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## SCHEDULES

### SCHEDULE 1

Section 17(4)

#### SCHEDULE TO THE STREET OFFENCES ACT 1959

##### Commencement Information

**II** Sch. 1 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(s\)](#)

#### “SCHEDULE

Section 1A(11)

#### ORDERS UNDER SECTION 1(2A): BREACH, AMENDMENT ETC.

##### PART 1

##### PRELIMINARY

###### *Interpretation and application*

- 1 (1) This Schedule applies to an order made under section 1(2A).
- (2) In this Schedule, in relation to the order—
  - “the offender” means the person in respect of whom the order was made;
  - “the supervisor” means the person for the time being specified as the supervisor in the order.
- (3) For the purposes of this Schedule, the offender fails to comply with the order if the offender fails to attend any of the three meetings mentioned in section 1(2A) at the time and place determined by the supervisor.

##### PART 2

##### BREACH OF REQUIREMENT OF ORDER

###### *Breach of requirement of order*

- 2 (1) If the supervisor is of the opinion that the offender has failed without reasonable excuse to comply with the order, the supervisor must cause an information to be laid before a justice of the peace in respect of the failure.
- (2) If it appears on information to the justice of the peace that the offender has failed to comply with the order, the justice may issue a summons requiring the offender to appear at the place and time specified in it.
- (3) Any such summons must direct the offender to appear before—

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- (a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or
  - (b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (4) In sub-paragraph (3) “the relevant local justice area” means—
- (a) the local justice area for the time being specified in the order, or
  - (b) if it appears to the justice of the peace that the offender resides in another local justice area, that local justice area.

*Failure to answer to a summons*

- 3 (1) This paragraph applies where the offender does not appear in answer to a summons issued under paragraph 2.
- (2) The magistrates' court may issue a warrant for the arrest of the offender.
- (3) Any such warrant must require the offender to be brought before—
- (a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or
  - (b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (4) In sub-paragraph (3) “the relevant local justice area” means—
- (a) the local justice area for the time being specified in the order, or
  - (b) if it appears to the magistrates' court that the offender resides in another local justice area, that local justice area.

*Powers of magistrates' court*

- 4 (1) This paragraph applies where—
- (a) the offender appears or is brought before a magistrates' court in accordance with this Part of this Schedule, and
  - (b) it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with the order.
- (2) The court—
- (a) must revoke the order (if it remains in force), and
  - (b) may deal with the offender in respect of the failure by dealing with the offender, for the offence in respect of which the order was made, in any way in which the court could deal with the offender if the offender had just been convicted by it of the offence.
- (3) In dealing with an offender under sub-paragraph (2)(b), the court must take into account the extent to which the offender has complied with the order.
- (4) A person sentenced under sub-paragraph (2)(b) may appeal to the Crown Court against the sentence.

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### PART 3

#### AMENDMENT OF ORDER

##### *Change of supervisor*

- 5 (1) Where the supervisor is unable to continue acting in that capacity, the supervisor, a constable or the offender may apply to the relevant magistrates' court to amend the order by specifying a different person to act as supervisor.
- (2) Where the court is satisfied that the supervisor is unable to continue acting, the court must—
- (a) amend the order by specifying a different person to act as supervisor, or
  - (b) if no such person is available, revoke the order.
- (3) The person specified to act as supervisor must be a suitable person (within the meaning given by section 1A(3)).
- (4) In this paragraph “the relevant magistrates' court” means—
- (a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or
  - (b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (5) In sub-paragraph (4) “the relevant local justice area” means—
- (a) the local justice area for the time being specified in the order, or
  - (b) if the offender resides in another local justice area, that local justice area.
- 6 (1) Where a court revokes an order under paragraph 5(2)(b), it may deal with the offender, for the offence in respect of which the order was made, in any way in which the court could deal with the offender if the offender had just been convicted by it of the offence (other than by making an order under section 1(2A)).
- (2) In dealing with an offender under sub-paragraph (1), the court must take into account the extent to which the offender has complied with the order.
- (3) A person sentenced under sub-paragraph (1) may appeal to the Crown Court against the sentence.

##### *Substitution of different local justice area*

- 7 (1) The offender or the supervisor may apply to the relevant magistrates' court to amend the order by substituting another local justice area for the area specified in the order.
- (2) An application under sub-paragraph (1) may only be made if the offender resides or will reside in the other local justice area.
- (3) If the application is made by the supervisor, the relevant magistrates' court must amend the order by substituting the other local justice area for the area specified in the order.
- (4) If the application is made by the offender, the relevant magistrates' court may amend the order by substituting the other local justice area for the area specified in the order.
- (5) Sub-paragraphs (4) and (5) of paragraph 5 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

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### *Supplementary*

- 8 (1) Where the relevant magistrates' court proposes to exercise its powers under paragraph 5, otherwise than on the application of the offender, it must summon the offender to appear before the court and, if the offender does not appear in answer to the summons, may issue a warrant for the arrest of the offender.
- (2) An order may not be amended under this Part of this Schedule while an appeal against the order is pending.

## PART 4

### SUPPLEMENTARY

#### *Detention and remand of arrested offender*

- 9 (1) This paragraph applies where the offender is arrested in pursuance of a warrant under this Schedule and cannot be brought immediately before the court before which the warrant directs him to be brought (“the appropriate court”).
- (2) The person in whose custody the offender is must, as soon as practicable and in any event before the end of the period of 72 hours beginning with the time of the arrest, bring the offender before—
- (a) any youth court, if the offender is under the age of 18, or
  - (b) any magistrates' court other than a youth court, if the offender is aged 18 or over.
- (3) That person may make arrangements for the offender to be detained until brought before the court.
- (4) If the offender is under the age of 18 at the time of the arrest, the arrangements made under sub-paragraph (3) must be for the detention of the offender in a place of safety (within the meaning of the Children and Young Persons Act 1933).
- (5) A person who is detained in pursuance of arrangements made under sub-paragraph (3) is deemed to be in legal custody.
- 10 (1) This paragraph applies where the court before which an offender is brought under paragraph 9(2) is not the appropriate court (within the meaning of paragraph 9).
- (2) The alternative court may direct that the offender is to be released forthwith or remand him to appear before the appropriate court.
- (3) For the purposes of sub-paragraph (2), section 128 of the Magistrates' Courts Act 1980 (remand in custody or on bail) applies as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the appropriate court.
- (4) Any power to remand the offender in custody which is conferred by section 128 of the Magistrates' Court Act 1980 (as modified by sub-paragraph (3)) is to be taken to be a power to remand the offender—
- (a) if the offender is under the age of 18, to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989), and
  - (b) if the offender is aged 18 or over, to a prison.

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- (5) Where the court remands the offender to accommodation provided by or on behalf of a local authority, the court must designate, as the authority who are to receive the offender, the local authority for the area in which it appears that the offender resides or will reside.

#### *Adjournments*

- 11 (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in any proceedings under this Schedule.
- (2) The court may adjourn the hearing, and, where it does so, may—
- (a) direct that the offender be released forthwith, or
  - (b) remand the offender.
- (3) Where the court remands the offender under sub-paragraph (2)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
  - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
  - (b) if it does not do so, must not resume the hearing unless it is satisfied that the offender and, where appropriate, the supervisor have had adequate notice of the time and place for the resumed hearing.
- (5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.
- (6) This paragraph—
- (a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
  - (b) is not to be taken to affect the application of that section to hearings of any other description.

#### *Notification*

- 12 (1) This paragraph applies where a court revokes or amends an order under any provision of this Schedule.
- (2) The proper officer must—
- (a) provide copies of the revoking or amending order to the offender and the supervisor, and
  - (b) in the case of an amending order which substitutes a new local justice area, provide a copy of the amending order to a magistrates' court acting for that area.
- (3) If the court that revokes or amends the order is a magistrates' court acting in a local justice area other than the area specified in the order, the proper officer must provide a copy of the revoking or amending order to a magistrates' court acting in the local justice area specified in the order.
- (4) Where the proper officer acts under sub-paragraph (2)(b), the officer must also provide to the court such documents and information relating to the case as it considers likely to

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be of assistance to a court acting for that area in the exercise of any function in relation to the order.

(5) In this paragraph “proper officer” means the designated officer for the court.”

## SCHEDULE 2

Section 21

### CLOSURE ORDERS

1 After Part 2 of the Sexual Offences Act 2003 (c. 42) insert the following new Part—

#### “PART 2A

#### CLOSURE ORDERS

##### *Basic definitions*

#### **Meaning of specified prostitution offence etc.**

136A) This section applies for the purposes of this Part.

(2) The specified prostitution offences are—

- (a) an offence under section 47 of this Act or Article 37 of the Sexual Offences (Northern Ireland) Order 2008 (“the Northern Ireland Order”);
- (b) an offence under section 48 of this Act, or Article 38 of the Northern Ireland Order, committed by causing or inciting a child to become a prostitute;
- (c) an offence under section 49 of this Act, or Article 39 of the Northern Ireland Order, committed by controlling the activities of a child relating to the child's prostitution;
- (d) an offence under section 50 of this Act, or Article 40 of the Northern Ireland Order, committed by arranging or facilitating a child's prostitution;
- (e) an offence under section 52 of this Act or Article 62 of the Northern Ireland Order;
- (f) an offence under section 53 of this Act or Article 63 of the Northern Ireland Order.

(3) The specified pornography offences are—

- (a) an offence under section 48 of this Act, or Article 38 of the Northern Ireland Order, committed by causing or inciting a child to be involved in pornography;
- (b) an offence under section 49 of this Act, or Article 39 of the Northern Ireland Order, committed by controlling the activities of a child relating to the child's involvement in pornography;
- (c) an offence under section 50 of this Act, or Article 40 of the Northern Ireland Order, committed by arranging or facilitating a child's involvement in pornography.

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- (4) Premises are being used for activities related to a specified prostitution offence—
  - (a) in the case of an offence under section 47 of this Act or Article 37 of the Northern Ireland Order, at any time when the sexual services mentioned in subsection (1)(a) of that section or, as the case may be, paragraph (1)(a) of that Article are being provided on the premises, and
  - (b) in the case of any other specified prostitution offence, at any time when the person in respect of whom the offence is committed is providing sexual services as a prostitute on the premises.
- (5) Premises are being used for activities related to a specified pornography offence at any time when the person in respect of whom the offence is committed is doing anything on the premises which enables an indecent image of himself or herself to be recorded.
- (6) Any reference to an offence under this Act includes a reference to—
  - (a) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 of which the corresponding civil offence (within the meaning of the Act in question) is such an offence;
  - (b) an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is such an offence.

#### *Closure notices*

#### **Power to authorise issue of closure notice**

- 136B) A member of a police force not below the rank of superintendent (“the authorising officer”) may authorise the issue of a closure notice in respect of any premises if three conditions are met.
- (2) The first condition is that the officer has reasonable grounds for believing that either subsection (3) or (4) (or both) applies.
  - (3) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified prostitution offences.  
  
But this subsection does not apply if only one person obtained all of the sexual services in question (whether or not on a single occasion).
  - (4) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified pornography offences.
  - (5) In subsections (3) and (4), “the relevant period” means the period of 3 months ending with the day on which the officer is considering whether to authorise the issue of the notice.
  - (6) The second condition is that the officer has reasonable grounds for believing that the making of a closure order under section 136D is necessary to prevent the premises being used for activities related to one or more specified prostitution or pornography offences.

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- (7) The third condition is that the officer is satisfied—
- (a) that the local authority for the area in which the premises are situated has been consulted, and
  - (b) that reasonable steps have been taken to establish the identity of any person who resides on the premises or who has control of or responsibility for or an interest in the premises.
- (8) For the purposes of the second condition, it does not matter whether the officer believes that the offence or offences in question have been committed or that they will be committed (or will be committed unless a closure order is made).
- (9) An authorisation under subsection (1) may be given orally or in writing, but if it is given orally the authorising officer must confirm it in writing as soon as it is practicable.
- (10) The issue of a closure notice may be authorised whether or not a person has been convicted of any specified prostitution or pornography offence that the authorising officer believes has been committed.
- (11) The Secretary of State may by regulations specify premises or descriptions of premises to which this section does not apply.

### **Contents and service of closure notice**

136(1) A closure notice must—

- (a) state that no-one other than a person who regularly resides on, or owns, the premises may enter or remain on them,
  - (b) state that failure to comply with the notice amounts to an offence,
  - (c) specify the offence or offences in respect of which the authorising officer considers that the first and second conditions in section 136B are met,
  - (d) state that an application will be made under section 136D for the closure of the premises,
  - (e) specify the date and time when, and the place at which, that application will be heard, and
  - (f) explain the effects of an order under section 136D.
- (2) A closure notice must be served by a constable.
- (3) Service is effected by—
- (a) fixing a copy of the notice to at least one prominent place on the premises,
  - (b) fixing a copy of the notice to each normal means of access to the premises,
  - (c) fixing a copy of the notice to any outbuildings which appear to the constable to be used with or as part of the premises, and
  - (d) giving a copy of the notice to the persons identified in pursuance of section 136B(7)(b) and to any other person appearing to the constable to be a person of a description mentioned in that provision.



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- (4) A constable must also serve a copy of the notice on any person who occupies any other part of a building or other structure in which the premises are situated if, at the time of acting under subsection (3), the constable reasonably believes that the person's access to the other part of the building or structure will be impeded if a closure order is made.
- (5) Subsection (3)(d) or (4) does not require a constable to serve a copy of the notice on a person if it is not reasonably practicable to do so.
- (6) A constable acting under subsection (3) may enter any premises, using reasonable force if necessary, for the purpose of complying with subsection (3)(a) to (c).
- (7) A closure notice has effect until an application for a closure order is determined under section 136D.
- (8) But, if the hearing of an application for a closure order is adjourned, the closure notice ceases to have effect unless the court makes an order under section 136E(2).

### *Closure orders*

#### **Power to make a closure order**

- 136D) If a closure notice has been issued, a constable must apply under this section to a magistrates' court for a closure order.
- (2) A closure order is an order that the premises in respect of which the order is made are closed to all persons for such period not exceeding 3 months as is specified in the order.
  - (3) The application must be heard by the magistrates' court not later than 48 hours after the notice was served in pursuance of section 136C(3)(a).
  - (4) The magistrates' court may make a closure order if three conditions are met.
  - (5) The first condition is that the court is satisfied that either subsection (6) or subsection (7) (or both) applies.
  - (6) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified prostitution offences.  
  
But this subsection does not apply if only one person obtained all of the sexual services in question (whether or not on a single occasion).
  - (7) This subsection applies if, during the relevant period, the premises were used for activities related to one or more specified pornography offences.
  - (8) In subsections (6) and (7), "the relevant period" means the period of 3 months ending with the day on which the issue of the closure notice was authorised.
  - (9) The second condition is that the court is satisfied that the making of the closure order is necessary to prevent the premises being used for activities related to one or more specified prostitution or pornography offences during the period to be specified in the order.

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- (10) The third condition is that the court is satisfied that—
- (a) before the issue of the closure notice was authorised, reasonable steps were taken to establish the identity of any person of a description mentioned in section 136B(7)(b), and
  - (b) a constable complied with section 136C(3)(d) in relation to the persons so identified.
- (11) For the purposes of the second condition, it does not matter whether the court is satisfied that the offence or offences in question have been committed or that they will be committed (or will be committed unless a closure order is made).
- (12) A closure order may be made whether or not a person has been convicted of any specified prostitution or pornography offence that the court is satisfied has been committed.

