROM 04/01/1999

- 29 In subsection (1)(b) of section 32 of the 1973 Act (enforcement etc. of fines imposed and recognizances forfeited by Crown Court), after the words “or dealt with” there shall be inserted the words “ , or by which he was sent to that Court for trial under section 51 of the Crime and Disorder Act 1998 ”.



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I53** Sch. 8 para. 29 wholly in force; Sch. 8 para. 29 not in force at Royal Assent, see s. 121; Sch. 8 para. 29 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 29 in force 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

30 After subsection (2) of section 23 of the 1973 Act (power of court on conviction of further offence to deal with suspended sentence) there shall be inserted the following subsection—

“(2A) The power to make an order under subsection (2) above has effect subject to section 102 of the Crime and Disorder Act 1998.”

#### Commencement Information

**I54** Sch. 8 para. 30 wholly in force; Sch. 8 para. 30 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 01/04/2000

31 In section 42 of the 1973 Act (power of Crown Court on committal for sentence), subsection (2) shall cease to have effect.

32 In subsection (1) of section 46 of the 1973 Act (reports of probation officers), after the words “probation officer” there shall be inserted the words “ or a member of a youth offending team ”.

#### Commencement Information

**I55** Sch. 8 para. 32 wholly in force; Sch. 8 para. 32 not in force at Royal Assent see s. 121; Sch. 8 para. 32 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 32 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

33 In subsection (1) of section 57 of the 1973 Act (interpretation), after the definition of “suspended sentence” there shall be inserted the following definition—

““youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.”

#### Commencement Information

**I56** Sch. 8 para. 33 wholly in force; Sch. 3 para. 33 not in force at Royal Assent see s. 121; Sch. 8 para. 33 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**1** (subject to savings in [art. 9](#)); [Sch. 8 para. 33](#) in force at 1.4.2000 to the extent that it is not already in force by [S.I. 2000/924, art. 2](#)

34 (1) At the beginning of sub-paragraph (1) of paragraph 6 (requirements as to drug or alcohol dependency) of Schedule 1A to the 1973 Act there shall be inserted the words “ Subject to sub-paragraph (1A) below, ”.

(2) After that sub-paragraph there shall be inserted the following sub-paragraph—

“(1A) If the court has been notified by the Secretary of State that arrangements for implementing orders under section 61 of the Crime and Disorder Act 1998 (drug treatment and testing orders) are available in the area proposed to be specified in the probation order, and the notice has not been withdrawn, this paragraph shall have effect as if the words “drugs or”, in each place where they occur, were omitted.”

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

### Interpretation

“7 In the case of an offender under the age of 18 years, references in this Schedule to a probation officer include references to a member of a youth offending team.”

### Commencement Information

**I57** [Sch. 8 para. 34](#) wholly in force; [Sch. 8 para. 34](#) not in force at Royal Assent see [s. 121](#); [Sch. 8 para. 34\(1\)\(2\)](#) in force at 30.9.1998 by [S.I. 1998/2327, art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#)); [Sch. 8 para. 34\(3\)](#) in force at 30.9.1998 in the areas specified in [Sch. 1](#) of the said S.I. by [S.I. 1998/2327, art. 3\(1\)](#), [Sch. 1](#) (subject to savings in [art. 9](#)); [Sch. 8 para. 34\(3\)](#) in force at 1.4.2000 to the extent that it is not already in force by [S.I. 2000/924, art. 2](#)

### *Rehabilitation of Offenders Act 1974 (c.53)*

VALID FROM 01/04/2000

35 After subsection (6) of section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences) there shall be inserted the following subsection—

“(6A) Where in respect of a conviction a detention and training order was made under section 73 of the Crime and Disorder Act 1998, the rehabilitation period applicable to the sentence shall be—

- (a) in the case of a person aged fifteen years or over at the date of his conviction, five years if the order was, and three and a half years if the order was not, for a term exceeding six months;
- (b) in the case of a person aged under fifteen years at the date of his conviction, a period beginning with that date and ending one year after the date on which the order ceases to have effect.”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 36 In subsection (2) of section 7 of that Act (limitations on rehabilitation under Act etc.), after paragraph (b) there shall be inserted the following paragraph—
- “(bb) in any proceedings on an application for a sex offender order under section 2 or, as the case may be, 20 of the Crime and Disorder Act 1998 or in any appeal against the making of such an order;”.

*Bail Act 1976 (c.63)*

VALID FROM 04/01/1999

- 37 After subsection (8A) of section 3 of the Bail Act 1976 (general provisions) there shall be inserted the following subsection—
- “(8B) Subsection (8) above applies where a court has sent a person on bail to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998 as it applies where a court has committed a person on bail to the Crown Court for trial.”

**Commencement Information**

- I58** Sch. 8 para. 37 wholly in force; Sch. 8 para. 37 not in force at Royal Assent, see s. 121; Sch. 8 para. 37 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 37 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

- 38 In paragraph 8(1) of Schedule 1 to that Act (persons entitled to bail: supplementary provisions), after the words “subsection (6)(d)” there shall be inserted the words “ or (e) ”.

**Commencement Information**

- I59** Sch. 8 para. 38 wholly in force; Sch. 8 para. 38 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Magistrates' Courts Act 1980 (c.43)*

VALID FROM 01/04/2000

- 39 In subsection (3) of section 11 of the 1980 Act (certain sentences and orders not to be made in absence of accused), for the words “secure training order” there shall be substituted the words “ detention and training order ”.

- 40 (1) In subsection (1)(a) of section 24 of the 1980 Act (summary trial of information against child or young person for indictable offence), for the words “that subsection” there shall be substituted the words “ subsection (3) of that section ”.
- (2) In subsection (2) of that section, for the words from “that other offence” to the end there shall be substituted the words “ the charges for both offences could be joined in the same indictment ”.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I60** Sch. 8 para. 40 wholly in force; Sch. 8 para. 40 not in force at Royal Assent see s. 121; Sch. 8 para. 40(1) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 40(2) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 40(2) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

VALID FROM 01/04/2000

41 Section 37 of the 1980 Act (committal to Crown Court with a view to greater term of detention in a young offender institution) shall cease to have effect.

42 In subsection (1) of section 65 of the 1980 Act (meaning of “family proceedings”), after paragraph (p) there shall be inserted the following paragraph—  
 “(q) sections 11 and 12 of the Crime and Disorder Act 1998;”.

#### Commencement Information

**I61** Sch. 8 para. 42 wholly in force; Sch. 8 para. 42 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

43 In subsection (2) of section 108 of the 1980 Act (right of appeal to the Crown Court), the words “a probation order or” shall cease to have effect.

#### Commencement Information

**I62** Sch. 8 para. 43 wholly in force; Sch. 8 para. 43 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

44 In subsection (4)(c) of section 125 of the 1980 Act (warrants)—  
 (a) the word “and” at the end of sub-paragraph (ii) shall cease to have effect;  
 (b) in sub-paragraph (iii), for the words “or 97 above” there shall be substituted the words “, 97 or 97A above; and ”; and  
 (c) after that sub-paragraph there shall be inserted the following sub-paragraph—  
 “(iv) paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998.”

#### Commencement Information

**I63** Sch. 8 para. 44 wholly in force; Sch. 8 para. 44 not in force at Royal Assent, see s. 121; Sch. 8 para. 44 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 44](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

VALID FROM 04/01/1999

- 45 In section 126 of the 1980 Act (execution of certain warrants outside England and Wales)—
- (a) the word “and” at the end of paragraph (c) shall cease to have effect;
  - (b) after that paragraph there shall be inserted the following paragraph—
    - “(cc) warrants of arrest issued under section 97A above;”;
    - and
  - (c) after paragraph (d) there shall be inserted the words “; and
  - (e) warrants of arrest issued under paragraph 4 of Schedule 3 to the Crime and Disorder Act 1998.”

#### Commencement Information

- I64** [Sch. 8 para. 45](#) wholly in force; [Sch. 8 para. 45](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 45](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 45](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 46 At the beginning of subsection (1) of section 133 of the 1980 Act (consecutive terms of imprisonment) there shall be inserted the words “ Subject to section 102 of the Crime and Disorder Act 1998, ”.

#### Commencement Information

- I65** [Sch. 8 para. 46](#) wholly in force; [Sch. 8 para. 46](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

#### *Supreme Court Act 1981 (c.54)*

- 47 After subsection (1) of section 47 of the Supreme Court Act 1981 (sentences and other orders of Crown Court when dealing with offenders) there shall be inserted the following subsection—

“(1A) The power to give a direction under subsection (1) above has effect subject to section 102 of the Crime and Disorder Act 1998.”

#### Commencement Information

- I66** [Sch. 8 para. 47](#) wholly in force; [Sch. 8 para. 47](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 04/01/1999

- 48 In subsection (1)(a) of section 81 of the Supreme Court Act 1981 (bail), after the words “Criminal Justice Act 1987” there shall be inserted the words “ or who has been sent in custody to the Crown Court for trial under section 51 of the Crime and Disorder Act 1998 ”.

**Commencement Information**

- I67** Sch. 8 para. 48 wholly in force; [Sch. 8 para. 48](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 48](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 48](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

*Criminal Justice Act 1982 (c.48)*

VALID FROM 04/01/1999

- 49 In subsection (2) of section 1 of the 1982 Act (general restriction on custodial sentences), for the words from “remanded in custody” to the end there shall be substituted the following paragraphs—
- “(a) remanded in custody;
  - (b) committed in custody for trial or sentence; or
  - (c) sent in custody for trial under section 51 of the Crime and Disorder Act 1998.”

**Commencement Information**

- I68** Sch. 8 para. 49 wholly in force; [Sch. 8 para. 49](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 49](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 49](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 50 (1) In subsection (1) of section 1A of the 1982 Act (detention in a young offender institution), for the words “not less than 15 years of age” there shall be substituted the words “ not less than 18 years of age ”.
- (2) In subsection (3) of that section, for the words “the minimum period applicable to the offender under subsection (4A) below” there shall be substituted the words “ 21 days ”.
- (3) In subsection (4) of that section, for the words “the minimum period applicable” there shall be substituted the words “ 21 days ”.
- (4) Subsection (4A) of that section shall cease to have effect.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) At the beginning of subsection (6) of that section there shall be inserted the words “Subject to section 102 of the Crime and Disorder Act 1998, ”

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

C7 Sch. 8 para. 50(1) applied (1.4.2000) by S.I. 1999/3426, art. 4(1)(a)(ii)

**Commencement Information**

I69 Sch. 8 para. 50 wholly in force at 1.4.2000; Sch. 8 para. 50 not in force at Royal Assent see s. 121; Sch. 8 para. 50(5) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 50(1)-(4) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b) (with art. 4(3))

VALID FROM 01/04/2000

51 In subsection (2) of section 1C of the 1982 Act (accommodation of offenders sentenced to detention in a young offender institution), the words “but if he is under 18 at the time of the direction, only for a temporary purpose” shall cease to have effect.

VALID FROM 04/01/1999

52 (1) In subsection (1) of section 3 of the 1982 Act (restriction on certain sentences where offender not legally represented), for paragraph (e) there shall be substituted the following paragraph—  
“(e) make a detention and training order.”  
(2) In subsection (2) of that section—  
(a) after the words “sentence or trial,” there shall be inserted the words “ or sent to that Court for trial under section 51 of the Crime and Disorder Act 1998, ”; and  
(b) for the words “which committed him” there shall be substituted the words “ which committed or sent him ”.

