



Criminal Justice Act 2003

2003 CHAPTER 44

PART 13 **E+W**

MISCELLANEOUS

Detention of suspected terrorists

306 Limit on period of detention without charge of suspected terrorists **U.K.**

(1) Schedule 8 to the Terrorism Act 2000 (c. 11) (detention) is amended as follows.

(2) ^{F1}.....

(3) ^{F1}.....

(4) After that sub-paragraph there is inserted—

“(3A) Where the period specified in a warrant of further detention—

- (a) ends at the end of the period of seven days beginning with the relevant time, or
- (b) by virtue of a previous extension (or further extension) under this sub-paragraph, ends after the end of that period,

the specified period may, on an application under this paragraph, be extended or further extended to a period ending not later than the end of the period of fourteen days beginning with the relevant time.

(3B) In this paragraph “the relevant time”, in relation to a person, means—

- (a) the time of his arrest under section 41, or
- (b) if he was being detained under Schedule 7 when he was arrested under section 41, the time when his examination under that Schedule began.”

Status: Point in time view as at 01/07/2022.

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Textual Amendments

F1 S. 306(2)(3) repealed (25.7.2006) by [Terrorism Act 2006 \(c. 11\)](#), ss. 37(5), 39, [Sch. 3](#); S.I. 2006/1936, [art. 2](#)

Enforcement of legislation on endangered species

307 Enforcement of regulations implementing [F2EU] legislation on endangered species [U.K.](#)

- (1) In this section—
 - “the 1972 Act” means the European Communities Act 1972 (c. 68);
 - “relevant [F2EU] instrument” means—
 - (a) Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating the trade therein, and
 - (b) Commission Regulation 1808/01/EC on the implementation of the Council Regulation mentioned in paragraph (a).
- (2) Regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant [F2EU] instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on conviction on indictment with imprisonment for a term not exceeding five years.
- (3) In relation to Scotland and Northern Ireland, regulations made under section 2(2) of the 1972 Act for the purpose of implementing any relevant [F2EU] instrument may, notwithstanding paragraph 1(1)(d) of Schedule 2 to the 1972 Act, create offences punishable on summary conviction with imprisonment for a term not exceeding six months.
- ^{F3}(4)
- (5) Until the coming into force of paragraph 3 of Schedule 27 (which amends paragraph 1 of Schedule 2 to the 1972 Act), subsection (3) has effect—
 - (a) with the omission of the words “in relation to Scotland and Northern Ireland”, and
 - (b) as if, in relation to England and Wales, the definition of “relevant [F2EU] instrument” also included Council Directive [92/43/EEC](#) on the conservation of natural habitats and wild fauna and flora as amended by the Act of Accession to the European Union of Austria, Finland and Sweden and by Council Directive [97/62/EC](#).
- (6) Any reference in this section to [F2an][F2EU] instrument is to be read—
 - (a) as a reference to that instrument as amended from time to time, and
 - (b) where any provision of that instrument has been repealed, as including a reference to any instrument that re-enacts the repealed provision (with or without amendment).

Textual Amendments

F2 Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3)4(2)6(4)(5))

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F3 S. 307(4) repealed (S.) (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), [sch. 2 para. 17](#); [S.S.I. 2017/345](#), art. 3, sch.

Commencement Information

I1 S. 307 wholly in force at 21.7.2005; s. 307(1)-(3)(5)(6) in force at Royal Assent, see s. 336(1); s. 307(4) in force at 21.7.2005 by [S.I. 2005/1817](#), [art. 3](#)

Miscellaneous provisions about criminal proceedings

308 Non-appearance of defendant: plea of guilty **E+W**

In section 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused: plea of guilty) subsection (1)(a)(i) (which excludes offences punishable with imprisonment for term exceeding 3 months) is omitted.

Commencement Information

I2 S. 308 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

309 Preparatory hearings for serious offences not involving fraud **E+W**

In section 29 of the Criminal Procedure and Investigations Act 1996 (c. 25) (power to order preparatory hearings) in subsection (1) (preparatory hearing may be held in complex or lengthy trial) after “complexity” there is inserted “ a case of such seriousness ”.

Commencement Information

I3 S. 309 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

310 Preparatory hearings to deal with severance and joinder of charges **E+W**

- (1) In section 7(1) of the Criminal Justice Act 1987 (c. 38) (which sets out the purposes of preparatory hearings in fraud cases) after paragraph (d) there is inserted “or
(e) considering questions as to the severance or joinder of charges.”
- (2) In section 9(3) of that Act (determinations as to the admissibility of evidence etc) after paragraph (c) there is inserted “and
(d) any question as to the severance or joinder of charges.”
- (3) In section 9(11) of that Act (appeals against orders or rulings under section 9(3)(b) or (c)) for “or (c)” there is substituted “ (c) or (d) ”.
- (4) In section 29(2) of the Criminal Procedure and Investigations Act 1996 (purposes of preparatory hearings in non-fraud cases) after paragraph (d) there is inserted—
“(e) considering questions as to the severance or joinder of charges.”

