



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 8

#### MISCELLANEOUS

#### CHAPTER 1

##### SAFEGUARDING VULNERABLE GROUPS AND CRIMINAL RECORDS

##### *Renaming of Independent Barring Board*

#### 81 Renaming of Independent Barring Board

- (1) The Independent Barring Board is renamed the Independent Safeguarding Authority.
- (2) For the words in the left-hand column of the table, wherever they appear in the enactments mentioned in subsection (3), substitute the corresponding words in the right-hand column of the table.

<i>Existing words</i>	<i>Substitution</i>
“Independent Barring Board”	“Independent Safeguarding Authority”
“Independent Barring Board's”	“Independent Safeguarding Authority's”
“IBB”	“ISA”
“IBB's”	“ISA's”

- (3) The enactments are—
  - (a) Schedule 1 to the Superannuation Act 1972 (c. 11),
  - (b) sections 7 and 11 of the Police Pensions Act 1976 (c. 35),
  - (c) section 35C of the Medical Act 1983 (c. 54),
  - (d) section 13D of the Opticians Act 1989 (c. 44),

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- (e) section 20 of the Osteopaths Act 1993 (c. 21),
  - (f) section 20 of the Chiropractors Act 1994 (c. 17),
  - (g) section 97 of the Police Act 1996 (c. 16),
  - (h) sections 113BA, 113BB, 113CA and 113CB of the Police Act 1997 (c. 50),
  - (i) sections 56 and 75 of the Data Protection Act 1998 (c. 29),
  - (j) paragraph 1 of Schedule 2 to the Teaching and Higher Education Act 1998 (c. 30),
  - (k) section 167C of the Education Act 2002 (c. 32),
  - (l) section 171 of the Education and Inspections Act 2006 (c. 40),
  - (m) the following enactments in the Safeguarding Vulnerable Groups Act 2006 (c. 47) (including any relevant headings)—
    - (i) sections 1, 2, 4, 6, 15, 25, 35, 36 to 47 and 50,
    - (ii) paragraphs 1, 3 to 7 and 9 to 16 of Schedule 1,
    - (iii) paragraphs 1 and 2 of Schedule 2,
    - (iv) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 3,
    - (v) paragraphs 4 and 8 of Schedule 4,
    - (vi) paragraph 2 of Schedule 5, and
    - (vii) paragraphs 1 to 3 of Schedule 8,
  - (n) sections 39, 40 and 97 of, and Schedule 5 to, the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14),
  - (o) the following enactments in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) (including any relevant headings)—
    - (i) Articles 2, 5, 6, 8, 10, 19, 29, 37 to 49 and 52,
    - (ii) paragraphs 2 to 6, 8 to 21, 23 and 25 of Schedule 1,
    - (iii) paragraphs 4 and 8 of Schedule 2,
    - (iv) paragraph 2 of Schedule 3, and
    - (v) paragraphs 1 to 3 of Schedule 6, and
  - (p) sections 130 and 141 of the Education and Skills Act 2008 (c. 25).
- (4) In the following enactments for “the Board” substitute “ the Authority ”
- (a) section 167C of the Education Act 2002 (c. 32) (both as inserted by the Education and Inspections Act 2006 (c. 40) and as substituted by the Education and Skills Act 2008 (c. 25)), and
  - (b) section 130(4) of the Education and Skills Act 2008 (c. 25).
- (5) Any reference (other than those dealt with by subsections (2) to (4) above) to the Independent Barring Board in any enactment or other document passed or made before the commencement of this section is to be read as a reference to the Independent Safeguarding Authority.
- (6) Any reference to the Independent Safeguarding Authority which arises by virtue of this section is to be read, in relation to times before the commencement of this section, as a reference to the Independent Barring Board.
- (7) In this section—
- “enactment” includes an Act of the Scottish Parliament, Northern Ireland legislation and an enactment comprised in subordinate legislation,

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“subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30)) and also includes an instrument made under—

- (a) an Act of the Scottish Parliament, or
- (b) Northern Ireland legislation.