**Commencement Information**

I70 Sch. 8 para. 52 partly in force; Sch. 8 para. 52 not in force at Royal Assent, see s. 121; Sch. 8 para. 52(2) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); s. 52(1) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b); Sch. 8 para. 52(2) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

53 (1) In subsection (3)(a) of section 19 of the 1982 Act (breaches of attendance centre orders or attendance centre rules), the words “revoke it and” shall cease to have effect.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) In subsection (5) of that section, the words “revoke the attendance centre order and” shall cease to have effect.
- (3) In subsection (5A) of that section, for paragraph (b) there shall be substituted the following paragraph—
- “(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 1(2) of the <sup>M44</sup>Criminal Justice Act 1991.”
- (4) After that subsection there shall be inserted the following subsection—
- “(5B) Where a court deals with an offender under subsection (3)(a) or (5) above, it shall revoke the attendance centre order if it is still in force.”

**Commencement Information**

**I71** Sch. 8 para. 53 wholly in force; Sch. 8 para. 53 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M44** 1991 c.53.

*Mental Health Act 1983 (c.20)*

- 54 In subsection (8) of section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship), for the words from “pass sentence of imprisonment” to “in respect of the offender” there shall be inserted the following paragraphs—
- “(a) pass a sentence of imprisonment, impose a fine or make a community order (within the meaning of Part I of the Criminal Justice Act 1991) in respect of the offence; or
- (b) make an order under section 58 of that Act (binding over of parent or guardian) in respect of the offender.”.

**Commencement Information**

**I72** Sch. 8 para. 54 wholly in force; Sch. 8 para. 54 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Mental Health (Scotland) Act 1984 (c.36)*

- 55 (1) In subsection (8A) of section 74 of the Mental Health (Scotland) Act 1984 (effect of certain directions), for the words “the Crime and Punishment (Scotland) Act 1997” there shall be substituted the words “ Part I of the <sup>M45</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 ”.
- (2) The amendment made by sub-paragraph (1) above shall be deemed to have had effect from 1 January 1998.



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Marginal Citations

M45 1993 c.9.

#### *Repatriation of Prisoners Act 1984 (c.47)*

56 In subsection (4)(b) of section 2 (transfer of prisoners out of United Kingdom) of the Repatriation of Prisoners Act 1984, for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) released on licence under section 33(1)(b), (2) or (3), 33A(2), 34A(3) or 35(1) of the <sup>M46</sup>Criminal Justice Act 1991 or section 28(5) or 29(1) of the <sup>M47</sup>Crime (Sentences) Act 1997;”.

#### Commencement Information

I73 Sch. 8 para. 56 wholly in force; Sch. 8 para. 56 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

M46 1991 c.53.

M47 1997 c.43.

57 In subsection (9) of section 3 of that Act (transfer of prisoners into United Kingdom)

- (a) for the words “section 48 of the <sup>M48</sup>Criminal Justice Act 1991 (discretionary life prisoners transferred to England and Wales)” there shall be substituted the words “ section 33 of the <sup>M49</sup>Crime (Sentences) Act 1997 (life prisoner transferred to England and Wales) ”; and
- (b) for the words “section 34 of that Act (duty of Secretary of State to release discretionary life prisoners)” there shall be substituted the words “ section 28 of that Act (duty to release certain life prisoners) ”.

#### Commencement Information

I74 Sch. 8 para. 57 wholly in force; Sch. 8 para. 57 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

M48 1991 c.53.

M49 1997 c.43.

58 (1) Paragraph 2 of the Schedule to that Act as it has effect, and is deemed always to have had effect, by virtue of paragraph 2 of Schedule 2 to the 1997 Act shall be amended as follows.

- (2) In sub-paragraph (4), for the definition of “the enactments relating to release on licence” there shall be substituted the following definition—

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

““the enactments relating to release on licence” means sections 33(1)(b), (2) and (3), 33A(2), 34A(3), 35(1) and 37(1) and (2) of the <sup>M50</sup>Criminal Justice Act 1991 and section 28(5) and (7) of the <sup>M51</sup>Crime (Sentences) Act 1997;”.

**Commencement Information**

**I75** Sch. 8 para. 58 wholly in force; Sch. 8 para. 58 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M50** 1991 c.53.

**M51** 1997 c.43.

- 59 (1) Paragraph 2 of the Schedule to that Act (operation of certain enactments in relation to the prisoner) as it has effect by virtue of paragraph 3 of Schedule 2 to the 1997 Act—
- (a) shall have effect in relation to all prisoners repatriated to England and Wales after the commencement of Schedule 2; and
  - (b) as it so has effect, shall be amended as follows.

(2) In sub-paragraph (2), for the words “34(3) and (5) and 35(1) of the <sup>M52</sup>Criminal Justice Act 1991” there shall be substituted the words “35(1) of the Criminal Justice Act 1991 and section 28(5) and (7) of the <sup>M53</sup>Crime (Sentences) Act 1997”.

(3) In sub-paragraph (4), for the definition of “the enactments relating to release on licence” there shall be substituted the following definition—

““the enactments relating to release on licence” means sections 33(1)(b), (2) and (3), 33A(2), 34A(3), 35(1) and 37(1) and (2) of the <sup>M54</sup>Criminal Justice Act 1991 and section 28(5) and (7) of the <sup>M55</sup>Crime (Sentences) Act 1997;”.

**Commencement Information**

**I76** Sch. 8 para. 59 wholly in force; Sch. 8 para. 59 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M52** 1991 c.53.

**M53** 1997 c.43.

**M54** 1991 c.53.

**M55** 1997 c.43.

- 60 For paragraph 3 of the Schedule to that Act there shall be substituted the following paragraph—

**Life imprisonment**

“3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (1) of section 29 of the

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

<sup>M56</sup>Crime (Sentences) Act 1997 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

**Commencement Information**

**I77** Sch. 8 para. 60 wholly in force; Sch. 8 para. 60 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M56** 1997 c.43.

*Police and Criminal Evidence Act 1984 (c.60)*

61 After subsection (4) of section 27 of the 1984 Act (fingerprinting of certain offenders and recording of offences) there shall be inserted the following subsection—

“(4A) In subsection (4) above “conviction” includes—

- (a) a caution within the meaning of Part V of the <sup>M57</sup>Police Act 1997; and
- (b) a reprimand or warning given under section 65 of the Crime and Disorder Act 1998.”

**Commencement Information**

**I78** Sch. 8 para. 61 wholly in force; Sch. 8 para. 61 not in force at Royal Assent, see s. 121; Sch. 8 para. 61 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); Sch. 8 para. 61 in force at 1.4.2000 for specified purposes and at 1.6.2000 to the extent that it is not already in force by S.I. 2000/924, arts. 3, 4, Sch.

**Marginal Citations**

**M57** 1997 c.50.

62 After section 47 of the 1984 Act there shall be inserted the following section—

**“47A Early administrative hearings conducted by justices’ clerks.**

Where a person has been charged with an offence at a police station, any requirement imposed under this Part for the person to appear or be brought before a magistrates’ court shall be taken to be satisfied if the person appears or is brought before the clerk to the justices for a petty sessions area in order for the clerk to conduct a hearing under section 50 of the Crime and Disorder Act 1998 (early administrative hearings).”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**179** Sch. 8 para. 62 wholly in force; Sch. 8 para. 62 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

#### *Prosecution of Offences Act 1985 (c.23)*

63 In subsection (2) of section 23 of the 1985 Act (discontinuance of proceedings), after paragraph (b) there shall be inserted the following paragraph—

“(c) in the case of any offence, any stage of the proceedings after the accused has been sent for trial under section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only and related offences).”

#### Commencement Information

**180** Sch. 8 para. 63 wholly in force; Sch. 8 para. 63 not in force at Royal Assent, see s. 121; Sch. 8 para. 63 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 63 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

64 After that section there shall be inserted the following section—

#### “23A Discontinuance of proceedings after accused has been sent for trial.

- (1) This section applies where—
  - (a) the Director of Public Prosecutions, or a public authority (within the meaning of section 17 of this Act), has the conduct of proceedings for an offence; and
  - (b) the accused has been sent for trial under section 51 of the Crime and Disorder Act 1998 for the offence.
- (2) Where, at any time before the indictment is preferred, the Director or authority gives notice under this section to the Crown Court sitting at the place specified in the notice under section 51(7) of the Crime and Disorder Act 1998 that he or it does not want the proceedings to continue, they shall be discontinued with effect from the giving of that notice.
- (3) The Director or authority shall, in any notice given under subsection (2) above, give reasons for not wanting the proceedings to continue.
- (4) On giving any notice under subsection (2) above the Director or authority shall inform the accused of the notice; but the Director or authority shall not be obliged to give the accused any indication of his reasons for not wanting the proceedings to continue.
- (5) The discontinuance of any proceedings by virtue of this section shall not prevent the institution of fresh proceedings in respect of the same offence.”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

- 181** Sch. 8 para. 64 wholly in force; [Sch. 8 para. 64](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 64](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 64](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

VALID FROM 04/01/1999

#### *Criminal Justice Act 1987 (c.38)*

- 65 After subsection (3) of section 4 of the Criminal Justice Act 1987 (notices of transfer in serious fraud cases) there shall be inserted the following subsection—
- “(4) This section and sections 5 and 6 below shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.”

#### Commencement Information

- 182** Sch. 8 para. 65 wholly in force; [Sch. 8 para. 65](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 65](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 65](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

VALID FROM 04/01/1999

#### *Criminal Justice Act 1988 (c.33)*

- 66 In subsection (1) of section 40 of the Criminal Justice Act 1988 (power to join in indictment count for common assault etc.), at the end there shall be inserted the words “ or are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where person sent for trial under section 51), has been served on the person charged ”.

#### Commencement Information

- 183** Sch. 8 para. 66 wholly in force; [Sch. 8 para. 66](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 66](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 66](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 04/01/1999

*Legal Aid Act 1988 (c.34)*

- 67 (1) In subsection (4) of section 20 of the Legal Aid Act 1988 (competent authorities to grant representation under Part V), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) which sends a person for trial under section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences),”.
- (2) After subsection (5) of that section there shall be inserted the following subsection—
- “(5A) A magistrates’ court which has a duty or a power to send a person for trial under section 51 of the Crime and Disorder Act 1998 is also competent, before discharging that duty or (as the case may be) deciding whether to exercise that power, as respects any proceedings before the Crown Court on the person’s trial.”
- (3) In subsection (3)(a) of section 21 of that Act (availability of representation under Part V), after the word “committed” there shall be inserted the words “ or sent ”.
- (4) In subsection (4) of that section, after the word “commits” there shall be inserted the words “ or sends ”.

**Commencement Information**

**I84** Sch. 8 para. 67 wholly in force; [Sch. 8 para. 67](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 67](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 67](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

*Children Act 1989 (c.41)*

- 68 In subsection (4) of section 8 of the 1989 Act (which defines “family proceedings”), after paragraph (h) there shall be inserted the following paragraph—
- “(i) sections 11 and 12 of the Crime and Disorder Act 1998.”