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(5) In section 31(3) of that Act (rulings as to the admissibility of evidence etc) after paragraph (b) there is inserted—

“(c) any question as to the severance or joinder of charges.”

Commencement Information

I4 S. 310 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 25](#) (subject to [art. 2\(2\), Sch. 2](#))

311 Reporting restrictions for preparatory hearings **E+W**

- (1) The Criminal Justice Act 1987 is amended as follows.
- (2) In paragraphs (a) and (b) of section 11(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (3) In section 11A (offences in connection with reporting) after subsection (3) there is inserted—

“(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”
- (4) In section 17(3) (extent) after “sections 2 and 3;” there is inserted “ sections 11 and 11A; ”.
- (5) The Criminal Procedure and Investigations Act 1996 (c. 25) is amended as follows.
- (6) In paragraphs (a) and (b) of section 37(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (7) In section 38 (offences in connection with reporting) after subsection (3) there is inserted—

“(3A) Proceedings for an offence under this section shall not be instituted in Northern Ireland otherwise than by or with the consent of the Attorney General for Northern Ireland.”
- (8) In paragraphs (a) and (b) of section 41(1) (restrictions on reporting) for “Great Britain” there is substituted “ the United Kingdom ”.
- (9) In section 79(3) (extent) after “Parts III” there is inserted “ (other than sections 37 and 38) ”.
- (10) In Schedule 4 (modifications for Northern Ireland) paragraph 16 is omitted.

Commencement Information

I5 S. 311 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 25](#) (subject to [art. 2\(2\), Sch. 2](#))

312 Awards of costs **E+W**

- (1) The Prosecution of Offences Act 1985 (c. 23) is amended as follows.

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- (2) In section 16(4A) (defence costs on an appeal under section 9(11) of Criminal Justice Act 1987 (c. 38) may be met out of central funds) after “1987” there is inserted “ or section 35(1) of the Criminal Procedure and Investigations Act 1996 ”.
- (3) In section 18(2) (award of costs against accused in case of dismissal of appeal under section 9(11) of the Criminal Justice Act 1987 etc) after paragraph (c) there is inserted “or
 - (d) an appeal or application for leave to appeal under section 35(1) of the Criminal Procedure and Investigations Act 1996.”

Commencement Information

- I6** S. 312 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

313 Extension of investigations by Criminal Cases Review Commission in England and Wales **E+W**

- (1) Section 23A of the Criminal Appeal Act 1968 (c. 19) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.
- (3) In paragraph (a) of that subsection—
 - (a) at the beginning there is inserted “ in the case of an appeal, ”, and
 - (b) for “case”, in both places where it occurs, there is substituted “ appeal ”.
- (4) After paragraph (a) of that subsection there is inserted—
 - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—
 - “(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 31 of this Act.”
- (6) After subsection (4) there is inserted—
 - “(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

Commencement Information

- I7** S. 313 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

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314 Extension of investigations by Criminal Cases Review Commission in Northern Ireland **N.I.**

- (1) Section 25A of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (power to order investigations by Criminal Cases Review Commission) is amended as follows.
- (2) In subsection (1) after “conviction” there is inserted “ or an application for leave to appeal against conviction, ”.
- (3) In paragraph (a) of that subsection—
 - (a) at the beginning there is inserted “ in the case of an appeal, ”, and
 - (b) for “case”, in both places where it occurs, there is substituted “ appeal ”.
- (4) After paragraph (a) of that subsection there is inserted—
 - “(aa) in the case of an application for leave to appeal, the matter is relevant to the determination of the application and ought, if possible, to be resolved before the application is determined;”.
- (5) After that subsection there is inserted—

“(1A) A direction under subsection (1) above may not be given by a single judge, notwithstanding that, in the case of an application for leave to appeal, the application may be determined by a single judge as provided for by section 45 below.”
- (6) After subsection (4) there is inserted—

“(5) In this section “respondent” includes a person who will be a respondent if leave to appeal is granted.”

Commencement Information

I8 S. 314 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629, art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

315 Appeals following reference by Criminal Cases Review Commission **E+W+N.I.**

- (1) Section 14 of the Criminal Appeal Act 1995 (c. 35) (further provision about references by Criminal Cases Review Commission) is amended as follows.
- (2) After subsection (4) there is inserted—
 - “(4A) Subject to subsection (4B), where a reference under section 9 or 10 is treated as an appeal against any conviction, verdict, finding or sentence, the appeal may not be on any ground which is not related to any reason given by the Commission for making the reference.
 - (4B) The Court of Appeal may give leave for an appeal mentioned in subsection (4A) to be on a ground relating to the conviction, verdict, finding or sentence which is not related to any reason given by the Commission for making the reference.”
- (3) In subsection (5) for “any of sections 9 to” there is substituted “ section 11 or ”.