#### **Making of closure orders: supplementary provision**

- 136E) The magistrates' court may adjourn the hearing of an application for a closure order for a period of not more than 14 days to enable any of the following to show why a closure order should not be made—
- (a) an occupier of the premises;
  - (b) a person who has control of or responsibility for the premises;
  - (c) any other person with an interest in the premises.
- (2) If the court adjourns the hearing, it may order that the closure notice continues in effect until the end of the period of the adjournment.
- (3) A closure order may include such provision as the court thinks appropriate relating to access to any other part of a building or other structure in which the premises are situated.
- (4) A closure order may be made in respect of the whole or any part of the premises in respect of which the closure notice was issued.

#### *Enforcement*

#### **Closure order: enforcement**

- 136F) This section applies if a closure order is made.
- (2) A constable or an authorised person may—
    - (a) enter the premises in respect of which the order is made;
    - (b) do anything reasonably necessary to secure the premises against entry by any person.
  - (3) A constable or an authorised person seeking to enter premises for the purposes of subsection (2) must, if required to do so by or on behalf of the owner, occupier or other person in charge of the premises, produce evidence of the constable's or (as the case may be) the authorised person's identity and authority before entering the premises.

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- (4) A constable or an authorised person may also enter the premises at any time while the order has effect for the purpose of carrying out essential maintenance of, or repairs to, the premises.
- (5) A constable or an authorised person acting under subsection (2) or (4) may use reasonable force.
- (6) In this section “authorised person”—
  - (a) in the application of this section to England and Wales, means a person authorised by the chief officer of police for the area in which the premises are situated;
  - (b) in the application of this section to Northern Ireland, means a person authorised by the Chief Constable of the Police Service of Northern Ireland.

### **Closure of premises: offences**

- 136G) A person who remains on or enters premises in contravention of a closure notice commits an offence.
- (2) A person who remains on or enters premises in contravention of a closure order commits an offence.
  - (3) A person does not commit an offence under subsection (1) or (2) if the person has a reasonable excuse for remaining on or entering the premises.
  - (4) A person who obstructs a constable or an authorised person acting under section 136C(3) or (4) or 136F(2) or (4) commits an offence.
  - (5) A person guilty of an offence under this section is liable on summary conviction—
    - (a) to imprisonment for a period not exceeding 51 weeks, or
    - (b) to a fine not exceeding level 5 on the standard scale,or to both.
  - (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection
  - (7) In the application of this section to Northern Ireland—
    - (a) the reference in subsection (5)(a) to 51 weeks is to be read as a reference to 6 months, and
    - (b) subsection (6) is omitted.
  - (8) In this section “authorised person” has the same meaning as in section 136F.

### *Extension and discharge of closure orders*

### **Applications for extension of closure order**

- 136H) At any time before the end of the period for which a closure order is made or extended a constable may make a complaint to the appropriate judicial officer for an extension or further extension of the period for which it has effect.

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- (2) A complaint may not be made under subsection (1) unless it is authorised by a member of a police force not below the rank of superintendent.
- (3) Authorisation may be given under subsection (2) if two conditions are met.
- (4) The first condition is that the officer has reasonable grounds for believing that it is necessary to extend the period for which the order has effect to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
- (5) The second condition is that the officer is satisfied that the local authority has been consulted about the intention to make a complaint.
- (6) If a complaint is made under subsection (1) the appropriate judicial officer may issue a summons directed to—
  - (a) any person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4), or
  - (b) any other person who appears to the judicial officer to have an interest in the closed premises but on whom the closure notice was not served,
 requiring such person to appear before the magistrates' court to answer to the complaint.
- (7) If a summons is issued in accordance with subsection (6), a notice stating the date and time when, and the place at which, the complaint will be heard must be served on—
  - (a) the persons to whom the summons is directed,
  - (b) such constable as the judicial officer thinks appropriate (unless the complainant is a constable), and
  - (c) the local authority.
- (8) In this section “the appropriate judicial officer” means—
  - (a) in the application of this section to England and Wales, a justice of the peace;
  - (b) in the application of this section to Northern Ireland, a lay magistrate.

### **Orders extending closure orders**

- 136(1) This section applies where a complaint is made under section 136H.
- (2) The court may make an order extending the period for which the closure order has effect by a period specified in the order if the court is satisfied that the extension is necessary to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
  - (3) The period specified in the order may not exceed 3 months.
  - (4) The total period for which a closure order has effect may not exceed 6 months.

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- (5) An order under this section may include such provision as the court thinks appropriate relating to access to any other part of a building or other structure in which the premises are situated.

### **Discharge of closure order**

- 136(I) Any of the following persons may make a complaint to an appropriate judicial officer for an order that a closure order be discharged—
- (a) a constable;
  - (b) the local authority;
  - (c) a person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4);
  - (d) any other person who has an interest in the closed premises but on whom the closure notice was not served.
- (2) If a complaint is made under subsection (1) by a person other than a constable the judicial officer may issue a summons directed to such constable as the judicial officer thinks appropriate requiring the constable to appear before the magistrates' court to answer to the complaint.
- (3) The court may not make an order discharging a closure order unless it is satisfied that the order is no longer necessary to prevent the premises being used for activities related to any of the specified prostitution or pornography offences in respect of which section 136D(9) applied.
- (4) If a complaint is made under subsection (1), a notice stating the date and time when, and the place at which, the complaint will be heard must be served on—
- (a) the persons mentioned in subsection (1)(c) and (d) (other than the complainant),
  - (b) a constable (unless a constable is the complainant), and
  - (c) the local authority (unless it is the complainant).
- (5) In this section “appropriate judicial authority” has the same meaning as in section 136H.

*Appeals against closure orders etc.*

### **Appeals**

- 136(K) An appeal against an order under section 136D or 136I, or an appeal against a decision not to make an order under section 136J, may be made to the appropriate appeal court by—
- (a) a person on whom the closure notice relating to the closed premises was served under section 136C(3)(d), or
  - (b) any other person who has an interest in the closed premises but on whom the closure notice was not served.
- (2) An appeal against a decision of a court not to make an order under section 136D or 136I, or an appeal against an order under section 136J, may be made to the appropriate appeal court by—
- (a) a constable, or

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- (b) the local authority.
- (3) An appeal under subsection (1) or (2) must be made before the end of the period of 21 days beginning with the day on which the order or decision is made.
- (4) On an appeal under this section the court may make such order as it thinks appropriate.
- (5) In this section “the appropriate appeal court” means—
  - (a) in the application of this section to England and Wales, the Crown Court;
  - (b) in the application of this section to Northern Ireland, a county court.

#### *Access to other premises*

#### **Access to other premises**

- 136(1) This section applies to any person who occupies or has an interest in any part of a building or other structure—
- (a) in which closed premises are situated, and
  - (b) in respect of which the closure order does not have effect.
- (2) A person to whom this section applies may at any time while a closure order has effect apply to—
- (a) the magistrates' court in respect of an order made under section 136D or 136I, or
  - (b) the appropriate appeal court in respect of an order made by that court under section 136K.
- (3) If an application is made under this section notice of the date and time when, and the place at which, the hearing to consider the application will take place must be given to—
- (a) a constable,
  - (b) the local authority.
  - (c) each person on whom the closure notice relating to the closed premises was served under section 136C(3)(d) or (4), and
  - (d) any other person who appears to the court to have an interest in the closed premises but on whom the closure notice was not served.
- (4) On an application under this section the court may make such order as it thinks appropriate in relation to access to any other part of a building or other structure in which the closed premises are situated.
- (5) It is immaterial whether any provision has been made as mentioned in section 136E(3) or 136I(5).
- (6) In this section “appropriate appeal court” has the same meaning as in section 136K.

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### *Reimbursement of costs, compensation etc.*

#### **Reimbursement of costs**

- 136M) A police authority or a local authority which incurs expenditure for the purpose of clearing, securing, repairing or maintaining closed premises may apply to the court which made the closure order for an order under this section.
- (2) On an application under this section, the court may make such order as it thinks appropriate in the circumstances for the reimbursement (in full or in part) by the owner of the premises of the expenditure mentioned in subsection (1).
  - (3) An application under this section must not be entertained unless it is made before the end of the period of three months beginning with the day the closure order ceases to have effect.
  - (4) An application under this section must be served on—
    - (a) the police authority for the area in which the premises are situated, if the application is made by the local authority,
    - (b) the local authority, if the application is made by a police authority, and
    - (c) the owner of the premises.
  - (5) In the application of this section to Northern Ireland references to the police authority are to be read as references to the Northern Ireland Policing Board.

#### **Exemption from liability for certain damages**

- 136N) A constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of the constable's functions under this Part.
- (2) A chief officer of police who has direction or control of a constable is not liable for relevant damages in respect of anything done or omitted to be done by the constable in the performance or purported performance of the constable's functions under this Part.
  - (3) An authorised person is not liable for relevant damages in respect of anything done or omitted to be done by the authorised person in the performance or purported performance of the authorised person's functions under this Part.
  - (4) No person is vicariously liable for anything done or omitted to be done by an authorised person as mentioned in subsection (3).
  - (5) Subsections (1) to (4) do not apply—
    - (a) if the act or omission is shown to have been in bad faith;
    - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful by virtue of section 6(1) of the Human Rights Act 1998.

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- (6) This section does not affect any other exemption from liability for damages (whether at common law or otherwise).
- (7) In this section—
  - (a) “authorised person” has the same meaning as in section 136F;
  - (b) “relevant damages” means damages in proceedings for judicial review or for the tort of negligence or misfeasance in public office.
- (8) In the application of this section to Northern Ireland, the reference in subsection (2) to the chief officer of police is to be read as a reference to the Chief Constable of the Police Service of Northern Ireland.

### Compensation

136Q) A person who claims to have incurred financial loss in consequence of a closure notice or closure order may apply for compensation.

- (2) The application must be made—
  - (a) to the appropriate appeal court, if the closure order was made or extended by an order of that court on an appeal under section 136K;
  - (b) in any other case, to the magistrates' court which considered the application for a closure order.
- (3) In a case where a closure notice is issued but a closure order is not made, the application must not be entertained unless it is made before the end of the period of three months beginning with—
  - (a) the day the magistrates' court decides not to make a closure order, or
  - (b) if there is an appeal against that decision, the day the appropriate appeal court dismisses that appeal.
- (4) In a case where a closure order is made, the application must not be entertained unless it is made before the end of the period of three months beginning with the day the closure order ceases to have effect.
- (5) The court which hears the application may order the payment of compensation out of central funds if it is satisfied—
  - (a) that the person was not associated with the use of the premises for the activities in relation to which the first condition in section 136B was met,
  - (b) if the person is the owner or occupier of the premises, that the person took reasonable steps to prevent that use,
  - (c) that the person has incurred financial loss as mentioned in subsection (1), and
  - (d) having regard to all the circumstances it is appropriate to order payment of compensation in respect of that loss.
- (6) In this section—
  - (a) “appropriate appeal court” has the same meaning as in section 136K;
  - (b) “central funds” has the same meaning as in enactments providing for the payment of costs.
- (7) In the application of this section to Northern Ireland—



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- (a) the reference in subsection (5) to “central funds” is to be read as a reference to monies provided by Parliament, and
- (b) subsection (6)(b) is omitted.

### *General*

#### **Guidance**

- 136P) The Secretary of State may issue guidance relating to the discharge of any functions under or for the purposes of this Part by a constable or by an authorised person (within the meaning of section 136F).
- (2) A person discharging a function to which guidance under this section relates must have regard to the guidance in discharging the function.

#### **Issue of closure notices by persons other than police officers**

- 136Q) The Secretary of State may by order amend this Part so as to extend the power to authorise the issue of a closure notice to persons other than members of police forces.
- (2) An order under subsection (1) may make such further amendments of this Part as the Secretary of State thinks appropriate in consequence of the extension of that power to persons other than members of police forces.

#### **Interpretation**

- 136R) This section applies for the purposes of this Part.
- (2) “A closure notice” means a notice issued under section 136B.
- (3) “A closure order” means—
  - (a) an order made under section 136D;
  - (b) an order extended under section 136I;
  - (c) an order made or extended under section 136K which has the like effect as an order made or extended under section 136D or 136I (as the case may be).
- (4) “Closed premises” means premises in respect of which a closure order has effect.
- (5) “Local authority”, in relation to England, means—
  - (a) a district council;
  - (b) a London borough council;
  - (c) a county council for an area for which there is no district council;
  - (d) the Common Council of the City of London in its capacity as a local authority;
  - (e) the Council of the Isles of Scilly.
- (6) “Local authority”, in relation to Wales, means—
  - (a) a county council;
  - (b) a county borough council.

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- (7) “Local authority”, in relation to Northern Ireland, means a district council.
- (8) In the application of this Part to England and Wales, references to the local authority in relation to—
- (a) any premises,
  - (b) a closure notice relating to any premises, or
  - (c) a closure order relating to any premises,
- are references to the local authority for the area in which the premises are situated.
- [<sup>F1</sup>(8A) In the application of this Part to Northern Ireland, references to the Secretary of State are to be read as references to the Department of Justice in Northern Ireland.]
- (9) In the application of this Part to Northern Ireland, references to the local authority in relation to—
- (a) any premises,
  - (b) a closure notice relating to any premises, or
  - (c) a closure order relating to any premises,
- are references to the council for the district in which the premises are situated.
- (10) In the application of this Part to Northern Ireland, the reference in section 136B(7)(a) to the area is to be read as a reference to the district.
- (11) “The owner”, in relation to premises, means—
- (a) a person who, whether alone or jointly with another person, is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion (apart from a mortgagee not in possession);
  - (b) a person who, whether alone or jointly with another person, holds or is entitled to the rents and profits of the premises under a lease which (when granted) was for a term of not less than 3 years.
- (12) “Premises” includes—
- (a) any land or other place (whether enclosed or not);
  - (b) any outbuildings which are, or are used as, part of the premises.
- (13) “Specified prostitution offence” means an offence listed in section 136A(2).
- (14) “Specified pornography offence” means an offence listed in section 136A(3).”

#### Textual Amendments

- F1** Words in Sch. 2 para. 1 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. 108\(2\)](#) (with arts. 28-31)

#### Commencement Information

- I2** Sch. 2 para. 1 in force at 1.4.2010 for E.W. by [S.I. 2010/507](#), [art. 5\(t\)](#)

*Status: Point in time view as at 01/03/2016.*

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- 2 In section 138 of that Act (orders and regulations), in [F2subsections (2) and (6)]for “or section 130” substitute “ , section 130 or section 136Q(1) ”.

**Textual Amendments**

- F2** Words in Sch. 2 para. 2 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. 108(3)** (with arts. 28-31)

**Commencement Information**

- I3** Sch. 2 para. 2 in force at 1.4.2010 for E.W. by [S.I. 2010/507](#), **art. 5(t)**

- 3 In section 142 of that Act (extent), in subsection (2)(c) for “Part 2” substitute “ Parts 2 and 2A ”.

**Commencement Information**

- I4** Sch. 2 para. 3 in force at 1.4.2010 for E.W. by [S.I. 2010/507](#), **art. 5(t)**

SCHEDULE 3

Section 27

LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES ETC: TRANSITIONAL PROVISION

*Effect of section 27: cases where no existing resolutions passed*

- 1 A resolution made on or after the coming into force of section 27 by a local authority under section 2 of the 1982 Act that Schedule 3 to that Act is to apply to the area of the local authority applies to that Schedule as amended by section 27.