**Commencement Information**

**I85** [Sch. 8 para. 68](#) wholly in force; [Sch. 8 para. 68](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

- 69 In subsection (3) of section 47 of the 1989 Act (local authority’s duty to investigate), after the words “this Act” there shall be inserted the words “ or section 11 of the Crime and Disorder Act 1998 (child safety orders) ”.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I86** Sch. 8 para. 69 wholly in force; Sch. 8 para. 69 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### *Prisons (Scotland) Act 1989 (c.45)*

- 70 (1) Section 16 of the Prisons (Scotland) Act 1989 (discharge of prisoners) which, notwithstanding its repeal by the <sup>M58</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993, is an “existing provision” for the purposes of Schedule 6 to that Act of 1993, shall for those purposes be amended as follows.
- (2) In subsection (1), for the words “or Sunday” there shall be substituted the words “Sunday or public holiday”.
- (3) At the end there shall be inserted the following subsection—
- “(3) For the purposes of this section “public holiday” means any day on which, in the opinion of the Secretary of State, public offices or other facilities likely to be of use to the prisoner in the area in which he is likely to be following his discharge from prison will be closed.”

#### Commencement Information

**I87** Sch. 8 para. 70 wholly in force; Sch. 8 para. 70 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

**M58** 1993 c.9.

- 71 In section 39 of that Act (rules for the management of prisons)—
- (a) in subsection (7)—
- (i) at the beginning there shall be inserted the words “ Subject to subsection (7A) below, ”;
- (ii) for the words “a short-term or long-term prisoner within the meaning of” there shall be substituted the words “ any person who is, or is treated as, a long-term or short-term prisoner for the purposes of any provision of ”; and
- (iii) the words from “and the foregoing” to the end shall cease to have effect; and
- (b) after that subsection there shall be inserted the following subsections—
- “(7A) Additional days shall not be awarded under rules made under subsection (7) above in respect of a sentence where the prisoner has at any time been released on licence, in relation to that sentence, under Part I of the <sup>M59</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993; and any reference to a sentence in such rules shall be construed in accordance with section 27(5) of that Act.
- (7B) In the application of subsection (7) above to a prisoner subject to an extended sentence within the meaning of section 210A of the 1995

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Act, the reference to his sentence shall be construed as a reference to the custodial term of that extended sentence.”

**Commencement Information**

**I88** Sch. 8 para. 71 wholly in force; Sch. 8 para. 71 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M59** 1993 c.9.

*Criminal Justice Act 1991 (c.53)*

72 For subsection (3) of section 1 of the 1991 Act (restrictions on imposing custodial sentences) there shall be substituted the following subsection—

“(3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with—

- (a) a requirement which is proposed by the court to be included in a probation order or supervision order and which requires an expression of such willingness; or
- (b) a requirement which is proposed by the court to be included in a drug treatment and testing order or an order under section 61(6) of the Crime and Disorder Act 1998.”

**Commencement Information**

**I89** Sch. 8 para. 72 wholly in force; Sch. 8 para. 72 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 24/08/2000

73 In subsection (5)(a) of section 3 of the 1991 Act (procedural requirements for custodial sentences), for the words “a probation officer or by a social worker of a local authority social services department” there shall be substituted the following sub-paragraphs—

- “(i) a probation officer;
- (ii) a social worker of a local authority social services department; or
- (iii) where the offender is under the age of 18 years, a member of a youth offending team;”.



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**190** Sch. 8 para. 73 wholly in force; Sch. 3 para. 73 not in force at Royal Assent see s. 121; Sch. 8 para. 73 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 73 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

- 74 In subsection (4) of section 6 of the 1991 Act (restrictions on imposing community sentences)—
- (a) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) a drug treatment and testing order;”;
  - (b) the word “and” immediately following paragraph (e) shall cease to have effect; and
  - (c) after paragraph (f) there shall be inserted the following paragraph—
    - “(g) an action plan order.”

#### Commencement Information

**191** Sch. 8 para. 74 wholly in force; Sch. 8 para. 74 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 75 In subsection (3) of section 7 of the 1991 Act (procedural requirements for community sentences), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) a drug treatment and testing order;”.

#### Commencement Information

**192** Sch. 8 para. 75 wholly in force; Sch. 8 para. 75 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 76 In subsection (1) of section 11 of the 1991 Act (combination orders), for the words “the supervision of a probation officer” there shall be substituted the word “supervision”.

#### Commencement Information

**193** Sch. 8 para. 76 wholly in force; Sch. 3 para. 76 not in force at Royal Assent see s. 121; Sch. 8 para. 76 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 76 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

- 77 In subsection (3) of section 15 of the 1991 Act (regulation of community orders)—

*Status: Point in time view as at 01/12/1998.*

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- (a) in paragraph (a), after the words “probation officer” there shall be inserted the words “ or member of a youth offending team ”; and
- (b) after that paragraph there shall be inserted the following paragraph—
  - “(aa) in relation to an offender who is subject to a drug treatment and testing order, the probation officer responsible for his supervision;”.

#### Commencement Information

**194** Sch. 8 para. 77 wholly in force; Sch. 8 para. 77 not in force at Royal Assent see s. 121; Sch. 8 para. 77(b) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 77(a) in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 77(a) in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

- 78 In subsection (1) of section 31 of the 1991 Act (interpretation of Part I)—
- (a) immediately before the definition of “attendance centre order” there shall be inserted the following definition—
    - ““action plan order” means an order under section 69 of the Crime and Disorder Act 1998;”;
  - (b) in the definition of “custodial sentence”, in paragraph (b), after the word “age,” there shall be inserted the words “ a detention and training order, ” and the words “or a secure training order under section 1 of the Criminal Justice and Public Order Act 1994” shall cease to have effect; and
  - (c) after that definition there shall be inserted the following definitions—
    - ““detention and training order” has the meaning given by section 73(3) of the Crime and Disorder Act 1998;
    - “drug treatment and testing order” means an order under section 61 of that Act;”.

#### Commencement Information

**195** Sch. 8 para. 78 wholly in force at 1.4.2000; Sch. 8 para. 78 not in force at Royal Assent see s. 121; Sch. 8 para. 78(a)(c) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 78(2) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b)

- 79 (1) In subsection (1)(b) of section 32 of the 1991 Act (Parole Board), for the words “the functions conferred by Part II of the <sup>M60</sup>Crime (Sentences) Act 1997 (“Part II)” there shall be substituted the words “ the functions conferred by this Part in respect of long-term and short-term prisoners and by Chapter II of Part II of the Crime (Sentences) Act 1997 (“Chapter II”) in respect of life prisoners within the meaning of that Chapter ”.
- (2) In subsections (3), (4) and (6) of that section, for the words “Part II” there shall be substituted the words “ this Part or Chapter II ”.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I96** Sch. 8 para. 79 wholly in force; Sch. 8 para. 79 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M60** 1997 c.43.

80 (1) In subsection (3) of section 33 of the 1991 Act (duty to release short-term and long-term prisoners)—

- (a) in paragraph (a), for the words “subsection (1)(b) or (2) above or section 35 or 36(1) below” there shall be substituted the words “ this Part ”; and
- (b) in paragraph (b), for the words “38(2) or 39(1)” there shall be substituted the words “ 39(1) or (2) ”.

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

“(3A) In the case of a prisoner to whom section 44A below applies, it shall be the duty of the Secretary of State to release him on licence at the end of the extension period (within the meaning of section 58 of the Crime and Disorder Act 1998).”

(3) Subsection (4) of that section shall cease to have effect.

**Commencement Information**

**I97** Sch. 8 para. 80 wholly in force; Sch. 8 para. 80 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

81 After that section there shall be inserted the following section—

**“33A Duty to release prisoners: special cases.**

(1) As soon as a prisoner—

- (a) whose sentence is for a term of less than twelve months; and
- (b) who has been released on licence under section 34A(3) or 36(1) below and recalled to prison under section 38A(1) or 39(1) or (2) below,

would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him unconditionally.

(2) As soon as a prisoner—

- (a) whose sentence is for a term of twelve months or more; and
- (b) who has been released on licence under section 34A(3) below and recalled to prison under section 38A(1) below,

would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him on licence.

(3) In the case of a prisoner who—

- (a) has been released on licence under this Part and recalled to prison under section 39(1) or (2) below; and

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) has been subsequently released on licence under section 33(3) or (3A) above and recalled to prison under section 39(1) or (2) below, section 33(3) above shall have effect as if for the words “three-quarters” there were substituted the words “the whole” and the words “on licence” were omitted.”

**Commencement Information**

**198** Sch. 8 para. 81 wholly in force; Sch. 8 para. 81 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

82 In subsection (1) of section 36 of the 1991 Act (power to release prisoners on compassionate grounds), for word “prisoner” there shall be substituted the words “short-term or long-term prisoner”.

**Commencement Information**

**199** Sch. 8 para. 82 wholly in force; Sch. 8 para. 82 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

83 (1) In subsection (1) of section 37 of the 1991 Act (duration and conditions of licences)

- (a) for the words “subsection (2)” there shall be substituted the words “subsections (1A), (1B) and (2)”; and
- (b) the words “any suspension under section 38(2) below or, as the case may be,” shall cease to have effect.

(2) After subsection (1A) of that section there shall be inserted the following subsection—

“(1B) Where a prisoner whose sentence is for a term of twelve months or more is released on licence under section 33A(2) or 34A(3) 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 difference between—

- (a) that proportion of his sentence; and
- (b) the duration of the curfew condition to which he is or was subject.”

(3) In subsection (2) of that section, for the words “section 36(1) above” there shall be substituted the words “section 34A(3) or 36(1) above”.

(4) In subsection (4) of that section—

- (a) after the words “a licence” there shall be inserted the words “under this Part”; and
- (b) the words “(which shall include on his release conditions as to his supervision by a probation officer)” shall cease to have effect.

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

“(4A) The conditions so specified may in the case of a person released on licence under section 34A above whose sentence is for a term of less than twelve months, and shall in any other case, include on the person’s release conditions as to his supervision by—

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) a probation officer appointed for or assigned to the petty sessions area within which the person resides for the time being; or
  - (b) where the person is under the age of 18 years, a member of a youth offending team established by the local authority within whose area the person resides for the time being.”
- (6) For subsection (5) of that section there shall be substituted the following subsection—

“(5) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a long-term prisoner, or vary or cancel any such condition, except after consultation with the Board.”

#### Commencement Information

**I100** Sch. 8 para. 83 wholly in force at 1.1.1999; Sch. 8 para. 83 not in force at Royal Assent see s. 121; Sch. 8 para. 83(1)(a)(4)-(6) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 83 in force at 1.1.1999 by S.I. 1998/3263, art. 2

- 84 After subsection (5) of section 39 of the 1991 Act (recall of prisoners while on licence) there shall be inserted the following subsection—

“(5A) In the case of a prisoner to whom section 44A below applies, subsections (4) (b) and (5) of that section apply in place of subsection (5) above.”

#### Commencement Information

**I101** Sch. 8 para. 84 wholly in force; Sch. 8 para. 84 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 85 After subsection (4) of section 40 of the 1991 Act (convictions during currency of original sentences) there shall be inserted the following subsections—

“(5) Where the new offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(6) For the purposes of any enactment conferring rights of appeal in criminal cases, any such order as is mentioned in subsection (2) or (3A) above made with regard to any person shall be treated as a sentence passed on him for the offence for which the sentence referred to in subsection (1) above was passed.”

#### Commencement Information

**I102** Sch. 8 para. 85 wholly in force; Sch. 8 para. 85 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PROSPECTIVE

F186 .....

