



# Police and Justice Act 2006

## 2006 CHAPTER 48

### PART 1

#### POLICE REFORM

##### *National Policing Improvement Agency*

#### **<sup>F1</sup> National Policing Improvement Agency**

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#### **Textual Amendments**

- F1** S. 1 omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 168](#); [S.I. 2013/1682](#), art. 3(v)

##### *Police forces and police authorities*

#### **2 Amendments to the Police Act 1996**

Schedule 2 (which makes amendments to the Police Act 1996 (c. 16)) has effect.

#### **Commencement Information**

- I1** S. 2 partly in force; s. 2 in force for specified purposes at Royal Assent see s. 53(1)(2)  
**I2** S. 2 in force at 15.1.2007 for specified purposes by [S.I. 2006/3364](#), art. 2(a)  
**I3** S. 2 in force at 1.4.2007 for specified purposes by [S.I. 2007/709](#), art. 3(b) (with arts. 6, 7)  
**I4** S. 2 in force at 29.6.2007 for specified purposes by [S.I. 2007/1614](#), art. 2(a)  
**I5** S. 2 in force at 14.3.2008 for specified purposes by [S.I. 2008/311](#), art. 2(a)  
**I6** S. 2 in force at 1.4.2008 for specified purposes by [S.I. 2008/790](#), art. 2(a)  
**I7** S. 2 in force at 15.3.2010 for specified purposes by [S.I. 2010/414](#), art. 2(a)

*Status: Point in time view as at 22/04/2014. This version of this Act contains provisions that are prospective.*

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**3 Delegation of police authority functions**

(1) Section 107 of the Local Government Act 1972 (c. 70) (application to police authorities of provisions about discharge of local authority functions) is amended as follows.

(2) After subsection (3A) there is inserted—

“(3B) Section 101 above, in its application to a police authority, shall have effect as if a reference in subsection (1), (2), (4) or (5) to an officer of an authority included a reference to a member of that authority.”

(3) For subsection (4) there is substituted—

“(4) The Secretary of State may by regulations make provision regulating the power of a police authority under section 101 above to arrange for the discharge of their functions by a committee, sub-committee, officer or member of the authority as respects part only of their area.

(4A) Regulations under subsection (4) may in particular—

- (a) impose limitations or restrictions on the functions which may be the subject of arrangements of the kind referred to in that subsection;
- (b) make provision as to the membership or chairmanship of any committee or sub-committee discharging functions under such arrangements;
- (c) impose limitations or restrictions on which officers or members of a police authority may discharge functions under such arrangements.

(4B) A statutory instrument containing regulations under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) Subsection (6) (members of police authority committees must be authority members) is omitted.

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**Commencement Information**

**I8** S. 3 in force at 29.6.2007 by S.I. 2007/1614, art. 2(c)

**F24 Police authorities as best value authorities**

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**Textual Amendments**

**F2** S. 4 repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), Sch. 18 Pt. 8; S.I. 2008/917, art. 2(v)(i)

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## *Police pension schemes*

### **5 Power to merge schemes**

Schedule 3 (power to merge police pension schemes) has effect.

#### **Commencement Information**

**I9** S. 5 in force at 31.12.2007 by S.I. 2007/3203, art. 3(a)

## *Statutory consultation requirements*

### **6 Consultation with APA and ACPO**

(1) Schedule 4 (which amends provisions requiring consultation with persons representing the interests of police authorities or chief officers of police so that they require consultation with the Association of Police Authorities or the Association of Chief Police Officers) has effect.

(2) If it appears to the Secretary of State that, by reason of a change of name or otherwise—

<sup>F3</sup>(a) .....

(b) the interests of chief officers of police are represented by a body that is not called the Association of Chief Police Officers of England, Wales and Northern Ireland,

he may by order make the appropriate consequential amendments to any statutory provision (including this subsection) containing a reference to the association in question.

(3) In subsection (2) “statutory provision” means provision contained in, or in any instrument made under, any Act.

#### **Textual Amendments**

**F3** S. 6(2)(a) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 359](#); S.I. 2012/2892, art. 2(i)

#### **Commencement Information**

**I10** S. 6 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

## *Community support officers etc*

### **7 Standard powers and duties of community support officers**

(1) In section 38 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees), after subsection (5) there is inserted—

“(5A) A person designated under this section as a community support officer shall also have the standard powers and duties of a community support officer (see section 38A(2)).”

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(2) After section 38 of the Police Reform Act 2002 there is inserted—

**“38A Standard powers and duties of community support officers**

- (1) The Secretary of State may by order provide for provisions of Part 1 of Schedule 4 to apply to every person who under section 38 is designated as a community support officer.
- (2) The powers and duties conferred or imposed by the provisions for the time being applied under subsection (1) are to be known as the standard powers and duties of a community support officer.
- (3) Before making an order under subsection (1), the Secretary of State shall consult with—
  - (a) the Association of Police Authorities; and
  - (b) the Association of Chief Police Officers.
- (4) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by subsection (1) unless a draft of that order has been laid before Parliament and approved by a resolution of each House.
- (5) A provision of Part 1 of Schedule 4 may be applied to a person concurrently by an order under subsection (1) and a designation under section 38.
- (6) If an order under subsection (1) confers or imposes additional powers and duties on a person who is under the direction and control of a chief officer of police of a police force, that chief officer must ensure that the person receives adequate training in the exercise and performance of the additional powers and duties.”

**Commencement Information**

**I11** S. 7(1) in force at 1.12.2007 by S.I. 2007/3203, art. 2(a)

**I12** S. 7(2) in force at 1.4.2007 by S.I. 2007/709, art. 3(e) (with arts. 6, 7)

**8 Community support officers: power to deal with truants**

In Schedule 4 to the Police Reform Act 2002 (exercise of police powers etc by civilians), after paragraph 4B there is inserted—

**“Power to remove truants to designated premises etc.**

- 4C Where a designation applies this paragraph to any person, that person shall—
- (a) as respects any area falling within the relevant police area and specified in a direction under section 16(2) of the Crime and Disorder Act 1998, but
  - (b) only during the period specified in the direction,
- have the powers conferred on a constable by section 16(3) of that Act (power to remove truant found in specified area to designated premises or to the school from which truant is absent).”

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#### Commencement Information

**I13** S. 8 in force at 1.4.2007 by S.I. 2007/709, art. 3(f) (with arts. 6, 7)

### 9 Exercise of police powers by civilians

Schedule 5, which—

makes amendments consequential on section 7 (standard powers and duties of community support officers), and

makes other minor amendments in connection with the exercise of police powers by civilians,

has effect.

#### Commencement Information

**I14** S. 9 in force at 1.4.2007 for specified purposes by S.I. 2007/709, art. 3(g) (with arts. 6, 7)

**I15** S. 9 in force at 1.12.2007 for specified purposes by S.I. 2007/3203, art. 2(b)

## PART 2

### POWERS OF POLICE ETC

#### *Police powers*

### 10 Police bail

Schedule 6, which amends provisions in the Police and Criminal Evidence Act 1984 (c. 60) that relate to bail—

(a) granted by a constable elsewhere than at a police station, or

(b) granted at a police station,

has effect.

#### Commencement Information

**I16** S. 10 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

### 11 Power to detain pending DPP's decision about charging

In section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge), in paragraph (a) of subsection (7) (officer's duties when he determines that there is sufficient evidence to charge), for “shall be released without charge and on bail for the purpose” there is substituted “shall be—

(i) released without charge and on bail, or

(ii) kept in police detention,

for the purpose”.

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### Commencement Information

I17 S. 11 in force at 15.1.2007 by S.I. 2006/3364, art. 2(c)

## 12 Power to stop and search at aerodromes

In Part 3 of the Aviation Security Act 1982 (c. 36) (policing of airports), before section 25 there is inserted—

### *“Power to stop and search at aerodromes*

#### 24B Power of constable to stop and search persons, vehicles etc

- (1) Subject to subsection (2) below, a constable may search—
  - (a) any person, vehicle or aircraft in an aerodrome, or
  - (b) anything which is in or on such a vehicle or aircraft,
 for stolen or prohibited articles.
- (2) This section does not give a constable power to search a person, vehicle or aircraft, or anything in or on a vehicle or aircraft, unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles.
- (3) For the purposes of exercising the power conferred by subsection (1) above, a constable may—
  - (a) enter any part of an aerodrome;
  - (b) detain a person, vehicle or aircraft;
  - (c) board an aircraft.
- (4) If in the course of a search under subsection (1) above a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article, he may seize it.
- (5) An article is prohibited for the purposes of this section if it is an article—
  - (a) made or adapted for use in the course of or in connection with criminal conduct, or
  - (b) intended by the person having it with him for such use by him or by some other person.
- (6) In this section “criminal conduct” means conduct which—
  - (a) constitutes an offence in the part of the United Kingdom in which the aerodrome is situated, or
  - (b) would constitute an offence in that part of the United Kingdom if it occurred there.
- (7) The powers conferred by this section on a constable are without prejudice to any powers exercisable by him apart from this section.
- (8) The exercise of a power under this section does not require a warrant.
- (9) Nothing in this section authorises a constable to enter a dwelling.”

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### Commencement Information

**I18** S. 12 in force at 1.4.2007 by S.I. 2007/709, art. 3(j) (with arts. 6, 7)

## *Information from registers of death*

### 13 Supply of information to police etc by Registrar General

- (1) The Registrar General for England and Wales or the Registrar General for Northern Ireland may supply information contained in any register of deaths kept by him—
  - (a) to a police force in the United Kingdom,
  - (b) to a special police force,
  - (c) to the [<sup>F4</sup>National Crime Agency], or
  - (d) to a person or body specified, or of a description specified, by order, for use in the prevention, detection, investigation or prosecution of offences.
- (2) The power to make an order under subsection (1)(d) is exercisable—
  - (a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of [<sup>F5</sup>the Secretary of State];
  - (b) in relation to Northern Ireland, by the [<sup>F6</sup>Department of Justice in Northern Ireland] after consulting the Registrar General for Northern Ireland.
- (3) A Registrar General may charge a reasonable fee in respect of the cost of supplying information under this section.
- (4) The supply of information in the exercise of the power conferred by subsection (1) may be made subject to conditions, including in particular conditions as to—
  - (a) the use and storage of the information;
  - (b) the period for which any record of the information may be retained;
  - (c) those to whom the information may be disclosed.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section “special police force” means—
  - (a) the Ministry of Defence Police;
  - (b) the British Transport Police Force;
  - (c) the Civil Nuclear Constabulary;
  - <sup>F7</sup>(d) .....

### Textual Amendments

- F4** Words in s. 13(1)(c) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 169](#); S.I. 2013/1682, art. 3(v)
- F5** Words in s. 13(2) substituted (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\), art. 1\(2\), Sch. 2 para. 15](#) (with art. 4)
- F6** Words in s. 13(2)(b) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 14 para. 90\(2\)](#) (with arts. 28-31)
- F7** S. 13(6)(d) omitted (1.4.2013) by virtue of [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\), art. 1\(2\), Sch. 2 para. 54\(2\)](#)

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

- C1** S. 13(2)(a): transfer of functions (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), [art. 1\(2\)](#), [Sch. 1 para. 15](#) (with [art. 4](#))

#### **Commencement Information**

- I19** S. 13 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), [art. 2\(d\)](#)  
**I20** S. 13 in force at 30.7.2007 for N.I. by [S.I. 2007/2052](#), [art. 2](#)

PROSPECTIVE

### *Travel and freight information*

#### **14 Information-gathering powers: extension to domestic flights and voyages**

- (1) The Immigration, Asylum and Nationality Act 2006 (c. 13) is amended as follows.
- (2) In section 32 (police powers to gather information relating to flights and voyages to or from the United Kingdom), in subsection (1) (ships and aircraft to which section applies), for paragraphs (a) and (b) there is substituted—
- “**(a)** arriving, or expected to arrive, at any place in the United Kingdom (whether from a place in the United Kingdom or from outside the United Kingdom), or
- (b)** leaving, or expected to leave, from any place in the United Kingdom (whether for a place in the United Kingdom or for outside the United Kingdom).”
- (3) In each of section 32(5) (interpretation of section) and section 33(5) (police powers to gather information about freight entering or leaving the United Kingdom: interpretation of section), after paragraph (c) there is inserted “, and
- (d)** “ship” includes—
- (i)** every description of vessel used in navigation, and
- (ii)** hovercraft.”
- (4) In section 36 (duty to share travel and freight information), in subsection (9) (interpretation of section), after the definition of “Revenue and Customs purposes” there is inserted “, and
- “ship” includes—
- (a)** every description of vessel used in navigation, and
- (b)** hovercraft.”
- (5) In section 38 (disclosure of travel and freight information for security purposes), after subsection (5) there is inserted—
- “(5A) In subsection (4) “ship” includes—
- (a)** every description of vessel used in navigation, and
- (b)** hovercraft.”