**Commencement Information**

- I5** Sch. 3 para. 1 in force at 6.4.2010 for E. by [S.I. 2010/722](#), **art. 3(b)** (with arts. 4-12)  
**I6** Sch. 3 para. 1 in force at 8.5.2010 for W. by [S.I. 2010/1375](#), **art. 3(b)**

*Effect of section 27: cases where existing resolutions in force*

- 2 (1) Sub-paragraph (2) applies if a local authority has, before the coming into force of section 27, resolved under section 2 of the 1982 Act that Schedule 3 to that Act is to apply to the area of the local authority.
- (2) The amendments made by section 27 do not apply to the area of the local authority concerned and the resolution concerned does not apply to the Schedule as amended by section 27 but the local authority may resolve that the Schedule as amended by section 27 is to apply to their area.
- (3) Section 2 of the 1982 Act has effect in relation to a resolution under sub-paragraph (2) that Schedule 3 to that Act as amended by section 27 is to apply to the area of a local authority as section 2 of that Act has effect in relation to any resolution under that section that the Schedule is to apply to the area of a local authority.

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- (4) The definition of “the appropriate authority” in paragraph 5 of Schedule 3 to the 1982 Act has effect as if the reference to a resolution under section 2 of that Act included a reference to a resolution under sub-paragraph (2).

**Commencement Information**

- I7** Sch. 3 para. 2 in force at 6.4.2010 for E. by [S.I. 2010/722](#), [art. 3\(b\)](#) (with [arts. 4-12](#))  
**I8** Sch. 3 para. 2 in force at 8.5.2010 for W. by [S.I. 2010/1375](#), [art. 3\(b\)](#)

*Power to make transitional provision on adoption of Schedule 3 to the 1982 Act as amended*

- 3 (1) The relevant national authority may by order make such transitional, transitory or saving provision as the relevant national authority considers appropriate in connection with the coming into force, in consequence of a resolution of a local authority under section 2 of the 1982 Act or paragraph 2(2) above, of Schedule 3 to that Act as amended by section 27.
- (2) An order under this paragraph may, in particular, make different provision from that made by paragraphs 28 and 29 of Schedule 3 to that Act (and may accordingly provide for those paragraphs not to apply).
- (3) The power of the relevant national authority under this paragraph—
- (a) is exercisable by statutory instrument,
  - (b) may be exercised so as to make different provision for different purposes or different areas,
  - (c) includes power to make supplementary, incidental or consequential provision.

**Commencement Information**

- I9** Sch. 3 para. 3 in force at 2.3.2010 for specified purposes for E. by [S.I. 2010/507](#), [art. 2\(1\)\(b\)\(2\)](#)  
**I10** Sch. 3 para. 3 in force at 1.5.2010 for specified purposes for W. by [S.I. 2010/1375](#), [art. 2\(b\)](#)  
**I11** Sch. 3 para. 3 in force at 8.5.2010 in force for W. in so far as not already in force by [S.I. 2010/1375](#), [art. 3\(b\)](#)

*Duty to consult about adopting Schedule 3 to the 1982 Act as amended*

- 4 (1) Sub-paragraph (2) applies if a local authority has not made a resolution under section 2 of the 1982 Act or (as the case may be) paragraph 2(2) above within the period of one year beginning with the coming into force of section 27.
- (2) The local authority must, as soon as reasonably practicable, consult local people about whether the local authority should make such a resolution.
- (3) In sub-paragraph (2) “local people” means persons who live or work in the area of the local authority.

**Commencement Information**

- I12** Sch. 3 para. 4 in force at 6.4.2010 for E. by [S.I. 2010/722](#), [art. 3\(b\)](#) (with [arts. 4-12](#))

*Status: Point in time view as at 01/03/2016.*

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**I13** Sch. 3 para. 4 in force at 8.5.2010 for W. by [S.I. 2010/1375](#), **art. 3(b)**

### *Interpretation*

5 In this Schedule—

“the 1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982 (c. 30),

“relevant national authority” means—

(a) in relation to England, the Secretary of State, and

(b) in relation to Wales, the Welsh Ministers,

“local authority” has the same meaning as in Part 2 of the 1982 Act (see section 2(5) of that Act);

and references in this Schedule to the coming into force of section 27 are references to the coming into force of that section for purposes other than the purposes of the Secretary of State or the Welsh Ministers making orders.

#### **Commencement Information**

**I14** Sch. 3 para. 5 in force at 2.3.2010 for specified purposes for E. by [S.I. 2010/507](#), **art. 2(1)(b)(2)**

**I15** Sch. 3 para. 5 in force at 6.4.2010 in force for E. in so far as not already in force by [S.I. 2010/722](#), **art. 3(b)** (with [arts. 4-12](#))

**I16** Sch. 3 para. 5 in force at 1.5.2010 for specified purposes for W. by [S.I. 2010/1375](#), **art. 2(b)**

**I17** Sch. 3 para. 5 in force at 8.5.2010 in force for W. in so far as not already in force by [S.I. 2010/1375](#), **art. 3(b)**

## SCHEDULE 4

Section 32

### MANDATORY LICENSING CONDITIONS RELATING TO ALCOHOL

#### PART 1

##### PREMISES LICENCES

#### *Types of mandatory conditions*

1 After section 19(3) of the Licensing Act 2003 (c. 17) (mandatory conditions where licence authorises supply of alcohol) insert—

“(4) The other conditions are any conditions specified in an order under section 19A and applicable to the premises licence.”

#### **Commencement Information**

**I18** Sch. 4 para. 1 in force at 29.1.2010 by [S.I. 2010/125](#), **art. 2(r)**

*Status: Point in time view as at 01/03/2016.*

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*Power of Secretary of State to impose section 19(4) mandatory conditions*

2 After section 19 of that Act insert—

**“19A Power of Secretary of State to impose section 19(4) mandatory conditions**

- (1) The Secretary of State may by order specify conditions relating to the supply of alcohol and applicable to all relevant premises licences or relevant premises licences of a particular description if the Secretary of State considers it appropriate to do so for the promotion of the licensing objectives.
- (2) The number of conditions in force by virtue of subsection (1) in relation to all relevant premises licences and the number of conditions in force by virtue of that subsection in relation to relevant premises licences of particular descriptions must not (when added together) exceed at any time nine.
- (3) An order under subsection (1) may—
  - (a) relate to existing or future relevant premises licences,
  - (b) specify conditions which involve, or consist of, the exercise of a discretion by any person.
- (4) Any conditions specified by an order under subsection (1) in relation to existing relevant premises licences are to be treated as—
  - (a) included in those licences from the coming into force of the order, and
  - (b) overriding any conditions already included in those licences (“the existing conditions”) so far as they are—
    - (i) identical to the existing conditions, or
    - (ii) inconsistent with, and more onerous than, the existing conditions.
- (5) Any conditions included, or treated as included, in relevant premises licences by virtue of section 19(4) and this section cease to have effect so far as they cease to be specified under this section in relation to those licences.
- (6) Any conditions treated as mentioned in subsection (4)(b) cease to be so treated so far as they cease to be specified under this section in relation to the relevant premises licences concerned.
- (7) So far as conditions cease to be treated as mentioned in subsection (4)(b), the existing conditions revive.
- (8) Subsections (5) to (7) are subject to any alternative transitional or saving provision made by the order revoking the specification.
- (9) In this section—
 

“existing relevant premises licence”, in relation to an order, means a relevant premises licence granted before the coming into force of the order and in effect, or capable of having effect, on its coming into force,

“future relevant premises licence”, in relation to an order, means a relevant premises licence granted on or after the coming into force of the order,

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“relevant premises licence” means a premises licence authorising the supply of alcohol.”

**Commencement Information**

**I19** Sch. 4 para. 2 in force at 29.1.2010 by [S.I. 2010/125](#), **art. 2(r)**

**PART 2**

CLUB PREMISES CERTIFICATES

*Mandatory conditions relating to the supply of alcohol to members or guests*

- 3 After section 73 of the Licensing Act 2003 (c. 17) (certificate authorising supply of alcohol for consumption off the premises) insert—

**“73A Mandatory conditions relating to the supply of alcohol to members or guests**

Where a club premises certificate authorises the supply of alcohol to members or guests, the certificate must include any conditions specified in an order under section 73B and applicable to the certificate.”

**Commencement Information**

**I20** Sch. 4 para. 3 in force at 29.1.2010 by [S.I. 2010/125](#), **art. 2(r)**

*Power of Secretary of State to impose section 73A mandatory conditions*

- 4 After section 73A of that Act (as inserted by paragraph 3 above) insert—

**“73B Power of Secretary of State to impose section 73A mandatory conditions**

- (1) The Secretary of State may by order specify conditions relating to the supply of alcohol to members or guests and applicable to all relevant club premises certificates or relevant club premises certificates of a particular description if the Secretary of State considers it appropriate to do so for the promotion of the licensing objectives.
- (2) The number of conditions in force by virtue of subsection (1) in relation to all relevant club premises certificates and the number of conditions in force by virtue of that subsection in relation to relevant club premises certificates of particular descriptions must not (when added together) exceed at any time nine.
- (3) An order under subsection (1) may—
  - (a) relate to existing or future relevant club premises certificates,
  - (b) specify conditions which involve, or consist of, the exercise of a discretion by any person.

*Status: Point in time view as at 01/03/2016.*

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- (4) Any conditions specified by an order under subsection (1) in relation to existing relevant club premises certificates are to be treated as—
- (a) included in those certificates from the coming into force of the order, and
  - (b) overriding any conditions already included in those certificates (“the existing conditions”) so far as they are—
    - (i) identical to the existing conditions, or
    - (ii) inconsistent with, and more onerous than, the existing conditions.
- (5) Any conditions included, or treated as included, in relevant club premises certificates by virtue of section 73A and this section cease to have effect so far as they cease to be specified under this section in relation to those certificates.
- (6) Any conditions treated as mentioned in subsection (4)(b) cease to be so treated so far as they cease to be specified under this section in relation to the relevant club premises certificates concerned.
- (7) So far as conditions cease to be treated as mentioned in subsection (4)(b), the existing conditions revive.
- (8) Subsections (5) to (7) are subject to any alternative transitional or saving provision made by the order revoking the specification.
- (9) In this section—
- “existing relevant club premises certificate”, in relation to an order, means a relevant club premises certificate granted before the coming into force of the order and in effect, or capable of having effect, on its coming into force,
- “future relevant club premises certificate”, in relation to an order, means a relevant club premises certificate granted on or after the coming into force of the order,
- “relevant club premises certificate” means a club premises certificate authorising the supply of alcohol to members or guests.”

#### Commencement Information

**I21** Sch. 4 para. 4 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(r\)](#)

## SCHEDULE 5

Section 46

### INJUNCTIONS: POWERS TO REMAND

#### *Introductory*

- 1 (1) The provisions of this Schedule apply where the court has power to remand a person under section 43(5) or 44(4).



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- (2) In this Schedule, “the court” means the [<sup>F3</sup>High Court, ][<sup>F4</sup>the county] court [<sup>F5</sup>or a youth court] and includes—
- (a) in relation to the High Court, a judge of that court, <sup>F6</sup>...
  - (b) in relation to [<sup>F4</sup>the county] court, a judge <sup>F7</sup>... of that court[<sup>F8</sup>, and
  - (c) in relation to a youth court, a judge of that court.]

#### Textual Amendments

- F3** Words in Sch. 5 para. 1(2) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 5\(a\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F4** Words in Sch. 5 para. 1(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 51\(3\)\(a\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F5** Words in Sch. 5 para. 1(2) inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 5\(b\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F6** Word in Sch. 5 para. 1(2) omitted (1.6.2015) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 5\(c\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F7** Words in Sch. 5 para. 1(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 51\(3\)\(b\)](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F8** Sch. 5 para. 1(2)(c) and word inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 5\(d\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

#### Commencement Information

- I22** Sch. 5 para. 1 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### *Remand in custody or on bail*

- 2 (1) The court may—
- (a) [<sup>F9</sup>in the case of a person aged 18 or over ] remand the person in custody, that is, commit the person to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or
  - (b) remand the person on bail.
- (2) The court may remand the person on bail—
- (a) by taking from the person a recognizance, with or without sureties, conditioned as provided in paragraph 3, or
  - (b) by fixing the amount of the recognizances with a view to their being taken subsequently and, in the meantime, committing the person to custody as mentioned in sub-paragraph (1)(a).
- (3) Where a person is brought before the court after remand, the court may further remand the person.

#### Textual Amendments

- F9** Words in Sch. 5 para. 2(1)(a) inserted (31.1.2011) by [Crime and Security Act 2010 \(c. 17\)](#), [ss. 38, 59\(1\)](#); [S.I. 2010/2989](#), [art. 2\(b\)](#)

*Status: Point in time view as at 01/03/2016.*

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#### Commencement Information

**I23** Sch. 5 para. 2 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

- 3 (1) Where a person is remanded on bail, the court may direct that the person's recognizance be conditioned for the person's appearance—
- (a) before that court at the end of the period of remand, or
  - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognizance is conditioned for a person's appearance as mentioned in sub-paragraph (1)(b), the fixing of any time for the person next to appear is to be treated as a remand.
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand the person afresh.

#### Commencement Information

**I24** Sch. 5 para. 3 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

- 4 (1) The court may not remand a person for a period exceeding 8 clear days unless—
- (a) the person is remanded on bail, and
  - (b) both that person and the person who applied for the injunction consent to a longer period.
- (2) Where the court has power to remand a person in custody it may, if the remand is for a period not exceeding 3 clear days, commit the person to the custody of a constable.

#### Commencement Information

**I25** Sch. 5 para. 4 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

#### *Further remand*

- 5 (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period of remand, the court may, in the absence of the person, further remand the person.
- (2) The power mentioned in sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person's recognizance and those of any sureties for the person to a later time.
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand the person under sub-paragraph (1), the court may (in the person's absence) enlarge the person's recognizance and those of any sureties for the person to a later time.
- (4) The enlargement of the person's recognizance is to be treated as a further remand.
- (5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

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**Commencement Information**

**I26** Sch. 5 para. 5 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

*Postponement of taking recognizance*

- 6 Where under paragraph 2(2)(b) the court fixes the amount in which the principal and the sureties, if any, are to be bound, the recognizance may afterwards be taken by such person as may be prescribed by rules of court, with the same consequences as if it had been entered into before the court.

**Commencement Information**

**I27** Sch. 5 para. 6 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

*Requirements imposed on remand on bail*

- 7 The court may when remanding a person on bail under this Schedule require the person to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

**Commencement Information**

**I28** Sch. 5 para. 7 in force at 31.1.2011 by [S.I. 2010/2988](#), [art. 2](#)

[<sup>F10</sup>SCHEDULE 5A

Section 46A

BREACH OF INJUNCTION: POWERS OF COURT IN RESPECT OF UNDER-18S

**Textual Amendments**

**F10** Sch. 5A inserted (E.W.) (9.1.2012) by [Crime and Security Act 2010 \(c. 17\)](#) , [ss. 39\(3\)](#) , [59\(1\)](#) ; [S.I. 2011/3016](#) , [art. 2\(d\)](#)

**PART 1**

INTRODUCTORY

*Power to make supervision order or detention order*

- 1 (1) Where—
- (a) an injunction under Part 4 [<sup>F11</sup>has been] granted against a person under the age of 18,
- [ the person is still under the age of 18,] and

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<sup>F12</sup>(aa)

- (b) on an application made by the injunction applicant, [<sup>F13</sup>a youth court] is satisfied beyond reasonable doubt that the person is in breach of any provision of the injunction,

[<sup>F14</sup>that court] may make one of the orders specified in sub-paragraph (2) in respect of the person.