#### Textual Amendments

**F1** Sch. 8 para. 86 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 118(5)(a)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

- 87 (1) In subsection (3) of section 43 of the 1991 Act (young offenders), for the words “subsections (1)” there shall be substituted the words “subsection (1)”.
- (2) In subsection (5) of that section, for the words “section 37(4)” there shall be substituted the words “section 37(4A)”.

#### Commencement Information

**I103** Sch. 8 para. 87 wholly in force; [Sch. 8 para. 87](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), **art. 2(1)(2)** (subject to savings in [arts. 5-8](#))

- 88 (1) In subsection (1) of section 45 of the 1991 Act (fine defaulters and contemnors), for the words “except sections 35 and 40” there shall be substituted the words “except sections 33A, 34A, 35 and 40”.
- (2) In subsection (3) of that section—
- (a) for the words “subsections (1) to (4)” there shall be substituted the words “subsections (1) to (3)”;
  - (b) for the words “section 38(2) or 39(1)” there shall be substituted the words “section 39(1) or (2)”.
- (3) In subsection (4) of that section—
- (a) the words “any suspension under section 38(2) below; or” shall cease to have effect; and
  - (b) for the words “section 39(1)” there shall be substituted the words “section 39(1) or (2)”.

#### Commencement Information

**I104** Sch. 8 para. 88 wholly in force at 1.1.1999; [Sch. 8 para. 88](#) not in force at Royal Assent see [s. 121](#); [Sch. 8 para. 88\(1\)\(2\)\(3\)\(b\)](#) in force at 30.9.1998 by [S.I. 1998/2327](#), **art. 2(1)(2)** (subject to savings in [arts. 5-8](#)); [Sch. 8 para. 88\(3\)\(a\)](#) in force at 1.1.1999 by [S.I. 1998/3263](#), **art. 2**

- 89 In subsection (2) of section 46 of the 1991 Act (persons liable to removal from the United Kingdom), for the words from “section 37(4)” to the end there shall be substituted the words “section 37 above shall have effect as if subsection (4A) were omitted”.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I105** Sch. 8 para. 89 wholly in force; Sch. 8 para. 89 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

PROSPECTIVE

F290

#### Textual Amendments

**F2** Sch. 8 para. 90 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 118(5)(b), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

91 In section 50 of the 1991 Act (transfer by order of certain functions to Board), for subsection (3) (including that subsection as applied by any order under subsection (1) of that section) there shall be substituted the following subsection—

“(3) In section 37 above, in subsection (5) for the words “after consultation with the Board” there shall be substituted the words “in accordance with recommendations of the Board”, and subsection (6) shall be omitted.”

#### Commencement Information

**I106** Sch. 8 para. 91 wholly in force; Sch. 8 para. 91 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

92 In subsection (4) of section 51 of the 1991 Act (interpretation of Part II)—  
(a) for the words “Subsections (2) and (3)” there shall be substituted the words “Subsection (3)”; and  
(b) for the words “as they apply” there shall be substituted the words “as it applies”.

#### Commencement Information

**I107** Sch. 8 para. 92 wholly in force; Sch. 8 para. 92 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

93 After subsection (7) of section 53 of the 1991 Act (notices of transfer in certain cases involving children) there shall be inserted the following subsection—

“(8) This section shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I108** Sch. 8 para. 93 wholly in force; Sch. 8 para. 93 not in force at Royal Assent, see s. 121; Sch. 8 para. 93 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 93 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

94 (1) In subsection (1) of section 65 of the 1991 Act (supervision of young offenders after release), for the words from “a probation officer” to the end there shall be substituted the following paragraphs—

- “(a) a probation officer;
- (b) a social worker of a local authority social services department; or
- (c) in the case of a person under the age of 18 years on his release, a member of a youth offending team.”

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

“(1A) Where the supervision is to be provided by a probation officer, the probation officer shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.

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

- (a) a social worker of a local authority social services department; or
- (b) a member of a youth offending team,

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

#### Commencement Information

**I109** Sch. 8 para. 94 wholly in force; Sch. 3 para. 94 not in force at Royal Assent see s. 121; Sch. 8 para. 94 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 94 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

95 In subsection (1) of section 99 of the 1991 Act (general interpretation), after the definition of “young person” there shall be inserted the following definition—

““youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.”

#### Commencement Information

**I110** Sch. 8 para. 95 wholly in force; Sch. 3 para. 95 not in force at Royal Assent see s. 121; Sch. 8 para. 95 in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 95 in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

96 (1) After sub-paragraph (5) of paragraph 1 of Schedule 2 to the 1991 Act (enforcement etc. of community orders) there shall be inserted the following sub-paragraph—



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(6) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court, or from the criminal division of the Court of Appeal, for the purposes of this Schedule it shall be deemed to have been made by the Crown Court.”

(2) In sub-paragraph (1)(d) of paragraph 3 of that Schedule, the words “revoke the order and” shall cease to have effect.

(3) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—

“(2A) Where a magistrates’ court deals with an offender under sub-paragraph (1) (d) above, it shall revoke the relevant order if it is still in force.”

(4) In sub-paragraph (1)(d) of paragraph 4 of that Schedule, the words “revoke the order and” shall cease to have effect.

(5) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—

“(2A) Where the Crown Court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.”

(6) After paragraph 12(4) of that Schedule there shall be inserted the following sub-paragraphs—

“(5) Where—

- (a) the court amends a probation order or community service order under this paragraph;
- (b) a local authority is specified in the order in accordance with section 2(2)(b) or 14(4)(c) of the 1973 Act; and
- (c) the change, or proposed change, of residence also is or would be a change of residence from the area of that authority to the area of another such authority,

the court shall further amend the order by substituting the other authority for the authority specified in the order.

(6) In sub-paragraph (5) above “local authority” has the meaning given by section 42 of the Crime and Disorder Act 1998, and references to the area of a local authority shall be construed in accordance with that section.”

(7) In paragraph 17(1) of that Schedule, the words from “and the court shall not” to the end shall cease to have effect.

#### Commencement Information

**III1** Sch. 8 para. 96 wholly in force; Sch. 8 para. 96 not in force at Royal Assent see s. 121; Sch. 8 para. 96(1)–(5)(7) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 96(6) in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 96(6) in force at 1.4.2000 to the extent that it is not already in force by S.I. 2000/924, art. 2

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 97 In paragraph 1(2) of Schedule 5 to the 1991 Act (Parole Board: supplementary provisions), for the words “its functions under Part II of this Act” there shall be substituted the following paragraphs—
- “(a) its functions under this Part in respect of long-term and short-term prisoners; and
  - (b) its functions under Chapter II of Part II of the <sup>M61</sup>Crime (Sentences) Act 1997 in respect of life prisoners within the meaning of that Chapter”.

#### Commencement Information

**I112** Sch. 8 para. 97 wholly in force; Sch. 8 para. 97 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

**M61** 1997 c.43.

### *Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

VALID FROM 01/06/1999

- 98 (1) In subsection (1) of section 1 of the 1993 Act (release of short-term, long-term and life prisoners), at the beginning there shall be inserted the words “ Subject to section 26A(4) of this Act, ”.
- (2) In subsection (2) of that section, at the end there shall be added the words “ unless he has before that time been so released, in relation to that sentence, under any provision of this Act ”.
- (3) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Subsections (1) to (3) above are subject to section 1A of this Act.”

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

**C8** Sch. 8 para. 98(2) restricted (19.9.1998) by S.I. 1998/2327, art.7(1).

#### Commencement Information

**I113** Sch. 8 para. 98 wholly in force; Sch. 8 para. 98 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 28/01/1999

- 99 (1) After subsection (1) of section 4 of the 1993 Act (persons detained under the Mental Health (Scotland) Act 1984) there shall be inserted the following subsection—
- “(1A) This Part of this Act shall apply to a person conveyed to and detained in a hospital pursuant to a hospital direction under section 59A of the 1995

*Status: Point in time view as at 01/12/1998.*

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Act as if, while so detained, he was serving the sentence of imprisonment imposed on him at the time at which that direction was made.”

(2) The amendment made by sub-paragraph (1) above shall be deemed to have had effect from 1 January 1998.

- 100 In section 5 of the 1993 Act (fine defaulters and persons in contempt of court)—
- (a) in subsection (1), for the words “and (3)” there shall be substituted the words “ to (4) ”; and
  - (b) after subsection (3) there shall be inserted the following subsection—
    - “(4) Where a person has had imposed on him two or more terms of imprisonment or detention mentioned in subsection (1)(a) or (b) above, sections 1A and 27(5) of this Act shall apply to those terms as if they were terms of imprisonment.”

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

**C9** Sch. 8 para. 100 explained (19.9.1998) by S.I. 1998/2327, art.7(2).

**Commencement Information**

**I114** Sch. 8 para. 100 wholly in force; Sch. 8 para. 100 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 101 In section 7 of the 1993 Act (children detained in solemn proceedings)—
- (a) in subsection (1)(b), at the end there shall be added the words “ unless he has before that time been so released, in relation to that sentence, under any provision of this Act ”;
  - (b) after that subsection there shall be inserted the following subsections—
    - “(2A) This subsection applies where a child detained under section 208 of the 1995 Act is sentenced, while so detained, to a determinate term of detention in a young offenders institution or imprisonment and, by virtue of section 27(5) of this Act, such terms of detention or imprisonment are treated as single term.
    - (2B) In a case where subsection (2A) applies and the single term mentioned in that subsection is less than four years, the provisions of this section shall apply.
    - (2C) In a case where subsection (2A) applies and the single term mentioned in that subsection is of four or more years—
      - (a) section 6 of this Act shall apply to him as if the single term were an equivalent sentence of detention in a young offenders institution, if that term is served in such an institution; and
      - (b) the provisions of this Act shall apply to him as if the single term were an equivalent sentence of imprisonment, if that term is served in a remand centre or a prison.”;
  - (c) after subsection (4) there shall be inserted the following subsection—
    - “(4A) Where an order under subsection (3) above is made, the making of the order shall, if there is in force a licence relating to the person

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in respect of whom the order is made, have the effect of revoking that licence.”; and

- (d) in subsection (5), after the word “construed” there shall be inserted the words “ and sections 1A and 27 shall apply ”.

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

**C10** Sch. 8 para. 101(a) restricted (19.9.1998) by S.I. 1998/2327, art.7(3).

**Commencement Information**

**I115** Sch. 8 para. 101 wholly in force; Sch. 8 para. 101 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 102 In section 11 of the 1993 Act (duration of licences), subsections (3)(b) and (4) shall cease to have effect.

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

**C11** Sch. 8 para. 102 restricted (19.9.1998) by S.I. 1998/2327, art.7(4).

**Commencement Information**

**I116** Sch. 8 para. 102 wholly in force; Sch. 8 para. 102 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 103 In section 14 of the 1993 Act (supervised release of short-term prisoners), subsections (2) and (3) shall cease to have effect.

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

**C12** Sch. 8 para. 103 restricted (19.9.1998) by S.I. 1998/2327, art.8(1).

**Commencement Information**

**I117** Sch. 8 para. 103 wholly in force; Sch. 8 para. 103 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 104 (1) In subsection (1) of section 16 of the 1993 Act (orders for return to prison after commission of further offence), after the word “released” there shall be inserted the words “ at any time ”.
- (2) In paragraph (a) of subsection (7) of that section, after the word “shall” there shall be inserted the words “ , if the licence is in force when the order is made, ”.
- (3) Paragraph (b) of that subsection shall cease to have effect.