*Safeguarding vulnerable groups: England and Wales*

PROSPECTIVE

**F1 82 Educational establishments: check on members of governing body**

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**Textual Amendments**

- F1** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

VALID FROM 29/01/2010

**83 Monitoring application**

In section 24 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) (monitoring)

- (a) in subsection (1)(b) for “a monitoring application” substitute “ an application to the Secretary of State under this section (a “monitoring application”)”, and
- (b) for subsection (10) substitute—

“(10) The Secretary of State may determine the form, manner and contents of a monitoring application.”

VALID FROM 29/01/2010

**84 Monitoring: additional fees**

- (1) After section 24 of the Safeguarding Vulnerable Groups Act 2006 insert—

**“24A Monitoring: power to prescribe additional fees**

- (1) An individual subject to monitoring under section 24 in relation to a regulated activity must pay a prescribed fee if—
- (a) no fee was payable by virtue of section 24(1)(d) when the individual made a monitoring application (within the meaning of section 24) in respect of the activity, and

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- (b) there has been a prescribed change of circumstances as a result of which a fee would be payable by virtue of section 24(1)(d) if a monitoring application were now made in respect of the activity.
- (2) The amount of the fee payable by virtue of subsection (1) must not exceed the amount of fee which would be payable if a monitoring application were made in respect of the activity as mentioned in subsection (1)(b).
- (3) An individual does not cease to be subject to monitoring under section 24 merely because the individual fails to pay a fee required by this section (but see section 30(2A)).”
- (2) In section 25 of that Act (monitoring: fees)—
  - (a) in subsection (1) after “24” insert “ or in relation to a change of circumstances under section 24A ”,
  - (b) in subsection (2) after “made” insert “ , or change of circumstances occurring, ”,
  - (c) in subsection (3) after “made” insert “ or change of circumstances occurring ”,
  - (d) in subsection (4) after “24” insert “ or 24A ”,
  - (e) in subsection (5)—
    - (i) for “power” substitute “ powers ”, and
    - (ii) for “is” substitute “ are ”, and
  - (f) in subsection (6) after “24(1)(d)” insert “ or 24A ”.
- (3) In section 30 of that Act (provision of vetting information) after subsection (2) insert—
 

“(2A) The Secretary of State may refuse to provide A with the information if B has failed to pay a fee required by section 24A.”

PROSPECTIVE

**F185 Vetting information**  
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**Textual Amendments**  
**F1** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

**F186 Notification of cessation of monitoring**  
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**Textual Amendments**

**F1** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

PROSPECTIVE

**F1 87 Notification of proposal to include person in barred list**

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**Textual Amendments**

**F1** Ss. 82-87 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

**88 Provision of safeguarding information to the police**

After section 50 of the Safeguarding Vulnerable Groups Act 2006 (c. 47) insert—

*“Provision of information to the police*

**50A Provision of information to the police**

- (1) ISA may provide any information it has to a chief officer of police for use for any of the following purposes—
  - (a) the prevention, detection and investigation of crime;
  - (b) the apprehension and prosecution of offenders.
- (2) The power conferred by subsection (1) does not limit any other power of ISA to provide information for any purpose or to any person.”

**Commencement Information**

**I1** [S. 88](#) in force at 30.11.2009 by [S.I. 2009/3096, art. 2\(a\)](#)

PROSPECTIVE

**F2 89 Barring process**

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**Textual Amendments**

**F2** S. 89 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

*Safeguarding vulnerable groups: Northern Ireland*

PROSPECTIVE

**F<sup>3</sup>90 Notification of proposal to include person in barred list: Northern Ireland**

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**Textual Amendments**

**F3** S. 90 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

**91 Provision of safeguarding information to the police: Northern Ireland**

After Article 52 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)) insert—

*“Provision of information to the police*

**52A Provision of information to the police**

- (1) ISA may provide any information it has to the chief constable of the Police Service of Northern Ireland for use for any of the following purposes—
  - (a) the prevention, detection and investigation of crime;
  - (b) the apprehension and prosecution of offenders.
- (2) The power conferred by paragraph (1) does not limit any other power of ISA to provide information for any purpose or to any person.”