- (2) Those orders are—
- (a) a supervision order (see Part 2 of this Schedule);
  - (b) a detention order (see Part 3 of this Schedule).
- <sup>F15</sup>(3) . . . . .
- (4) Before making an application under paragraph 1(1)(b) the injunction applicant must consult—
- (a) the youth offending team consulted under section 38(1) or 39(5) in relation to the injunction, and
  - (b) any other person previously so consulted.
- (5) In considering whether and how to exercise its powers under this paragraph, the court must consider a report made to assist the court in that respect by the youth offending team referred to in sub-paragraph (4)(a).
- (6) An order under sub-paragraph (1) may not be made in respect of a person aged 18 or over.
- (7) The court may not make a detention order under sub-paragraph (1) unless it is satisfied, in view of the severity or extent of the breach, that no other power available to the court is appropriate.
- (8) Where the court makes a detention order under sub-paragraph (1) it must state in open court why it is satisfied as specified in sub-paragraph (7).
- (9) In this Schedule—
- “ defaulter ”, in relation to an order under this Schedule, means the person in respect of whom the order is made;
- “ injunction applicant ”, in relation to an injunction under Part 4 or an order under this Schedule made in respect of such an injunction, means the person who applied for the injunction;

<sup>F16</sup> ...

#### Textual Amendments

- F11** Words in Sch. 5A para. 1(1)(a) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(2\)\(a\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F12** Sch. 5A para. 1(1)(aa) inserted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(2\)\(b\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F13** Words in Sch. 5A para. 1(1)(b) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(2\)\(c\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F14** Words in Sch. 5A para. 1(1) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(2\)\(d\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

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- F15** Sch. 5A para. 1(3) omitted (1.6.2015) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(3\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F16** Definition in Sch. 5A para. 1(9) omitted (1.6.2015) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 7\(4\)](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

## PART 2

### SUPERVISION ORDERS

#### *Supervision orders*

- 2 (1) A supervision order is an order imposing on the defaulter one or more of the following requirements—
- (a) a supervision requirement;
  - (b) an activity requirement;
  - (c) a curfew requirement.
- (2) Before making a supervision order the court must obtain and consider information about the defaulter's family circumstances and the likely effect of such an order on those circumstances.
- (3) Before making a supervision order imposing two or more requirements, the court must consider their mutual compatibility.
- (4) The court must ensure, as far as practicable, that any requirement imposed by a supervision order is such as to avoid—
- (a) any conflict with the defaulter's religious beliefs,
  - (b) any interference with the times, if any, at which the defaulter normally works or attends school or any other educational establishment, and
  - (c) any conflict with the requirements of any other court order or injunction to which the defaulter may be subject.
- (5) A supervision order must for the purposes of this Schedule specify a maximum period for the operation of any requirement contained in the order.
- (6) The period specified under sub-paragraph (5) may not exceed six months beginning with the day after that on which the supervision order is made.
- (7) A supervision order must for the purposes of this Schedule specify a youth offending team established under section 39 of the Crime and Disorder Act 1998.
- (8) The youth offending team specified under sub-paragraph (7) is to be—
- (a) the youth offending team in whose area it appears to the court that the respondent will reside during the period specified under sub-paragraph (5), or
  - (b) where it appears to the court that the respondent will reside in the area of two or more such teams, such one of those teams as the court may determine.

#### *Supervision requirements*

- 3 (1) In this Schedule, “supervision requirement”, in relation to a supervision order, means a requirement that the defaulter attend appointments with—

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- (a) the responsible officer, or
  - (b) another person determined by the responsible officer,
- at such times and places as may be instructed by the responsible officer.
- (2) The appointments must be within the period for the time being specified in the order under paragraph 2(5).

*Activity requirements*

- 4 (1) In this Schedule, “ activity requirement ”, in relation to a supervision order, means a requirement that the defaulter do any or all of the following within the period for the time being specified in the order under paragraph 2(5)—
- (a) participate, on such number of days as may be specified in the order, in activities at a place, or places, so specified;
  - (b) participate in an activity or activities specified in the order on such number of days as may be so specified;
  - (c) participate in one or more residential exercises for a continuous period or periods comprising such number or numbers of days as may be specified in the order;
  - (d) in accordance with sub-paragraphs (6) to (9), engage in activities in accordance with instructions of the responsible officer on such number of days as may be specified in the order.
- (2) The number of days specified in a supervision order in relation to an activity requirement must not, in aggregate, be less than 12 or more than 24.
- (3) A requirement referred to in sub-paragraph (1)(a) or (b) operates to require the defaulter, in accordance with instructions given by the responsible officer, on the number of days specified in the order in relation to the requirement—
- (a) in the case of a requirement referred to in sub-paragraph (1)(a), to present himself or herself at a place specified in the order to a person of a description so specified, or
  - (b) in the case of a requirement referred to in sub-paragraph (1)(b), to participate in an activity specified in the order,
- and, on each such day, to comply with instructions given by, or under the authority of, the person in charge of the place or the activity (as the case may be).
- (4) Where the order includes a requirement referred to in sub-paragraph (1)(c) to participate in a residential exercise, it must specify, in relation to the residential exercise—
- (a) a place, or
  - (b) an activity.
- (5) A requirement under sub-paragraph (1)(c) to participate in a residential exercise operates to require the defaulter, in accordance with instructions given by the responsible officer—
- (a) if a place is specified under sub-paragraph (4)(a)—
    - (i) to present himself or herself at the beginning of the period specified in the order in relation to the exercise, at the place so specified to a person of a description specified in the instructions, and
    - (ii) to reside there for that period;

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- (b) if an activity is specified under sub-paragraph (4)(b), to participate, for the period specified in the order in relation to the exercise, in the activity so specified,  
and, during that period, to comply with instructions given by, or under the authority of, the person in charge of the place or the activity (as the case may be).
- (6) Subject to sub-paragraph (8), instructions under sub-paragraph (1)(d) relating to any day must require the defaulter to do either of the following—
  - (a) present himself or herself to a person of a description specified in the instructions at a place so specified;
  - (b) participate in an activity specified in the instructions.
- (7) Any such instructions operate to require the defaulter, on that day or while participating in that activity, to comply with instructions given by, or under the authority of, the person in charge of the place or, as the case may be, the activity.
- (8) If the supervision order so provides, instructions under sub-paragraph (1)(d) may require the defaulter to participate in a residential exercise for a period comprising not more than seven days, and, for that purpose—
  - (a) to present himself or herself at the beginning of that period to a person of a description specified in the instructions at a place so specified and to reside there for that period, or
  - (b) to participate for that period in an activity specified in the instructions.
- (9) Instructions such as are mentioned in sub-paragraph (8)—
  - (a) may not be given except with the consent of a parent or guardian of the defaulter, and
  - (b) operate to require the defaulter, during the period specified under that sub-paragraph, to comply with instructions given by, or under the authority of, the person in charge of the place or activity specified under paragraph (a) or (b) of that sub-paragraph.
- (10) Instructions given by, or under the authority of, a person in charge of a place under sub-paragraph (3), (5), (7) or (9)(b) may require the defaulter to engage in activities otherwise than at that place.
- (11) Where a supervision order contains an activity requirement, [<sup>F17</sup>a youth] court may on the application of the injunction applicant or the defaulter amend the order by substituting for any number of days, place, activity, period or description of persons specified in the order a new number of days, place, activity, period or description (subject, in the case of a number of days, to sub-paragraph (2)).
- (12) A court may only include an activity requirement in a supervision order or vary such a requirement under sub-paragraph (11) if—
  - (a) it has consulted the youth offending team which is to be, or is, specified in the order,
  - (b) it is satisfied that it is feasible to secure compliance with the requirement or requirement as varied,
  - (c) it is satisfied that provision for the defaulter to participate in the activities proposed can be made under the arrangements for persons to participate in such activities which exist in the area of the youth offending team which is to be or is specified in the order, and

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- (d) in a case where the requirement or requirement as varied would involve the co-operation of a person other than the defaulter and the responsible officer, that person consents to its inclusion or variation.
- (13) For the purposes of sub-paragraph (9) “guardian” has the same meaning as in the Children and Young Persons Act 1933 (subject to sub-paragraph (14)).
- (14) If a local authority has parental responsibility for a defaulter who is in its care or provided with accommodation by it in the exercise of any social services functions, the reference to “guardian” in sub-paragraph (9) is to be read as a reference to that authority.
- (15) In sub-paragraph (14)—
- (a) “parental responsibility” has the same meaning as it has in the Children Act 1989 by virtue of section 3 of that Act;
  - (b) “social services functions” has the same meaning as it has in the Local Authority Social Services Act 1970 by virtue of section 1A of that Act.

#### Textual Amendments

**F17** Words in Sch. 5A para. 4(11) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 8](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

#### *Curfew requirements*

- 5 (1) In this Schedule, “curfew requirement”, in relation to a supervision order, means a requirement that the defaulter remain, for periods specified in the order, at a place so specified.
- (2) A supervision order imposing a curfew requirement may specify different places or different periods for different days.
- (3) The periods specified under sub-paragraph (1)—
- (a) must be within the period for the time being specified in the order under paragraph 2(5);
  - (b) may not amount to less than two or more than eight hours in any day.
- (4) Before specifying a place under sub-paragraph (1) in a supervision order, the court making the order must obtain and consider information about the place proposed to be specified in the order (including information as to the attitude of persons likely to be affected by the enforced presence there of the defaulter).
- (5) Where a supervision order contains a curfew requirement, [<sup>F18</sup>a youth] court may, on the application of the injunction applicant or the defaulter amend the order by—
- (a) substituting new periods for the periods specified in the order under this paragraph (subject to sub-paragraph (3)); or
  - (b) substituting a new place for the place specified in the order under this paragraph (subject to sub-paragraph (4)).



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### Textual Amendments

**F18** Words in [Sch. 5A para. 5\(5\)](#) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\)](#), [Sch. 12 para. 9](#) (with [s. 18\(6\)](#)); [S.I. 2015/813, art. 3\(c\)](#)

### *Electronic monitoring requirements*

- 6 (1) A supervision order containing a curfew requirement may also contain a requirement (an “electronic monitoring requirement”) for securing the electronic monitoring of compliance with the curfew requirement during a period—
- (a) specified in the order, or
  - (b) determined by the responsible officer in accordance with the order.
- (2) In a case referred to in sub-paragraph (1)(b), the responsible officer must, before the beginning of the period when the electronic monitoring requirement is to take effect, notify—
- (a) the defaulter,
  - (b) the person responsible for the monitoring, and
  - (c) any person falling within sub-paragraph (3)(b),
- of the time when that period is to begin.
- (3) Where—
- (a) it is proposed to include an electronic monitoring requirement in a supervision order, but
  - (b) there is a person (other than the defaulter) without whose co-operation it will not be practicable to secure that the monitoring takes place,
- the requirement may not be included in the order without that person's consent.
- (4) A supervision order imposing an electronic monitoring requirement must include provision for making a person responsible for the monitoring.
- (5) The person who is made responsible for the monitoring must be of a description specified in an order under paragraph 26(5) of Schedule 1 to the Criminal Justice and Immigration Act 2008.
- (6) An electronic monitoring requirement may not be included in a supervision order unless the court making the order—
- (a) has been notified by the youth offending team for the time being specified in the order that arrangements for electronic monitoring are available in the area where the place which the court proposes to specify in the order for the purposes of the curfew requirement is situated, and
  - (b) is satisfied that the necessary provision can be made under the arrangements currently available.
- (7) Where a supervision order contains an electronic monitoring requirement, [<sup>F19</sup>a youth] court may, on the application of the injunction applicant or the defaulter, amend the order by substituting a new period for the period specified in the order under this paragraph.
- (8) Sub-paragraph (3) applies in relation to the variation of an electronic monitoring requirement under sub-paragraph (7) as it applies in relation to the inclusion of such a requirement.

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### Textual Amendments

**F19** Words in *Sch. 5A para. 6(7)* substituted (1.6.2015) by *Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 12 para. 10* (with s. 18(6)); S.I. 2015/813, art. 3(c)

### *“Responsible officer”*

- 7 (1) For the purposes of this Part of this Schedule, the “responsible officer”, in relation to a supervision order, means—
- (a) in a case where the order imposes a curfew requirement and an electronic monitoring requirement, but does not impose an activity or supervision requirement, the person who under paragraph 6(4) is responsible for the electronic monitoring;
  - (b) in any other case, the member of the youth offending team for the time being specified in the order who, as respects the defaulter, is for the time being responsible for discharging the functions conferred by this Schedule on the responsible officer.
- (2) Where a supervision order has been made, it is the duty of the responsible officer—
- (a) to make any arrangements that are necessary in connection with the requirements contained in the order, and
  - (b) to promote the defaulter's compliance with those requirements.
- (3) In giving instructions in pursuance of a supervision order, the responsible officer must ensure, so far as practicable, that any instruction is such as to avoid the matters referred to in paragraph 2(4).
- (4) A defaulter in respect of whom a supervision order is made must—
- (a) keep in touch with the responsible officer in accordance with such instructions as the responsible officer may from time to time give to the defaulter, and
  - (b) notify the responsible officer of any change of address.
- (5) The obligations imposed by sub-paragraph (4) have effect as a requirement of the supervision order.

### *Amendment of operative period*

- 8 (1) [<sup>F20</sup>A youth] court may, on the application of the injunction applicant or the defaulter, amend a supervision order by substituting a new period for that for the time being specified in the order under paragraph 2(5) (subject to paragraph 2(6)).
- (2) [<sup>F21</sup>A youth court may,] on amending a supervision order pursuant to sub-paragraph (1), make such other amendments to the order in relation to any requirement imposed by the order as the court considers appropriate.

### Textual Amendments

**F20** Words in *Sch. 5A para. 8(1)* substituted (1.6.2015) by *Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 12 para. 11(a)* (with s. 18(6)); S.I. 2015/813, art. 3(c)

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**F21** Words in Sch. 5A para. 8(2) substituted (1.6.2015) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 12 para. 11(b) (with s. 18(6)); S.I. 2015/813, art. 3(c)

*Amendment on change of area of residence*

- 9 (1) This paragraph applies where, on an application made by the injunction applicant or the defaulter in relation to a supervision order, [<sup>F22</sup>a youth] court is satisfied that the defaulter proposes to reside, or is residing, in the area of a youth offending team other than the team for the time being specified in the order.
- (2) If the application is made by the defaulter, the court to which it is made may amend the order by substituting for the youth offending team specified in the order the youth offending team for the area referred to in sub-paragraph (1) (or, if there is more than one such team for that area, such of those teams as the court may determine).
- (3) If the application is made by the injunction applicant, the court to which it is made must, subject as follows, so amend the order.
- (4) Where a court amends the supervision order pursuant to sub-paragraph (2) or (3) but the order contains a requirement which, in the opinion of the court, cannot reasonably be complied with if the defaulter resides in the area referred to in sub-paragraph (1), the court must also amend the order by—
- (a) removing that requirement, or
  - (b) substituting for that requirement a new requirement which can reasonably be complied with if the defaulter resides in that area.
- (5) Sub-paragraph (3) does not require a court to amend the supervision order if in its opinion sub-paragraph (4) would produce an inappropriate result.
- (6) The injunction applicant must consult the youth offending team for the time being specified in the order before making an application under sub-paragraph (1).

**Textual Amendments**

**F22** Words in Sch. 5A para. 9(1) substituted (1.6.2015) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 12 para. 12 (with s. 18(6)); S.I. 2015/813, art. 3(c)

*Revocation of supervision order*

- 10 (1) Where a supervision order is made, the injunction applicant or the defaulter may apply to [<sup>F23</sup>a youth] court—
- (a) to revoke the order, or
  - (b) to amend the order by removing any requirement from it.
- (2) If it appears to the court to which an application under sub-paragraph (1)(a) or (b) is made to be in the interests of justice to do so, having regard to circumstances which have arisen since the supervision order was made, the court may grant the application and revoke or amend the order accordingly.
- (3) The circumstances referred to in sub-paragraph (2) include the conduct of the defaulter.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) If an application made under sub-paragraph (1) in relation to a supervision order is dismissed, no further such application may be made in relation to the order by any person without the consent of [F24 a youth] court.
- (5) The injunction applicant must consult the youth offending team for the time being specified in the order before making an application under sub-paragraph (1).