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

**C13** Sch. 8 para. 104(3) restricted (19.9.1998) by S.I. 1998/2327, art.7(4).

**Commencement Information**

**I118** Sch. 8 para. 104 wholly in force; Sch. 8 para. 104 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

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105 In section 17 of the 1993 Act (revocation of licence), after subsection (4) there shall be inserted the following subsection—

“(4A) Where the case of a prisoner to whom section 3A of this Act applies is referred to the Parole Board under subsection (3) above, subsection (4) of that section shall apply to that prisoner in place of subsection (4) above.”

**Commencement Information**

**I119** Sch. 8 para. 105 wholly in force; Sch. 8 para. 105 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

106 In section 20 of the 1993 Act (Parole Board for Scotland), at the end of subsection (4) there shall be inserted the words— “ and rules under this section may make different provision for different classes of prisoner. ”

**Commencement Information**

**I120** Sch. 8 para. 106 wholly in force; Sch. 8 para. 106 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

107 After subsection (7) of section 27 of the 1993 Act (interpretation) there shall be inserted the following subsection—

“(8) For the purposes of this section “public holiday” means any day on which, in the opinion of the Secretary of State, public offices or other facilities likely to be of use to the prisoner in the area in which he is likely to be following his discharge from prison will be closed.”

**Commencement Information**

**I121** Sch. 8 para. 107 wholly in force; Sch. 8 para. 107 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

108 In Schedule 6 to the 1993 Act (transitional provisions), after paragraph 6C there shall be inserted the following paragraph—

“6D Where a prisoner released on licence is treated by virtue of the provisions of this or any other enactment as a prisoner whose licence was granted under section 2(4) of this Act, the validity of his licence shall not be affected by the absence in the licence of such a condition as is specified in section 12(2) of this Act.”

**Commencement Information**

**I122** Sch. 8 para. 108 wholly in force; Sch. 8 para. 108 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/04/2000

*Probation Service Act 1993 (c.47)*

- 109 In subsection (1)(dd) of section 4 of the <sup>M62</sup>Probation Service Act 1993 (functions of probation committee), for the words “a secure training order (within the meaning of section 1 of the Criminal Justice and Public Order Act 1994)” there shall be substituted the words “a detention and training order (within the meaning of section 73 of the Crime and Disorder Act 1998)”.

**Marginal Citations**

**M62** 1993 c.47.

- 110 (1) In subsection (1) of section 17 of that Act (probation committee expenditure), for the words “(5) and (5A)” there shall be substituted the words “and (5)”.
- (2) Subsection (5A) of that section shall cease to have effect.

*Criminal Justice and Public Order Act 1994 (c.33)*

VALID FROM 01/04/2000

- 111 In subsection (3) of section 12 of the 1994 Act (escort arrangements and officers), after the words “secure training orders” there shall be inserted the words “or detention and training orders”.

VALID FROM 01/04/2000

- 112 In paragraph 4 of Schedule 1 to the 1994 Act (escort arrangements: England and Wales), in the definition of “the offender”, after the words “section 1 of this Act” there shall be inserted the words “or detention and training under section 73 of the Crime and Disorder Act 1998”.
- 113 (1) In sub-paragraph (1) of paragraph 3 of Schedule 2 to the 1994 Act (certification of custody officers: England and Wales)—
- (a) in paragraph (b), for the words “person in charge” there shall be substituted the word “monitor”; and
  - (b) in paragraph (c), for the words “person in charge” there shall be substituted the word “governor”.
- (2) In sub-paragraph (2) of that paragraph, for the words “or person in charge” there shall be substituted the words “, monitor or governor”.

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#### Commencement Information

**I123** Sch. 8 para. 113 wholly in force; Sch. 8 para. 113 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 01/04/2000

#### *Drug Trafficking Act 1994 (c.37)*

114 In subsection (7) of section 2 of the Drug Trafficking Act 1994 (confiscation orders), paragraph (a) shall cease to have effect.

#### *Proceeds of Crime (Scotland) Act 1995 (c.43)*

115 At the end of section 18 of the Proceeds of Crime (Scotland) Act 1995 (order to make material available) there shall be added the following subsection—

“(12) In this section “constable” includes a person commissioned by the Commissioners of Customs and Excise.”

#### Commencement Information

**I124** Sch. 8 para. 115 wholly in force; Sch. 8 para. 115 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

116 In subsection (6) of section 19 of that Act (authority for search)—  
(a) for the words “subsection (10)” there shall be substituted the words “subsections (10) and (12)”; and  
(b) for the words “it applies” there shall be substituted the words “they apply”.

#### Commencement Information

**I125** Sch. 8 para. 116 wholly in force; Sch. 8 para. 116 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### *Criminal Procedure (Scotland) Act 1995 (c.46)*

117 (1) For section 18(3) of the 1995 Act (prints and samples) there shall be substituted the following subsection—

“(3) Subject to subsection (4) below, all record of any relevant physical data taken from or provided by a person under subsection (2) above, all samples taken under subsection (6) below and all information derived from such samples shall be destroyed as soon as possible following a decision not to institute criminal proceedings against the person or on the conclusion

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of such proceedings otherwise than with a conviction or an order under section 246(3) of this Act.”

(2) The amendment made by sub-paragraph (1) above shall be deemed to have had effect from 1 August 1997.

118 In subsection (3) of section 49 of the 1995 Act (references to children’s hearings), in paragraph (b), after the words “the sheriff” there shall be inserted the words “or district”.

**Commencement Information**

**I126** Sch. 8 para. 118 wholly in force; Sch. 8 para. 118 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

119 In section 106(1)(bb) of the 1995 Act (appeals against automatic sentences), which is prospectively inserted by section 18(1) of the <sup>M63</sup>Crime and Punishment (Scotland) Act 1997, for the words “205B(3) or 209(1A)” there shall be substituted the words “or 205B(3)”.

**Commencement Information**

**I127** Sch. 8 para. 119 wholly in force; Sch. 8 para. 119 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M63** 1997 c.48.

120 In section 108A of the 1995 Act (prosecutor’s right of appeal against refusal to impose automatic sentence), which is prospectively inserted by section 18(2) of the <sup>M64</sup>Crime and Punishment (Scotland) Act 1997, for the words “205B(3) or 209(1A)” there shall be substituted the words “or 205B(3)”.

**Commencement Information**

**I128** Sch. 8 para. 120 wholly in force; Sch. 8 para. 120 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

**Marginal Citations**

**M64** 1997 c.48.

121 In section 118(4A) of the 1995 Act (disposal of appeals), which is prospectively inserted by section 18(5) of the <sup>M65</sup>Crime and Punishment (Scotland) Act 1997, in paragraph (c), sub-paragraph (iii) shall cease to have effect.

**Commencement Information**

**I129** Sch. 8 para. 121 wholly in force; Sch. 8 para. 121 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)



*Status: Point in time view as at 01/12/1998.*

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#### Marginal Citations

**M65** 1997 c.48.

- 122 In section 167 of the 1995 Act (findings and sentences in summary proceedings), in subsection (7), at the beginning there shall be inserted the words “ Subject to section 204A of this Act, ”.

#### Commencement Information

**I130** Sch. 8 para. 122 wholly in force; Sch. 8 para. 122 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 123 In subsection (5C) of section 175 of the 1995 Act (right of appeal in summary proceedings), the words “paragraph (a) of” shall be omitted.

#### Commencement Information

**I131** Sch. 8 para. 123 wholly in force; Sch. 8 para. 123 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 124 In subsection (1) of section 307 of the 1995 Act (interpretation), in the definition of “officer of law”—
- (a) after paragraph (b) there shall be inserted the following paragraph—
    - “(ba) any person commissioned by the Commissioners of Customs and Excise;”;
  - (b) in paragraph (e), for the words “class or persons” there shall be substituted the words “ class of persons ”.

#### Commencement Information

**I132** Sch. 8 para. 124 wholly in force; Sch. 8 para. 124 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 04/01/1999

#### *Criminal Procedure and Investigations Act 1996 (c.25)*

- 125 In subsection (2) of section 1 of the Criminal Procedure and Investigations Act 1996 (application of Part I of that Act)—
- (a) after paragraph (c) there shall be inserted the following paragraph—
    - “(cc) a person is charged with an offence for which he is sent for trial under section 51 (no committal proceedings for indictable-only offences) of the Crime and Disorder Act 1998;”;
  - (b) at the end there shall be inserted the words “or
    - (f) a bill of indictment charging a person with an indictable offence is preferred under section 22B(3)(a) of the <sup>M66</sup>Prosecution of Offences Act 1985.”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Commencement Information

**I133** Sch. 8 para. 125 wholly in force; Sch. 8 para. 125 not in force at Royal Assent, see s. 121; Sch. 8 para. 125(a) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 125(b) in force at 1.6.1999 by S.I. 1999/1279, art. 2(f); Sch. 8 para. 125(a) in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

### Marginal Citations

**M66** 1985 c.23.

126 In section 5 of that Act (compulsory disclosure by accused), after subsection (3) there shall be inserted the following subsection—

“(3A) Where this Part applies by virtue of section 1(2)(cc), this section does not apply unless—

- (a) copies of the documents containing the evidence have been served on the accused under regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998; and
- (b) a copy of the notice under subsection (7) of section 51 of that Act has been served on him under that subsection.”

### Commencement Information

**I134** Sch. 8 para. 126 partly in force; Sch. 8 para. 126 not in force at Royal Assent, see s. 121; Sch. 8 para. 126 in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 126 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, art. 2 (subject to transitional provisions in art. 3)

127 In subsection (1) of section 13 of that Act (time limits: transitional)—

- (a) after the words “section 1(2)(b) or (c),” there shall be inserted the words—

“(cc) the accused is sent for trial under section 51 of the Crime and Disorder Act 1998 (where this Part applies by virtue of section 1(2)(cc)),”; and

- (b) after the words “section 1(2)(e)” there shall be inserted the words “ or (f) ”.

### Commencement Information

**I135** Sch. 8 para. 127 partly in force; Sch. 8 para. 127 not in force at Royal Assent, see s. 121; Sch. 8 para. 127(a) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by S.I. 1998/2327, art. 4(2); Sch. 8 para. 127(b) in force at 1.6.1999 by S.I. 1999/1279, art. 2(f)

128 In subsection (1)(a) of section 28 of that Act (introduction to Part III), after the words “committed for trial” there shall be inserted the words “ , or sent for trial under section 51 of the Crime and Disorder Act 1998, ”.

*Status: Point in time view as at 01/12/1998.*

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#### Commencement Information

**I136** Sch. 8 para. 128 wholly in force; [Sch. 8 para. 128](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 128](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 128](#) in force at 15.1.2001 to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

- 129 In subsection (1) of section 39 of that Act (meaning of pre-trial hearing), after the words “committed for trial for the offence concerned” there shall be inserted the words “, after the accused has been sent for trial for the offence under section 51 of the Crime and Disorder Act 1998, ”.

#### Commencement Information

**I137** Sch. 8 para. 129 wholly in force; [Sch. 8 para. 129](#) not in force at Royal Assent, see [s. 121](#); [Sch. 8 para. 129](#) in force at 4.1.1999 for the purpose of sending any person for trial under s. 51 from any area specified in Sch. 2 of the said S.I. by [S.I. 1998/2327](#), [art. 4\(2\)](#); [Sch. 8 para. 129](#) in force to the extent that it is not already in force by [S.I. 2000/3283](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))

#### *Crime (Sentences) Act 1997 (c.43)*

- 130 (1) In subsection (3) of section 28 of the 1997 Act (duty to release certain life prisoners), after paragraph (b) there shall be inserted the words “and
- (c) the provisions of this section as compared with those of sections 33(2) and 35(1) of the <sup>M67</sup>Criminal Justice Act 1991 (“the 1991 Act”)”.
- (2) In subsection (7) of that section, in paragraph (c), for the words from “the time when” to the end there shall be substituted the words “he has served one-half of that sentence”.