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Commencement Information

- I9** S. 315 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 25 (subject to **art. 2(2)**, Sch. 2)

316 Power to substitute conviction of alternative offence on appeal in England and Wales **E+W**

- (1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies on an appeal against conviction where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of the other offence.
- (2) The Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence and pass such sentence in substitution for the sentence passed at the trial as may be authorised by law for the other offence, not being a sentence of greater severity.”

Commencement Information

- I10** S. 316 wholly in force at 1.9.2004, see s. 336(3) and S.I. 2004/1629, **art. 3(1)(2)** (subject to **art. 3(3)(4)**)

317 Power to substitute conviction of alternative offence on appeal in Northern Ireland **N.I.**

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended as follows.
- (2) In section 3 (power to substitute conviction of alternative offence) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 3 there is inserted—

“3A Power to substitute conviction of alternative offence after guilty plea

- (1) This section applies where—

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- (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could on the indictment have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Court of Appeal that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of that other offence and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law by the plea so substituted.”

Commencement Information

I11 S. 317 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

318 **Substitution of conviction on different charge on appeal from court-martial** E

+W

- (1) The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.
- (2) In section 14 (substitution of conviction on different charge) in subsection (1) after “an offence” there is inserted “ to which he did not plead guilty ”.
- (3) After section 14 there is inserted—

“14A Substitution of conviction on different charge after guilty plea

- (1) This section applies where—
 - (a) an appellant has been convicted of an offence to which he pleaded guilty,
 - (b) if he had not so pleaded, he could lawfully have pleaded, or been found, guilty of some other offence, and
 - (c) it appears to the Appeal Court on an appeal against conviction that the plea of guilty indicates an admission by the appellant of facts which prove him guilty of that other offence.
- (2) The Appeal Court may, instead of allowing or dismissing the appeal, substitute for the appellant’s plea of guilty a plea of guilty of the other offence, and may pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as they think proper, being a sentence warranted by the relevant Service Act for that other offence, but not a sentence of greater severity.”

Commencement Information

I12 S. 318 wholly in force at 1.9.2004, see s. 336(3) and [S.I. 2004/1629](#), [art. 3\(1\)\(2\)](#) (subject to [art. 3\(3\)\(4\)](#))

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319 Appeals against sentences in England and Wales **E+W**

(1) The Criminal Appeal Act 1968 (c. 19) is amended as follows.

(2) In section 10 (appeal against sentence in certain cases) for subsection (3) there is substituted—

“(3) An offender dealt with for an offence before the Crown Court in a proceeding to which subsection (2) of this section applies may appeal to the Court of Appeal against any sentence passed on him for the offence by the Crown Court.”

(3) In section 11 (supplementary provisions as to appeal against sentence) after subsection (6) there is inserted—

“(7) For the purposes of this section, any two or more sentences are to be treated as passed in the same proceeding if—

- (a) they are passed on the same day; or
- (b) they are passed on different days but the court in passing any one of them states that it is treating that one together with the other or others as substantially one sentence.”

Commencement Information

I13 S. 319 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 25](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Outraging public decency

320 Offence of outraging public decency triable either way **E+W**

(1) After paragraph 1 of Schedule 1 to the Magistrates' Courts Act 1980 (c. 43) (offences triable either way by virtue of section 17) there is inserted—

An offence at common law of outraging public decency.”

(2) This section does not apply in relation to any offence committed before the commencement of this section.

Jury service

321 Jury service **E+W**

Schedule 33 (jury service) shall have effect.

Commencement Information

I14 S. 321 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829, art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

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Individual support orders

F⁴322 Individual support orders **E+W**

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Textual Amendments

F4 Ss. 322, 323 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

F⁴323 Individual support orders: consequential amendments **E+W**

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Textual Amendments

F4 Ss. 322, 323 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 4(f)(xii)

Parenting orders and referral orders

F⁵324 Parenting orders and referral orders **E+W**

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Textual Amendments

F5 S. 324 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Assessing etc. risks posed by sexual or violent offenders

325 Arrangements for assessing etc risks posed by certain offenders **E+W**

(1) In this section—

“relevant sexual or violent offender” [^{F6}and “relevant terrorist offender” have the meanings] given by section 327;

“responsible authority”, in relation to any area, means the chief officer of police, the local probation board for that area [^{F7} or (if there is no local probation board for that area) a relevant provider of probation services] and the Minister of the Crown exercising functions in relation to prisons, acting jointly.