**Commencement Information**

**I2** S. 91 in force at 30.11.2009 by [S.I. 2009/3096, art. 2\(b\)](#)

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PROSPECTIVE

**F<sup>4</sup>92 Barring process: Northern Ireland**

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**Textual Amendments**

**F4** S. 92 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 10 Pt. 5](#) (with s. 97); S.I. 2012/2234, art. 2(bb)

VALID FROM 29/01/2010

*Criminal records etc*

PROSPECTIVE

**F<sup>5</sup>93 Criminal conviction certificates to be given to employers**

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**Textual Amendments**

**F5** S. 93 repealed (10.9.2012 immediately after the coming into force of the Safeguarding Vulnerable Groups (Miscellaneous Amendments) Order 2012 (S.I. 2012/2157)) by [Protection of Freedoms Act 2012 \(c. 9\), ss. 79\(1\), 120, Sch. 10 Pt. 6](#) (with s. 97); S.I. 2012/2234, art. 2(p)

PROSPECTIVE

**94 Certificates of criminal records etc: right to work information**

In the Police Act 1997 after section 113CC insert—

**“113CD Immigration information relevant to employment**

(1) This section applies where—

- (a) an application for a certificate under section 112, 113A or 113B contains a request for information under this section,
- (b) in the case of an application for a certificate under section 112, the application contains a statement that the information is sought for the purposes of employment with a person specified in the application, and

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- (c) the applicant pays in the prescribed manner any additional fee prescribed in respect of the application.
- (2) The certificate must state—
  - (a) whether according to records held by the Secretary of State the applicant is subject to immigration control, or
  - (b) that records held by the Secretary of State do not show whether the applicant is subject to immigration control.
- (3) If the records show that the applicant is subject to immigration control, the certificate must state—
  - (a) whether according to the records the applicant has been granted leave to enter or remain in the United Kingdom, or
  - (b) that the records do not show whether the applicant has been granted leave to enter or remain in the United Kingdom.
- (4) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom, the certificate must state—
  - (a) whether according to the records the applicant's leave to enter or remain in the United Kingdom is current, or
  - (b) that the records do not show whether the applicant's leave to enter or remain in the United Kingdom is current.
- (5) If the records show that the applicant has been granted leave to enter or remain in the United Kingdom and that it is current, the certificate must also state any conditions to which the leave to enter or remain is subject and which relate to the applicant's employment.
- (6) A certificate under this section must contain such advice as the Secretary of State thinks appropriate about where to obtain further information about the matters mentioned in subsections (2) to (5).
- (7) For the purposes of this section a person's leave to enter or remain in the United Kingdom is current unless—
  - (a) it is invalid, or
  - (b) it has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise).
- (8) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.”

PROSPECTIVE

## 95 Criminal conviction certificates: verification of identity

In section 118 of the Police Act 1997 (c. 50) (evidence of identity) after subsection (2) insert—

“(2ZA) By virtue of subsection (1) the Secretary of State may, in particular, refuse to issue a certificate to a person unless the application is supported by prescribed evidence that the person's identity has been verified by a third



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person determined by the Secretary of State (whether or not the third person charges a fee for such verification).”