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### *Fixed penalty notices*

## **15 Accreditation of weights and measures inspectors**

(1) After section 41 of the Police Reform Act 2002 (c. 30) there is inserted—

### **“41A Accreditation of weights and measures inspectors**

- (1) The chief officer of police of any police force may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to a weights and measures inspector.
  - (2) A weights and measures inspector to whom an accreditation under this section is granted by a chief officer of police may exercise the powers conferred by the accreditation in the chief officer's police area.
  - (3) Schedule 5A (which sets out the powers that may be conferred on inspectors accredited under this section) shall have effect.
  - (4) A chief officer of police shall not grant accreditation to a weights and measures inspector under this section unless he is satisfied that—
    - (a) the inspector is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation; and
    - (b) the inspector has received adequate training for the exercise of those powers.
  - (5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following—
    - (a) considering an application for or for the renewal of an accreditation under this section;
    - (b) granting an accreditation under this section.
  - (6) A weights and measures inspector authorised or required to do anything by virtue of an accreditation under this section—
    - (a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his duties as a weights and measures inspector; and
    - (b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation.
  - (7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation, but it may be renewed at any time with effect from the time when it would otherwise expire.
  - (8) An accreditation under this section shall cease to have effect if the accredited inspector ceases to hold office as a weights and measures inspector.”
- (2) After Schedule 5 to that Act there is inserted the Schedule set out in Schedule 7 to this Act.

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#### Commencement Information

**I21** S. 15 in force at 1.4.2007 by S.I. 2007/709, art. 3(k) (with arts. 6, 7)

## 16 Power to apply accreditation provisions

After section 41A of the Police Reform Act 2002 (c. 30) (inserted by section 15 above) there is inserted—

### “41B Power to apply accreditation provisions

- (1) The Secretary of State may by order provide for section 41A and any other provision of this Chapter relating to accredited inspectors to apply (with or without modification) in relation to persons of a description specified in the order.
- (2) The provision which may be made by an order under this section includes such modifications of other enactments as appear to the Secretary of State to be necessary or appropriate.
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

#### Commencement Information

**I22** S. 16 in force at 1.4.2007 by S.I. 2007/709, art. 3(l) (with arts. 6, 7)

### *Conditional cautions*

## 17 Conditional cautions: types of condition

(1) Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions) is amended as set out in subsections (2) to (4).

(2) In section 22, for subsection (3) (types of conditions that may be attached to cautions) there is substituted—

“(3) The conditions which may be attached to such a caution are those which have one or more of the following objects—

- (a) facilitating the rehabilitation of the offender;
- (b) ensuring that the offender makes reparation for the offence;
- (c) punishing the offender.”

(3) After that subsection there is inserted—

“(3A) The conditions which may be attached to a conditional caution include—

- (a) (subject to section 23A) a condition that the offender pay a financial penalty;
- (b) a condition that the offender attend at a specified place at specified times.

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“Specified” means specified by a relevant prosecutor.

- (3B) Conditions attached by virtue of subsection (3A)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.
- (3C) The Secretary of State may by order amend subsection (3B) by substituting a different figure.”
- (4) After section 23 (requirements for conditional caution to be given) there is inserted—

### “23A Financial penalties

- (1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.
- (2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).
- (3) The amount that may be prescribed in respect of any offence must not exceed—
- (a) one quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence, or
  - (b) £250,
- whichever is the lower.
- (4) The Secretary of State may by order amend subsection (3) by—
- (a) substituting a different fraction in paragraph (a);
  - (b) substituting a different figure in paragraph (b).
- (5) Where a financial penalty condition is attached to a conditional caution, a relevant prosecutor must also specify—
- (a) the amount of the penalty,
  - (b) the designated officer for a local justice area to whom the penalty is to be paid, and
  - (c) the address of that officer.
- (6) To comply with the condition, the offender must pay the penalty to the specified officer.
- (7) The offender may pay a sum in respect of the penalty by pre-paying and posting a letter containing that sum (in cash or otherwise) to the address specified under subsection (5)(c).
- (8) If a person—
- (a) claims to have made payment by the method described in subsection (7), and
  - (b) shows that his letter was posted,

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then, unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.

(9) Subsection (7) is not to be read as preventing payment by other means.”

(5) In section 330 of that Act (orders subject to affirmative resolution procedure), in subsection (5)—

(a) in paragraph (a), before “section 25(5)” there is inserted— “ section 22(3C), ”;

(b) after that paragraph there is inserted—

“(aa) an order under section 23A(4) which makes provision—

(i) increasing the fraction in section 23A(3)(a), or

(ii) increasing the figure in section 23A(3)(b) by more than is necessary to reflect changes in the value of money,”.

#### Commencement Information

- I23** S. 17(1)(2)(4) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679, art. 2\(1\)\(4\)](#)  
**I24** S. 17(1)(2)(4) in force at 16.11.2009 for specified purposes by [S.I. 2009/2774, art. 2\(1\)\(3\)](#)  
**I25** [S. 17\(1\)\(2\)\(4\)](#) in force at 8.4.2013 in so far as not already in force by [S.I. 2013/592, art. 2\(1\)](#)  
**I26** S. 17(3) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679, art. 2\(1\)\(2\)\(4\)](#)  
**I27** S. 17(3) in force at 16.11.2009 for specified purposes by [S.I. 2009/2774, art. 2\(1\)\(2\)\(3\)](#)  
**I28** [S. 17\(3\)](#) in force at 8.4.2013 for specified purposes by [S.I. 2013/592, art. 2\(1\)\(2\)](#)  
**I29** S. 17(5) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679, art. 2\(1\)\(3\)\(4\)](#)  
**I30** S. 17(5) in force at 16.11.2009 for specified purposes by [S.I. 2009/2774, art. 3](#)

## 18 Arrest for failing to comply with conditional caution

(1) In Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions), after section 24 there is inserted—

### “24A Arrest for failure to comply

(1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, he may arrest him without warrant.

(2) A person arrested under this section must be—

- (a) charged with the offence in question,  
 (b) released without charge and on bail to enable a decision to be made as to whether he should be charged with the offence, or  
 (c) released without charge and without bail (with or without any variation in the conditions attached to the caution).

(3) Subsection (2) also applies in the case of—

- (a) a person who, having been released on bail under subsection (2)(b), returns to a police station to answer bail or is otherwise in police detention at a police station;  
 (b) a person who, having been released on bail under section 30A of the 1984 Act (bail elsewhere than at police station) as applied by

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section 24B below, attends at a police station to answer bail or is otherwise in police detention at a police station;

- (c) a person who is arrested under section 30D or 46A of the 1984 Act (power of arrest for failure to answer to police bail) as applied by section 24B below.
- (4) Where a person is released under subsection (2)(b), the custody officer must inform him that he is being released to enable a decision to be made as to whether he should be charged with the offence in question.
- (5) A person arrested under this section, or any other person in whose case subsection (2) applies, may be kept in police detention—
- (a) to enable him to be dealt with in accordance with that subsection, or
  - (b) where applicable, to enable the power under section 37D(1) of the 1984 Act (power of custody officer to appoint a different or additional time for answering to police bail), as applied by section 24B below, to be exercised.

If the person is not in a fit state to enable him to be so dealt with, or to enable that power to be exercised, he may be kept in police detention until he is.

- (6) The power under subsection (5)(a) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution.
- (7) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (8) Subsection (2) does not require a person who—
- (a) falls within subsection (3)(a) or (b), and
  - (b) is in police detention in relation to a matter other than the conditional caution,
- to be released if he is liable to be kept in detention in relation to that other matter.
- (9) In this Part—
- “the 1984 Act” means the Police and Criminal Evidence Act 1984;
  - “police detention” has the same meaning as in the 1984 Act (see section 118(2) of that Act).

#### **24B Application of PACE provisions**

- (1) In the case of a person arrested under section 24A, the provisions of the 1984 Act specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.
- (2) The provisions are—
- (a) section 30 (arrest elsewhere than at police station);
  - (b) sections 30A to 30D (bail elsewhere than at police station);
  - (c) section 31 (arrest for further offence);

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- (d) section 34(1) to (5) (limitations on police detention);
  - (e) section 36 (custody officers at police stations);
  - (f) section 37(4) to (6) (record of grounds for detention);
  - (g) section 38 (duties of custody officer after charge);
  - (h) section 39 (responsibilities in relation to persons detained);
  - (i) section 55A (x-rays and ultrasound scans).
- (3) The modifications are—
- (a) in section 30CA(5)(a), for the reference to being involved in the investigation of the offence mentioned in that provision substitute a reference to being involved—
    - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
    - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
  - (b) in section 36(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved—
    - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
    - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
  - (c) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”;
  - (d) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.
- (4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 24A above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications—
- (a) omit subsections (8) and (8A);
  - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 24A(5) above.
- (5) The following provisions of the 1984 Act apply to a person released on bail under section 24A(2)(b) above as they apply to a person released on bail under section 37 of that Act—
- (a) section 37D(1) to (3) (power of custody officer to appoint a different or additional time for answering to police bail);
  - (b) section 46A (power of arrest for failure to answer to police bail);
  - (c) section 47 (bail after arrest).
- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 24A above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37.

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- (7) Section 54A of the 1984 Act (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 24A above—
- (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to his conditional caution”;
  - (b) in subsection (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to his conditional caution”.
- (2) The reference in subsection (1) of section 24A of the Criminal Justice Act 2003 (c. 44) (inserted by subsection (1) above) to a failure to comply with conditions attached to a conditional caution is to any such failure occurring on or after the day on which this section comes into force.

#### Commencement Information

**I31** S. 18 in force at 29.6.2007 by S.I. 2007/1614, art. 2(e)

## PART 3

### CRIME AND ANTI-SOCIAL BEHAVIOUR

#### *Crime and disorder*

#### **19 Local authority scrutiny of crime and disorder matters**

- (1) Every local authority shall ensure that it has a committee (the “crime and disorder committee”) with power—
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - (b) to make reports or recommendations to the local authority with respect to the discharge of those functions.
- “The responsible authorities” means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.
- (2) Where by virtue of subsection (1)(b) the crime and disorder committee makes a report or recommendations it shall provide a copy—
- (a) to each of the responsible authorities, and
  - (b) to each of the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under section 5(2) of the Crime and Disorder Act 1998 (“the co-operating persons and bodies”).
- [<sup>F8</sup>(3) A local authority must—
- (a) ensure that its crime and disorder committee has power (whether by virtue of section [<sup>F9</sup>9F(2) or ] 21(2) of the Local Government Act 2000 or regulations

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- made under section [F<sup>10</sup>9JA(2) or ] 32(3) of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority, and
- (b) make arrangements which enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to the committee.
- (4) For the purposes of subsection (3)(b), arrangements enable a person to refer a matter to a committee if they enable him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee.
- (5) Subsections (6) and (7) apply where a local crime and disorder matter is referred to a crime and disorder committee by a member of a local authority in accordance with arrangements made under subsection (3)(b).
- (6) In considering whether or not to make a report or recommendations to the local authority in relation to the matter, the committee may have regard to—
- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
  - (b) any representations made by the member as to why it would be appropriate for the committee to exercise any power which it has by virtue of subsection (3) (a) in relation to the matter.
- (7) If the committee decides not to make a report or recommendations to the local authority in relation to the matter, it must notify the member of—
- (a) its decision, and
  - (b) the reasons for it.
- (8) Where a crime and disorder committee of a local authority makes a report or recommendations to the authority by virtue of subsection (3)(a), it must—
- (a) provide a copy of the report or recommendations to any member of the authority who referred the local crime and disorder matter in question to the committee in accordance with arrangements made under subsection (3)(b), and
  - (b) provide a copy of the report or recommendations to such of—
    - (i) the responsible authorities, and
    - (ii) the co-operating persons and bodies,
 as it thinks appropriate.
- (8A) Subsection (8B) applies where the crime and disorder committee of a local authority—
- (a) makes a report or recommendations to the authority by virtue of subsection (3) (a), or
  - (b) provides a copy of a report or recommendations under subsection (2) or (8)(b).
- (8B) Where this subsection applies—
- (a) the crime and disorder committee must notify the authority, body or person to whom it makes the report or recommendations or provides the copy that paragraph (b) applies, and
  - (b) the authority, body or person must—
    - (i) consider the report or recommendations;



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- (ii) respond to the committee indicating what (if any) action it proposes to take;
- (iii) have regard to the report or recommendations in exercising its functions.]