**Textual Amendments**

- F23** Words in *Sch. 5A para. 10(1)* substituted (1.6.2015) by *Crime and Courts Act 2013 (c. 22)*, s. 61(2), *Sch. 12 para. 13* (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F24** Words in *Sch. 5A para. 10(4)* substituted (1.6.2015) by *Crime and Courts Act 2013 (c. 22)*, s. 61(2), *Sch. 12 para. 13* (with s. 18(6)); S.I. 2015/813, art. 3(c)

*Compliance with supervision order*

- 11 If the responsible officer considers that the defaulter has complied with all the requirements of the supervision order, the responsible officer must inform the injunction applicant.

*Non-compliance with supervision order*

- 12 (1) If the responsible officer considers that the defaulter has failed to comply with any requirement of the supervision order, the responsible officer must inform the injunction applicant.
- (2) On being informed as specified in sub-paragraph (1) the injunction applicant may apply to [F25 a youth] court.
- (3) Before making an application under sub-paragraph (2) the injunction applicant must consult—
  - (a) the youth offending team for the time being specified in the order, and
  - (b) any person consulted by virtue of section 38(2)(a) or (b).
- (4) If on an application under sub-paragraph (2) the court to which it is made is satisfied beyond reasonable doubt that the defaulter has without reasonable excuse failed to comply with any requirement of the supervision order, the court may—
  - (a) revoke the supervision order and make a new one; or
  - (b) revoke the order and make a detention order (see Part 3 of this Schedule).
- F26 (5) .....
- F27 (6) .....
- (7) The court to which an application under sub-paragraph (2) is made must consider representations made by the youth offending team for the time being specified in the order before exercising its powers under this paragraph.

**Textual Amendments**

- F25** Words in *Sch. 5A para. 12(2)* substituted (1.6.2015) by *Crime and Courts Act 2013 (c. 22)*, s. 61(2), *Sch. 12 para. 14(a)* (with s. 18(6)); S.I. 2015/813, art. 3(c)

*Status: Point in time view as at 01/03/2016.*

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- F26** Sch. 5A para. 12(5) omitted (1.6.2015) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 12 para. 14(b)** (with s. 18(6)); S.I. 2015/813, art. 3(c)
- F27** Sch. 5A para. 12(6) omitted (1.6.2015) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 12 para. 14(c)** (with s. 18(6)); S.I. 2015/813, art. 3(c)

#### *Copies of supervision order etc*

- 13 (1) The court by which a supervision order is made must forthwith provide a copy of the order to—
- (a) the defaulter, and
  - (b) the youth offending team for the time being specified in the order.
- (2) Where a supervision order is made, the injunction applicant must forthwith provide a copy of so much of the order as is relevant—
- (a) in a case where the order includes an activity requirement specifying a place under paragraph 4(1)(a), to the person in charge of that place;
  - (b) in a case where the order includes an activity requirement specifying an activity under paragraph 4(1)(b), to the person in charge of that activity;
  - (c) in a case where the order includes an activity requirement specifying a residential exercise under paragraph 4(1)(c), to the person in charge of the place or activity specified under paragraph 4(4) in relation to that residential exercise;
  - (d) in a case where the order contains an electronic monitoring requirement, to—
    - (i) any person who by virtue of paragraph 6(4) will be responsible for the electronic monitoring, and
    - (ii) any person without whose consent that requirement could not have been included in the order.
- (3) The court by which a supervision order is revoked or amended must forthwith provide a copy of the revoking order, or of the order as amended, to—
- (a) the defaulter, and
  - (b) the youth offending team for the time being specified in the order.
- (4) Where—
- (a) a copy of a supervision order (or part of a supervision order) has been given to a person under sub-paragraph (2) by virtue of any requirement contained in the order, and
  - (b) the order is revoked, or amended in respect of that requirement,
- the injunction applicant must forthwith give a copy of the revoking order, or of so much of the order as amended as is relevant, to that person.

### **PART 3**

#### DETENTION ORDERS

##### *Detention orders*

- 14 (1) A detention order is an order that the defaulter be detained for a period specified in the order in such youth detention accommodation as the Secretary of State may determine.

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- (2) The period specified under sub-paragraph (1) may not exceed the period of three months beginning with the day after that on which the order is made.
- (3) In sub-paragraph (1) “ youth detention accommodation ” means—
  - (a) a secure training centre;
  - [ a secure college;]
  - <sup>F28</sup>(aa) a young offender institution;
  - <sup>F29</sup>(c) a secure children's home, as defined by section 102(11) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.]
- (4) The function of the Secretary of State under sub-paragraph (1) is exercisable concurrently with the Youth Justice Board.
- (5) A person detained under a detention order is in legal custody.

#### Textual Amendments

- F28** Sch. 5A para. 14(3)(aa) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 27](#); S.I. 2015/778, art. 2(1)(c)
- F29** Sch. 5A para. 14(3)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 12 para. 58](#); S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

#### *Revocation of detention order*

- 15 (1) Where a detention order is made, the injunction applicant or the defaulter may apply to [<sup>F30</sup>a youth] court to revoke it.
- (2) If it appears to the court to which an application under sub-paragraph (1) is made to be in the interests of justice to do so, having regard to circumstances which have arisen since the detention order was made, the court may grant the application and revoke the order accordingly.
- (3) The circumstances referred to in sub-paragraph (2) include the conduct of the defaulter.
- (4) If an application made under sub-paragraph (1) in relation to a detention order is dismissed, no further such application may be made in relation to the order by any person without the consent of [<sup>F31</sup>a youth] court.
- (5) Before making an application under sub-paragraph (1) the injunction applicant must consult—
  - (a) in the case of a detention order made under paragraph 1(1), the youth offending team referred to in paragraph 1(4)(a); or
  - (b) in the case of a detention order made under paragraph 12(4)(b), the youth offending team referred to in paragraph 12(3)(a).]

#### Textual Amendments

- F30** Words in [Sch. 5A para. 15\(1\)](#) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 15](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

*Status: Point in time view as at 01/03/2016.*

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**F31** Words in [Sch. 5A para. 15\(4\)](#) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 12 para. 15](#) (with s. 18(6)); S.I. 2015/813, art. 3(c)

## SCHEDULE 6

Section 80

### AMENDMENT OF PART 3 OF THE AVIATION SECURITY ACT 1982

#### PART 1

##### AMENDMENTS

1 Part 3 of the Aviation Security Act 1982 (c. 36) (policing of aerodromes) has effect subject to the following amendments.

##### Commencement Information

**I29** Sch. 6 para. 1 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I30** Sch. 6 para. 1 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

2 Omit section 25 (designated airports) and the cross-heading before it.

##### Commencement Information

**I31** Sch. 6 para. 2 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I32** Sch. 6 para. 2 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

3 Omit section 25A (consultation about policing of designated airports).

##### Commencement Information

**I33** Sch. 6 para. 3 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I34** Sch. 6 para. 3 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

4 Before section 25B (police services agreements) insert—

*“Policing of aerodromes to which Part 2A applies*

##### Relevant aerodromes

25A(1) In this Part, “relevant aerodrome” means an aerodrome to which Part 2A applies (other than an aerodrome specified in an order under subsection (2)).

(2) The Secretary of State may by order provide that a specified aerodrome to which Part 2A applies is not a relevant aerodrome for the purposes of this Part.

(3) In subsection (2) “specified” means specified in the order.

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- (4) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I35** Sch. 6 para. 4 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I36** Sch. 6 para. 4 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

5 For section 25B substitute—

#### “25B Police services agreements

- (1) There must be a police services agreement in force in relation to a relevant aerodrome at any time when an aerodrome security plan containing policing measures is in force in relation to the aerodrome.
- (2) The requirement in subsection (1) does not apply during the period of 3 months beginning with the day when the first aerodrome security plan for the aerodrome is agreed by the members of the security executive group for the aerodrome.
- (3) A police services agreement is an agreement between the relevant persons which specifies—
  - (a) the level of policing to be provided for the aerodrome in accordance with section 26(2A) during the period for which the agreement is in force,
  - (b) whether any payments are to be made by the manager of the aerodrome in connection with that policing and, if so, the amount of the payments or the manner in which their amount is to be assessed, and
  - (c) the accommodation and facilities (if any) that are to be provided by the manager in connection with that policing.
- (4) The relevant persons are—
  - (a) the manager of the aerodrome,
  - (b) the police authority for the relevant police area, and
  - (c) the chief officer of police for that area.
- (5) If the Secretary of State so requests, the manager of a relevant aerodrome must supply the Secretary of State with a copy of any police services agreement which is in force in relation to the aerodrome.
- (6) In this section, “policing measures”, in relation to an aerodrome security plan, means the security measures specified in the plan as the measures to be taken by the chief officer of police for the relevant police area.

#### 25C Police services agreements: duration etc.

- (1) A police services agreement must specify the period for which it is to be in force.



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- (2) In the case of the first police services agreement for the aerodrome, the period specified must—
  - (a) begin on the day when the requirement in section 25B(1) first applies in relation to the aerodrome, and
  - (b) end on either the 31 March next following that day or on any subsequent 31 March specified in the plan.
- (3) In the case of any subsequent police services agreement other than one to which subsection (5) applies, the period specified must—
  - (a) begin on 1 April, and
  - (b) end on either the 31 March next following that day or on any subsequent 31 March specified in the plan.
- (4) Subsection (5) applies if—
  - (a) there is a period during which an aerodrome security plan in force in relation to the aerodrome contains no policing measures (and, accordingly, the requirement in section 25B(1) does not apply in relation to the aerodrome), but
  - (b) the plan is varied to include such measures.
- (5) The first police services agreement following the variation must—
  - (a) begin on the day when the variation comes into effect (and, accordingly, the requirement in section 25B(1) again applies in relation to the aerodrome), and
  - (b) end on either the 31 March next following that day or on any subsequent 31 March specified in the plan.
- (6) If there is a dispute about the policing of a relevant aerodrome which relates to a police services agreement which is not in force, the Secretary of State may direct that the agreement is to come into force at the beginning of a day other than that specified in subsection (2)(a), (3)(a) or (5)(a).

## **25D Review and variation of police services agreements**

The relevant persons—

- (a) must keep a police services agreement under review, and
- (b) may vary it.

## **25E Discharge of functions of relevant persons in relation to police services agreements**

- (1) In determining the terms of a police services agreement, and in exercising their functions under section 25D, the relevant persons must, in particular, have regard to the matters specified in subsection (2).
- (2) Those matters are—
  - (a) any aerodrome security plan which specifies that policing measures are to be taken in relation to the aerodrome during the whole or any part of the period for which the police services agreement will be in force,

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- (b) any information given to the relevant persons by the security executive group for the aerodrome which is relevant to the police services agreement,
  - (c) the extent, if any, to which the costs incurred by the police authority in connection with the policing provided for the aerodrome are, or are likely to be, met by any person other than the manager of the aerodrome, and
  - (d) any guidance given by the Secretary of State which is relevant to the discharge by the relevant persons of their functions in relation to police services agreements.
- (3) A chief officer of police may authorise another person to exercise any of the officer's functions under this Part in relation to police services agreements.
- (4) In this section, “policing measures” has the same meaning as in section 25B.”

#### Commencement Information

**I37** Sch. 6 para. 5 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I38** Sch. 6 para. 5 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 6 (1) Section 26 (exercise of police functions) is amended as follows.
- (2) In the heading for “at designated airports” substitute “ at relevant aerodromes ”.
- (3) In subsection (1) for “a designated airport” substitute “ a relevant aerodrome ”.
- (4) In subsection (2A) —
- (a) for “an aerodrome which is a designated airport” substitute “ a relevant aerodrome ”,
  - (b) omit the word “and” at the end of paragraph (a),
  - (c) in paragraph (b) for “security or policing purposes” substitute “ security purposes ”, and
  - (d) after paragraph (b) insert “; and  
 (c) any aerodrome security plan for the aerodrome.”
- (5) In subsection (2C) for “an aerodrome which is a designated airport” substitute “ a relevant aerodrome ”.
- (6) After subsection (2C) insert—
- “(2CA) Unless the aerodrome was a designated airport immediately before the commencement of section 80 of the Policing and Crime Act 2009, subsection (2C) does not apply in relation to any time before the end of the period of 3 months beginning with the day on which an aerodrome security plan is first required to be in force in relation to the aerodrome (by virtue of section 24AE(1)).”
- (7) For subsection (2E) substitute—
- “(2E) For the purposes of subsection (2A)(b) a measure is taken in relation to the aerodrome for security purposes if it is taken for a purpose to which Part 2 applies or otherwise for the purpose of preventing crime or preserving the peace at the aerodrome.”

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#### Commencement Information

- I39** Sch. 6 para. 6 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)  
**I40** Sch. 6 para. 6 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 7 (1) Section 27 (prevention of theft) is amended as follows.
- (2) In the heading for “at designated airports” substitute “ at relevant aerodromes ”.
- (3) In subsection (2)(a) for “an aerodrome which is a designated airport” substitute “ a relevant aerodrome ”.

#### Commencement Information

- I41** Sch. 6 para. 7 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)  
**I42** Sch. 6 para. 7 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 8 (1) Section 28 (byelaws) is amended as follows.
- (2) In the heading for “designated airports” substitute “ relevant aerodromes ”.
- (3) In subsection (1) for “a designated airport” substitute “ a relevant aerodrome ”.
- (4) In subsection (2) for “any aerodrome which is a designated airport” substitute “ any relevant aerodrome ”.

#### Commencement Information

- I43** Sch. 6 para. 8 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)  
**I44** Sch. 6 para. 8 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 9 (1) Section 29 (control of road traffic) is amended as follows.
- (2) In the heading for “at designated airports” substitute “ at relevant aerodromes ”.
- (3) In subsection (1) for “a designated airport” substitute “ a relevant aerodrome ”.
- (4) In subsection (2) for “a designated airport” substitute “ a relevant aerodrome ”.

#### Commencement Information

- I45** Sch. 6 para. 9 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)  
**I46** Sch. 6 para. 9 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 10 For sections 29A to 29D substitute—

#### “29A Power to refer disputes to Secretary of State

- (1) A relevant person may refer a dispute about the policing of a relevant aerodrome to the Secretary of State.
- (2) For the purposes of this section and sections 29B to 29D, there is a dispute about the policing of a relevant aerodrome if—

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- (a) there is a dispute between any of the relevant persons about the terms to be included in a police services agreement and, in consequence, there is, or there is likely to be, a breach of the requirement imposed by section 25B(1),
  - (b) there is a dispute between any of the relevant persons about whether or how a police services agreement should be varied,
  - (c) there is a dispute between any of the relevant persons about the construction or operation of a police services agreement which is or has been in force in relation to the aerodrome, or
  - (d) there is a dispute between any of the relevant persons about the payments to be made, or the accommodation and facilities to be provided, under section 26(2C).
- (3) For the purposes of subsection (2)(c) or (d), it does not matter whether the aerodrome is a relevant aerodrome when the dispute arises.

### **29B Powers of Secretary of State in relation to disputes**

- (1) This section applies where—
  - (a) a dispute about the policing of a relevant aerodrome is referred to the Secretary of State under section 29A, or
  - (b) although no such reference is made, the Secretary of State thinks that there is a dispute about the policing of a relevant aerodrome.
- (2) The Secretary of State may require any relevant person to take such steps as the Secretary of State thinks may assist to resolve the dispute.
- (3) The Secretary of State may require any relevant person to make payments in respect of any costs incurred by another person (whether or not a relevant person) in connection with the taking of the steps mentioned in subsection (2).
- (4) The payments that may be required under subsection (3) include payments in respect of any costs incurred by the Secretary of State (including any costs attributable to the work of officials of the Secretary of State).
- (5) If the Secretary of State decides not to exercise the power in subsection (2), or if the Secretary of State exercises that power but the dispute is not resolved, the Secretary of State may determine the dispute.