VALID FROM 10/09/2012

## 96 Registered persons

- (1) Section 120A of the Police Act 1997 (refusal and cancellation of registration), as inserted by section 134 of the Criminal Justice and Police Act 2001 (c. 16), is amended as follows.
- (2) In subsection (3) (matters to which Secretary of State may have regard in considering suitability of persons likely to have access to information) for paragraph (b) substitute—
  - “(b) any information relating to the person of a kind specified in subsection (3A);”.
- (3) After subsection (3) insert—
  - “(3A) The information is—
    - (a) whether the person is barred from regulated activity;
    - (b) if the person is barred from such activity, such details as are prescribed of the circumstances in which the person became barred;
    - (c) whether the Independent Safeguarding Authority is considering whether to include the person in a barred list in pursuance of paragraph 3, 5, 9 or 11 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006;
    - (d) whether the person is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).
  - (3B) Subsection (3C) applies if—
    - (a) the Secretary of State receives an application for registration, and
    - (b) it appears to the Secretary of State that the registration is likely to make it possible for information to become available to an individual who the Independent Safeguarding Authority is considering whether to include in a barred list as mentioned in subsection (3A)(c).
  - (3C) The Secretary of State may postpone consideration of the application until the Authority has decided whether to include the individual in the barred list.
  - (3D) Expressions used in subsections (3A) to (3C) and in the Safeguarding Vulnerable Groups Act 2006 have the same meaning in those subsections as in that Act, except that “prescribed” must be construed in accordance with section 125 of this Act.”
- (4) After subsection (6) insert—

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“(7) The Secretary of State may by order made by statutory instrument amend subsection (3A) for the purpose of altering the information specified in that subsection.

(8) Such an order is subject to annulment in pursuance of a resolution of either House of Parliament.”

## 97 Criminal records: applications

(1) Before section 126 of the Police Act 1997 (c. 50) insert—

### “125B Form of applications

(1) The Secretary of State may determine the form, manner and contents of an application for the purposes of any provision of this Part.

(2) A determination may, in particular, impose requirements about the form or manner in which an electronic application is to be signed or countersigned.”

(2) In the following provisions of that Act omit “in the prescribed manner and form”—  
section 112(1)(a) (criminal conviction certificates),  
section 113A(1)(a) (criminal record certificates),  
section 113B(1)(a) (enhanced criminal record certificates).

(3) In the following provisions of that Act omit “in the prescribed form”—  
section 114(1)(a) (criminal record certificates: Crown employment),  
section 116(1)(a) (enhanced criminal record certificates: judicial appointments and Crown employment).

## CHAPTER 2

### OTHER

#### *Border controls*

VALID FROM 25/01/2010

## 98 General information powers in relation to persons entering or leaving the UK

(1) After section 157 of the Customs and Excise Management Act 1979 (c. 2) (general powers: bonds and security) insert—

### “157A General information powers in relation to persons entering or leaving the United Kingdom

(1) The proper officer of Revenue and Customs may require any person entering or leaving the United Kingdom—

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- (a) to produce the person's passport or travel documents for examination, or
  - (b) to answer any questions put by the proper officer of Revenue and Customs about the person's journey.
- (2) In subsection (1) “passport” means—
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971),
  - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
  - (c) a document that can be used (in some or all circumstances) instead of a passport.
- (3) Subsections (1) and (2) apply in relation to a transit air passenger arriving at the passenger's final destination in the United Kingdom as they apply in relation to a person entering the United Kingdom.
- (4) For the purposes of subsection (3) a transit air passenger is a person—
- (a) who has arrived by air in the United Kingdom; and
  - (b) whose journey is continued or resumed by air to a destination in the United Kingdom which is not the place where the person is regarded for the purposes of this section as entering the United Kingdom;
- and the passenger's final destination is the destination of the continued or resumed journey.”
- (2) In section 4(3) of the Finance (No. 2) Act 1992 (c. 48) (non-application of enforcement powers in the Act of 1979 to certain movements between member States), after paragraph (g), insert—
- “(ga) section 157A (general information powers in relation to persons entering or leaving the United Kingdom)”.