(9) In the case of a local authority operating executive arrangements—

- (a) the crime and disorder committee is to be an overview and scrutiny committee of the authority<sup>F11</sup> ...;
- (b) a reference in [<sup>F12</sup>this section] to making a report or recommendations to the local authority is to be read as a reference to making a report or recommendations to the local authority or the executive.

[<sup>F13</sup>(9A) In subsection (9) “overview and scrutiny committee” means—

- (a) in relation to England, an overview and scrutiny committee within the meaning of Chapter 2 of Part 1A of the Local Government Act 2000 (see section 9F of that Act), and
- (b) in relation to Wales, an overview and scrutiny committee within the meaning of Part 2 of that Act (see section 21 of that Act).

(9B) In the case of a local authority that operates a committee system and has appointed one or more overview and scrutiny committees under section 9JA of the Local Government Act 2000, the crime and disorder committee is to be one of those committees.]

(10) Schedule 8 (which makes further provision about the crime and disorder committees of local authorities [<sup>F14</sup> in cases that are not within subsection (9) or (9B) ] and particular provision for the City of London) has effect.

(11) In this section—

[<sup>F15</sup>“committee system” has the same meaning as in Part 1A of the Local Government Act 2000 (see section 9B(4) of that Act);]

“crime and disorder functions” means functions conferred by or under section 6 of the Crime and Disorder Act 1998 (c. 37) (formulation and implementation of crime and disorder strategies);

[<sup>F16</sup>“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983; ]

“executive arrangements” means [<sup>F17</sup>—

- (a) in relation to England, executive arrangements under Part 1A of the Local Government Act 2000, and
- (b) in relation to Wales, executive arrangements under Part 2 of that Act;]

“local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council or a county borough council;

[<sup>F18</sup>“local crime and disorder matter”, in relation to a member of a local authority, means a matter concerning—

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
- (b) the misuse of drugs, alcohol and other substances,

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which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area. ]

#### Textual Amendments

- F8** S. 19(3)-(8B) substituted for (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(2\)](#), 245(5); S.I. 2009/959, [art. 2\(a\)](#); S.I. 2009/2539, art. 2(a)
- F9** Words in s. 19(3)(a) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(2\)\(a\)](#); S.I. 2012/1008, art. 4(b)
- F10** Words in s. 19(3)(a) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(2\)\(b\)](#); S.I. 2012/1008, art. 4(b)
- F11** Words in s. 19(9) repealed (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(3\)](#), [Sch. 25 Pt. 4](#); S.I. 2012/1008, art. 4(b)(c)
- F12** Words in s. 19(9)(b) substituted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(3\)](#), 245(5); S.I. 2009/959, [art. 2\(a\)](#); S.I. 2009/2539, art. 2(a)
- F13** S. 19(9A)(9B) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(4\)](#); S.I. 2012/1008, art. 4(b)
- F14** Words in s. 19(10) substituted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(5\)](#); S.I. 2012/1008, art. 4(b)
- F15** Words in s. 19(11) inserted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(6\)\(a\)](#); S.I. 2012/1008, art. 4(b)
- F16** Words in s. 19(11) inserted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(4\)\(a\)](#), 245(5); S.I. 2009/959, [art. 2\(a\)](#); S.I. 2009/2539, art. 2(a)
- F17** Words in s. 19(11) substituted (4.5.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 80\(6\)\(b\)](#); S.I. 2012/1008, art. 4(b)
- F18** Words in s. 19(11) substituted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(4\)\(b\)](#), 245(5); S.I. 2009/959, [art. 2\(a\)](#); S.I. 2009/2539, art. 2(a)

#### Commencement Information

- I32** S. 19 in force at 30.4.2009 for E. by S.I. 2009/936, [art. 2\(a\)](#)
- I33** S. 19 in force at 1.10.2009 for W. by S.I. 2009/2540, [art. 2\(a\)](#)

## 20 Guidance and regulations regarding crime and disorder matters

- (1) The Secretary of State may issue guidance to—
- local authorities in England,
  - members of those authorities, and
  - crime and disorder committees of those authorities,
- with regard to the exercise of their functions under <sup>F19</sup>[or by virtue of] section 19.
- (2) The National Assembly for Wales, after consulting the Secretary of State, may issue guidance to—
- local authorities in Wales,
  - members of those authorities, and
  - crime and disorder committees of those authorities,
- with regard to the exercise of their functions under <sup>F20</sup>[or by virtue of] section 19.

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- (3) The Secretary of State may by regulations make provision supplementing that made by section 19 in relation to local authorities in England.
- (4) The Secretary of State, after consulting the National Assembly for Wales, may by regulations make provision supplementing that made by section 19 in relation to local authorities in Wales.
- (5) Regulations under subsection (3) or (4) may in particular make provision—
- (a) as to the co-opting of additional members to serve on the crime and disorder committee of a local authority;
  - (b) as to the frequency with which the power mentioned in section 19(1)(a) is to be exercised;
  - (c) requiring information to be provided to the crime and disorder committee by the responsible authorities and the co-operating persons and bodies;
  - (d) imposing restrictions on the provision of information to the crime and disorder committee by the responsible authorities and the co-operating persons and bodies;
  - (e) requiring officers or employees of the responsible authorities and the co-operating persons and bodies to attend before the crime and disorder committee to answer questions;
  - <sup>F21</sup>(f) .....
  - (g) specifying the periods within which—
    - <sup>F22</sup>(i) .....
    - <sup>F22</sup>(ii) .....
    - <sup>F22</sup>(iii) .....
    - (iv) the responsible authorities and the co-operating persons and bodies are to consider and respond to a report or recommendations made under or by virtue of section 19.
- (6) Regulations made by virtue of subsection (5)(a) may provide for a person co-opted to serve as a member of a crime and disorder committee to have the same entitlement to vote as any other member.
- [<sup>F23</sup>(6A) In subsection (5)(c) and (d), references to information are, in relation to any crime and disorder committee, to information relating to—
- (a) the discharge, or decisions made or other action taken in connection with the discharge, by the responsible authorities of their crime and disorder functions; or
  - (b) local crime and disorder matters in relation to which the committee has functions under or by virtue of section 19.]

(7) In this section “local authority”, “crime and disorder committee”, “responsible authorities” [<sup>F24</sup> “co-operating persons and bodies”, “crime and disorder functions” and “local crime and disorder matters”] have the same meaning as in section 19.

#### Textual Amendments

- F19** Words in s. 20(1) inserted (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 126\(6\)](#), 245(5); S.I. 2009/959, [art. 2\(a\)](#); S.I. 2009/2539, [art. 2\(a\)](#)

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- F20** Words in s. 20(2) inserted (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(6)**, 245(5); S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F21** S. 20(5)(f) repealed (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(7)(a)**, 245(5), **Sch. 18 Pt. 6**; S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F22** S. 20(5)(g)(i)-(iii) repealed (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(7)(b)**, 245(5), **Sch. 18 Pt. 6**; S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F23** S. 20(6A) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 121(2)**, 245(5); S.I. 2008/3110, art. 4(c)
- F24** Words in s. 20(7) substituted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 121(3)**, 245(5); S.I. 2008/3110, art. 4(c)

#### Commencement Information

- I34** S. 20 in force at 30.4.2009 for E. by [S.I. 2009/936](#), **art. 2(b)**
- I35** S. 20 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), **art. 2(b)**

## 21 Joint crime and disorder committees

In section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies), after subsection (1B) there is inserted—

“(1C) An order under subsection (1A) above—

- (a) may require the councils for the local government areas in question to appoint a joint committee of those councils (the “joint crime and disorder committee”) and to arrange for crime and disorder scrutiny functions in relation to any (or all) of those councils to be exercisable by that committee;
- (b) may make provision applying any of the relevant provisions, with or without modifications, in relation to a joint crime and disorder committee.

(1D) In subsection (1C)—

“crime and disorder scrutiny functions”, in relation to a council, means functions that are, or, but for an order under subsection (1A) above, would be, exercisable by the crime and disorder committee of the council under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters);

“the relevant provisions” means—

- (a) section 19 of the Police and Justice Act 2006;
- (b) section 20 of that Act and any regulations made under that section;
- (c) Schedule 8 to that Act;
- (d) section 21 of the Local Government Act 2000.”

#### Commencement Information

- I36** S. 21 in force at 30.4.2009 for E. by [S.I. 2009/936](#), **art. 2(c)**

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## 22 Amendments to the Crime and Disorder Act 1998

Schedule 9 (which contains amendments to the Crime and Disorder Act 1998 (c. 37) in relation to crime and disorder strategies and other matters relating to the reduction of crime and disorder) has effect.

### Commencement Information

- I37** S. 22 in force at 1.8.2007 for E. by [S.I. 2007/1614](#), **art. 3(b)**  
**I38** S. 22 in force at 19.11.2007 for W. by [S.I. 2007/3073](#), **art. 2(a)**  
**I39** S. 22 in force at 19.11.2007 for W. by [S.I. 2007/3251](#), **art. 2**

### *Parenting contracts and parenting orders*

## 23 Parenting contracts: local authorities and registered social landlords

- (1) In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 25 there is inserted—

### **“25A Parenting contracts in respect of anti-social behaviour: local authorities**

- (1) A local authority may enter into a parenting contract with a parent of a child or young person if—
- the local authority has reason to believe that the child or young person has engaged, or is likely to engage, in anti-social behaviour, and
  - the child or young person resides, or appears to reside, in the local authority's area.
- (2) A parenting contract is a document which contains—
- a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
  - a statement by the local authority that it agrees to provide support to the parent for the purpose of complying with those requirements.
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour.
- (5) A parenting contract must be signed by the parent and signed on behalf of the local authority.
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (7) In carrying out their functions in relation to parenting contracts—
- local authorities in England shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose;

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- (b) local authorities in Wales shall have regard to any guidance which is issued by the National Assembly for Wales from time to time for that purpose.

### **25B Parenting contracts in respect of anti-social behaviour: registered social landlords**

- (1) A registered social landlord may enter into a parenting contract with a parent of a child or young person if—
  - (a) the registered social landlord has reason to believe that the child or young person—
    - (i) has engaged in anti-social behaviour, or
    - (ii) is likely to engage in such behaviour,
 and
  - (b) that behaviour directly or indirectly relates to or affects the housing management functions of the registered social landlord (or, where paragraph (a)(ii) applies, would do so if the behaviour were engaged in).
- (2) A parenting contract is a document which contains—
  - (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
  - (b) a statement by the registered social landlord that it agrees to make arrangements for the provision of support to the parent for the purpose of complying with those requirements.
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour.
- (5) A parenting contract must be signed by the parent and signed on behalf of the registered social landlord.
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (7) In carrying out their functions in relation to parenting contracts—
  - (a) registered social landlords on the register maintained by the Housing Corporation shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose;
  - (b) registered social landlords on the register maintained by the National Assembly for Wales shall have regard to any guidance which is issued by the Assembly from time to time for that purpose.”
- (2) In section 29(1) of that Act (interpretation of sections 25 to 29) the following definitions are inserted at the appropriate places—
  - ““housing accommodation” has the meaning given by section 153E(9) of the Housing Act 1996;”;

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*Changes to legislation: Police and Justice Act 2006 is up to date with all changes known to be in force on or before 05 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)*

““housing management functions”, in relation to a registered social landlord, include—

- (a) functions conferred by or under any enactment;
- (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation;”;

““local authority” means—

- (a) a county council in England;
- (b) a metropolitan district council;
- (c) a non-metropolitan district council for an area for which there is no county council;
- (d) a London borough council;
- (e) the Common Council of the City of London;
- (f) the Council of the Isles of Scilly;
- (g) a county council or county borough council in Wales;”;

““registered social landlord” means a body registered as such under Chapter 1 of Part 1 of the Housing Act 1996;”.