### **29C Dispute resolution: procedure**

- (1) This section applies where the Secretary of State is determining a dispute about the policing of a relevant aerodrome.
- (2) The Secretary of State must give the relevant persons an opportunity to make representations.
- (3) If the dispute falls within section 29A(2)(a) or (b), the Secretary of State must have regard to the matters mentioned in section 25E(2).
- (4) Subject to subsections (2) and (3), the Secretary of State may decide the procedure for determining the dispute.

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- (5) In particular, the Secretary of State may require a relevant person to provide such information as the Secretary of State may specify to—
  - (a) the Secretary of State, or
  - (b) another relevant person.
- (6) Subsection (7) applies if, in determining a dispute about the policing of a relevant aerodrome, the Secretary of State—
  - (a) provides information to a relevant person, or
  - (b) requires a relevant person to provide information to another relevant person.
- (7) The Secretary of State may require the person to whom the information is provided not to disclose the information without the consent of the Secretary of State.

#### **29D Dispute resolution: powers**

- (1) This section applies where the Secretary of State has considered a dispute about the policing of a relevant aerodrome.
- (2) Where the dispute is within section 29A(2)(a), the Secretary of State—
  - (a) must make a declaration as to the terms which are to have effect as the terms of a police services agreement between the relevant persons, and
  - (b) may make an order as to costs.
- (3) Where a declaration is made under subsection (2)(a), references in this Part to a police services agreement are to have effect, so far as necessary, as references to the terms which the declaration provides are to have effect as the terms of a police services agreement.
- (4) Where the dispute is within section 29A(2)(b), the Secretary of State may—
  - (a) make a declaration varying the police services agreement;
  - (b) determine that the manager of the aerodrome is obliged to pay to the police authority for the relevant police area a specified sum or a sum to be assessed in a specified manner;
  - (c) determine that the police authority for the relevant police area is obliged to pay to the manager of the aerodrome a specified sum or a sum to be assessed in a specified manner;
  - (d) determine that the manager of the aerodrome is obliged to provide specified accommodation and facilities for use in connection with the policing provided for the aerodrome;
  - (e) make an order as to costs.
- (5) Where the dispute is within section 29A(2)(c), the Secretary of State may—
  - (a) make a declaration as to how any term of the police services agreement is to be construed;
  - (b) make a declaration as to how any term of the agreement is to be, or ought to have been, operated;
  - (c) make a declaration varying the agreement;

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- (d) determine that the manager of the aerodrome is obliged to pay to the police authority for the relevant police area a specified sum or a sum to be assessed in a specified manner;
  - (e) determine that the police authority for the relevant police area is obliged to pay to the manager of the aerodrome a specified sum or a sum to be assessed in a specified manner;
  - (f) determine that the manager of the aerodrome is obliged to provide specified accommodation and facilities for use in connection with the policing provided for the aerodrome;
  - (g) make an order as to costs.
- (6) Where the dispute is within section 29A(2)(d), the Secretary of State may—
- (a) determine that the manager of the aerodrome is obliged to pay to the police authority for the relevant police area a specified sum or a sum to be assessed in a specified manner;
  - (b) determine that the police authority for the relevant police area is obliged to pay to the manager of the aerodrome a specified sum or a sum to be assessed in a specified manner;
  - (c) determine that the manager of the aerodrome is obliged to provide specified accommodation and facilities for use in connection with the policing provided for the aerodrome;
  - (d) make an order as to costs.
- (7) In this section, “costs” means—
- (a) the legal or other costs incurred by the Secretary of State (including costs attributable to the work of officials of the Secretary of State), and
  - (b) the legal or other costs incurred by any of the relevant persons.

### **29E Dispute resolution: appeals and enforcement etc.**

- (1) A relevant person may appeal to the High Court against—
  - (a) any requirement imposed on the person under section 29B(3), or
  - (b) any declaration, determination or order of the Secretary of State under section 29D.
- (2) Any requirement imposed under section 29B(3) or 29C(7), and any declaration, determination or order made under section 29D may, with the permission of the High Court, be enforced as if it were a judgment of the High Court (and may, in particular, be enforced by the use of powers in relation to contempt of court).
- (3) In the application of this section to Scotland, references to the High Court are to be read as references to the Court of Session.”

#### **Commencement Information**

**I47** Sch. 6 para. 10 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I48** Sch. 6 para. 10 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

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#### Commencement Information

**I49** Sch. 6 para. 11 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I50** Sch. 6 para. 11 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 12 (1) Section 31 (interpretation etc.) is amended as follows.
- (2) In subsection (1)—
- (a) after the definition of aerodrome constabulary insert—
- “ “aerodrome security plan”, in relation to any aerodrome, has the same meaning as in Part 2A;”,
- (b) omit the definition of “designated airport”,
- (c) before the definition of “immigration officer” insert—
- “ “dispute about the policing of a relevant aerodrome” has the meaning given by section 29A(2);”,
- (d) in the definition of “police services agreement” for “section 29D(7)” substitute “ section 29D(3) ”,
- (e) after the definition of “police services agreement” insert—
- “ “relevant aerodrome” has the meaning given by section 25AA;”,
- (f) in the definition of “relevant persons”, for “section 25B(10)” substitute “ section 25B(4) ”, and
- (g) after the definitions of “relevant police area” and “relevant constable” insert—
- “ “security executive group” and “security measures” have the same meaning as in Part 2A;”.
- (3) After subsection (1) insert—
- “(1A) If an aerodrome ceases to be a relevant aerodrome, but subsequently becomes such an aerodrome again, this Part applies in relation to the aerodrome with the following modifications—
- (a) section 25B(2) applies as if the reference to the first aerodrome security plan were a reference to the first aerodrome security plan after the time when the aerodrome becomes a relevant aerodrome again,
- (b) section 25C applies as if the reference in subsection (2) to the first police services agreement were a reference to the first police services agreement after the time when the aerodrome becomes a relevant aerodrome again, and
- (c) section 26(2CA) applies as if the reference to the time when an aerodrome security plan is first required to be in force were a reference to the time when an aerodrome security plan is first required to be in force by virtue of the aerodrome becoming a relevant aerodrome again.”
- (4) For subsection (2) substitute—
- “(2) In the application of this Part to Scotland—

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- (a) references to the chief officer of police for the relevant police area shall be construed as references to the chief constable of the police force for that area, and
  - (b) references to the police authority for the relevant police area shall, where a joint police board is constituted for that area in accordance with an amalgamation scheme made under the Police (Scotland) Act 1967 (c. 77), be construed as references to that joint police board.”
- (5) In subsection (3)(a) for “the references in section 25(1) of this Act and” substitute “ the reference in ”.

**Commencement Information**

**I51** Sch. 6 para. 12 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I52** Sch. 6 para. 12 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

- 13 In section 39 (extension of Act outside United Kingdom), in subsection (3), after “provisions of” (in the words in brackets) insert “ Part 2A or ”.

**Commencement Information**

**I53** Sch. 6 para. 13 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I54** Sch. 6 para. 13 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

## PART 2

### TRANSITIONAL AND SAVING PROVISION

#### *Transitional provision for designated airports*

- 14 (1) This paragraph applies in relation to an aerodrome if, immediately before commencement, the aerodrome was a designated airport.
- (2) In relation to any time before a police services agreement is required to be in force in relation to the aerodrome by virtue of the amendments made by paragraph 5 of this Schedule, section 25B(2) to (6) and (8) to (10) of the 1982 Act (as it had effect immediately before commencement) continues to apply in relation to the aerodrome as if it continued to be a designated airport.
- (3) For the purposes of any police services agreement which is required to be in force by virtue of sub-paragraph (2), other than one which was entered into before commencement, section 25A of the 1982 Act (as it had effect immediately before commencement) continues to apply in relation to the aerodrome as if it continued to be a designated airport.
- (4) In the following provisions of this paragraph, a police services agreement which is required to be in force in relation to an aerodrome by virtue of sub-paragraph (2) is referred to as a designated airport police services agreement.
- (5) A designated airport police services agreement ceases to be in force immediately before a police services agreement is required to be in force in relation to the



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aerodrome by virtue of the amendments made by paragraph 5 of this Schedule (unless the designated airport police services agreement has previously ceased to be in force).

- (6) Except as provided by sub-paragraph (5), nothing in Part 1 of this Schedule affects the operation of a designated airport police services agreement or the application of the following provisions of the 1982 Act in relation to such an agreement—
- (a) section 26(2B);
  - (b) section 29A(1), (2)(a) and (3) and sections 29B to 29D.
- (7) So far as is necessary for the purposes of this paragraph, section 31 of the 1982 Act (as it had effect immediately before commencement) continues to have effect.
- (8) In this paragraph—
- (a) “commencement” means the commencement of section 80;
  - (b) “the 1982 Act” means the Aviation Security Act 1982 (c. 36).

#### Commencement Information

**I55** Sch. 6 para. 14 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I56** Sch. 6 para. 14 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

#### *Repeal of section 30 of the 1982 Act*

- 15 (1) The repeal of section 30 of the 1982 Act by paragraph 11 of this Schedule does not affect—
- (a) the validity of an order made under that section (“a section 30 order”) before commencement, or
  - (b) the operation of subsections (4) and (5) of that section in relation to such an order.
- (2) In relation to any time on or after commencement, any reference in a provision of a section 30 order to a designated airport is (if that provision is capable of having continuing effect) to be read as a reference to a relevant aerodrome.
- (3) In this paragraph “commencement” and “the 1982 Act” have the same meanings as in paragraph 14.

#### Commencement Information

**I57** Sch. 6 para. 15 in force at 29.1.2010 for E.W.S. by [S.I. 2010/125](#), [art. 2\(s\)](#)

**I58** Sch. 6 para. 15 in force at 1.4.2010 for N.I. by [S.I. 2010/507](#), [art. 5\(u\)](#)

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## SCHEDULE 7

Section 112

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 1

#### POLICE COLLABORATION

##### *Police Act 1996 (c. 16)*

1 The Police Act 1996 is amended as follows.

##### **Commencement Information**

**I59** Sch. 7 para. 1 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

2 In section 9A (general functions of the Commissioner of Police of the Metropolis) after subsection (1) insert—

“(1A) Subsection (1) is subject to any provision included in a police force collaboration agreement by virtue of section 23(4).”

##### **Commencement Information**

**I60** Sch. 7 para. 2 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

3 In section 10 (general functions of chief constables) after subsection (1) insert—

“(1A) Subsection (1) is subject to any provision included in a police force collaboration agreement by virtue of section 23(4).”

##### **Commencement Information**

**I61** Sch. 7 para. 3 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

4 In section 15(2) (direction and control of civilian employees) after “, subject to” insert “ any provision included in a police force collaboration agreement by virtue of section 23(4) and to ”.

##### **Commencement Information**

**I62** Sch. 7 para. 4 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

5 In section 18 (supply of goods and services) after subsection (2) insert—

“(3) A police authority may not enter into an agreement with another police authority under section 1 of the 1970 Act in respect of a matter which could be the subject of a police authority collaboration agreement.”

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**Commencement Information**

**I63** Sch. 7 para. 5 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

- 6 In section 27(2) (special constables) after “Subject to” insert “ provision included in a police force collaboration agreement by virtue of section 23(4), ”.

**Commencement Information**

**I64** Sch. 7 para. 6 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

- 7 In section 30 (jurisdiction)—
- (a) in subsection (3A) for “section 23 or 24” substitute “ section 24 ”, and
  - (b) after subsection (3A) insert—
- “(3B) Where a member of the British Transport Police Force is for the time being under the direction and control of the chief officer of another police force by virtue of a police force collaboration agreement under section 23, the member shall have all the powers and privileges of a member of that other force.
- (3C) In subsection (3B), “police force” and “chief officer” have the meanings given by section 23I.”

**Commencement Information**

**I65** Sch. 7 para. 7 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

*Railways and Transport Safety Act 2003 (c. 20)*

- 8 The Railways and Transport Safety Act 2003 is amended as follows.

**Commencement Information**

**I66** Sch. 7 para. 8 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

- 9 In section 24 (constables of the British Transport Police Force) after subsection (4) insert—
- “(5) Subsection (2) is subject to any provision included in a police force collaboration agreement by virtue of section 23(4) of the Police Act 1996.”

**Commencement Information**

**I67** Sch. 7 para. 9 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

- 10 In section 27 (employees of the British Transport Police Authority) after subsection (2) insert—
- “(3) Subsection (2) is subject to any provision included in a police force collaboration agreement by virtue of section 23(4) of the Police Act 1996.”

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**Commencement Information**

**I68** Sch. 7 para. 10 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

*Energy Act 2004 (c. 20)*

- 11 In section 55 of the Energy Act 2004 (members of the Civil Nuclear Constabulary) after subsection (4) insert—

“(5) Subsection (2) is subject to any provision included in a police force collaboration agreement by virtue of section 23(4) of the Police Act 1996.”

**Commencement Information**

**I69** Sch. 7 para. 11 in force at 12.3.2010 by [S.I. 2010/507](#), [art. 4\(c\)](#)

**PART 2**

POLICE AUTHORISATIONS IN RESPECT OF COMMUNICATIONS DATA

- 12 The Regulation of Investigatory Powers Act 2000 (c. 23) is amended as follows.

**Commencement Information**

**I70** Sch. 7 para. 12 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

- 13 In section 22(5) (conditions for granting authorisation or giving notice) after “subsection (3)” insert “, (3B) or (3F)”.

**Commencement Information**

**I71** Sch. 7 para. 13 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

- 14 In section 23 (form and duration of authorisations and notices) in subsections (1), (4), (5) and (6), after “section 22(3)” insert “, (3B) or (3F) .”

**Commencement Information**

**I72** Sch. 7 para. 14 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

- 15 In section 49(1)(c) (protected information coming into person's possession by virtue of authorisation or notice) after “section 22(3)” insert “, (3B) or (3F)”.

**Commencement Information**

**I73** Sch. 7 para. 15 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

- 16 In section 58(1)(g) (persons subject to duty of disclosure to Interception of Communications Commissioner) after “section 22(3)” insert “, (3B) or (3F)”.

*Status: Point in time view as at 01/03/2016.*

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**Commencement Information**

**I74** Sch. 7 para. 16 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

- 17 In section 68(7)(g) (persons subject to duty of disclosure to Tribunal) after “section 22(3)” insert “, (3B) or (3F)”.

**Commencement Information**

**I75** Sch. 7 para. 17 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(x\)](#)

**PART 3**

SEXUAL OFFENCES AND SEX ESTABLISHMENTS

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

- 18 (1) Section 32 of the Children and Young Persons Act 1969 (detention of absentees) is amended as follows.
- (2) In subsection (1A)—
- (a) after paragraph (a) insert—
- “*(aa)* from a place of safety to which he has been taken under paragraph 9(3) of the Schedule to the Street Offences Act 1959; or”, and
- (b) at the end of paragraph (b)(ii) insert—
- “*(iia)* to which he has been remanded under paragraph 10 of the Schedule to the Street Offences Act 1959; or”.
- (3) In subsection (1C)—
- (a) after paragraph (a) insert—
- “*(aa)* the person who made the arrangements under paragraph 9(3) of the Schedule to the Street Offences Act 1959;”,
- (b) in paragraph (b) for “that Act” substitute “ the Criminal Justice and Immigration Act 2008 ”, and
- (c) omit the word “or” at the end of paragraph (c) and insert—
- “*(ca)* the authority designated under paragraph 10(5) of the Schedule to the Street Offences Act 1959; or”.
- (4) In subsection (2A) for “(1A)(a) or (b)(i) or (ii)” substitute “ (1A)(a), (aa) or (b)(i), (ii) or (iia) ”.
- (5) The amendments made by this paragraph extend to England and Wales, Scotland and Northern Ireland only.