#### Commencement Information

**I138** [Sch. 8 para. 130](#) wholly in force; [Sch. 8 para. 130](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)\(2\)](#) (subject to savings in [arts. 5-8](#))

#### Marginal Citations

**M67** 1991 c. 53.

- 131 (1) In subsection (2) of section 31 of the 1997 Act (duration and conditions of licences), the words “(which shall include on his release conditions as to his supervision by a probation officer)” shall cease to have effect.
- (2) After that subsection there shall be inserted the following subsection—
- “(2A) The conditions so specified shall include on the prisoner’s release conditions as to his supervision by—
- (a) a probation officer appointed for or assigned to the petty sessions area within which the prisoner resides for the time being;

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) where the prisoner is under the age of 22, a social worker of the social services department of the local authority within whose area the prisoner resides for the time being; or
- (c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998.”

(3) In subsection (6) of that section, for the words “section 24(2) above” there shall be substituted the words “ section 46(3) of the 1991 Act ”, and for the words “the words in parentheses” there shall be substituted the words “ subsection (2A) above ”.

#### Commencement Information

**I139** Sch. 8 para. 131 wholly in force; Sch. 8 para. 131 not in force at Royal Assent see s. 121; Sch. 8 para. 131(3) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 131(1)(2) in force at 30.9.1998 in the areas specified in Sch. 1 of the said S.I. by S.I. 1998/2327, art. 3(1), Sch. 1 (subject to savings in art. 9); Sch. 8 para. 131(1)(2) in force 1.4.2000 to the extent that they are not already in force by S.I. 2000/924, art. 2

- 132 (1) In subsection (1) of section 35 of the 1997 Act (fine defaulters: general), for the words “the 1980 Act” there shall be substituted the <sup>M68</sup>words “ the Magistrates’ Courts Act 1980 (“the 1980 Act”) ”.
- (2) In subsection (5)(e) of that section, for the words “paragraph 3(2)(a)” there shall be substituted the words “ sub-paragraphs (2)(a) and (2A) of paragraph 3 ”.
- (3) In subsection (8) of that section—
- (a) in paragraph (a), the words “to revoke the order and deal with an offender for the offence in respect of which the order was made” shall cease to have effect; and
  - (b) in paragraph (b), for the words “paragraph 3(2)(a)” there shall be substituted the words “ sub-paragraphs (2)(a) and (2A) of paragraph 3 ”.

#### Commencement Information

**I140** Sch. 8 para. 132 wholly in force; Sch. 8 para. 132 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

**M68** 1980 c.43.

- 133 In section 54 of the 1997 Act (general interpretation), subsection (2) shall cease to have effect.

#### Commencement Information

**I141** Sch. 8 para. 133 wholly in force; Sch. 8 para. 133 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 134 Subsection (5)(b) of section 57 of the 1997 Act (short title, commencement and extent) shall have effect as if the reference to the Channel Islands included a reference to the Isle of Man.

**Extent Information**

**E2** Sch. 8 para. 134 extends to Isle of Man, see s. 121(9)

**Commencement Information**

**I142** Sch. 8 para. 134 wholly in force; Sch. 8 para. 134 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 135 (1) Schedule 1 to the 1997 Act (transfer of prisoners within the British Islands) shall be amended as follows.
- (2) In sub-paragraph (3) of paragraph 6—
- (a) after paragraph (a) there shall be inserted the following paragraph—
- “(aa) in relation to a person who is supervised in pursuance of a detention and training order, being ordered to be detained for any failure to comply with requirements under section 76(6)(b) of the Crime and Disorder Act 1998;” and
- (b) in paragraph (b), for the words “recalled to prison under the licence” there shall be substituted the words “recalled or returned to prison”.
- (3) In paragraph 8—
- (a) in sub-paragraph (2), for the words from “sections 10” to “27 of this Act” there shall be substituted the words “sections 33 to 39, 41 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 75 to 77 of the Crime and Disorder Act 1998”;
- (b) in sub-paragraph (4), for the words from “sections 16” to “27 of this Act” there shall be substituted the words “sections 37 to 39, 43 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 76 and 77 of the Crime and Disorder Act 1998”;
- (c) in sub-paragraph (5), after the words “Any provision of” there shall be inserted the words “Part II of the 1991 Act or”;
- (d) after sub-paragraph (5) there shall be inserted the following sub-paragraphs—
- “(6) Section 41 of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if section 67 of the <sup>M69</sup>Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) or, as the case may require, section 9 of this Act extended to Scotland.
- (7) Section 65(7)(b) of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if the reference to a young offender institution were a reference to a young offenders institution.”
- (4) In paragraph 9—
- (a) in sub-paragraph (1), paragraph (a) and, in paragraph (b), the words “to that and” shall cease to have effect;

*Status: Point in time view as at 01/12/1998.*

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- (b) in sub-paragraph (2), for the words from “sections 10” to “27 of this Act” there shall be substituted the words “ sections 33 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 75 to 77 of the Crime and Disorder Act 1998 ”;
- (c) in sub-paragraph (4), for the words from “section 16” to “27 of this Act” there shall be substituted the words “ sections 37 to 40A, 43 to 46 and 65 of the 1991 Act, paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act and sections 76 and 77 of the Crime and Disorder Act 1998 ”;
- (d) sub-paragraph (5) shall cease to have effect;
- (e) in sub-paragraph (6), after the words “Any provision of” there shall be inserted the words “ Part II of the 1991 Act or ”; and
- (f) after sub-paragraph (6) there shall be inserted the following sub-paragraphs—

“(7) Section 41 of the 1991 Act, as applied by sub-paragraph (2) or (4) above, shall have effect as if section 67 of the <sup>M70</sup>Criminal Justice Act 1967 or, as the case may require, section 9 of this Act extended to Northern Ireland.

(8) Section 65(7)(b) of the 1991 Act, as applied by sub-paragraph (1), (2) or (4) above, shall have effect as if the reference to a young offender institution were a reference to a young offenders centre.”

(5) In paragraph 10—

- (a) in sub-paragraph (2)(a)—
  - (i) for the words from “sections” to “ “1997 Act”)” there shall be substituted the words “ sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the <sup>M71</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) ”; and
  - (ii) after the word “3,” there shall be inserted words “ 6(1)(b)(i) and (iii) ”;
- (b) in sub-paragraph (2)(b), for the words “sub-paragraphs (3) and (4)” there shall be substituted the words “ sub-paragraph (3) ”;
- (c) sub-paragraph (4) shall cease to have effect;
- (d) in sub-paragraph (5)(a), for the words from “sections 15” to “37 of the 1997 Act” there shall be substituted the words “ sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ”;
- (e) for sub-paragraph (6)(b) there shall be substituted the following sub-paragraph—

“(b) in the said sub-paragraph (2) the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the <sup>M72</sup>Criminal Procedure (Scotland) Act 1995.”; and

- (f) for sub-paragraph (7) there shall be substituted the following sub-paragraph—

“(7) Any provision of Part I of the 1993 Act which is applied by sub-paragraph (2) or (5) above shall have effect (as so applied) as if any reference to a chief social work officer were a reference to a chief social worker of a local authority social services department.”

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) In paragraph 11—
- (a) in sub-paragraph (2)(a)—
    - (i) for the words from “sections” to “ “1997 Act”)” there shall be substituted the words “ sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ”; and
    - (ii) after the word “3,” there shall be inserted the words “ 6(1)(b)(i) and (iii), ”;
  - (b) in sub-paragraph (4)(a), for the words from “sections 15” to “37 of the 1997 Act” there shall be substituted the words “ sections 1A, 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ”;
  - (c) in sub-paragraph (5), for the words “Sub-paragraph (5)” there shall be substituted the words “ Sub-paragraph (6) ”; and
  - (d) in sub-paragraph (6), the words “or Part III of the 1997 Act” shall cease to have effect and, in the Table, for the entry relating to the expression “young offenders institution” there shall be substituted the following entry—

“Probation officer appointed for or assigned to such petty sessions area	Probation Officer appointed by the Probation Board for Northern Ireland”.
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- (7) In sub-paragraph (5) of paragraph 12, in the Table, the entry relating to the expression “Prison rules” shall cease to have effect.
- (8) In sub-paragraph (5) of paragraph 13, in the Table, the entry relating to the expression “Prison rules” shall cease to have effect.
- (9) In sub-paragraph (1)(a) of paragraph 17 (prisoners unlawfully at large), after the words “section 49(1)” there shall be inserted the words “ and (5) ”.
- (10) In sub-paragraph (1) of paragraph 20, in the definition of “supervision”, after the word “purpose” there shall be inserted the words “ or a detention and training order ”.

#### Commencement Information

**I143** Sch. 8 para. 135 wholly in force at 1.4.2000; Sch. 8 para. 135 not in force at Royal Assent see s. 121; Sch. 8 para. 135(1)(2)(b)(3)-(8) in force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8); Sch. 8 para. 135(2)(a)(9)(10) in force at 1.4.2000 by S.I. 1999/3426, art. 3(b)

#### Marginal Citations

**M69** 1967 c.80.  
**M70** 1967 c.80.  
**M71** 1993 c.9.  
**M72** 1995 c.46.

136 In Schedule 2 to the 1997 Act (repatriation of prisoners to the British Islands), paragraphs 4 and 8 are hereby repealed.

#### Commencement Information

**I144** Sch. 8 para.136 wholly in force; Sch. 8 para. 136 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 137 In Schedule 4 to the 1997 Act (minor and consequential amendments), the following provisions are hereby repealed, namely—
- (a) in paragraph 6, sub-paragraph (1)(b);
  - (b) paragraphs 9 and 11; and
  - (c) in paragraph 12, sub-paragraph (4).

#### Commencement Information

**I145** Sch. 8 para. 137 wholly in force; Sch. 8 para. 137 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 138 (1) In Schedule 5 to the 1997 Act (transitional provisions and savings), paragraphs 1 to 4 and 6 are hereby repealed and the following provisions shall cease to have effect, namely—
- (a) paragraph 5(2);
  - (b) paragraphs 8, 9(1) and 10(1);
  - (c) in paragraph 11, sub-paragraph (1), in sub-paragraph (2)(c), the words “or Part III of the 1997 Act” and, in sub-paragraph (3), the words from the beginning to “1995; and”; and
  - (d) in paragraph 12, sub-paragraph (1) and, in sub-paragraph (2)(c), the words “or Part III of the 1997 Act”.
- (2) In paragraph 11(2) of that Schedule—
- (a) in paragraph (a)—
    - (i) for the words from “sections 15” to “1997 Act” there shall be substituted the words “ sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the <sup>M73</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”)”; and
    - (ii) for the words “the 1989 Act” there shall be substituted the <sup>M74</sup>words “ the Prisons (Scotland) Act 1989 (“the 1989 Act”) ”; and
  - (b) in paragraph (b), for the words from “sections 15” to “1997 Act” there shall be substituted the words “ sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ”.
- (3) In paragraph 12(2) of that Schedule—
- (a) in paragraph (a)—
    - (i) for the words from “sections 15” to “1997 Act” there shall be substituted the words “ sections 1, 1A, 3, 3A, 5, 6(1)(a), 7, 9, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the <sup>M75</sup>Prisoners and Criminal Proceedings (Scotland) Act (“the 1993 Act”)”; and
    - (ii) for the words “the 1989 Act” there shall be substituted the <sup>M76</sup>words “ the Prisons (Scotland) Act 1989 (“the 1989 Act”) ”; and
  - (b) in paragraph (b), for the words from “sections 15” to “1997 Act” there shall be substituted the words “ sections 1A, 2(4), 3A, 11 to 13, 15 to 21, 26A and 27 of, and Schedules 2 and 6 to, the 1993 Act ”.