#### Commencement Information

**140** S. 23 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

## 24 Parenting orders: local authorities and registered social landlords

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 26 there is inserted—

### “26A Parenting orders in respect of anti-social behaviour: local authorities

- (1) A local authority may apply for a parenting order in respect of a parent of a child or young person if—
  - (a) the local authority has reason to believe that the child or young person has engaged in anti-social behaviour, and
  - (b) the child or young person resides, or appears to reside, in the local authority's area.

An application for such an order may be made to a magistrates' court or, where section 26C so allows, to a county court.

- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied—
  - (a) that the child or young person has engaged in anti-social behaviour, and
  - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour.
- (3) A parenting order is an order which requires the parent—
  - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and

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- (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.
- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour.
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- (8) A person is eligible to be the responsible officer in relation to a parenting order under this section only if he is—
  - (a) an officer of the local authority which applied for the order, or
  - (b) a person nominated by that authority or by a person or body requested by the authority to make a nomination.

A person may not be nominated under paragraph (b) without his consent.

### **26B Parenting orders in respect of anti-social behaviour: registered social landlords**

- (1) A registered social landlord may apply for a parenting order in respect of a parent of a child or young person if—
  - (a) the registered social landlord has reason to believe that the child or young person has engaged in anti-social behaviour, and
  - (b) the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord.

An application for such an order may be made to a magistrates' court or, where section 26C so allows, to a county court.

- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied—
  - (a) that the child or young person has engaged in anti-social behaviour, and
  - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour.
- (3) A parenting order is an order which requires the parent—
  - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and



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- (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.
- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour.
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- (8) A registered social landlord must not make an application under this section without first consulting the local authority in whose area the child or young person in question resides or appears to reside.
- (9) A person is eligible to be the responsible officer in relation to a parenting order under this section only if he is—
  - (a) an officer of the registered social landlord which applied for the order, or
  - (b) a person nominated by that registered social landlord.A person may not be nominated under paragraph (b) without his consent.
- (10) In deciding whom to nominate under subsection (9)(b) a registered social landlord must take into account the views of—
  - (a) the local authority mentioned in subsection (8), and
  - (b) such other persons or bodies as the registered social landlord thinks appropriate.

### **26C Applications under section 26A or 26B in county court proceedings**

- (1) Where a local authority or registered social landlord (a “relevant authority”)—
  - (a) is a party to proceedings in a county court, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application for a parenting order under section 26A or 26B (a “parenting order application”),it may make such an application to that court in relation to that person.
- (2) Where—
  - (a) a relevant authority considers that a party to proceedings in a county court is a person in relation to whom it would be reasonable for it to make a parenting order application, but

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(b) the relevant authority is not a party to those proceedings, it may apply to be joined to those proceedings to enable it to make a parenting order application.

(3) Where—

(a) there are proceedings in a county court to which a relevant authority is a party, and

(b) the relevant authority considers that a child or young person has engaged in anti-social behaviour that is material in relation to the proceedings,

the relevant authority may apply for a person who is a parent of the child or young person to be joined to the proceedings to enable it to make a parenting order application in relation to him.

(4) A person must not be joined to proceedings in pursuance of subsection (3) unless the anti-social behaviour in question is material in relation to those proceedings.”

#### Commencement Information

I41 S. 24 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

## 25 Contracting out of local authority functions with regard to parenting contracts and parenting orders

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 28 there is inserted—

### “28A Contracting out of local authority functions

(1) An order made by—

(a) the Secretary of State as regards local authorities in England, or

(b) the National Assembly for Wales as regards local authorities in Wales,

may provide that a local authority may make arrangements with a person who is specified in the order, or is of a description so specified, for the exercise of any function it has under or by virtue of section 25A or 26A.

(2) The order may provide—

(a) that the power of the local authority to make the arrangements is subject to such conditions as are specified in the order;

(b) that the arrangements must be subject to such conditions as are so specified;

(c) that the arrangements may be made subject to such other conditions as the local authority thinks appropriate.

(3) The order may provide that the arrangements may authorise the exercise of the function—

(a) either wholly or to such extent as may be specified in the order or arrangements;

(b) either generally or in such cases or areas as may be so specified.

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- (4) An order under this section may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970.
- (5) The Secretary of State or (as the case may be) the National Assembly for Wales must not make an order under this section without first consulting—
  - (a) such representatives of local government as appear to be appropriate;
  - (b) such other persons as appear to be appropriate.
- (6) Any arrangements made by a local authority in pursuance of an order under this section do not prevent the local authority from exercising the function to which the arrangements relate.
- (7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act—
  - (a) section 72 (effect of contracting out);
  - (b) section 73 (termination of contracting out);
  - (c) section 75 and Schedule 15 (provision relating to disclosure of information);
  - (d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).
- (8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function is to be construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section.
- (9) Local authorities in England and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.
- (10) Local authorities in Wales and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the National Assembly for Wales for the purposes of this section.”

#### Commencement Information

**I42** S. 25 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

### *Injunctions*

## **26 Anti-social behaviour injunctions**

For section 153A of the Housing Act 1996 (c. 52) there is substituted—

### **“153A Anti-social behaviour injunction**

- (1) In this section—

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“anti-social behaviour injunction” means an injunction that prohibits the person in respect of whom it is granted from engaging in housing-related anti-social conduct of a kind specified in the injunction;

“anti-social conduct” means conduct capable of causing nuisance or annoyance to some person (who need not be a particular identified person);

“conduct” means conduct anywhere;

“housing-related” means directly or indirectly relating to or affecting the housing management functions of a relevant landlord.

- (2) The court on the application of a relevant landlord may grant an anti-social behaviour injunction if the condition in subsection (3) is satisfied.
- (3) The condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in housing-related conduct capable of causing a nuisance or annoyance to—
  - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by a relevant landlord,
  - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a),
  - (c) a person engaged in lawful activity in, or in the neighbourhood of, housing accommodation mentioned in paragraph (a), or
  - (d) a person employed (whether or not by a relevant landlord) in connection with the exercise of a relevant landlord's housing management functions.
- (4) Without prejudice to the generality of the court's power under subsection (2), a kind of conduct may be described in an anti-social behaviour injunction by reference to a person or persons and, if it is, may (in particular) be described by reference—
  - (a) to persons generally,
  - (b) to persons of a description specified in the injunction, or
  - (c) to persons, or a person, specified in the injunction.”

#### **Commencement Information**

**I43** S. 26 in force at 6.4.2007 for E. by [S.I. 2007/709](#), [art. 4\(a\)](#) (with [art. 8](#))

## **27 Injunctions in local authority proceedings: power of arrest and remand**

- (1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c. 70) (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).
- (2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.

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- (3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either—
  - (a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or
  - (b) there is a significant risk of harm to the person mentioned in that subsection.
- (4) Where a power of arrest is attached to any provision of an injunction under subsection (2), a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of that provision.
- (5) After making an arrest under subsection (4) the constable must as soon as is reasonably practicable inform the local authority.
- (6) Where a person is arrested under subsection (4)—
  - (a) he shall be brought before the court within the period of 24 hours beginning at the time of his arrest, and
  - (b) if the matter is not then disposed of forthwith, the court may remand him.
- (7) For the purposes of subsection (6), when calculating the period of 24 hours referred to in paragraph (a) of that subsection, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- (8) Schedule 10 applies in relation to the power to remand under subsection (6).
- (9) If the court has reason to consider that a medical report will be required, the power to remand a person under subsection (6) may be exercised for the purpose of enabling a medical examination and report to be made.
- (10) If such a power is so exercised the adjournment shall not be in force—
  - (a) for more than three weeks at a time in a case where the court remands the accused person in custody, or
  - (b) for more than four weeks at a time in any other case.
- (11) If there is reason to suspect that a person who has been arrested under subsection (4) is suffering from [<sup>F25</sup>mental disorder within the meaning of the Mental Health Act 1983] the court shall have the same power to make an order under section 35 of [<sup>F26</sup>that Act] (remand for report on accused's mental condition) as the Crown Court has under that section in the case of an accused person within the meaning of that section.
- (12) For the purposes of this section—
  - (a) “harm” includes serious ill-treatment or abuse (whether physical or not);
  - (b) “local authority” has the same meaning as in section 222 of the Local Government Act 1972 (c. 70);
  - (c) “the court” means the High Court or [<sup>F27</sup>the county] court and includes—
    - (i) in relation to the High Court, a judge of that court, and
    - (ii) in relation to [<sup>F27</sup>the county] court, a judge <sup>F28</sup>... of that court.

#### Textual Amendments

**F25** Words in s. 27(11) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), s. 56\(1\), Sch. 1 para. 26\(a\)](#); S.I. 2008/1900, art. 2(a) (with art. 3Sch.)

**F26** Words in s. 27(11) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), s. 56\(1\), Sch. 1 para. 26\(b\)](#); S.I. 2008/1900, art. 2(a) (with art. 3Sch.)

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- F27** Words in s. 27(12) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 44\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F28** Words in s. 27(12) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 44\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

#### Commencement Information

- I44** S. 27 in force at 6.4.2007 for E. by [S.I. 2007/709, art. 4\(b\)](#) (with art. 8)

## PART 4

### INSPECTORATES

#### 28 Her Majesty's Chief Inspector of Prisons

- (1) In section 5A of the Prison Act 1952 (c. 52) (appointment and functions of Her Majesty's Chief Inspector of Prisons), after subsection (6) there is inserted—

“(7) Schedule A1 to this Act (which makes further provision about the Chief Inspector) has effect.”

- (2) At the beginning of the Schedules to that Act there is inserted—

“SCHEDULE A1

Section 5A

#### FURTHER PROVISION ABOUT HER MAJESTY'S CHIEF INSPECTOR OF PRISONS

##### *Delegation of functions*

- 1 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) above it is nevertheless to be regarded for the purposes of section 5A of this Act and this Schedule as carried out by the Chief Inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

##### *Inspection programmes and inspection frameworks*

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
- (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).

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- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Secretary of State and (subject to sub-paragraph (3) below)—
- (a) Her Majesty's Chief Inspector of Constabulary,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other person or body specified by an order made by the Secretary of State,
- and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The requirement in sub-paragraph (2) above to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Chief Inspector from making visits without notice.

*Inspections by other inspectors of organisations within Chief Inspector's remit*

- 3 (1) If—
- (a) a person or body within sub-paragraph (2) below is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,
- the Chief Inspector shall, subject to sub-paragraph (7) below, give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
- (a) Her Majesty's Inspectorate of the National Probation Service for England and Wales;
  - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;

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- (c) the Commission for Healthcare Audit and Inspection;
- (d) the Commission for Social Care Inspection;
- (e) the Audit Commission for Local Government and the National Health Service in England and Wales.

- (3) The Secretary of State may by order amend sub-paragraph (2) above.
- (4) In sub-paragraph (1)(a) above “specified organisation” means a person or body specified by an order made by the Secretary of State.
- (5) A person or body may be specified under sub-paragraph (4) above only if it exercises functions in relation to any prison or other institution or matter falling within the scope of the Chief Inspector's duties under section 5A of this Act.
- (6) A person or body may be specified under sub-paragraph (4) above in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) above is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9) below.

- (9) The Secretary of State, if satisfied that the proposed inspection—
  - (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
 may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
  - (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The Chief Inspector shall co-operate with—
  - (a) Her Majesty's Inspectors of Constabulary,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,



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- (d) Her Majesty's Inspectorate of Court Administration,
- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- (f) the Commission for Healthcare Audit and Inspection,
- (g) the Commission for Social Care Inspection,
- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other public authority specified by an order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective discharge of his functions.

#### *Joint action*

- 5
- (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
  - (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3) below, shall prepare a document (a “joint inspection programme”) setting out—
    - (a) what inspections he proposes to carry out in the exercise of the power conferred by sub-paragraph (1) above, and
    - (b) what inspections the chief inspectors within sub-paragraph (3) below (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
  - (3) The chief inspectors within this sub-paragraph are—
    - (a) Her Majesty's Chief Inspector of Constabulary;
    - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
    - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
    - (d) Her Majesty's Chief Inspector of Court Administration.
  - (4) A joint inspection programme shall be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
  - (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 above apply to a joint inspection programme as they apply to a document prepared under that paragraph.
  - (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

#### *Assistance for other public authorities*

- 6
- (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.

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- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the Chief Inspector thinks fit.”

**Commencement Information**

**I45** S. 28 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

**29 Her Majesty's Inspectors of Constabulary**

- (1) In section 54 of the Police Act 1996 (c. 16) (appointment and functions of Her Majesty's Inspectors of Constabulary), after subsection (5) there is inserted—

“(6) Schedule 4A (which makes further provision about the inspectors of constabulary) has effect.”