**Commencement Information**

**I76** Sch. 7 para. 18 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

*Status: Point in time view as at 01/03/2016.*

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*Bail Act 1976 (c. 63)*

- 19 In section 4 of the Bail Act 1976 (general right to bail of accused persons), in subsection (3) omit the word “or” at the end of paragraph (a) and after paragraph (b) insert “, or
- (c) the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act).”

**Commencement Information**

**I77** Sch. 7 para. 19 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

*Child Abduction Act 1984 (c. 37)*

- 20 In the Schedule to the Child Abduction Act 1984 (modifications of section 1 in certain cases) in paragraph 2—
- (a) omit the word “or” at the end of sub-paragraph (1)(a) and insert—
- “(aa) detained in a place of safety under paragraph 9(3) of the Schedule to the Street Offences Act 1959; or”
- , and
- (b) at the end of sub-paragraph (1)(b) insert “; or
- (ba) remanded to local authority accommodation under paragraph 10 of the Schedule to the Street Offences Act 1959.”

**Commencement Information**

**I78** Sch. 7 para. 20 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

*Children Act 1989 (c. 41)*

- 21 In section 21 of the Children Act 1989 (provision for accommodation for children in detention or on remand etc.), in subsection (2), omit the word “or” at the end of paragraph (c)(ii) and insert—
- “(ia) remanded to accommodation provided by or on behalf of a local authority by virtue of paragraph 10 of the Schedule to the Street Offences Act 1959 (breach of orders under section 1(2A) of that Act);”.

**Commencement Information**

**I79** Sch. 7 para. 21 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 22 In section 19 of the Powers of Criminal Courts (Sentencing) Act 2000 (making of referral orders: effect on other sentencing powers) in subsection (4) after paragraph (b) insert—
- “(ba) making an order under section 1(2A) of the Street Offences Act 1959 in respect of the offender;”.

*Status: Point in time view as at 01/03/2016.*

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#### Commencement Information

**180** Sch. 7 para. 22 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

#### *Licensing Act 2003 (c. 17)*

23 In Part 2 of Schedule 1 to the Licensing Act 2003 (activities which are not regulated entertainment) after paragraph 11 insert—

#### *“Sexual entertainment venues*

- 11A (1) The provision of relevant entertainment—
- (a) at premises for which a licence for a sexual entertainment venue is required (or the requirement has been waived) by virtue of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, and
  - (b) of a kind, and in a way, by virtue of which the premises qualify as such a venue,

is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

- (2) The provision of relevant entertainment—
- (a) at premises which are subject to a licence for a sexual entertainment venue but are not such a venue merely because of the operation of paragraph 2A(3)(b) of Schedule 3 to the Act of 1982, and
  - (b) of a kind, and in a way, by virtue of which the premises would qualify as such a venue but for the operation of that paragraph,
- is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

- (3) The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is an integral part of such provision of relevant entertainment as falls within sub-paragraph (1) or (2).

- (4) The provision of entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is for the purposes of such provision of entertainment as falls within sub-paragraph (1), (2) or (3).

- (5) In this paragraph—

“premises” has the meaning given by paragraph 2A(14) of Schedule 3 to the Act of 1982;

“relevant entertainment” has the meaning given by paragraph 2A(2) of that Schedule to that Act;

“sexual entertainment venue” has the meaning given by paragraph 2A(1) of that Schedule to that Act.”

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**Commencement Information**

- I81** Sch. 7 para. 23 in force at 6.4.2010 for E. by [S.I. 2010/722](#), **art. 3(c)** (with [arts. 4-12](#))  
**I82** Sch. 7 para. 23 in force for specified purposes at 8.5.2010 for W. by [S.I. 2010/999](#), **art. 3**  
**I83** Sch. 7 para. 23 in force at 8.5.2010 for W. by [S.I. 2010/1375](#), **art. 3(c)** (with transitional and savings provisions in [S.I. 2010/1395](#), **arts. 3, 10**)

*Sexual Offences Act 2003 (c. 42)*

- 24 In section 54 of the Sexual Offences Act 2003 (meaning of “gain”, “prostitute” and “prostitution”)—
- (a) in subsection (1) for “sections 52 and 53” substitute “ sections 52, 53 and 53A ”,
  - (b) in subsection (2) for “those sections” substitute “ sections 51A, 52, 53 and 53A ”,
  - (c) after subsection (2) insert—
 

“(3) In section 53A “payment” has the meaning given by section 51(3).”, and
  - (d) in the heading for “sections 52 and 53” substitute “ sections 51A to 53A ”.

**Commencement Information**

- I84** Sch. 7 para. 24 in force at 1.4.2010 by [S.I. 2010/507](#), **art. 5(v)**

- 25 (1) Schedule 5 to that Act (other offences in respect of which power to make sexual offences prevention order applies) is amended as follows.
- (2) After paragraph 60 insert—
 

“60ZA An offence under section 53 or 54 of the Regulation of Investigatory Powers Act 2000 (contravention of notice relating to encrypted information or tipping off in connection with such a notice).”
  - (3) After paragraph 106 insert—
 

“106A An offence under section 53 or 54 of the Regulation of Investigatory Powers Act 2000 (contravention of notice relating to encrypted information or tipping off in connection with such a notice).”
  - (4) After paragraph 168 insert—
 

“168ZA An offence under section 53 or 54 of the Regulation of Investigatory Powers Act 2000 (contravention of notice relating to encrypted information or tipping off in connection with such a notice).”

**Commencement Information**

- I85** Sch. 7 para. 25 in force at 25.1.2010 by [S.I. 2009/3096](#), **art. 3(x)**

*Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2))*

- 26 In Article 58 of the Sexual Offences (Northern Ireland) Order 2008—



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- (a) in paragraph (3) omit “In paragraph (2),”,
- (b) omit paragraph (6), and
- (c) in paragraph (7) for “61” substitute “ 60 ”.

**Commencement Information**

**I86** Sch. 7 para. 26 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(v\)](#)

**PART 4**

ALCOHOL MISUSE OTHER THAN MANDATORY LICENSING CONDITIONS

- 27 In the Police Reform Act 2002 (c. 30), in paragraph 6 of Schedule 4 and paragraph 5 of Schedule 5—
- (a) after “subsection (1)” insert “ or (1AA) ”, and
  - (b) for “subsections (1) and (4) (but not the reference in subsection (5) (arrest))” substitute “ subsections (1), (1AA) and (4) (but not the reference in subsection (1AB) (removal)) ”.

**Commencement Information**

**I87** Sch. 7 para. 27 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 28 (1) In the Police (Northern Ireland) Act 2003 (c. 6), paragraph 6 of Schedule 2A is amended as follows.
- (2) In sub-paragraph (1)—
- (a) after “subsection (1)” insert “ or (1AA) ”, and
  - (b) for “subsections (1) and (4) (but not the reference in subsection (5) (arrest))” substitute “ subsections (1), (1AA) and (4) (but not the reference in subsection (1AB) (removal)) ”.
- (3) In sub-paragraph (2) for “section 1(1)” substitute “ section 1(1AA) ”.

**Commencement Information**

**I88** Sch. 7 para. 28 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

**PART 5**

MANDATORY LICENSING CONDITIONS RELATING TO ALCOHOL

- 29 The Licensing Act 2003 (c. 17) is amended as follows.

**Commencement Information**

**I89** Sch. 7 para. 29 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 30 In section 24(2)(f) (form of premises licence) for “has effect” substitute “ is issued ”.

*Status: Point in time view as at 01/03/2016.*

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**Commencement Information**

**I90** Sch. 7 para. 30 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 31 In section 25A(6) (grant of premises licence: supply of alcohol from community premises) for “(4)” substitute “(5)”.

**Commencement Information**

**I91** Sch. 7 para. 31 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 32 In section 35(7) (determination of application to vary premises licence) for “19, 20 and 21” substitute “ 19 to 21 ”.

**Commencement Information**

**I92** Sch. 7 para. 32 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 33 In section 41D(5) (variation of premises licence: supply of alcohol from community premises) for “(4)” substitute “(5)”.

**Commencement Information**

**I93** Sch. 7 para. 33 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 34 In section 52(5) (determination of application for review of premises licence) for “19, 20 and 21” substitute “ 19 to 21 ”.

**Commencement Information**

**I94** Sch. 7 para. 34 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 35 In section 52A(3) (review: supply of alcohol from community premises) for “20 and 21” substitute “ 19(4) and 19A to 21 ”.

**Commencement Information**

**I95** Sch. 7 para. 35 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 36 In section 53C(5) (summary reviews of premises licences) for “19, 20 and 21” substitute “ 19 to 21 ”.

**Commencement Information**

**I96** Sch. 7 para. 36 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 37 (1) Section 57 (duty to keep and produce licence) is amended as follows.  
(2) In the heading after “licence” insert “ etc. ”.

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- (3) In subsection (2) for “is” substitute “ and a list of any relevant mandatory conditions applicable to the licence are ”.
- (4) In subsection (5)—
- (a) after “it” insert “ or a list of relevant mandatory conditions ”, and
  - (b) after “copy” insert “ or the list ”.
- (5) In subsection (7) after “of a premises licence” insert “ or a list of relevant mandatory conditions ”.
- (6) After subsection (10) insert—
- “(11) In this section “relevant mandatory conditions”, in relation to a premises licence, means conditions applicable to the licence by virtue of section 19(4) or 19A.”

**Commencement Information**

**I97** Sch. 7 para. 37 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 38 In section 72(2)(b) and (4)(a)(ii) (determination of application for club premises certificate) after “to (5)” insert “, 73A ”.

**Commencement Information**

**I98** Sch. 7 para. 38 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 39 In section 78(2)(e) (form of club premises certificate) for “has effect” substitute “ is issued ”.

**Commencement Information**

**I99** Sch. 7 para. 39 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 40 In section 85(7) (determination of application to vary club premises certificate)—
- (a) for “and 74” substitute “ to 74 ”, and
  - (b) for the words from “supply” to “premises” substitute “ alcohol ”.

**Commencement Information**

**I100** Sch. 7 para. 40 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 41 In section 88(5) (determination of application for review of club premises certificate)—
- (a) for “and 74” substitute “ to 74 ”, and
  - (b) for the words from “supply” to “premises” substitute “ alcohol ”.

**Commencement Information**

**I101** Sch. 7 para. 41 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

*Status: Point in time view as at 01/03/2016.*

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- 42 (1) Section 94 (duty to keep and produce certificate) is amended as follows.
- (2) In the heading after “certificate” insert “ etc. ”.
- (3) In subsection (2) for “is” substitute “ and a list of any relevant mandatory conditions applicable to the certificate are ”.
- (4) In subsection (7) after “copy)” insert “ or any list of relevant mandatory conditions ”.
- (5) In subsection (9) after “of a club premises certificate” insert “ or a list of relevant mandatory conditions ”.
- (6) After subsection (12) insert—
- “(13) In this section “relevant mandatory conditions”, in relation to a club premises certificate, means conditions applicable to the certificate by virtue of section 73A or 73B.”

**Commencement Information**

**I102** Sch. 7 para. 42 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 43 In section 167(7) (review of premises licence following closure order) for “19, 20 and 21” substitute “ 19 to 21 ”.

**Commencement Information**

**I103** Sch. 7 para. 43 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

- 44 (1) Section 197 (regulations and orders) is amended as follows.
- (2) After subsection (3)(a) (exceptions to negative procedure) insert—
- “(aa) an order under section 19A or 73B (orders in relation to mandatory licensing conditions),”.
- (3) In subsection (4) (affirmative procedure for orders) for “subsection (3)(b)” substitute “ subsection (3)(aa), (b), ”.

**Commencement Information**

**I104** Sch. 7 para. 44 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(f\)](#)

## PART 6

### PROCEEDS OF CRIME: CONFISCATION

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))*

- 45 (1) Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings for which legal aid may be given under Article 9) is amended as follows.
- (2) In paragraph 2A(1) (certain proceedings in Crown Court) after paragraph (c) insert—

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“(ca) proceedings which relate to a direction under section 215D;”.

(3) In paragraph 3 (proceedings in a court of summary jurisdiction)—

(a) in sub-paragraph (j) after “sections” insert “ 195M, ”, and

(b) after that sub-paragraph insert—

“(ja) proceedings for the discharge or variation of an order under section 195M of the Proceeds of Crime Act 2002;

(jb) proceedings which relate to a direction under section 215D of the Proceeds of Crime Act 2002;”.

#### Commencement Information

**I105** Sch. 7 para. 45 in force at 1.3.2016 by [S.I. 2016/147](#), [art. 3\(i\)](#)

#### *Bankruptcy (Scotland) Act 1985 (c. 66)*

46 The Bankruptcy (Scotland) Act 1985 is amended as follows.

#### Commencement Information

**I106** Sch. 7 para. 46 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\), 3\(a\)](#)

47 In section 7(1) (meaning of apparent insolvency)—

(a) in paragraph (b) after “restraint order” insert “, detained under or by virtue of a relevant detention power ”, and

(b) after the definition of “charging order” insert—

“ “relevant detention power” means section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P of the Proceeds of Crime Act 2002;”.

#### Commencement Information

**I107** Sch. 7 para. 47 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\), 3\(b\)](#)

**I108** Sch. 7 para. 47 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

48 (1) Section 31A (property subject to restraint order) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (b) for “section 50, 128 or 198” substitute “ section 50, 67A, 128, 131A, 198 or 215A ”, and

(b) after paragraph (c) insert “, and

(d) “(d) immediately after the discharge of the restraint order the property is not detained under or by virtue of section 44A, 47J, 122A, 127J, 193A or 195J of that Act.”

(3) For subsection (2) substitute—

“(2) The property vests in the trustee as part of the debtor’s estate.”

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#### Commencement Information

**I109** Sch. 7 para. 48 in force at 1.6.2015 for specified purposes by S.I. 2015/983, arts. 2(2)(e), 3(c)

**I110** Sch. 7 para. 48 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(i)

49 After section 31A insert—

#### “31AA Property released from detention

(1) This section applies where—

- (a) property is excluded from the debtor's estate by virtue of section 420(2)(b) of the Proceeds of Crime Act 2002 (property detained under certain provisions),
- (b) no order is in force in respect of the property under section 41, 50, 120, 128, 190 or 198 of that Act, and
- (c) the property is released.

(2) The property vests in the trustee as part of the debtor's estate.”

#### Commencement Information

**I111** Sch. 7 para. 49 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(d)

50 In section 31B(1)(a) (property in respect of which receivership or administration order is made) for “section 420(2)(b), (c) or (d)” substitute “ section 420(2)(c) ”.

#### Commencement Information

**I112** Sch. 7 para. 50 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(d)

51 After section 31B insert—

#### “31BA Property in respect of which realisation order made

(1) This section applies where—

- (a) property is excluded from the debtor's estate by virtue of section 420(2)(d) of the Proceeds of Crime Act 2002 (property in respect of which an order has been made authorising realisation of the property by an appropriate officer),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act,
- (c) the amount payable under the confiscation order is fully paid, and
- (d) any of the property remains in the hands of the appropriate officer.

(2) The property vests in the trustee as part of the debtor's estate.”

#### Commencement Information

**I113** Sch. 7 para. 51 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(d)

52 (1) Section 31C (property subject to certain orders where confiscation order discharged or quashed) is amended as follows.