(2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—

(a) relevant sexual and violent offenders,

[^{F8}(aa) relevant terrorist offenders,]

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- (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public [^{F9}, and
 - (c) other persons who have committed offences (wherever committed) and are considered by the responsible authority to be persons who may be at risk of involvement in terrorism-related activity.]
- (3) In establishing those arrangements, the responsible authority must act in co-operation with the persons specified in subsection (6); and it is the duty of those persons to co-operate in the establishment by the responsible authority of those arrangements, to the extent that such co-operation is compatible with the exercise by those persons of their [^{F10}relevant functions].
- [^{F11}(4) A person to whom subsection (4A) applies may, for the purpose described in subsection (2), disclose information to another person to whom subsection (4A) applies.
- (4A) This subsection applies to—
 - (a) the responsible authority,
 - (b) a person specified in subsection (6), and
 - (c) a person who the responsible authority considers may contribute to the achievement of the purpose described in subsection (2).
- (4B) A disclosure under subsection (4) does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4C) But subsection (4) does not authorise a disclosure of information that—
 - (a) would contravene the data protection legislation (but in determining whether it would do so, the power in that subsection is to be taken into account), or
 - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (4D) Subsection (4E) applies if a person who may disclose or receive information by virtue of subsection (4) would not otherwise be a competent authority for the purposes of Part 3 of the Data Protection Act 2018 (law enforcement processing) in relation to the processing by that person of personal data by virtue of that subsection.
- (4E) The person is to be treated as a competent authority for the purposes of that Part in relation to the processing by that person of personal data by virtue of subsection (4).
- (4F) But subsection (4E) does not apply to an intelligence service within the meaning of Part 4 of the Data Protection Act 2018 (see section 82(2) of that Act).
- (4G) Subsections (4) to (4F) do not affect any power to disclose information apart from that conferred by subsection (4).]
- (5) The responsible authority for each area (“the relevant area”) and the persons specified in subsection (6) must together draw up a memorandum setting out the ways in which they are to co-operate.
- (6) The persons referred to in subsections (3) [^{F12}, (4A)(b)] and (5) are—
 - (a) every youth offending team established for an area any part of which falls within the relevant area,

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- (b) the Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training,
 - [^{F13}(ba) [^{F14}NHS England],]
 - (c) every [^{F15}local authority acting in the exercise of its relevant functions] any part of whose area falls within the relevant area,
 - (d) every local housing authority ^{F16}... any part of whose area falls within the relevant area,
 - [^{F17}(da) every local authority (in its capacity as a person exercising functions for the purposes of the health service) any part of whose area falls within the relevant area,]
 - (e) every [^{F18}private registered provider of social housing or] registered social landlord which provides or manages residential accommodation in the relevant area in which persons falling within subsection (2)(a) or (b) reside or may reside,
 - (f) every Health Authority ^{F19}... any part of whose area falls within the relevant area,
 - (g) every [^{F20}integrated care board or]^{F21}... Local Health Board any part of whose area falls within the relevant area,
 - (h) every NHS trust any part of whose area falls within the relevant area, ^{F22}...
 - (i) every person who is designated by the Secretary of State by order for the purposes of this paragraph as a provider of electronic monitoring services [^{F23}, and
 - (j) the persons listed in section 48(1A)(a) to (e) of the UK Borders Act 2007 and any person acting pursuant to arrangements relating to the discharge of a function within section 48(1A) of that Act (persons exercising functions as the UK Border Agency)].
- (7) The Secretary of State may by order amend subsection (6) by adding or removing any person or description of person.
- (8) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section and [^{F24}sections 326 and 327A].
- [^{F25}(8A) Responsible authorities must have regard to any guidance issued under subsection (8) in discharging those functions.]
- (9) In this section—
- [^{F26}“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);]
 - [^{F27}“education functions” has the meaning given by section 579(1) of the Education Act 1996;]
 - [^{F26}“involvement in terrorism-related activity” has the same meaning as in the Terrorism Prevention and Investigation Measures Act 2011 (see section 4 of that Act);]
 - “[^{F28}local authority]” has the same meaning as in the Education Act 1996 (c. 56);
 - “local housing authority” has the same meaning as in the Housing Act 1985 (c. 68);
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);

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“NHS trust” has the same meaning as in the ^[F29]National Health Service Act 2006];

^[F26]“personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act);]

“prison” has the same meaning as in the Prison Act 1952 (c. 52);

^[F26]“processing” has the same meaning as in the Data Protection Act 2018 (see section 3(4) of that Act);]

“registered social landlord” has the same meaning as in Part 1 of the Housing Act 1996 (c. 52);

^[F30]“relevant functions means—

(a) in the case of a local authority, the education functions and the social services functions of that authority;

(b) in the case of any other person specified in subsection (6), the functions of that person under any other enactment;]

^[F31]“a relevant provider of probation services ” in relation to an area means a provider of probation services identified as such for the purposes of this section by arrangements under section 3 of the Offender Management Act 2007.]