- (2) After Schedule 4 to that Act there is inserted—

“SCHEDULE 4A

Section 54

FURTHER PROVISION ABOUT HER MAJESTY'S INSPECTORS OF CONSTABULARY

*Delegation of functions*

- 1 (1) An inspector of constabulary may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If an inspector of constabulary delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of section 54 and this Schedule as carried out by the inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

*Inspection programmes and inspection frameworks*

- 2 (1) The chief inspector of constabulary shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
- (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the chief inspector of constabulary shall consult the Secretary of State and (subject to sub-paragraph (3))—
- (a) Her Majesty's Chief Inspector of Prisons,
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
- (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
- (d) Her Majesty's Chief Inspector of Court Administration,

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- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- (f) the Commission for Healthcare Audit and Inspection,
- (g) the Commission for Social Care Inspection,
- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the chief inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectors of constabulary from making visits without notice.

*Inspections by other inspectors of organisations  
within remit of inspectors of constabulary*

- 3 (1) If—
  - (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the chief inspector of constabulary considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the chief inspector of constabulary shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
  - (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales;
  - (d) the Commission for Healthcare Audit and Inspection;
  - (e) the Audit Commission for Local Government and the National Health Service in England and Wales.
- (3) The Secretary of State may by order amend sub-paragraph (2).
- (4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Secretary of State.

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- (5) A person or body may be specified under sub-paragraph (4) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectors of constabulary under section 54 of this Act or any other enactment.
- (6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9).

- (9) The Secretary of State, if satisfied that the proposed inspection—
  - (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
 may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
  - (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The inspectors of constabulary shall co-operate with—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (d) Her Majesty's Inspectorate of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and

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- (j) any other public authority specified by an order made by the Secretary of State,  
where it is appropriate to do so for the efficient and effective discharge of the functions of the inspectors of constabulary.

*Joint action*

- 5 (1) The inspectors of constabulary may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of their functions.
- (2) The chief inspector of constabulary, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—
- (a) what inspections the inspectors of constabulary propose to carry out in the exercise of the power conferred by sub-paragraph (1), and
- (b) what inspections the chief inspectors within paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
- (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
- (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
- (d) Her Majesty's Chief Inspector of Court Administration.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

*Assistance for other public authorities*

- 6 (1) The chief inspector of constabulary may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the chief inspector of constabulary thinks fit.

*Orders under this Schedule*

- 7 A statutory instrument containing an order under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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### Commencement Information

**I46** S. 29 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

## 30 Her Majesty's Chief Inspector of the Crown Prosecution Service

(1) In section 2 of the Crown Prosecution Service Inspectorate Act 2000 (c. 10) (functions of Her Majesty's Chief Inspector of the Crown Prosecution Service), after subsection (4) there is inserted—

“(5) The Schedule to this Act (which makes further provision about the Chief Inspector) has effect.”

(2) At the end of that Act there is inserted—

### “SCHEDULE

Section 2

#### FURTHER PROVISION ABOUT HER MAJESTY'S CHIEF INSPECTOR OF THE CROWN PROSECUTION SERVICE

##### *Delegation of functions*

- 1 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of this Act as carried out by the Chief Inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

##### *Inspection programmes and inspection frameworks*

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Attorney General may specify by order, prepare—
  - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
  - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Attorney General and (subject to sub-paragraph (3))—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of Constabulary,
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,

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- (f) the Commission for Healthcare Audit and Inspection,
- (g) the Commission for Social Care Inspection,
- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Attorney General,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Attorney General may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Chief Inspector from making visits, or causing visits to be made, without notice.

*Inspections by other inspectors of organisations within remit of Chief Inspector*

- 3 (1) If—
    - (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
    - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the Chief Inspector shall, subject to sub-paragraph (6), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
  - (2) The persons or bodies within this sub-paragraph are those that are specified by an order made by the Attorney General.
  - (3) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Attorney General.
  - (4) A person or body may be specified under sub-paragraph (3) only if it exercises functions in relation to any matter falling within the scope of the duties of the Chief Inspector under this Act or any other enactment.
  - (5) A person or body may be specified under sub-paragraph (3) in relation to particular functions that it has.
- In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (6) The Attorney General may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.

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- (7) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (8).

- (8) The Attorney General, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (9) The Attorney General may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The Chief Inspector shall co-operate with—
- (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Inspectors of Constabulary,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (d) Her Majesty's Inspectorate of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other public authority specified by an order made by the Attorney General,

where it is appropriate to do so for the efficient and effective discharge of his functions.

#### *Joint action*

- 5 (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
- (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—



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- (a) what inspections he proposes to carry out in the exercise of the power conferred by sub-paragraph (1), and
  - (b) what inspections the chief inspectors within sub-paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
  - (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Constabulary;
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
  - (d) Her Majesty's Chief Inspector of Court Administration.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

#### *Assistance for other public authorities*

- 6 (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the Chief Inspector thinks fit.

#### *Powers of inspectors regarding documents*

- 7 (1) An inspector may for the purposes of an inspection under this Act—
  - (a) require documents to be produced;
  - (b) inspect, copy or take away any documents produced;
  - (c) require an explanation to be given of any document produced;
  - (d) require any other information to be provided.
- (2) A reference in sub-paragraph (1) to the production of a document includes a reference to the production of—
  - (a) a legible and intelligible copy of information recorded otherwise than in legible form, or
  - (b) information in a form from which it can readily be produced in legible and intelligible form.
- (3) A person exercising the power under sub-paragraph (1) to inspect documents—
  - (a) is entitled to have access to, and inspect and check the operation of, any computer and associated apparatus or material that is or has been in use in connection with the documents in question;
  - (b) may require—

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- (i) the person by whom or on whose behalf the computer is or has been used, or
  - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,
- to afford him such reasonable assistance as he may require.

*Orders under this Schedule*

- 8 (1) The power to make an order under this Schedule is exercisable by statutory instrument.
- (2) A statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I47** S. 30 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

**31 Her Majesty's Inspectorate of the National Probation Service for England and Wales**

- (1) In section 7 of the Criminal Justice and Court Services Act 2000 (c. 43) (functions of Her Majesty's Inspectorate of the National Probation Service for England and Wales), after subsection (6) there is inserted—

“(7) Schedule 1A (which makes further provision about the inspectorate) has effect.”

- (2) After Schedule 1 to that Act there is inserted—

“SCHEDULE 1A

Section 7

FURTHER PROVISION ABOUT THE INSPECTORATE

*Delegation of functions*

- 1 (1) A member of the inspectorate may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If a member of the inspectorate delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of section 7 and this Schedule as carried out by that member.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

*Inspection programmes and inspection frameworks*

- 2 (1) The chief inspector shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);

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- (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the chief inspector shall consult the Secretary of State and (subject to sub-paragraph (3))—
- (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of Constabulary,
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other person or body specified by an order made by the Secretary of State,
- and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the chief inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectorate from making visits without notice.

*Inspections by other inspectors of organisations within inspectorate's remit*

- 3 (1) If—
- (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the chief inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,
- the chief inspector shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;

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- (c) the Commission for Healthcare Audit and Inspection;
- (d) the Commission for Social Care Inspection;
- (e) the Audit Commission for Local Government and the National Health Service in England and Wales.

(3) The Secretary of State may by order amend sub-paragraph (2).

(4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Secretary of State.

(5) A person or body may be specified under sub-paragraph (4) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectorate under section 7.

(6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

(7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.

(8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9).

(9) The Secretary of State, if satisfied that the proposed inspection—

- (a) would not impose an unreasonable burden on the organisation in question, or
- (b) would not do so if carried out in a particular manner,

may give consent to the inspection being carried out, or being carried out in that manner.

(10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—

- (a) provision about the form of notices;
- (b) provision prescribing the period within which notices are to be given;
- (c) provision prescribing circumstances in which notices are, or are not, to be made public;
- (d) provision for revising or withdrawing notices;
- (e) provision for setting aside notices not validly given.

#### *Co-operation*

4 The inspectorate shall co-operate with—

- (a) Her Majesty's Chief Inspector of Prisons,
- (b) Her Majesty's Inspectors of Constabulary,
- (c) Her Majesty's Inspectorate of the Crown Prosecution Service,
- (d) Her Majesty's Chief Inspector of Court Administration,

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- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- (f) the Commission for Healthcare Audit and Inspection,
- (g) the Commission for Social Care Inspection,
- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other public authority specified by an order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective discharge of the functions of the inspectorate.

#### *Joint action*

- 5 (1) The inspectorate may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of the inspectorate's functions.
- (2) The chief inspector, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a "joint inspection programme") setting out—
- (a) what inspections the inspectorate proposes to carry out in the exercise of the power conferred by sub-paragraph (1), and
  - (b) what inspections the chief inspectors within sub-paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Constabulary;
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (d) Her Majesty's Chief Inspector of Court Administration.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

#### *Assistance for other public authorities*

- 6 (1) The chief inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the chief inspector thinks fit."

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#### Commencement Information

**I48** S. 31 in force at 1.4.2007 by S.I. 2007/709, **art. 3(m)** (with arts. 6, 7)

### <sup>F29</sup> 32 Her Majesty's Inspectorate of Court Administration

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#### Textual Amendments

**F29** S. 32 repealed (18.9.2012) by [The Public Bodies \(Abolition of Her Majesty's Inspectorate of Courts Administration and the Public Guardian Board\) Order 2012](#) (S.I. 2012/2401), **art. 1(2)(3)**, **Sch. 1 para. 26** (with art. 2)

### 33 Transitional provision

In relation to any time before the commencement of the provision in Part 8 of the Education and Inspections Act 2006 (c. 40) establishing the office of Her Majesty's Chief Inspector of Education, Children's Services and Skills, a reference to that inspector in any provision inserted by this Part is to be read as a reference to—

- (a) Her Majesty's Chief Inspector of Schools in England, and
- (b) the Adult Learning Inspectorate.

#### Commencement Information

**I49** S. 33 in force at 1.4.2007 by S.I. 2007/709, **art. 3(m)** (with arts. 6, 7)

## PART 5

### MISCELLANEOUS

PROSPECTIVE

#### *Bail offences*

### <sup>F30</sup> 34 Sentences of imprisonment for bail offences

.....

#### Textual Amendments

**F30** S. 34 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 118(3)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

*Status:* Point in time view as at 22/04/2014. This version of this Act contains provisions that are prospective.

*Changes to legislation:* Police and Justice Act 2006 is up to date with all changes known to be in force on or before 05 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)

## Computer misuse

### 35 Unauthorised access to computer material

(1) In the Computer Misuse Act 1990 (c. 18) (“the 1990 Act”), section 1 (offence of unauthorised access to computer material) is amended as follows.

<sup>F31</sup>(2) . . . . .

(3) For subsection (3) there is substituted—

“(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Textual Amendments

**F31** S. 35(2) repealed (1.10.2008) by *Serious Crime Act 2007* (c. 27), ss. 61(2), 94(1), **Sch. 14** (with **Sch. 13** para. 5); **S.I. 2008/2504**, art. 2(a)(i)

#### Commencement Information

**I50** S. 35 in force at 1.10.2007 for S. by **S.S.I. 2007/434**, art. 2(a)

**I51** S. 35 in force at 1.10.2008 for E.W.N.I. by **S.I. 2008/2503**, art. 2(a)

### 36 Unauthorised acts with intent to impair operation of computer, etc

For section 3 of the 1990 Act (unauthorised modification of computer material) there is substituted—

#### “3 Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc.

(1) A person is guilty of an offence if—

- (a) he does any unauthorised act in relation to a computer;
- (b) at the time when he does the act he knows that it is unauthorised; and
- (c) either subsection (2) or subsection (3) below applies.

(2) This subsection applies if the person intends by doing the act—

- (a) to impair the operation of any computer;
- (b) to prevent or hinder access to any program or data held in any computer; [<sup>F32</sup>or]
- (c) to impair the operation of any such program or the reliability of any such data; [<sup>F33</sup>or]
- (d) to enable any of the things mentioned in paragraphs (a) to (c) above to be done.]