*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I146** Sch. 8 para. 138 wholly in force; Sch. 8 para. 138 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### Marginal Citations

**M73** 1993 c.9.

**M74** 1989 c.45.

**M75** 1993 c.9.

**M76** 1989 c.45.

139 In Schedule 6 to the 1997 Act (repeals), the entries relating to sections 33 to 51 and 65 of the 1991 Act are hereby repealed.

#### Commencement Information

**I147** Sch. 8 para. 139 wholly in force; Sch. 8 para. 139 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

#### *Crime and Punishment (Scotland) Act 1997 (c.48)*

140 Section 4 of the Crime and Punishment (Scotland) Act 1997 (supervised release orders) is hereby repealed.

#### Commencement Information

**I148** Sch. 8 para. 140 wholly in force; Sch. 8 para. 140 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

141 (1) In Schedule 1 to that Act (minor and consequential amendments), the following provisions are hereby repealed, namely—

(a) paragraphs 1, 9(7), 10(2)(a), 13(3) and 21(3); and

(b) in paragraph 14, sub-paragraphs (2)(a), (3)(e), (4) to (7), (9), (10)(a), (11)(b), (12), (13) to (15) and (17).

(2) In paragraph 14 of that Schedule, for sub-paragraph (16) there shall be substituted the following sub-paragraph—

“(16) In section 27(1) (interpretation), in the definition of “supervised release order” the words “(as inserted by section 14 of this Act)” shall cease to have effect.”

#### Commencement Information

**I149** Sch. 8 para. 141 wholly in force; Sch. 8 para. 141 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

142 Schedule 2 to that Act (transitional provisions) is hereby repealed.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I150** Sch. 8 para. 142 wholly in force; Sch. 8 para. 142 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

- 143 (1) Schedule 3 to that Act (repeals) shall be amended in accordance with this paragraph.
- (2) In the entry relating to the Prisons (Scotland) Act 1989, in the third column, the words “In section 39, subsection (7)” are hereby repealed.
- (3) In the entry relating to the Prisoners and Criminal Proceedings (Scotland) Act 1993—
- (a) the words relating to sections 1, 3(2), 5, 6(1), 7, 9, 12(3), 16, 17(1), 20, 24, and Schedule 1;
  - (b) in the words relating to section 14, the words “and in subsection (4), the words “short-term””;
  - (c) in the words relating to 27(1)—
    - (i) the words “the definitions of “short term prisoner” and “long-term prisoner” and”;
    - (ii) in the words relating to the definition of “supervised release order” the words “and the words from “but” to the end”; and
  - (d) the words relating to section 27(2), (3), (5) and (6),
- are hereby repealed.
- (4) In the entry relating to the Criminal Procedure (Scotland) Act 1995, in the third column, the words relating to section 44 are hereby repealed.

#### Commencement Information

**I151** Sch. 8 para. 143 wholly in force; Sch. 8 para. 143 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1)(2) (subject to savings in arts. 5-8)

VALID FROM 01/04/2000

#### *Sex Offenders Act 1997 (c.51)*

- 144 In subsection (1)(a) of section 4 of the Sex Offenders Act 1997 (young sex offenders), after the word “under” there shall be inserted the words “ a detention and training order or ”.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULE 9

Section 120(1).

### TRANSITIONAL PROVISIONS AND SAVINGS

#### Commencement Information

**I152** Sch. 9 partly in force; Sch. 9 not in force at Royal Assent see s. 121; Sch. 9 para. 9 in force at 7.8.1998 by S.I.1998/1883, art. 3; certain paras. in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8) and for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); Sch. 9 para. 7 in force at 1.7.1999 by S.I. 1998/3263, art. 6.

#### *Presumption of incapacity*

- 1 Nothing in section 34 of this Act shall apply in relation to anything done before the commencement of that section.

#### Commencement Information

**I153** Sch. 9 para. 1 wholly in force; Sch. 9 para. 1 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)

#### *Effect of child's silence at trial*

- 2 Nothing in section 35 of this Act shall apply where the offence was committed before the commencement of that section.

#### Commencement Information

**I154** Sch. 9 para. 2 wholly in force; Sch. 9 para. 2 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)

#### *Sexual or violent offenders: extended sentences*

- 3 Section 58 of this Act does not apply where the sexual or violent offence was committed before the commencement of that section.

#### Commencement Information

**I155** Sch. 9 para. 3 wholly in force; Sch. 9 para. 3 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)

#### *Drug treatment and testing orders*

- 4 Section 61 of this Act does not apply in relation to an offence committed before the commencement of that section.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I156** [Sch. 9 para. 4](#) wholly in force; [Sch. 9 para. 4](#) 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](#))

#### *Young offenders: cautions*

- 5 (1) Any caution given to a child or young person before the commencement of section 65 of this Act shall be treated for the purposes of subsections (2) and (4) of that section as a reprimand.
- (2) Any second or subsequent caution so given shall be treated for the purposes of paragraphs (a) and (b) of subsection (3) of that section as a warning.

#### Commencement Information

**I157** [Sch. 9 para. 5](#) wholly in force; [Sch. 9 para. 5](#) not in force at Royal Assent, see [s. 121](#); [Sch. 9 para. 5](#) in force at 30.9.1998 for the purpose of warning a person under [s. 65](#) in any area specified in [Sch. 3](#) of the said [S.I.](#) by [S.I. 1998/2327](#), [art. 3\(3\)](#) (as amended by [1998/2412](#)); [Sch. 9 para. 5](#) in force at 1.4.2000 for specified purposes and 1.6.2000 to the extent that it is not already in force by [S.I. 2000/924](#), [arts. 3, 4](#), [Sch.](#)

#### *Abolition of secure training orders*

- 6 In relation to any time before the commencement of subsection (7) of section 73 of this Act, section 9A of the 1997 Act shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) Section 9 above applies to periods of detention which offenders are liable to serve under secure training orders as it applies to sentences of imprisonment.”

#### Commencement Information

**I158** [Sch. 9 para. 6](#) wholly in force; [Sch. 9 para. 6](#) 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](#))

VALID FROM 01/07/1999

#### *Sentencing guidelines*

- 7 (1) Section 80 of this Act does not apply by virtue of subsection (1)(a) of that section in any case where the Court is seised of the appeal before the commencement of that section.
- (2) In this paragraph “the Court” and “seised” have the same meanings as in that section.

*Status: Point in time view as at 01/12/1998.*

*Changes to legislation: Crime and Disorder Act 1998 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Confiscation orders on committal for sentence*

- 8 Section 83 of this Act does not apply where the offence was committed before the commencement of that section.

**Commencement Information**

**I159** Sch. 9 para. 8 wholly in force; Sch. 9 para. 8 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)

*Football spectators: failure to comply with reporting duty*

- 9 Section 84 of this Act does not apply where the offence was committed before the commencement of that section.

VALID FROM 28/01/1999

*Power to release short-term prisoners on licence*

- 10 (1) Section 99 of this Act does not apply in relation to a prisoner who, immediately before the commencement of that section, has served one or more days more than the requisite period for the term of his sentence.
- (2) In this paragraph “the requisite period” has the same meaning as in section 34A of the 1991 Act (which is inserted by section 99 of this Act).

*Early release: two or more sentences*

- 11 (1) Where the terms of two or more sentences passed before the commencement of section 101 of this Act have been treated, by virtue of section 51(2) of the 1991 Act, as a single term for the purposes of Part II of that Act, they shall continue to be so treated after that commencement.
- (2) Subject to sub-paragraph (1) above, section 101 of this Act applies where one or more of the sentences concerned were passed after that commencement.

**Commencement Information**

**I160** Sch. 9 para. 11 wholly in force; Sch. 9 para. 11 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)

*Recall to prison of short-term prisoners*

- 12 (1) Sub-paragraphs (2) to (7) below have effect in relation to any prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of section 103 of this Act.
- (2) The following provisions of this Act do not apply, namely—
- (a) section 103;

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- (b) paragraphs 83(1)(b) and 88(3)(a) of Schedule 8 to this Act and section 119 so far as relating to those paragraphs; and
  - (c) section 120(2) and Schedule 10 so far as relating to the repeal of section 38 of the 1991 Act and the repeals in sections 37(1) and 45(4) of that Act.
- (3) Section 33 of the 1991 Act has effect as if, in subsection (3)(b) (as amended by paragraph 80(1) of Schedule 8 to this Act), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) or 39(1) or (2) ”.
- (4) Section 33A of the 1991 Act (as inserted by paragraph 81 of Schedule 8 to this Act) has effect as if—
- (a) in subsection (1), for the words “section 38A(1) or 39(1) or (2)” there were substituted the words “ section 38(2) or 38A(1) ”; and
  - (b) in subsection (3), for the words “section 39(1) or (2)”, in both places where they occur, there were substituted the words “ section 38(2) ”.
- (5) Section 34A of the 1991 Act (as inserted by section 99 of this Act) has effect as if, in subsection (2)(g), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) ”.
- (6) Section 40A of the 1991 Act (as inserted by section 105 of this Act) has effect as if, in subsection (1), for the word “39” there were substituted the word “ 38 ”.
- (7) Section 44 of the 1991 Act (as substituted by section 59 of this Act) has effect as if—
- (a) in subsections (3) and (4), after the words “subject to” there were inserted the words “ any suspension under section 38(2) above or, as the case may be, ”; and
  - (b) in subsection (7), for the words “sections 37(5) and 39(1) and (2)” there were substituted the words “ section 37(5), 38(2) and 39(1) and (2) ”.
- (8) Section 45 of the 1991 Act has effect as if, in subsection (3) (as amended by paragraph 88(2) of Schedule 8 to this Act), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) or 39(1) or (2) ”.
- (9) For the purposes of this paragraph and paragraph 13 below, consecutive sentences, or sentences that are wholly or partly concurrent, shall be treated as parts of a single sentence.

#### **Commencement Information**

**I161** [Sch. 9 para. 12](#) wholly in force at 1.1.1999; [Sch. 9 para. 12](#) not in force at Royal Assent see [s. 121](#); [Sch. 9 para. 12\(1\)\(3\)-\(9\)](#) in force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); [Sch. 8 para. 83](#) in force at 1.1.1999 (to the extent that entry in not already in force) by [S.I. 1998/3263](#), [art. 2](#)

#### *Release on licence following recall to prison*

- 13 Section 104 of this Act does not apply in relation to a prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of that section.

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#### Commencement Information

**I162** Sch. 9 para. 13 wholly in force; Sch. 9 para. 13 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)

#### *Release on licence following return to prison*

- 14 (1) Section 105 of this Act does not apply where the new offence was committed before the commencement of that section.
- (2) In this paragraph “the new offence” has the same meaning as in section 40 of the 1991 Act.