VALID FROM 25/01/2010

## 99 Powers in relation to cash

- (1) After section 164 of the Customs and Excise Management Act 1979 (c. 2) (general powers etc: powers to search persons) insert—

### “164A Powers to search for cash

- (1) The provisions of this Act which fall within subsection (2) (search powers for officers of Revenue and Customs etc.) apply in accordance with subsection (3)—
- (a) for the purposes of searching for cash—
    - (i) which is recoverable property or is intended by any person for use in unlawful conduct; and
    - (ii) the amount of which is not less than the minimum amount;
  - (b) for the purposes of searching for cash to ensure compliance with the Cash Control Regulation; or

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- (c) for purposes connected to any such purposes.
- (2) The provisions of this Act which fall within this subsection are—
- (a) section 28(1) (powers of access etc.);
  - (b) section 77(1) and (2) (information powers);
  - (c) section 159(1) to (4) (powers to examine and take account of goods); and
  - (d) section 164 (power to search persons including intimate searches).
- (3) Those provisions apply for the purposes mentioned in subsection (1) as if—
- (a) any reference in them to goods included a reference to cash; and
  - (b) in section 164(1)—
    - (i) the reference to an article were a reference to cash; and
    - (ii) paragraphs (a) and (b) were omitted.
- (4) The Treasury may by regulations provide for—
- (a) any provision of this Act to apply with modifications for the purposes of the provisions applied by subsections (1) to (3), or
  - (b) any other enactment to apply, with or without modifications, for the purposes of the provisions so applied.
- (5) This section does not limit the scope of any powers that exist apart from this section (whether under this Act or otherwise).
- (6) In this section—
- “the 2002 Act” means the Proceeds of Crime Act 2002;
- “cash”—
- (a) so far as relating to purposes falling within subsection (1)(a) above, has the meaning given by section 289(6) and (7) of the 2002 Act; and
  - (b) so far as relating to purposes falling within subsection (1)(b) above, has the same meaning as in the Cash Control Regulation;
- “the Cash Control Regulation” means Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community;
- “minimum amount” has the meaning given by section 303 of the 2002 Act;
- “modifications” includes omissions;
- “recoverable property” has the meaning given by section 316(1) of the 2002 Act;
- “unlawful conduct” has the meaning given by section 241 of the 2002 Act.”
- (2) In section 4(2) of the Finance (No. 2) Act 1992 (c. 48) (cases where enforcement powers exercisable)—
- (a) after “member States;” at the end of paragraph (b) omit “or”, and
  - (b) after “Kingdom” at the end of paragraph (c) insert “; or
  - (d) searching for cash that is recoverable property or intended for use in unlawful conduct”.

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- (3) In section 4(5) of that Act (interpretation)—
- (a) after “In this section—”, insert—
 

““cash” has the meaning given by section 289(6) and (7) of the Proceeds of Crime Act 2002;”,
  - (b) after “Economic Community;” omit “and”, and
  - (c) after “1979;” insert—
 

““recoverable property” has the same meaning as in section 316(1) of the Proceeds of Crime Act 2002; and

“unlawful conduct” has the same meaning as in section 241 of that Act;”.
- (4) After section 105(5) of the Postal Services Act 2000 (c. 26) (application of customs and excise enactments to certain postal packets) insert—
- “(6) And in this section “goods” includes cash (within the meaning of section 289(6) and (7) of the Proceeds of Crime Act 2002).”

## 100 Lawful interception of postal items by Revenue and Customs

- (1) After section 3(3) of the Regulation of Investigatory Powers Act 2000 (c. 23) (lawful interception without an interception warrant) insert—
- “(3A) Conduct consisting in the interception of a communication in the course of its transmission by means of a public postal service is authorised by this section if it is conduct—
- (a) under section 159 of the Customs and Excise Management Act 1979 as applied by virtue of—
    - (i) section 105 of the Postal Services Act 2000 (power to open postal items etc.); or
    - (ii) that section 105 and another enactment; and
  - (b) by an officer of Revenue and Customs.”
- (2) After section 17(3)(b) of that Act (exclusion of matters from legal proceedings) insert—
- “(ba) any person deemed to be the proper officer of Revenue and Customs by virtue of section 8(2) of the Customs and Excise Management Act 1979;”.