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- (3) This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a) [<sup>F34</sup>to (d)] [<sup>F34</sup>to (c)] of subsection (2) above.
- (4) The intention referred to in subsection (2) above, or the recklessness referred to in subsection (3) above, need not relate to—
- (a) any particular computer;
  - (b) any particular program or data; or
  - (c) a program or data of any particular kind.
- (5) In this section—
- (a) a reference to doing an act includes a reference to causing an act to be done;
  - (b) “act” includes a series of acts;
  - (c) a reference to impairing, preventing or hindering something includes a reference to doing so temporarily.
- (6) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine or to both.”

#### Textual Amendments

- F32** Word in s. 36 inserted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(i\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)
- F33** Words in s. 36 repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(ii\)](#), [94\(1\)](#), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)](#)
- F34** Words in s. 36 substituted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(b\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)\(viii\)](#)

#### Commencement Information

- I52** S. 36 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)
- I53** S. 36 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

### 37 Making, supplying or obtaining articles for use in computer misuse offences

After section 3 of the 1990 Act there is inserted—

#### “3A Making, supplying or obtaining articles for use in offence under section 1 or 3

- (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article intending it to be used to commit, or to assist in the commission of, an offence under section 1 or 3.



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- (2) A person is guilty of an offence if he supplies or offers to supply any article believing that it is likely to be used to commit, or to assist in the commission of, an offence under section 1 or 3.
- (3) A person is guilty of an offence if he obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or 3.
- (4) In this section “article” includes any program or data held in electronic form.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Commencement Information

**I54** S. 37 in force at 1.10.2007 for S. by S.S.I. 2007/434, art. 2(a)

**I55** S. 37 in force at 1.10.2008 for E.W.N.I. by S.I. 2008/2503, art. 2(a)

### 38 Transitional and saving provision

- (1) [F35The amendments made by—
  - (a) subsection (2) of section 35, and
  - (b) paragraphs 19(2), 25(2) and 29(2) of Schedule 14,apply only where every act or other event proof of which is required for conviction of an offence under section 1 of the 1990 Act takes place after that subsection comes into force.]
- (2) The amendments made by—
  - (a) subsection (3) of section 35, and
  - (b) paragraphs 23, 24, 25(4) and (5), 26, 27(2) and (7) and 28 of Schedule 14,do not apply in relation to an offence committed before that subsection comes into force.
- (3) An offence is not committed under the new section 3 unless every act or other event proof of which is required for conviction of the offence takes place after section 36 above comes into force.
- (4) In relation to a case where, by reason of subsection (3), an offence is not committed under the new section 3—
  - (a) section 3 of the 1990 Act has effect in the form in which it was enacted;
  - (b) paragraphs 19(3), 25(3) to (5), 27(4) and (5) and 29(3) and (4) of Schedule 14 do not apply.

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- (5) An offence is not committed under the new section 3A unless every act or other event proof of which is required for conviction of the offence takes place after section 37 above comes into force.
- (6) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the following provisions have effect as if for “12 months” there were substituted “six months”
- (a) paragraph (a) of the new section 1(3);
  - (b) paragraph (a) of the new section 2(5);
  - (c) subsection (6)(a) of the new section 3;
  - (d) subsection (5)(a) of the new section 3A.
- (7) In this section—
- (a) “the new section 1(3)” means the subsection (3) substituted in section 1 of the 1990 Act by section 35 above;
  - (b) “the new section 2(5)” means the subsection (5) substituted in section 2 of the 1990 Act by paragraph 17 of Schedule 14 to this Act;
  - (c) “the new section 3” means the section 3 substituted in the 1990 Act by section 36 above;
  - (d) “the new section 3A” means the section 3A inserted in the 1990 Act by section 37 above.

#### Textual Amendments

**F35** S. 38(1) repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(4), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)(i)

#### Commencement Information

**I56** S. 38 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)

**I57** S. 38 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

### *Forfeiture of indecent photographs of children*

## **39 Forfeiture of indecent photographs of children: England and Wales**

- (1) The Protection of Children Act 1978 (c. 37) is amended as follows.
- (2) In section 4 (entry, search and seizure)—
- (a) subsection (3) is omitted;
  - (b) for subsection (4) there is substituted—
 

“(4) In this section “premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 23 of that Act).”
- (3) For section 5 (forfeiture) there is substituted—

### **“5 Forfeiture**

The Schedule to this Act makes provision about the forfeiture of indecent photographs and pseudo-photographs.”

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- (4) At the end of the Act there is inserted the Schedule set out in Schedule 11 to this Act.
- (5) The amendment made by paragraph (b) of subsection (2) has effect only in relation to warrants issued under section 4 of the Protection of Children Act 1978 after the commencement of that paragraph.
- (6) The amendments made by subsections (2)(a), (3) and (4) and Schedule 11 have effect whether the property in question was lawfully seized before or after the coming into force of those provisions.

This is subject to subsection (7).

- (7) Those amendments do not have effect in a case where the property has been brought before a justice of the peace under section 4(3) of the Protection of Children Act 1978 before the coming into force of those provisions.

#### Commencement Information

**I58** S. 39 in force at 1.4.2008 by S.I. 2008/790, art. 2(c)

#### 40 Forfeiture of indecent photographs of children: Northern Ireland

- (1) The Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) is amended as follows.
- (2) In Article 4 (entry, search and seizure), for paragraph (2) there is substituted—
  - “(2) In this Article “premises” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 25 of that Order).”

- (3) For Articles 5 and 6 (forfeiture) there is substituted—

##### “5 Forfeiture

The Schedule to this Order makes provision about the forfeiture of indecent photographs and pseudo-photographs.”

- (4) At the end of the Order there is inserted the Schedule set out in Schedule 12.
- (5) The amendment made by subsection (2) has effect only in relation to warrants granted under Article 4(1) of the Protection of Children (Northern Ireland) Order 1978 after the commencement of that subsection.
- (6) The amendments made by subsections (3) and (4) and Schedule 12 have effect whether the property in question was lawfully seized before or after the coming into force of those provisions.

This is subject to subsection (7).

- (7) Those amendments do not have effect in a case where the property has been brought before a resident magistrate under Article 5(1) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) before the coming into force of those provisions.

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### Commencement Information

**I59** S. 40 in force at 1.4.2008 by S.I. 2008/790, art. 3(a)

## *Independent Police Complaints Commission*

### **41 Immigration and asylum enforcement functions [<sup>F36</sup>and customs functions]: complaints and misconduct**

- (1) The Secretary of State may make regulations conferring functions on the Independent Police Complaints Commission in relation to—
  - (a) the exercise by immigration officers of specified enforcement functions;
  - (b) the exercise by officials of the Secretary of State of specified enforcement functions relating to immigration or asylum;
  - [<sup>F37</sup>(c) the provision of services pursuant to arrangements relating to the discharge of a function within paragraph (a) or (b).]
- (2) In subsection (1) the reference to enforcement functions includes, in particular, reference to—
  - (a) powers of entry,
  - (b) powers to search persons or property,
  - (c) powers to seize or detain property,
  - (d) powers to arrest persons,
  - (e) powers to detain persons,
  - (f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data), and
  - (g) powers in connection with the removal of persons from the United Kingdom.
- [<sup>F38</sup>(2A) The Secretary of State may make regulations conferring functions on the Independent Police Complaints Commission in relation to—
  - (a) the exercise by designated customs officials, and officials of the Secretary of State, of customs functions within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009;
  - (b) the exercise by the Director of Border Revenue, and any person exercising functions of the Director, of customs revenue functions within the meaning of that Part of that Act;
  - (c) the provision of services pursuant to arrangements relating to the discharge of a function within paragraph (a) or (b).]
- (3) Regulations under subsection (1) may not confer functions on the Independent Police Complaints Commission in relation to the exercise by any person of a function conferred on him by or under Part 8 of the Immigration and Asylum Act 1999 (c. 33).
- (4) Regulations under subsection (1) [<sup>F39</sup>or (2A)]—
  - (a) may apply (with or without modification) or make provision similar to any provision of or made under Part 2 of the Police Reform Act 2002 (c. 30) (complaints);
  - (b) may make provision for payment by the Secretary of State to or in respect of the Independent Police Complaints Commission.

*Status: Point in time view as at 22/04/2014. This version of this Act contains provisions that are prospective.*

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- (5) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may disclose information to each other for the purposes of the exercise of a function—
- (a) by virtue of this section, or
  - (b) under the Parliamentary Commissioner Act 1967 (c. 13).
- (6) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may jointly investigate a matter in relation to which—
- (a) the Independent Police Complaints Commission has functions by virtue of this section, and
  - (b) the Parliamentary Commissioner for Administration has functions by virtue of the Parliamentary Commissioner Act 1967 (c. 13).
- (7) Regulations under subsection (1) [<sup>F40</sup>or (2A)] shall relate only to the exercise of functions in or in relation to England and Wales.
- (8) In this section “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 (c. 77).

#### Textual Amendments

- F36** Words in s. 41 inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(3), 58(1)** (with s. 36(4))
- F37** S. 41(1)(c) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(1)(a), 58(1)** (with s. 36(4))
- F38** S. 41(2A) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(1)(b), 58(1)** (with s. 36(4))
- F39** Words in s. 41(4) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(2), 58(1)** (with s. 36(4))
- F40** Words in s. 41(7) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(2), 58(1)** (with s. 36(4))

#### Commencement Information

- I60** S. 41 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), **art. 2(f)**
- I61** S. 41 in force at 10.10.2007 for S.N.I. by [S.I. 2007/2754](#), **art. 2**

### *Extradition*

## 42 Amendments to the Extradition Act 2003 etc

Schedule 13 (which in Part 1 makes amendments to the Extradition Act 2003 (c. 41) and in Part 2 makes other amendments concerning extradition) has effect.

#### Commencement Information

- I62** S. 42 in force at 15.1.2007 for specified purposes by [S.I. 2006/3364](#), **art. 2(d)**

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**43 Designation of United States of America**

- (1) In article 3(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (S.I. 2003/3334) (territories designated for the purposes of sections 71, 73, 84 and 86 of the Extradition Act 2003) the entry for the United States of America is omitted.
- (2) An order bringing subsection (1) into force is not to be made—
  - (a) within the period of 12 months beginning with the day on which this Act is passed, or
  - (b) if instruments of ratification of the 2003 treaty have been exchanged.

In this subsection “the 2003 treaty” means the Extradition Treaty between the United Kingdom of Great Britain and Northern Ireland and the United States of America signed at Washington on 31st March 2003.
- (3) Subject to subsection (2), if after the end of the period mentioned in subsection (2)(a) a resolution is made by each House of Parliament that subsection (1) should come into force, the Secretary of State shall make an order under section 53 bringing it into force.
- (4) An order made by virtue of subsection (3) must bring subsection (1) into force no later than one month after the day on which the resolutions referred to in subsection (3) are made or, if they are made on different days, the day on which the later resolution is made.
- (5) If subsection (1) is brought into force, it does not affect the power of the Secretary of State to make a further order under section 71(4), 73(5), 84(7) or 86(7) of the Extradition Act 2003 amending article 3 of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 so as to add a reference to the United States of America.
- (6) An order such as is mentioned in subsection (5) may include provision repealing this section.

**Commencement Information**  
**I63** S. 43 partly in force; s. 43(2)-(6) in force at Royal Assent see s. 53(1)(2)

*Repatriation of prisoners*

**44 Transfer of prisoner under international arrangements not requiring his consent**

- (1) Section 1 of the Repatriation of Prisoners Act 1984 (c. 47) (issue of warrant for transfer) is amended as follows.
- (2) In subsection (1), for paragraph (c) there is substituted—
  - “(c) in a case in which the terms of those arrangements provide for the prisoner to be transferred only with his consent, the prisoner's consent has been given.”.
- (3) In subsection (5), for the words from the beginning to “was given” there is substituted “ In such a case as is referred to in subsection (1)(c) above, the relevant Minister shall not issue a warrant under this Act unless he is satisfied that the prisoner's consent was given ”.
- <sup>F41</sup>(4) .....