^{F32}
...

^[F33] “ social services functions ” has the meaning given ^[F34]—

(a) in relation to England,] by section 1A of the Local Authority Social Services Act 1970.

(b) ^[F35]in relation to Wales, has the meaning given by section 143 of the Social Services and Well-being (Wales) Act 2014].]

Textual Amendments

- F6** Words in s. 325(1) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 189\(2\)](#), 208(4)(x)
- F7** Words in s. 325(1) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(16\)\(a\)](#)
- F8** S. 325(2)(aa) substituted (28.4.2022) for word by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 189\(3\)\(a\)](#), 208(4)(x)
- F9** S. 325(2)(c) and word inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 189\(3\)\(b\)](#), 208(4)(x)
- F10** Words in s. 325(3) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), [Sch. 2 para. 53\(2\)](#)
- F11** S. 325(4)-(4G) substituted for s. 325(4) (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 189\(4\)](#), 208(4)(x)
- F12** Words in s. 325(6) inserted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 189\(5\)](#), 208(4)(x)
- F13** S. 325(6)(ba) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 124\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F14** Words in s. 325 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13](#), 29, 30)
- F15** Words in s. 325(6)(c) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), arts. 1, 5(1), [Sch. 2 para. 53\(3\)\(a\)](#)

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- F16** Words in s. 325(6)(d) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 53(3)(b), **Sch. 3 Pt. 2**
- F17** S. 325(6)(da) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 124(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** Words in s. 325(6)(e) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 5, **Sch. 2 para. 126** (subject to Sch. 3)
- F19** Words in s. 325(6)(f) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 124(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** Words in s. 325(6)(g) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 67**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F21** Words in s. 325(6)(g) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 124(d)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** Word in s. 325(6)(h) repealed (20.7.2011) by Co-operation in Public Protection Arrangements (UK Border Agency) Order 2011 (S.I. 2011/1733), arts. 1, **2(a)**
- F23** S. 325(6)(j) and preceding word inserted (20.7.2011) by Co-operation in Public Protection Arrangements (UK Border Agency) Order 2011 (S.I. 2011/1733), arts. 1, **2(b)**
- F24** Words in s. 325(8) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 74(2)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F25** S. 325(8A) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 74(3)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F26** Words in s. 325(9) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(6), 208(4)(x)**
- F27** S. 325(9): definition of "education functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F28** Words in s. 325(9) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(a)**
- F29** In s. 325(9) in definition of "NHS Trust" words substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 5, 8, **Sch. 1 para. 254** (with Sch. 3 Pt. 1)
- F30** S. 325(9): definition of "relevant functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F31** S. 325(9): definition of "a relevant provider of probation services" inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 19(16)(b)**
- F32** S. 325(9): definition of "social services authority" repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1)(2), Sch. 2 para. 53(4)(c), **Sch. 3 Pt. 2**
- F33** S. 325(9): definition of "social services functions" inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 53(4)(b)**
- F34** Words in s. 325(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **212(a)**
- F35** Words in s. 325(9) inserted (6.4.2016) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413), regs. 2(1), **212(b)**

Commencement Information

- I15** S. 325 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to art. 2(3)-(6))

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326 Review of arrangements **E+W**

- (1) The responsible authority for each area must keep the arrangements established by it under section 325 under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.
- (2) The responsible authority for any area must exercise their functions under subsection (1) in consultation with persons appointed by the Secretary of State as lay advisers in relation to that authority.
- (3) The Secretary of State must appoint two lay advisers under subsection (2) in relation to each responsible authority.
- (4) The responsible authority must pay to or in respect of the persons so appointed such allowances as the Secretary of State may determine.
- (5) As soon as practicable after the end of each period of 12 months beginning with 1st April, the responsible authority for each area must—
 - (a) prepare a report on the discharge by it during that period of the functions conferred by section 325 [F36, this section and section 327A] , and
 - (b) publish the report in that area.
- (6) The report must include—
 - (a) details of the arrangements established by the responsible authority, and
 - (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

Textual Amendments

F36 Words in s. 326(5)(a) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 75](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)

Commencement Information

I16 S. 326 wholly in force at 5.4.2004, see s. 336(3) and [S.I. 2004/829](#), [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)-\(6\)](#))