#### Commencement Information

**I163** Sch. 9 para. 14 wholly in force; Sch. 9 para. 14 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)

#### *Remand time: two or more sentences*

- 15 (1) Where the terms of two or more sentences passed before the commencement of paragraph 11 of Schedule 8 to this Act have been treated, by virtue of section 104(2) of the <sup>M77</sup>Criminal Justice Act 1967, as a single term for the purposes of section 67 of that Act, they shall continue to be so treated after that commencement.
- (2) Subject to sub-paragraph (1) above, paragraph 11 of Schedule 8 to this Act applies where one or more of the sentences concerned were passed after that commencement.

#### Commencement Information

**I164** Sch. 9 para. 15 wholly in force; Sch. 9 para. 15 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

**M77** 1967 c.80.

## SCHEDULE 10

Section 120(2).

### REPEALS

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

**C14** Sch. 10 excluded (19.9.1998) by S.I. 1998/2327, arts.7(4),8(1).

#### Commencement Information

**I165** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent see s. 121; Sch. 10 in force for certain purposes at 30.9.1998 by S.I. 1998/2327, art. 2(1)(3) (subject to savings in arts. 5-8); Certain repeals in

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Sch. 10 in force at 30.9.1998 in certain areas by S.I. 1998/2327, art. 3(1), **Sch. 1** (subject to savings in art. 9); Certain repeals in Sch. 10 in force at 4.1.1999 for certain purposes by S.I. 1998/2327, **art. 4(2)**; Certain repeals in Sch. 10 in force at 1.1.1999 by S.I. 1998/3263, **art. 2**; **Sch. 10** in force for certain purposes at 1.6.1999 by S.I. 1999/1279, **art. 2(g)**; **Sch. 10** in force for certain purposes at 1.4.2000 by S.I. 1999/3426, **art. 3(c)** (with art. 4); entries in Sch. 10 relating to the words “by a probation officer” in s. 2(1) of 1973 c. 62 and to s. 31(2) of 1997 c. 43 in force at 1.4.2000 to the extent that they are not already in force by S.I. 2000/924, **art. 2**; entry in Sch. 10 relating to ss. 125 and 126 of the Magistrates' Courts Act 1980 in force at 15.1.2001 to the extent that it is not already in force by S.I. 2000/3283, **art. 2** (subject to transitional provisions in art. 3)

Chapter	Short title	Extent of repeal
30 Geo 3 c.48.	Treason Act 1790.	The whole Act.
36 Geo 3 c.7.	Treason Act 1795.	The whole Act.
36 Geo 3 c.31.	Treason by Women Act (Ireland) 1796.	The whole Act.
57 Geo 3 c.6.	Treason Act 1817.	The whole Act.
11 & 12 Vict c.12.	Treason Felony Act 1848.	Section 2.
21 & 22 Geo 5 c.24.	Sentence of Death (Expectant Mothers) Act 1931.	The whole Act.
23 Geo 5 c.12.	Children and Young Persons Act 1933.	In section 47(2), the words from the beginning to “court; and”.  In Schedule 2, in paragraph 15(a), the word “shall”, in the second place where it occurs, and, in paragraph 17, the words “or, if a metropolitan stipendiary magistrate, may sit alone”.
1945 c.15 (N.I.).	Criminal Justice Act (Northern Ireland) 1945.	Sections 32 and 33.
1967 c.80.	Criminal Justice Act 1967.	In section 56, subsections (3), (6) and (13).  Section 67(5)(c).
1968 c.19.	Criminal Appeal Act 1968.	In section 10(2), the words “(other than a supervision order within the meaning of that Part)”.
1969 c.54.	Children and Young Persons Act 1969.	Section 12D.  Section 13(2).  In section 16, subsection (10) and, in subsection (11), the words “seventeen or”.



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		Section 23(14)(a). In section 34, in subsection (1), paragraph (a) and, in paragraph (c), the words “ 7(7), 7(8),” . Section 69(5). In Schedule 6, the entries relating to sections 55, 56(1) and 59(1) of the Children and Young Persons Act 1933.
1972 c.71.	Criminal Justice Act 1972.	Section 49. In section 1, in subsections (8)(b) and (8A) the words “37 or” . Section 1B(10). In section 1C(1), paragraph (b) and the word “and” immediately preceding it. In section 2(1), the words “by a probation officer” and the words from “For the purposes” to “available evidence” . Section 11. Section 14(8). In section 31, in subsection (3A), the words “Subject to subsections (3B) and (3C) below,” , subsections (3B) and (3C), in subsection (4), the words “4 or” and, in subsection (6), the words “about committal by a magistrates’ court to the Crown Court” . Section 32(5). Section 42(2). In Schedule 1A, paragraph 6(7). In Schedule 5, paragraph 35.
1973 c.62.	Powers of Criminal Courts Act 1973.	In section 3(5), the words “If it appears that he is unlikely
1976 c.63.	Bail Act 1976.	

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1980 c.43.	Magistrates' Courts Act 1980.	<p>to remain in Great Britain until the time appointed for him to surrender to custody”.</p> <p>Section 37.</p>
		<p>In sections 38(2) and 38A(2), the words “, in accordance with section 56 of the Criminal Justice Act 1967,”.</p> <p>In section 108(2), the words “a probation order or”.</p> <p>In section 125(4)(c), the word “and” at the end of subparagraph (ii).</p> <p>In section 126, the word “and” at the end of paragraph (c).</p> <p>In Schedule 7, paragraph 120(b).</p>
1982 c.48.	Criminal Justice Act 1982.	<p>Section 1A(4A).</p> <p>Section 1B.</p> <p>In section 1C(2), the words “but if he is under 18 at the time of the direction, only for a temporary purpose”.</p> <p>In section 3(1)(a), the words “under section 1A above”.</p> <p>Section 18(7).</p> <p>In section 19, in subsection (3)(a), the words “revoke it and” and, in subsection (5), the words “revoke the attendance centre order and”.</p> <p>Section 66(3).</p> <p>In Schedule 14, paragraph 28.</p>
1987 c.42.	Family Law Reform Act 1987.	Section 8(1).
1988 c.33.	Criminal Justice Act 1988.	<p>In Schedule 2, paragraph 26.</p> <p>Section 69(2).</p> <p>In Schedule 15, paragraph 40.</p>

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1989 c.45.	Prisons (Scotland) Act 1989.	In section 39(7), the words from “and the foregoing” to the end.
1991 c.53.	Criminal Justice Act 1991.	<p>In section 6(4), the word “and” immediately following paragraph (e).</p> <p>In section 31(1), in the definition of “custodial sentence”, in paragraph (b), the words “or a secure training order under section 1 of the Criminal Justice and Public Order Act 1994”.</p> <p>Section 33(4).</p> <p>In section 37, in subsection (1), the words “any suspension under section 38(2) below or, as the case may be,” and, in subsection (4), the words “(which shall include on his release conditions as to his supervision by a probation officer)”.</p> <p>Section 38.</p> <p>In section 45(4), the words “any suspension under section 38(2) below; or”.</p> <p>In section 61(1), paragraph (b) and the word “or” immediately preceding that paragraph.</p> <p>Section 62.</p> <p>In Schedule 2, in paragraphs 3(1)(d) and 4(1)(d), the words “revoke the order and” and, in paragraph 17(1), the words from “and the court” to the end.</p> <p>In Schedule 11, paragraphs 10, 11 and 14.</p> <p>In Schedule 12, paragraph 17(3).</p>
1993 c.9.	Prisoners and Criminal Proceedings (Scotland) Act 1993.	Section 11(3)(b) and (4).

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		Section 14(2) and (3).
		Section 16(7)(b).
		In paragraph 6B(1) of Schedule 6, the word “and” after head (a).
1993 c.47.	Probation Service Act 1993.	Section 17(5A).
1994 c.33.	Criminal Justice and Public Order Act 1994.	Sections 1 to 4.
		Section 20.
		In section 35, in subsection (1), the words “who has attained the age of fourteen years” and subsection (6).
		Section 130(4).
		In Schedule 10, paragraph 42.
1994 c.37.	Drug Trafficking Act 1994.	Section 2(7)(a).
1995 c.46.	Criminal Procedure (Scotland) Act 1995.	Section 118(4A)(c)(iii).
		In section 175(5C), the words “paragraph (a) of”.
		In section 209(1), the words “not less than twelve months but”.
1997 c.43.	Crime (Sentences) Act 1997.	Section 1.
		Section 8.
		Sections 10 to 27.
		In section 31(2), the words “(which shall include on his release conditions as to his supervision by a probation officer)”.
		In section 35, in subsection (5), paragraph (c) and the word “and” at the end of paragraph (d), and in subsection (8), in paragraph (a), the words “to revoke the order and deal with an offender for the offence in respect of which the order was made” and the word “and” at the end of that paragraph.

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Section 43(4).

Section 54(2).

In Schedule 1, in paragraph 9(1), paragraph (a) and, in paragraph (b), the words “to that and”, paragraph 9(5), paragraph 10(4), in paragraph 11(6), the words “or Part III of the 1997 Act”, in paragraph 12(5), in the Table, the entry relating to the expression “prison rules” and, in paragraph 13(5), in the Table, the entry relating to the expression “prison rules”.

In Schedule 2, paragraphs 4 and 8.

In Schedule 4, paragraph 6(1) (b), paragraphs 9 and 11 and paragraph 12(4).

In Schedule 5, paragraphs 1 to 4, paragraph 5(2), paragraph 6, paragraph 8, paragraph 9(1), paragraph 10(1), in paragraph 11, sub-paragraph (1), in sub-paragraph (2)(c), the words “or Part III of the 1997 Act” and, in sub-paragraph (3), the words from the beginning to “1995; and”, and in paragraph 12, sub-paragraph (1) and, in sub-paragraph (2)(c), the words “or Part III of the 1997 Act”.

In Schedule 6, the entries relating to sections 33 to 51 and 65 of the Criminal Justice Act 1991.

1997 c.48.

Crime and Punishment  
(Scotland) Act 1997.

Section 4.

Chapter I of Part III.

In Schedule 1, paragraph 1, paragraph 9(7), paragraph 10(2)(a), paragraph 13(3), in paragraph 14, sub-paragraphs (2)(a), (3)(e), (4) to (7), (9), (10)(a), (11)(b), (12), (13) to

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(15) and (17), and paragraph 21(3).

Schedule 2.

In Schedule 3, in the entry relating to the Prisons (Scotland) Act 1989, the words “In section 39, subsection (7)”, in the entry relating to the Prisoners and Criminal Proceedings (Scotland) Act 1993, the words relating to sections 1, 3(2), 5, 6(1), 7, 9, 12(3), 16, 17(1), 20, 24, 27(2), (3), (5) and (6) and Schedule 1, in the words relating to section 14, the words “and, in subsection (4), the words “short-term””, in the words relating to section 27(1), the words “the definitions of “short term prisoner” and “long-term prisoner” and “and the words from “but” to the end” and, in the entry relating to the Criminal Procedure (Scotland) Act 1995, the words relating to section 44.

1997 c.50.

Police Act 1997.

In section 94(4), the word “and” immediately preceding paragraph (c).

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

**C15** Sch. 10: repeal of s. 11 of the 1973 Act excluded (19.9.1998) by [S.I. 1998/2327](#), [art. 6\(2\)](#)

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