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### Textual Amendments

**F41** S. 44(4) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 28 Pt. 6](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(6)

### Commencement Information

**I64** S. 44 in force at 15.1.2007 by [S.I. 2006/3364](#), [art. 2\(f\)](#)

## Live links

### 45 Attendance by accused at certain preliminary or sentencing hearings

For section 57 of the Crime and Disorder Act 1998 (c. 37) (use of live television links at preliminary hearings) there is substituted—

#### “PART 3A

#### LIVE LINKS FOR ACCUSED'S ATTENDANCE AT CERTAIN PRELIMINARY AND SENTENCING HEARINGS

##### 57A Introductory

- (1) This Part—
  - (a) applies to preliminary hearings and sentencing hearings in the course of proceedings for an offence; and
  - (b) enables the court in the circumstances provided for in sections 57B, 57C and 57E to direct the use of a live link for securing the accused's attendance at a hearing to which this Part applies.
- (2) The accused is to be treated as present in court when, by virtue of a live link direction under this Part, he attends a hearing through a live link.
- (3) In this Part—
 

“custody”—

  - (a) includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969; but
  - (b) does not include police detention;

“live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);

“police detention” has the meaning given by section 118(2) of the Police and Criminal Evidence Act 1984;

“preliminary hearing” means a hearing in the proceedings held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the 1985 Act) including, in the case of proceedings in the Crown Court, a preparatory hearing held under—

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- (a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or
  - (b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases);
- “sentencing hearing” means any hearing following conviction which is held for the purpose of—
- (a) proceedings relating to the giving or rescinding of a direction under section 57E;
  - (b) proceedings (in a magistrates' court) relating to committal to the Crown Court for sentencing; or
  - (c) sentencing the offender or determining how the court should deal with him in respect of the offence.

#### **57B Use of live link at preliminary hearings where accused is in custody**

- (1) This section applies in relation to a preliminary hearing in a magistrates' court or the Crown Court.
- (2) Where it appears to the court before which the preliminary hearing is to take place that the accused is likely to be held in custody during the hearing, the court may give a live link direction under this section in relation to the attendance of the accused at the hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.
- (4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.
- (5) The court shall not give or rescind such a direction (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.
- (6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this section, it must—
  - (a) state in open court its reasons for not doing so; and
  - (b) cause those reasons to be entered in the register of its proceedings.

#### **57C Use of live link at preliminary hearings where accused is at police station**

- (1) This section applies in relation to a preliminary hearing in a magistrates' court.
- (2) Where subsection (3) or (4) applies to the accused, the court may give a live link direction in relation to his attendance at the preliminary hearing.
- (3) This subsection applies to the accused if—
  - (a) he is in police detention at a police station in connection with the offence; and
  - (b) it appears to the court that he is likely to remain at that station in police detention until the beginning of the preliminary hearing.



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- (4) This subsection applies to the accused if he is at a police station in answer to live link bail in connection with the offence.
- (5) A live link direction under this section is a direction requiring the accused to attend the preliminary hearing through a live link from the police station.
- (6) But a direction given in relation to an accused to whom subsection (3) applies has no effect if he does not remain in police detention at the police station until the beginning of the preliminary hearing.
- (7) A live link direction under this section may not be given unless the accused has given his consent to the court.
- (8) A magistrates' court may rescind a live link direction under this section at any time before or during a hearing to which it relates.
- (9) A magistrates' court may require or permit—
  - (a) the accused to give or withhold consent under subsection (7) through a live link; and
  - (b) any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.
- (10) Where a live link direction under this section is given in relation to an accused person who is answering to live link bail he is to be treated as having surrendered to the custody of the court (as from the time when the direction is given).
- (11) In this section, “live link bail” means bail granted under Part 4 of the Police and Criminal Evidence Act 1984 subject to the duty mentioned in section 47(3)(b) of that Act.”

#### **57D Continued use of live link for sentencing hearing following a preliminary hearing**

- (1) Subsection (2) applies where—
  - (a) a live link direction under section 57B or 57C is in force;
  - (b) the accused is attending a preliminary hearing through a live link by virtue of the direction;
  - (c) the court convicts him of the offence in the course of that hearing (whether by virtue of a guilty plea or an indication of an intention to plead guilty); and
  - (d) the court proposes to continue the hearing as a sentencing hearing in relation to the offence.
- (2) The accused may continue to attend through the live link by virtue of the direction if—
  - (a) the hearing is continued as a sentencing hearing in relation to the offence;
  - (b) the accused consents to his continuing to attend through the live link; and
  - (c) the court is satisfied that it is not contrary to the interests of justice for him to do so.

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- (3) But the accused may not give oral evidence through the live link during a continued hearing under subsection (2) unless—
- (a) he consents to give evidence in that way; and
  - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

### **57E Use of live link in sentencing hearings**

- (1) This section applies where the accused is convicted of the offence.
- (2) If it appears to the court by or before which the accused is convicted that it is likely that he will be held in custody during any sentencing hearing for the offence, the court may give a live link direction under this section in relation to that hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.
- (4) Such a direction—
  - (a) may be given by the court of its own motion or on an application by a party; and
  - (b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.
- (5) The court may not give such a direction unless—
  - (a) the offender has given his consent to the direction; and
  - (b) the court is satisfied that it is not contrary to the interests of justice to give the direction.
- (6) The court may rescind such a direction at any time before or during a hearing to which it relates if it appears to the court to be in the interests of justice to do so (but this does not affect the court's power to give a further live link direction in relation to the offender).
 

The court may exercise this power of its own motion or on an application by a party.
- (7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this section unless—
  - (a) he consents to give evidence in that way; and
  - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.
- (8) The court must—
  - (a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section; and
  - (b) if it is a magistrates' court, cause those reasons to be entered in the register of its proceedings.”

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### Commencement Information

- I65** S. 45 in force at 15.1.2007 for specified purposes by S.I. 2006/3364, **art. 2(g)** (with art. 4)  
**I66** S. 45 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(n)** (with arts. 6, 7)  
**I67** S. 45 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, **art. 2**  
**I68** S. 45 in force at 3.10.2011 for specified purposes by S.I. 2011/2144, **art. 2(1)(a)**  
**I69** S. 45 in force at 8.10.2012 in so far as not already in force by S.I. 2012/2373, **art. 2(a)**

## 46 Live link bail

- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) After section 34(7) (persons who are to be treated as arrested) there is inserted—
- “(8) Subsection (7) does not apply in relation to a person who is granted bail subject to the duty mentioned in section 47(3)(b) and who either—
- (a) attends a police station to answer to such bail, or
  - (b) is arrested under section 46A for failing to do so,
- (provision as to the treatment of such persons for the purposes of this Part being made by section 46ZA).”
- (3) After section 46 (detention after charge) there is inserted—

### “46ZA Persons granted live link bail

- (1) This section applies in relation to bail granted under this Part subject to the duty mentioned in section 47(3)(b) (“live link bail”).
- (2) An accused person who attends a police station to answer to live link bail is not to be treated as in police detention for the purposes of this Act.
- (3) Subsection (2) does not apply in relation to an accused person if—
  - (a) at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him, he informs a constable that he does not intend to give his consent to the direction;
  - (b) at any such time, a constable informs him that a live link will not be available for his use for the purposes of that section;
  - (c) proceedings in relation to a live link direction under that section have begun but he does not give his consent to the direction; or
  - (d) the court determines for any other reason not to give such a direction.
- (4) If any of paragraphs (a) to (d) of subsection (3) apply in relation to a person, he is to be treated for the purposes of this Part—
  - (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
  - (b) as if he had been so charged at the time when that paragraph first applied in relation to him.
- (5) An accused person who is arrested under section 46A for failing to attend at a police station to answer to live link bail, and who is brought to a police station in accordance with that section, is to be treated for the purposes of this Part—

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- (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
  - (b) as if he had been so charged at the time when he is brought to the station.
- (6) Nothing in subsection (4) or (5) affects the operation of section 47(6).”
- (4) In section 46A (power of arrest for failure to answer to police bail) after subsection (1) there is inserted—
- “(1ZA) The reference in subsection (1) to a person who fails to attend at a police station at the time appointed for him to do so includes a reference to a person who—
- (a) attends at a police station to answer to bail granted subject to the duty mentioned in section 47(3)(b), but
  - (b) leaves the police station at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him, without informing a constable that he does not intend to give his consent to the direction.”
- (5) In section 47 (bail after arrest) —
- (a) in subsection (3), for paragraphs (a) and (b) and the words following them there is substituted—
    - “(a) to appear before a magistrates' court at such time and such place as the custody officer may appoint;
    - (b) to attend at such police station as the custody officer may appoint at such time as he may appoint for the purposes of—
      - (i) proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 (use of live link direction at preliminary hearings where accused is at police station); and
      - (ii) any preliminary hearing in relation to which such a direction is given; or
    - (c) to attend at such police station as the custody officer may appoint at such time as he may appoint for purposes other than those mentioned in paragraph (b).”;
  - (b) in subsection (7), at the end there is inserted “ or to a person to whom section 46ZA(4) or (5) applies ”.
- (6) In section 54 (searches of detained persons), in subsection (1)(b), after “37 above” there is inserted “ or as a person to whom section 46ZA(4) or (5) applies ”.

#### **Commencement Information**

- I70** S. 46 in force at 1.4.2007 for specified purposes by S.I. 2007/709, art. 3(n) (with arts. 6, 7)
- I71** S. 46 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, art. 2
- I72** S. 46 in force at 3.10.2011 for specified purposes by S.I. 2011/2144, art. 2(1)(b)
- I73** S. 46 in force at 8.10.2012 in so far as not already in force by S.I. 2012/2373, art. 2(b)

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## 47 Evidence of vulnerable accused

After section 33 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (interpretation etc of Chapter 1 of Part 2) there is inserted—

### “CHAPTER 1A

#### USE OF LIVE LINK FOR EVIDENCE OF CERTAIN ACCUSED PERSONS

##### 33A Live link directions

- (1) This section applies to any proceedings (whether in a magistrates' court or before the Crown Court) against a person for an offence.
- (2) The court may, on the application of the accused, give a live link direction if it is satisfied—
  - (a) that the conditions in subsection (4) or, as the case may be, subsection (5) are met in relation to the accused, and
  - (b) that it is in the interests of justice for the accused to give evidence through a live link.
- (3) A live link direction is a direction that any oral evidence to be given before the court by the accused is to be given through a live link.
- (4) Where the accused is aged under 18 when the application is made, the conditions are that—
  - (a) his ability to participate effectively in the proceedings as a witness giving oral evidence in court is compromised by his level of intellectual ability or social functioning, and
  - (b) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).
- (5) Where the accused has attained the age of 18 at that time, the conditions are that—
  - (a) he suffers from a mental disorder (within the meaning of the Mental Health Act 1983) or otherwise has a significant impairment of intelligence and social function,
  - (b) he is for that reason unable to participate effectively in the proceedings as a witness giving oral evidence in court, and
  - (c) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).
- (6) While a live link direction has effect the accused may not give oral evidence before the court in the proceedings otherwise than through a live link.
- (7) The court may discharge a live link direction at any time before or during any hearing to which it applies if it appears to the court to be in the interests of justice to do so (but this does not affect the power to give a further live link direction in relation to the accused).

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The court may exercise this power of its own motion or on an application by a party.

- (8) The court must state in open court its reasons for—
- (a) giving or discharging a live link direction, or
  - (b) refusing an application for or for the discharge of a live link direction,
- and, if it is a magistrates' court, it must cause those reasons to be entered in the register of its proceedings.

### **33B Section 33A: meaning of “live link”**

- (1) In section 33A “live link” means an arrangement by which the accused, while absent from the place where the proceedings are being held, is able—
- (a) to see and hear a person there, and
  - (b) to be seen and heard by the persons mentioned in subsection (2),
- and for this purpose any impairment of eyesight or hearing is to be disregarded.
- (2) The persons are—
- (a) the judge or justices (or both) and the jury (if there is one),
  - (b) where there are two or more accused in the proceedings, each of the other accused,
  - (c) legal representatives acting in the proceedings, and
  - (d) any interpreter or other person appointed by the court to assist the accused.

### **33C Saving**

Nothing in this Chapter affects—

- (a) any power of a court to make an order, give directions or give leave of any description in relation to any witness (including an accused), or
- (b) the operation of any rule of law relating to evidence in criminal proceedings.”

#### **Commencement Information**

**I74** S. 47 in force at 15.1.2007 by S.I. 2006/3364, art. 2(h)

## **48 Appeals under Part 1 of the Criminal Appeal Act 1968**

- (1) In section 22 of the Criminal Appeal Act 1968 (c. 19) (right of appellant to be present at criminal appeal hearings in Court of Appeal), after subsection (3) there is inserted—
- “(4) The Court of Appeal may give a live link direction in relation to a hearing at which the appellant is expected to be in custody but is entitled to be present (by virtue of subsection (1) or leave given under subsection (2)) at any time before the beginning of that hearing.
- (5) For this purpose—

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- (a) a “live link direction” is a direction that the appellant (if he is being held in custody at the time of the hearing) is to attend the hearing through a live link from the place at which he is held; and
- (b) “live link” means an arrangement by which the appellant is able to see and hear, and to be seen and heard by, the Court of Appeal (and for this purpose any impairment of eyesight or hearing is to be disregarded).