327 Section 325: interpretation **E+W**

- (1) For the purposes of section 325, a person is a relevant sexual or violent offender if he falls within one or more of [F37 subsections (2) to (4)].
- (2) A person falls within this subsection if he is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42).
- (3) A person falls within this subsection if—
 - (a) he [F38 has been] convicted by a court in England or Wales of murder or an offence specified in [F39 Part 1 or 2 of] Schedule 15 [F40 or in subsection (4A) below], and
 - (b) one of the following sentences [F41 was] imposed on him in respect of the conviction—
 - (i) a sentence of imprisonment for [F42 that is not for a term of less than 12 months],

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- (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (iii) a sentence of detention during Her Majesty's pleasure,
 - (iv) a sentence of detention for public protection under section 226,
 - (v) a sentence of detention for a period of 12 months or more under section 91 of ^{F43}the Powers of Criminal Courts (Sentencing) Act 2000 or under section 250 ^{F44}or 252A] of the Sentencing Code] (offenders under 18 convicted of certain serious offences),
 - ^{F45}(va) a sentence of custody for life under section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 or under section 272 or 275 of the Sentencing Code,]
 - (vi) a sentence of detention under section ^{F46}226B or] 228 ^{F47}or under section 254 of the Sentencing Code],
 - (vii) a detention and training order for a term of 12 months or more, or
 - (viii) a hospital or guardianship order within the meaning of the Mental Health Act 1983 (c. 20).
- (4) A person falls within this subsection if—
- (a) he is found not guilty by a court in England and Wales of murder or an offence specified in ^{F48}Part 1 or 2 of] Schedule 15 ^{F49}or in subsection (4A) below] by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and
 - (b) one of the following orders is made in respect of the act charged against him as the offence—
 - (i) an order that he be admitted to hospital, or
 - (ii) a guardianship order within the meaning of the Mental Health Act 1983.
- ^{F50}(4A) The offences specified in this subsection are—
- (a) an offence under section 1 of the Child Abduction Act 1984 (abduction of child by parent);
 - (b) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (trafficking people for exploitation), where the offence is committed against a child;
 - (c) an offence under section 4(3) of the Misuse of Drugs Act 1971 where the offence is committed by—
 - (i) supplying or offering to supply a Class A drug to a child,
 - (ii) being concerned in the supplying of such a drug to a child, or
 - (iii) being concerned in the making to a child of an offer to supply such a drug;
 - (d) an offence of aiding, abetting, counselling, procuring or inciting the commission of an offence specified in this subsection;
 - (e) an offence of conspiring to commit an offence so specified;
 - (f) an offence of attempting to commit an offence so specified.]
- ^{F51}(4B) For the purposes of section 325, a person is a relevant terrorist offender if the person falls within one or both of subsections (4C) and (4D).
- (4C) A person falls within this subsection if the person is subject to the notification requirements of Part 4 of the Counter-Terrorism Act 2008.

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- (4D) A person falls within this subsection if the person has been convicted of and sentenced for a relevant terrorist offence, or otherwise dealt within in relation to such an offence, as described in—
- (a) paragraph (a) or (b) of section 45(1) of the Counter-Terrorism Act 2008,
 - (b) paragraph (a) or (b) of section 45(2) of that Act,
 - (c) paragraph (a) or (b) of section 45(3) of that Act, or
 - (d) paragraph (a) or (b) of paragraph 5(1) of Schedule 6 to that Act.
- (4E) For the purposes of subsection (4D)—
- (a) any reference in the Counter-Terrorism Act 2008 to an offence to which Part 4 of that Act applies is to be read as if it were a reference to a relevant terrorist offence, and
 - (b) any reference in that Act to a hospital order is to be read as if it included a guardianship order within the meaning of the Mental Health Act 1983 or the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (4F) In subsections (4D) and (4E) “relevant terrorist offence” means—
- (a) an offence specified in Part 1 or 2 of Schedule 19ZA (terrorism offences punishable with imprisonment for life or for more than two years),
 - (b) a service offence as respects which the corresponding civil offence is so specified, or
 - (c) an offence which was determined to have a terrorist connection (see subsection (4G));
- and in paragraph (b) “service offence” and “corresponding civil offence” have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (4G) For the purposes of subsection (4F)(c), an offence was determined to have a terrorist connection if it was—
- (a) determined to have a terrorist connection under—
 - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),
 - (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now capable of posing a risk in an area in England and Wales), or
 - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
 - (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now capable of posing a risk in an area in England and Wales).]

^{F52}(5)

(6) In this section^{F53}—

"child" means a person under 18;]

“court” does not include a service court, as defined by section 305(1).