VALID FROM 25/01/2010

## 101 Prohibition on importation or exportation of false identity documents etc

- (1) The importation or exportation of any identity document to which this section applies is prohibited.
- (2) This section applies to—
- (a) any false identity document,

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- (b) any identity document issued or obtained in contravention of the law of the country or territory under whose jurisdiction the document is issued, and
  - (c) any identity document intended to be used (whether by itself or otherwise and with or without modifications)—
    - (i) to establish for unlawful purposes a false identity or address, or
    - (ii) to provide for such purposes evidence of a false identity or address.
- (3) In this section—
- “document” includes an article, or a combination of a document and an article, which is a card within the meaning of the Identity Cards Act 2006 (c. 15),
  - “false”, in relation to an identity document, has the same meaning as it has in section 9(1) of the Forgery and Counterfeiting Act 1981 (c. 45) in relation to an instrument,
  - “identity document” means any document which may be used (whether by itself or otherwise and with or without modifications) to establish, or provide evidence of, a person's identity or address.

PROSPECTIVE

## 102 Prohibition on importation of offensive weapons

- (1) After section 141ZA of the Criminal Justice Act 1988 (c. 33) insert—

### “141ZB Importation of offensive weapons: prohibition

- (1) The importation of an offensive weapon is prohibited, subject to section 141ZC.
- (2) In this section “offensive weapon” means a weapon of a description specified in an order made by the Secretary of State for the purposes of this subsection.
- (3) The Secretary of State may not specify any of the following under subsection (2)—
  - (a) a weapon subject to the Firearms Act 1968;
  - (b) a crossbow.
- (4) Orders under this section are to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) In the application of this section to Northern Ireland the reference in subsection (3) to the Firearms Act 1968 is to be construed as a reference to the Firearms (Northern Ireland) Order 2004.

### 141ZC Prohibition on importation of offensive weapons: exceptions

- (1) The importation of a weapon is not prohibited by section 141ZB if one of the following exceptions applies.

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*Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 8. (See end of Document for details)*

- (2) Exception 1 is that the weapon is imported for the purposes only of functions carried out on behalf of—
  - (a) the Crown, or
  - (b) a visiting force.
- (3) Exception 2 is that the weapon is imported for the purposes only of making it available to a museum or gallery which does not distribute profits.
- (4) Exception 3 is that the weapon is imported for the purposes only of making it available for one or more of the following—
  - (a) theatrical performances;
  - (b) rehearsals of theatrical performances;
  - (c) the production of films;
  - (d) the production of television programmes.
- (5) In subsection (4)—

“films” has the meaning given by section 5B of the Copyright, Designs and Patents Act 1988;

“television programmes” has the meaning given by section 405 of the Communications Act 2003.
- (6) The Secretary of State may by order provide for further exceptions from the prohibition on importation of weapons under section 141ZB.
- (7) Orders under this section are to be made by statutory instrument.
- (8) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) Expressions used in this section and in section 141 have the same meaning in this section as in that section.

#### **141ZD Prohibition on importation of offensive weapons: burdens of proof**

- (1) This section applies for the purposes of proceedings for an offence under the Customs and Excise Management Act 1979 relating to a weapon the importation of which is prohibited by section 141ZB above.
  - (2) An exception conferred by or under section 141ZC is to be taken not to apply unless sufficient evidence is adduced to raise an issue with respect to the exception.
  - (3) Where sufficient evidence is adduced to raise an issue with respect to an exception, it is to be taken to apply unless the contrary is proved beyond a reasonable doubt.”
- (2) Subsection (3) applies where in any proceedings—
- (a) a person (“the defendant”) is charged in respect of the same conduct with—
    - (i) an offence under any provision of the Customs and Excise Management Act 1979 by virtue of the prohibition on importation in section 141(4) of the Criminal Justice Act 1988 as it had effect before its repeal by this Act (“the old offence”), and