(6) The Court of Appeal—

- (a) must not give a live link direction unless the parties to the appeal have had the opportunity to make representations about the giving of such a direction; and
- (b) may rescind a live link direction at any time before or during any hearing to which it applies (whether of its own motion or on the application of a party).”

(2) In section 23 of that Act (giving of evidence), after subsection (4) there is inserted—

“(5) A live link direction under section 22(4) does not apply to the giving of oral evidence by the appellant at any hearing unless that direction, or any subsequent direction of the court, provides expressly for the giving of such evidence through a live link.”

(3) In section 31(2) of that Act (powers exercisable by single judge), after paragraph (c) there is inserted—

“(ca) to give a live link direction under section 22(4);”.

**Commencement Information**

**I75** S. 48 in force at 15.1.2007 by S.I. 2006/3364, art. 2(i)

**PART 6**

SUPPLEMENTAL

**49 Orders and regulations**

(1) Subsections (2) to (5) apply to any power to make an order or regulations that is conferred by this Act on—

- (a) the Secretary of State, [<sup>F42</sup>or]
- (b) the Registrar General, <sup>F43</sup>...
- (c) <sup>F43</sup> .....

Subsections (2) and (3) also apply to any power to make an order that is conferred by this Act on the Scottish Ministers or the National Assembly for Wales.

(2) The power is exercisable by statutory instrument.

(3) The power may be exercised so as—

- (a) to make different provision for different purposes or different areas;
- (b) to make provision generally or for specified cases or circumstances;
- (c) to make incidental, supplemental, consequential, saving or transitional provision.

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- (4) A statutory instrument containing an order or regulations made under any power to which this subsection applies, other than—
- (a) an order to which subsection (5) applies, or
  - (b) an order under section 53,
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) A statutory instrument containing—
- (a) an order under paragraph 48 of Schedule 1, or
  - (b) an order that includes provision made by virtue of section 51(3)(b)(i) or (ii),
- may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing an order under paragraph 48 of Schedule 1 made by the Scottish Ministers may not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament.
- (7) A statutory instrument containing an order under section 51 made by the Scottish Ministers, other than an order to which subsection (8) applies, is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (8) A statutory instrument containing an order under section 51 made by the Scottish Ministers that includes provision made by virtue of subsection (3)(b)(i) of that section may not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament.
- [<sup>F44</sup>(9) The power of the Department of Justice in Northern Ireland to make an order under section 13(1)(d) [<sup>F45</sup>or paragraph 48 of Schedule 1] is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subsection (3) above applies in relation to the power as it applies in relation to a power mentioned in subsection (1) above.
- (10) An order made by the Department of Justice under section 13(1)(d) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).]
- [<sup>F46</sup>(11) No order may be made by the Department of Justice in Northern Ireland under paragraph 48 of Schedule 1 unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (12) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (11) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]

#### Textual Amendments

- F42** Word in s. 49(1)(a) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 81\(2\)\(a\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(u)
- F43** S. 49(1)(c) and preceding word repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 81\(2\)\(b\)](#), [Sch. 28 Pt. 8](#); S.I. 2008/1586, art. 2(1), Sch. 1 paras. 48(u), 50(7)(b)
- F44** S. 49(9)(10) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 90\(3\)](#) (with arts. 28-31)



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- F45** Words in s. 49(9) inserted (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **13(2)** (with arts. 24-28)
- F46** S. 49(11)(12) inserted (18.10.2012) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012 \(S.I. 2012/2595\)](#), arts. 1(2), **13(3)** (with arts. 24-28)

## 50 Money

- (1) There is to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
  - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- (2) Sums received by a Minister of the Crown by virtue of this Act are to be paid into the Consolidated Fund.

## 51 Power to make consequential and transitional provision etc

- (1) The Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitional or saving provision,that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (2) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- (3) An order under this section may in particular—
  - (a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications;
  - (b) amend or repeal—
    - (i) any Act (including this Act and any Act passed in the same Session as this Act) or any Act of the Scottish Parliament;
    - (ii) Northern Ireland legislation;
    - (iii) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act.
- (4) Nothing in this section limits the power under section 49 to include transitional or saving provision in a commencement order under section 53.
- (5) The amendments that may be made by virtue of subsection (3)(b) are in addition to those that are made by, or may be made under, any other provision of this Act.

## 52 Amendments and repeals

Schedules 14 (minor and consequential amendments) and 15 (repeals and revocations) have effect.

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### Commencement Information

- I76** S. 52 partly in force; s. 52 in force for specified purposes at Royal Assent see s. 53(1)(2)
- I77** S. 52 in force at 15.1.2007 for specified purposes by S.I. 2006/3364, **art. 2(j)**
- I78** S. 52 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(o)** (with arts. 6, 7)
- I79** S. 52 in force at 6.4.2007 for specified purposes for E. by S.I. 2007/709, **art. 4(c)** (with art. 8)
- I80** S. 52 in force at 29.6.2007 for specified purposes for E.W. by S.I. 2007/1614, **art. 2(g)**
- I81** S. 52 in force at 1.8.2007 for specified purposes for E. by S.I. 2007/1614, **art. 3(c)**
- I82** S. 52 in force at 1.10.2007 for specified purposes for S. by S.S.I. 2007/434, **art. 2(b)**
- I83** S. 52 in force at 19.11.2007 for specified purposes for W. by S.I. 2007/3073, **art. 2(b)**
- I84** S. 52 in force at 1.12.2007 for specified purposes by S.I. 2007/3203, **art. 2(d)**
- I85** S. 52 in force at 14.3.2008 for specified purposes by S.I. 2008/311, **art. 2(c)**
- I86** S. 52 in force at 1.4.2008 for specified purposes for E.W. by S.I. 2008/790, **art. 2(d)**
- I87** S. 52 in force at 1.4.2008 for specified purposes for N.I. by S.I. 2008/790, **art. 3(b)**
- I88** S. 52 in force at 1.10.2008 for specified purposes for N.I. by S.I. 2008/2503, **art. 3(a)**
- I89** S. 52 in force at 1.10.2008 for specified purposes for E.W.N.I. by S.I. 2008/2503, **art. 2(b)**
- I90** S. 52 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, **art. 3(a)**

## 53 Commencement

- (1) Subject to subsections (2) to (9)—
  - (a) Parts 1 to 5, and
  - (b) section 52 (and Schedules 14 and 15),
 come into force in accordance with provision made by order by the Secretary of State.
- (2) Subsection (1) does not apply to—
  - (a) section 43(2) to (6);
  - (b) paragraph 6 of Schedule 13;
  - (c) paragraphs 7(3)(a), 14, 15 and 24 to 26 of Schedule 2 (and section 2 so far as relating to those paragraphs);
  - (d) paragraphs 34, 39, 47, 49 and 59 of Schedule 14;
  - (e) the repeals in Part 1(B) of Schedule 15 that relate to the paragraphs mentioned in paragraphs (c) and (d);
  - (f) section 52 so far as relating to any of those paragraphs and repeals.
- (3) An order bringing the following provisions into force may be made only with the consent of the Scottish Ministers—
  - (a) section 1(2)(b);
  - (b) Parts 5 and 6 of Schedule 1 and paragraphs 51 to 53 of that Schedule (and section 1(3) so far as relating to those provisions);
  - (c) in Part 1(A) of Schedule 15, the repeals in or of the following provisions (and section 52 so far as relating to those repeals)—
    - (i) the Police (Scotland) Act 1967 (c. 77);
    - (ii) sections 109 to 111 of the Police Act 1997 (c. 50), Schedule 8 to that Act and paragraphs 10, 12 and 14 of Schedule 9 to that Act;
    - (iii) the Scottish Public Services Ombudsman Act 2002 (asp 11).
- (4) The following provisions come into force in accordance with provision made by order by the Scottish Ministers—
  - (a) sections 35 to 38 so far as they extend to Scotland;

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- (b) paragraphs 17 to 19 and 29 of Schedule 14 so far as they extend to Scotland;
  - (c) paragraph 25 of that Schedule;
  - (d) the repeals in Part 4 of Schedule 15 of—
    - (i) provisions in section 13 of the Computer Misuse Act 1990 (c. 18);
    - (ii) section 17(7) of that Act so far as it extends to Scotland;
    - (iii) paragraph 77 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40);
  - (e) section 52 so far as relating to those paragraphs and repeals.
- (5) Paragraph 7(2) of Schedule 9 (and section 22 so far as relating to that paragraph), so far as relating to fire and rescue authorities in Wales, comes into force in accordance with provision made by order by the National Assembly for Wales.
- (6) The following provisions, so far as relating to local authorities in Wales, come into force in accordance with provision made by order by the National Assembly for Wales—
- (a) sections 19 and 20 and Schedule 8;
  - (b) paragraph 38 of Schedule 14 (and section 52 so far as relating to that paragraph);
  - (c) section 27 and Schedule 10;
  - (d) the repeal in Part 3 of Schedule 15 of section 91 of the Anti-social Behaviour Act 2003 (c. 38) (and section 52 so far as relating to that repeal).
- (7) The following provisions, so far as relating to local authorities in Wales or registered social landlords on the register maintained by the National Assembly for Wales, come into force in accordance with provision made by order by the Assembly—
- (a) sections 23 to 25;
  - (b) paragraphs 53 to 57 of Schedule 14 (and section 52 so far as relating to those paragraphs).
- (8) The following provisions—
- (a) so far as relating to the granting of injunctions on the application of a relevant Welsh landlord—
    - (i) section 26,
    - (ii) paragraph 32 of Schedule 14,
    - (iii) in Part 3 of Schedule 15, the repeal of section 13(4)(b) of the Anti-social Behaviour Act 2003 (c. 38), and
    - (iv) section 52 so far as relating to that paragraph and that repeal,
  - (b) so far as relating to any tenancy where the landlord is a relevant Welsh landlord—
    - (i) paragraphs 12, 13 and 15 of Schedule 14, and
    - (ii) section 52 so far as relating to those paragraphs, and
  - (c) so far as relating to a relevant Welsh landlord—
    - (i) paragraph 33 of Schedule 14, and
    - (ii) section 52 so far as relating to that paragraph,
- come into force in accordance with provision made by order by the National Assembly for Wales.
- (9) For the purposes of subsection (8), each of the following is a “relevant Welsh landlord”—

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*Status: Point in time view as at 22/04/2014. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Police and Justice Act 2006 is up to date with all changes known to be in force on or before 05 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)*

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- (a) a Welsh county council or county borough council;
  - (b) a registered social landlord on the register maintained by the National Assembly for Wales;
  - (c) a housing action trust for an area in Wales.
- (10) The provision that may (by virtue of section 49(3)(c)) be made in an order under this section bringing section 4 into force includes provision prescribing modifications of Part 1 of the Local Government Act 1999 (c. 27) in its application to police authorities.

## 54 Extent

- (1) Subject to subsections (2) to (6), Parts 1 to 5 extend to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
  - section 1(2)(b);
  - Parts 5 and 6 of Schedule 1 (and section 1(3) so far as relating to those Parts);
  - section 5 and Schedule 3;
  - section 38;
  - section 41.
- (3) Sections 6 and 13 extend also to Northern Ireland.
- (4) Section 40 and Schedule 12 extend to Northern Ireland only.
- (5) Any amendment or repeal made by this Act extends to the same part or parts of the United Kingdom as the provision to which it relates.
- (6) Subsection (5) does not apply to the amendments made by paragraphs 14 and 37 of Schedule 14, which do not extend to Scotland.
- (7) In section 63 of the Immigration, Asylum and Nationality Act 2006 (c. 13) (extent), after subsection (3) (power to extend Act to Channel Islands or Isle of Man with or without modification or adaptation) there is inserted—
  - “(3A) In subsection (3), the reference to this Act includes—
    - (a) a reference to this Act as it has effect with the amendments and repeals made in it by the Police and Justice Act 2006, and
    - (b) a reference to this Act as it has effect without those amendments and repeals.”

## 55 Short title

This Act may be cited as the Police and Justice Act 2006.

**Status:**

Point in time view as at 22/04/2014. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Police and Justice Act 2006 is up to date with all changes known to be in force on or before 05 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.