Textual Amendments

F37 Words in s. 327(1) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 83(2)**, 115(3)(j)

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- F38** Words in s. 327(3)(a) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(8)(a)(i)**, 208(4)(x)
- F39** Words in s. 327(3)(a) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(8)(a)(ii)**, 208(4)(x)
- F40** Words in s. 327(3)(a) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 83(3)**, 115(3)(j)
- F41** Word in s. 327(3)(b) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(8)(b)(i)**, 208(4)(x)
- F42** Words in s. 327(3)(b)(i) substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(8)(b)(ii)**, 208(4)(x)
- F43** Words in s. 327(3)(b)(v) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 244(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F44** Words in s. 327(3)(b)(v) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(9)**
- F45** S. 327(3)(b)(va) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(8)(b)(iii)**, 208(4)(x)
- F46** Words in s. 327(3)(b)(vi) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 29**; S.I. 2012/2906, art. 2(s)
- F47** Words in s. 327(3)(b)(vi) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 244(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F48** Words in s. 327(4)(a) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(9)**, 208(4)(x)
- F49** Words in s. 327(4)(a) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 83(4)**, 115(3)(j)
- F50** S. 327(4A) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 83(5)**, 115(3)(j)
- F51** S. 327(4B)-(4G) inserted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 189(10)**, 208(4)(x)
- F52** S. 327(5) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), **ss. 83(6)**, 115(3)(j)
- F53** Words in s. 327(6) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 83(7)**, 115(3)(j)

Commencement Information

- I17** S. 327 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, **art. 2(1)(2)** (subject to art. 2(3)-(6))

[^{F54}327A] Disclosure of information about convictions etc. of child sex offenders to members of the public **E+W**

- (1) The responsible authority for each area must, in the course of discharging its functions under arrangements established by it under section 325, consider whether to disclose information in its possession about the relevant previous convictions of any child sex offender managed by it to any particular member of the public.
- (2) In the case mentioned in subsection (3) there is a presumption that the responsible authority should disclose information in its possession about the relevant previous convictions of the offender to the particular member of the public.
- (3) The case is where the responsible authority for the area has reasonable cause to believe that—
 - (a) a child sex offender managed by it poses a risk in that or any other area of causing serious harm to any particular child or children or to children of any particular description, and
 - (b) the disclosure of information about the relevant previous convictions of the offender to the particular member of the public is necessary for the purpose of

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- protecting the particular child or children, or the children of that description, from serious harm caused by the offender.
- (4) The presumption under subsection (2) arises whether or not the person to whom the information is disclosed requests the disclosure.
 - (5) Where the responsible authority makes a disclosure under this section—
 - (a) it may disclose such information about the relevant previous convictions of the offender as it considers appropriate to disclose to the member of the public concerned, and
 - (b) it may impose conditions for preventing the member of the public concerned from disclosing the information to any other person.
 - (6) Any disclosure under this section must be made as soon as is reasonably practicable having regard to all the circumstances.
 - (7) The responsible authority for each area must compile and maintain a record about the decisions it makes in relation to the discharge of its functions under this section.
 - (8) The record must include the following information—
 - (a) the reasons for making a decision to disclose information under this section,
 - (b) the reasons for making a decision not to disclose information under this section, and
 - (c) the information which is disclosed under this section, any conditions imposed in relation to its further disclosure and the name and address of the person to whom it is disclosed.
 - (9) Nothing in this section requires or authorises the making of a disclosure which contravenes [^{F55}the data protection legislation].
 - (10) This section is not to be taken as affecting any power of any person to disclose any information about a child sex offender.

Textual Amendments

- F54** Ss. 327A, 327B inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 140, 153**; [S.I. 2008/1586](#), **art. 2(1)**, Sch. 1 para. 43
- F55** Words in s. 327A(9) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 96** (with **ss. 117, 209, 210**); [S.I. 2018/625](#), reg. 2(1)(g)

327B Section 327A: interpretation **E+W**

- (1) This section applies for the purposes of section 327A.
- (2) “Child” means a person under 18.
- (3) “Child sex offence” means an offence listed in Schedule 34A, whenever committed.
- (4) “Child sex offender” means any person who—
 - (a) has been convicted of such an offence,
 - (b) has been found not guilty of such an offence by reason of insanity,
 - (c) has been found to be under a disability and to have done the act charged against the person in respect of such an offence, or
 - (d) has been cautioned in respect of such an offence.

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[“The data protection legislation” has the same meaning as in the Data Protection Act ^{F56}(4A) 2018 (see section 3 of that Act).]