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- (ii) an offence under that provision of the 1979 Act by virtue of the prohibition on importation in section 141ZB(1) of the 1988 Act (“the new offence”),
  - (b) the only thing preventing the defendant from being found guilty of the new offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place after the commencement of this section, and
  - (c) the only thing preventing the defendant from being found guilty of the old offence is the fact that it has not been proved beyond a reasonable doubt that the conduct took place before the commencement of this section.
- (3) For the purpose of determining the guilt of the defendant it is to be conclusively presumed that the conduct took place after the commencement of this section.
- (4) A reference in subsection (2) to an offence includes a reference to—
- (a) aiding, abetting, counselling or procuring the commission of the offence,
  - (b) conspiracy to commit the offence,
  - (c) an attempt to commit the offence,
  - (d) incitement to commit the offence, and
  - (e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence.

VALID FROM 01/04/2010

### *Football spectators*

#### **103 Prohibiting attendance at matches in Scotland and Northern Ireland etc**

- (1) In the provisions of the Football Spectators Act 1989 (c. 37) listed in subsection (2) for “England and Wales” (in each place) substitute “ the United Kingdom ”.
- (2) The provisions are—
- (a) in section 14 (definition of banning order and other terms), subsections (2), (3), (4), (5) and (6),
  - (b) in section 19 (functions of enforcing authority and local police), subsections (2), (2A) and (2E)(a), and
  - (c) in section 21A (summary measures: detention), subsection (1).
- (3) In section 19(2B)(b) of that Act omit “if the match is outside the United Kingdom”.

#### **104 Requirements to report at police stations**

- (1) The police station specified under any of the provisions listed in subsection (2) may be in England, Wales, Scotland or Northern Ireland.
- (2) The provisions are—
- (a) section 14E(2) of the Football Spectators Act 1989 (banning order to include requirement to report initially at specified police station),
  - (b) section 19(2B) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station),



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- (c) section 53(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (football banning order to include requirement to report initially at specified police station),
  - (d) section 61(4) of that Act (notice, in connection with regulated football match outside United Kingdom, requiring person to report at specified police station).
- (3) In section 14E(2) of the Football Spectators Act 1989 (c. 37) omit “in England and Wales”.
- (4) In section 53(2)(a) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 omit “in Scotland”.
- (5) In section 66(1) of that Act for “Scotland” substitute “ the United Kingdom ”.

#### **105 Enforcement of 1989 Act in Scotland and Northern Ireland**

- (1) The following provisions of the Football Spectators Act 1989 extend to Scotland and Northern Ireland—
- (a) section 14J(1) (offence of failing to comply with a requirement imposed by a banning order or a requirement imposed under section 19(2B) or (2C)),
  - (b) section 19(6) (offence of failing, without reasonable excuse, to comply with a requirement imposed under section 19(2)),
  - (c) section 20(10) (offence of making a false statement, etc. in connection with an application for exemption from requirements imposed by or under Part 2).
- (2) But in Scotland it is a defence where a person is charged with an offence by virtue of subsection (1)(a) to prove that the person had a reasonable excuse for failing to comply with the requirement in question.
- (3) A person guilty of an offence by virtue of subsection (1)(a) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (5) A person guilty of an offence by virtue of subsection (1)(c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **106 Enforcement of 2006 Act in England and Wales and Northern Ireland**

- (1) The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 extend to England and Wales and Northern Ireland—
- (a) section 68(1) and (2) (offences of failing to comply with a requirement imposed by a football banning order, under section 61(1) or by a notice under section 61(4), and defence of reasonable excuse),
  - (b) section 68(5) (offence of making a false statement, etc. in connection with an application for exemption from a notice under section 61(4)).
- (2) A person guilty of an offence under section 68(1)(a) or (c) of that Act by virtue of subsection (1)(a) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale (or both),

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(b) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

But in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) the reference in paragraph (a) to 51 weeks is to be read as a reference to 6 months.

- (3) A person guilty of an offence under section 68(1)(b) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) by virtue of subsection (1)(a) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Omit articles 1(5) and 5 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/1098).

#### **107 Relevant offences for purposes of Part 2 of 1989 Act**

In Schedule 1 to the Football Spectators Act 1989 (c. 37) (offences) in paragraph 1(a)—

- (a) after “14J(1)” insert “, 19(6), 20(10)”, and
- (b) after “of this Act” insert “ or section 68(1) or (5) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 by virtue of section 106 of the Policing and Crime Act 2009 ”.

#### *Other*

VALID FROM 02/03/2010

#### **108 Strategies for crime reduction etc: probation authorities**

- (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- (2) In section 5 (authorities responsible for strategies) after subsection (1)(a) insert—
  - “(aa) every provider of probation services operating within the area in pursuance of arrangements under section 3 of the Offender Management Act 2007 which provide for it to be a responsible authority under this section;”.
- (3) In that section, in subsection (1B)(b), after “substances” insert “ or of reducing re-offending ”.
- (4) In section 6 (duty to formulate and implement strategy) at the end of subsection (1)(b) insert “; and
  - (c) a strategy for the reduction of re-offending in the area”.
- (5) In that section, in subsection (9)(c), after “disorder” insert “ or re-offending ”.
- (6) In section 17(1) (duty to consider crime and disorder implications etc) at the end insert “; and

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(c) re-offending in its area”.

VALID FROM 06/11/2010

### 109 Application of aspects of UK law to SOCA employees working abroad

In paragraph 20 of Schedule 1 to the Serious Organised Crime and Police Act 2005 (c.15) (SOCA not a Crown body)—

- (a) at the beginning insert “ (1) Subject to sub-paragraphs (2) to (4), ”, and
- (b) at the end insert—

“(2) A member of SOCA's staff who is acting, or purporting to act, in the course of service as a member of SOCA's staff is to be treated, for the purposes of section 31(1) of the Criminal Justice Act 1948 (jurisdiction in respect of certain indictable offences committed in foreign countries), as a British subject employed under Her Majesty's Government in the United Kingdom in the service of the Crown who is acting, or purporting to act, in the course of the employment.

(3) A member of SOCA's staff, so far as performing outside the United Kingdom in the course of employment with SOCA or another person duties as a member of SOCA's staff, is to be treated as having overseas Crown employment for the purposes of sections 26 to 28 of the Income Tax (Earnings and Pensions) Act 2003 (liability to income tax on earnings for employees who are resident but not ordinarily resident in the UK or who are not resident in the UK).

(4) A member of SOCA's staff who is obliged to live outside the United Kingdom in order to perform duties as a member of SOCA's staff is to be treated as being in employment under the Crown for the purposes of section 299 of the Act of 2003 (no liability to income tax for Crown employees' foreign service allowances).”

VALID FROM 29/01/2010

### 110 Partial exemption for SCDEA from Firearms Act 1968

In section 54(3) of the Firearms Act 1968 (c. 27) (police and other persons who are exempt from certain provisions of the Act and to whom other provisions apply with modifications), at the end of paragraph (c), insert “, or

- (d) a member of the Scottish Crime and Drug Enforcement Agency”.

### 111 Removal of limitation on warrants under Misuse of Drugs Act 1971

- (1) Section 23 of the Misuse of Drugs Act 1971 (c. 38) (powers to search and obtain evidence) is amended as follows.

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- (2) In subsection (3) omit “acting for the police area in which the premises are situated”.
- (3) Omit subsection (5).

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Policing and Crime Act 2009, Part 8.