- (5) In relation to a responsible authority, references to information about the relevant previous convictions of a child sex offender are references to information about—
- (a) convictions, findings and cautions mentioned in subsection (4)(a) to (d) which relate to the offender, and
 - (b) anything under the law of any country or territory outside England and Wales which in the opinion of the responsible authority corresponds to any conviction, finding or caution within paragraph (a) (however described).
- (6) References to serious harm caused by a child sex offender are references to serious physical or psychological harm caused by the offender committing any offence listed in any paragraph of Schedule 34A other than paragraphs 1 to 6 (offences under provisions repealed by Sexual Offences Act 2003).
- (7) A responsible authority for any area manages a child sex offender if the offender is a person who poses risks in that area which fall to be managed by the authority under the arrangements established by it under section 325.
- (8) For the purposes of this section the provisions of section 4 of, and paragraph 3 of Schedule 2 to, the Rehabilitation of Offenders Act 1974 (protection for spent convictions and cautions) are to be disregarded.
- (9) In this section “cautioned”, in relation to any person and any offence, means—
- (a) cautioned after the person has admitted the offence, ^{F57} ...
^{F57}
- (10) Section 135(1), (2)(a) and (c) and (3) of the Sexual Offences Act 2003 (mentally disordered offenders) apply for the purposes of this section as they apply for the purposes of Part 2 of that Act.]

Textual Amendments

- F54** Ss. 327A, 327B inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 140, 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 43
- F56** S. 327B(4A) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 97** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F57** S. 327B(9)(b) and word omitted (8.4.2013) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 26** (with s. 135(4)); S.I. 2013/453, art. 4(f)

Criminal record certificates

328 **Criminal record certificates: amendments of Part 5 of Police Act 1997** **E+W** **+N.I.**

Schedule 35 (which contains amendments of Part 5 of the Police Act 1997 (c. 50)) shall have effect.

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Extent Information

- E1** S. 328: extent widened (7.4.2005) from E.W. to E.W.N.I. as a result of the amendment to s. 337(5) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 167(a), 178(1)(a)**

Commencement Information

- I18** S. 328 partly in force; s. 328 not in force at Royal Assent, see s. 336(3); s. 328 in force for certain purposes at 29.1.2004 by [S.I. 2004/81](#), **art. 4(2)(m)** and s. 328 in force for E.W. for certain further purposes at 6.4.2006 by [S.I. 2006/751](#), **art. 2** and in force for N.I. at 3.12.2007 by [S.I. 2007/3340](#), **art. 2(a)**

Civil proceedings brought by offenders

329 Civil proceedings for trespass to the person brought by offender **E+W**

- (1) This section applies where—
- a person (“the claimant”) claims that another person (“the defendant”) did an act amounting to trespass to the claimant’s person, and
 - the claimant has been convicted in the United Kingdom of an imprisonable offence committed on the same occasion as that on which the act is alleged to have been done.
- (2) Civil proceedings relating to the claim may be brought only with the permission of the court.
- (3) The court may give permission for the proceedings to be brought only if there is evidence that either—
- the condition in subsection (5) is not met, or
 - in all the circumstances, the defendant’s act was grossly disproportionate.
- (4) If the court gives permission and the proceedings are brought, it is a defence for the defendant to prove both—
- that the condition in subsection (5) is met, and
 - that, in all the circumstances, his act was not grossly disproportionate.
- (5) The condition referred to in subsection (3)(a) and (4)(a) is that the defendant did the act only because—
- he believed that the claimant—
 - was about to commit an offence,
 - was in the course of committing an offence, or
 - had committed an offence immediately beforehand; and
 - he believed that the act was necessary to—
 - defend himself or another person,
 - protect or recover property,
 - prevent the commission or continuation of an offence, or
 - apprehend, or secure the conviction, of the claimant after he had committed an offence;or was necessary to assist in achieving any of those things.
- (6) Subsection (4) is without prejudice to any other defence.

Status: Point in time view as at 01/07/2022.

Changes to legislation: Criminal Justice Act 2003, Part 13 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F58}(7) Where—

- (a) a person is convicted of an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), and
- (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) is an imprisonable offence,

he is to be treated for the purposes of this section as having been convicted in the United Kingdom of that corresponding offence; and in paragraph (a) the reference to conviction includes anything that under section 376(1) and (2) of that Act is to be treated as a conviction.]

(8) In this section—

- (a) the reference to trespass to the person is a reference to—
 - (i) assault,
 - (ii) battery, or
 - (iii) false imprisonment;
- (b) references to a defendant’s belief are to his honest belief, whether or not the belief was also reasonable;
- (c) “court” means the High Court or [^{F59}the county court] and
- (d) “imprisonable offence” means an offence which, in the case of a person aged 18 or over, is punishable by imprisonment.

Textual Amendments

F58 S. 329(7) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 232](#) (with savings (31.10.2009) in [S.I. 2009/1059](#), arts. 1(3), 205, [Sch. 1 para. 53\(9\)\(10\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

F59 Words in s. 329(8)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

C1 S. 329(7) modified (31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(11\)](#)

Status:

Point in time view as at 01/07/2022.

Changes to legislation:

Criminal Justice Act 2003, Part 13 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.