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(2) In subsection (1)(a) for the words from “in respect” to “force” substitute “ excluded from debtor's estate ”.

(3) For subsection (2) substitute—

“(2) Any such property vests in the trustee as part of the debtor's estate if it is in the hands of—

- (a) a receiver appointed under Part 2 or 4 of that Act,
- (b) an administrator appointed under Part 3 of that Act,
- (c) an appropriate officer (within the meaning of section 41A, 120A or 190A of that Act).”

#### Commencement Information

**I114** Sch. 7 para. 52 in force at 1.6.2015 for specified purposes by S.I. 2015/983, arts. 2(2)(e), 3(e)

**I115** Sch. 7 para. 52 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(i)

#### *Insolvency Act 1986 (c. 45)*

53 The Insolvency Act 1986 is amended as follows.

#### Commencement Information

**I116** Sch. 7 para. 53 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(f)

54 (1) Section 306A (property subject to restraint order) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (b) for “section 50, 128 or 198” substitute “ section 50, 67A, 128, 131A, 198 or 215A ”, and
- (b) after paragraph (c) insert  
“, and
- (d) immediately after the discharge of the restraint order the property is not detained under or by virtue of section 44A, 47J, 122A, 127J, 193A or 195J of that Act.”

(3) For subsection (2) substitute—

“(2) The property vests in the trustee as part of the bankrupt's estate.”

#### Commencement Information

**I117** Sch. 7 para. 54 in force at 1.6.2015 for specified purposes by S.I. 2015/983, arts. 2(2)(e), 3(g)

**I118** Sch. 7 para. 54 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(i)

55 After section 306A insert—

#### “306AA Property released from detention

(1) This section applies where—

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- (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(b) of the Proceeds of Crime Act 2002 (property detained under certain provisions),
- (b) no order is in force in respect of the property under section 41, 50, 120, 128, 190 or 198 of that Act, and
- (c) the property is released.

(2) The property vests in the trustee as part of the bankrupt's estate.”

**Commencement Information**

**I119** Sch. 7 para. 55 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(h\)](#)

- 56 In section 306B(1)(a) (property in respect of which receivership or administration order is made) for “section 417(2)(b), (c) or (d)” substitute “ section 417(2)(c) ”.

**Commencement Information**

**I120** Sch. 7 para. 56 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(h\)](#)

- 57 After section 306B insert—

**“306BA Property in respect of which realisation order made**

(1) This section applies where—

- (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(d) of the Proceeds of Crime Act 2002 (property in respect of which an order has been made authorising realisation of the property by an appropriate officer),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act,
- (c) the amount payable under the confiscation order is fully paid, and
- (d) any of the property remains in the hands of the appropriate officer.

(2) The property vests in the trustee as part of the bankrupt's estate.”

**Commencement Information**

**I121** Sch. 7 para. 57 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(h\)](#)

- 58 (1) Section 306C (property subject to certain orders where confiscation order discharged or quashed) is amended as follows.

(2) In subsection (1)(a) for the words from “in respect” to “force” substitute “ excluded from bankrupt's estate ”.

(3) For subsection (2) substitute—

“(2) Any such property vests in the trustee as part of the bankrupt's estate if it is in the hands of—

- (a) a receiver appointed under Part 2 or 4 of that Act,
- (b) an administrator appointed under Part 3 of that Act,



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- (c) an appropriate officer (within the meaning of section 41A, 120A or 190A of that Act).”

**Commencement Information**

**I122** Sch. 7 para. 58 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), **arts. 2(2)(e), 3(i)**

**I123** Sch. 7 para. 58 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), **art. 3(i)**

*Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))*

- 59 The Insolvency (Northern Ireland) Order 1989 is amended as follows.

**Commencement Information**

**I124** Sch. 7 para. 59 in force at 1.6.2015 by [S.I. 2015/983](#), **arts. 2(2)(e), 3(j)**

- 60 (1) Article 279A (property subject to restraint order) is amended as follows.
- (2) In paragraph (1)—
- (a) in sub-paragraph (b) for “section 50, 128 or 198” substitute “ section 50, 67A, 128, 131A, 198 or 215A ”, and
- (b) after sub-paragraph (c) insert “, and
- (d) “(d) immediately after the discharge of the restraint order the property is not detained under or by virtue of section 44A, 47J, 122A, 127J, 193A or 195J of that Act.”
- (3) For paragraph (2) substitute—
- “(2) The property vests in the trustee as part of the bankrupt's estate.”

**Commencement Information**

**I125** Sch. 7 para. 60 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), **arts. 2(2)(e), 3(k)**

**I126** Sch. 7 para. 60 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), **art. 3(i)**

- 61 After Article 279A insert—

**Property released from detention**

- “279A(1) This Article applies where—
- (a) property is excluded from the bankrupt's estate by virtue of section 423(2)(b) of the Proceeds of Crime Act 2002 (property detained under certain provisions),
- (b) no order is in force in respect of the property under section 41, 50, 120, 128, 190 or 198 of that Act, and
- (c) the property is released.
- (2) The property vests in the trustee as part of the bankrupt's estate.”

*Status: Point in time view as at 01/03/2016.*

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#### Commencement Information

**I127** Sch. 7 para. 61 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(l)

- 62 In Article 279B(1)(a) (property in respect of which receivership or administration order is made) for “section 423(2)(b), (c) or (d)” substitute “ section 423(2)(c) ”.

#### Commencement Information

**I128** Sch. 7 para. 62 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(l)

- 63 After Article 279B insert—

#### Property in respect of which realisation order made

“279B(1) This Article applies where—

- (a) property is excluded from the bankrupt's estate by virtue of section 423(2)(d) of the Proceeds of Crime Act 2002 (property in respect of which an order has been made authorising realisation of the property by an appropriate officer),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act,
- (c) the amount payable under the confiscation order is fully paid, and
- (d) any of the property remains in the hands of the appropriate officer.

(2) The property vests in the trustee as part of the bankrupt's estate.”

#### Commencement Information

**I129** Sch. 7 para. 63 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(l)

- 64 (1) Article 279C (property subject to certain orders where confiscation order discharged or quashed) is amended as follows.

(2) In paragraph (1)(a) for the words from “in respect” to “force” substitute “ excluded from the bankrupt's estate ”.

(3) For paragraph (2) substitute—

“(2) Any such property vests in the trustee as part of the bankrupt's estate if it is in the hands of—

- (a) a receiver appointed under Part 2 or 4 of that Act,
- (b) an administrator appointed under Part 3 of that Act,
- (c) an appropriate officer (within the meaning of section 41A, 120A or 190A of that Act).”

#### Commencement Information

**I130** Sch. 7 para. 64 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(m)

**I131** Sch. 7 para. 64 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

*Status: Point in time view as at 01/03/2016.*

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*Access to Justice Act 1999 (c. 22)*

F32 65 .....

**Textual Amendments**

**F32** Sch. 7 para. 65 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

*Proceeds of Crime Act 2002 (c. 29)*

66 The Proceeds of Crime Act 2002 is amended as follows.

**Commencement Information**

**I132** Sch. 7 para. 66 in force at 22.11.2014 for specified purposes by [S.I. 2014/3101](#), [art. 2\(d\)](#)

**I133** Sch. 7 para. 66 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(n)

67 In section 69(1) (exercise of powers of court and receiver) for “67” substitute “67D”.

**Commencement Information**

**I134** Sch. 7 para. 67 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(n)

68 In section 85 (proceedings: England and Wales) for subsection (7) substitute—  
“(7) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of subsection (6).”

**Commencement Information**

**I135** Sch. 7 para. 68 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(n)

69 In section 87(2) (definition of confiscation order subject to appeal: England and Wales) omit the words from “; and for” to the end.

**Commencement Information**

**I136** Sch. 7 para. 69 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), 3(n)

70 After section 87 insert—

**“87A No further possibility of appeal**

(1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—

- (a) an appeal against a decision of a court, or
- (b) an appeal on which an order of a court could be varied or quashed.

*Status: Point in time view as at 01/03/2016.*

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(2) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.”

**Commencement Information**

**I137** Sch. 7 para. 70 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

71 In section 132(1) (exercise of powers of court and administrator) for “131” substitute “ 131D ”.

**Commencement Information**

**I138** Sch. 7 para. 71 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

72 In section 153(2) (definition of confiscation order subject to appeal: Scotland) omit the words from “; and for” to the end.

**Commencement Information**

**I139** Sch. 7 para. 72 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

73 After section 153 insert—

**“153A No further possibility of appeal**

(1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—

- (a) an appeal against (or review of) a decision of a court, or
- (b) an appeal on which an order of a court could be varied or quashed.

(2) Any power—

- (a) to allow an appeal (or review) out of time, or
  - (b) to extend the time for applying for leave to appeal,
- must be ignored.”

**Commencement Information**

**I140** Sch. 7 para. 73 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

74 In section 217(1) (exercise of powers of court and receiver) for “215” substitute “ 215D ”.

**Commencement Information**

**I141** Sch. 7 para. 74 in force at 1.3.2016 by [S.I. 2016/147](#), [art. 3\(i\)](#)

75 In section 233 (proceedings: Northern Ireland) for subsection (7) substitute—

*Status: Point in time view as at 01/03/2016.*

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“(7) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored for the purposes of subsection (6).”

**Commencement Information**

**I142** Sch. 7 para. 75 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

76 In section 235(2) (definition of confiscation order subject to appeal: Northern Ireland) omit the words from “; and for” to the end.

**Commencement Information**

**I143** Sch. 7 para. 76 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

77 After section 235 insert—

**“235A No further possibility of appeal**

(1) The following rule applies for the purposes of construing any provision of this Part which refers to there being no further possibility of—

- (a) an appeal against a decision of a court, or
- (b) an appeal on which an order of a court could be varied or quashed.

(2) Any power to extend the time for giving notice of application for leave to appeal, or for applying for leave to appeal, must be ignored.”

**Commencement Information**

**I144** Sch. 7 para. 77 in force at 1.6.2015 by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(n\)](#)

78 In section 308 (recoverable property: exceptions) after subsection (8) insert—

“(8A) Property is not recoverable while it is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P.”

**Commencement Information**

**I145** Sch. 7 para. 78 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(o\)](#)

**I146** Sch. 7 para. 78 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

79 In section 417 (property excluded from estate of person adjudged bankrupt in England and Wales) for subsection (2) substitute—

“(2) The following property is excluded from the person's estate for the purposes of Part 9 of the 1986 Act—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging the person bankrupt;

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

#### Commencement Information

**I147** Sch. 7 para. 79 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(p\)](#)

**I148** Sch. 7 para. 79 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

80 (1) Section 418 (restriction of powers where person adjudged bankrupt in England and Wales) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
- (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

(3) In subsection (3) after paragraph (e) insert—

- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

#### Commencement Information

**I149** Sch. 7 para. 80 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(q\)](#)

**I150** Sch. 7 para. 80 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

81 (1) Section 419 (tainted gifts by person adjudged bankrupt in England and Wales) is amended as follows.

(2) In subsection (2)—

- (a) after paragraph (a) insert—
  - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,”, and
- (b) after paragraph (b) insert “, or
- (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”

(3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I151** Sch. 7 para. 81 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(r\)](#)

**I152** Sch. 7 para. 81 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

82 In section 420 (property excluded from the debtor’s estate where sequestration in Scotland) for subsection (2) substitute—

“(2) The following property is excluded from the debtor's estate for the purposes of the 1985 Act—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the award of sequestration;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

#### Commencement Information

**I153** Sch. 7 para. 82 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(s\)](#)

**I154** Sch. 7 para. 82 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

83 (1) Section 421 (restriction of powers where award of sequestration) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
- (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

(3) In subsection (3) after paragraph (e) insert—

- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

#### Commencement Information

**I155** Sch. 7 para. 83 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(t\)](#)

**I156** Sch. 7 para. 83 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

84 (1) Section 422 (tainted gifts by person whose estate is sequestrated in Scotland) is amended as follows.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (2)—

(a) after paragraph (a) insert—

“(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P”, and

(b) after paragraph (b) insert “, or

(c) there is in force in respect of such property an order under section 67A, 131A or 215A.”

(3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

#### Commencement Information

**I157** Sch. 7 para. 84 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(u\)](#)

**I158** Sch. 7 para. 84 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

85 In section 423 (property excluded from estate of person adjudged bankrupt in Northern Ireland) for subsection (2) substitute—

“(2) The following property is excluded from the person's estate for the purposes of Part 9 of the 1989 Order—

- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging the person bankrupt;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”

#### Commencement Information

**I159** Sch. 7 para. 85 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(v\)](#)

**I160** Sch. 7 para. 85 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

86 (1) Section 424 (restriction of powers where person adjudged bankrupt in Northern Ireland) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,
- (b) in paragraph (b) after “Schedule 3” insert “ , the powers conferred on an appropriate officer by section 127C ”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C ”.

(3) In subsection (3) after paragraph (e) insert—



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*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- “(f) in a case where a confiscation order has been made under section 6, 92 or 156 of this Act, any sums remaining in the hands of an appropriate officer after the amount required to be paid under the confiscation order has been fully paid under section 67D(2)(c), 131D(2)(c) or 215D(2)(c).”

#### Commencement Information

**I161** Sch. 7 para. 86 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(w\)](#)

**I162** Sch. 7 para. 86 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

- 87 (1) Section 425 (tainted gifts by person who is adjudged bankrupt in Northern Ireland) is amended as follows.
- (2) In subsection (2)—
- (a) after paragraph (a) insert—
- “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P”, and
- (b) after paragraph (b) insert “, or
- (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”
- (3) In subsection (3) for “subsection (2)(a) or (b)” substitute “ subsection (2)(a), (b) or (c) ”.

#### Commencement Information

**I163** Sch. 7 para. 87 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(x\)](#)

**I164** Sch. 7 para. 87 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

- 88 (1) Section 426 (winding up under the Insolvency Act 1986) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) If an order for the winding up of a company is made or it passes a resolution for its voluntary winding up, the functions of the liquidator (or any provisional liquidator) are not exercisable in relation to the following property—
- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
- (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
- (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
- (d) property in respect of which an order under section 67A, 131A or 215A is in force.”
- (3) In subsection (5)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) in paragraph (b) after “Schedule 3” insert “, the powers conferred on an appropriate officer by section 127C”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C”.

#### Commencement Information

**I165** Sch. 7 para. 88 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(y\)](#)

**I166** Sch. 7 para. 88 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

- 89 (1) Section 427 (tainted gifts by company: winding up in England and Wales or Scotland) is amended as follows.
- (2) In subsection (3)—
- (a) after paragraph (a) insert—
    - “(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P”, and
  - (b) after paragraph (b) insert “, or
  - (c) there is in force in respect of such property an order under section 67A, 131A or 215A.”
- (3) In subsection (4) for “subsection (3)(a) or (b)” substitute “ subsection (3)(a), (b) or (c) ”.

#### Commencement Information

**I167** Sch. 7 para. 89 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(z\)](#)

**I168** Sch. 7 para. 89 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

- 90 (1) Section 428 (winding up under the Insolvency (Northern Ireland) Order 1989) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) If an order for the winding up of a company is made or it passes a resolution for its voluntary winding up, the functions of the liquidator (or any provisional liquidator) are not exercisable in relation to the following property—
- (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
  - (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
  - (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
  - (d) property in respect of which an order under section 67A, 131A or 215A is in force.”
- (3) In subsection (5)—
- (a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) in paragraph (b) after “Schedule 3” insert “, the powers conferred on an appropriate officer by section 127C”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C”.

#### Commencement Information

**I169** Sch. 7 para. 90 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(aa\)](#)

**I170** Sch. 7 para. 90 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

91 (1) Section 429 (tainted gifts by company: winding up in Northern Ireland) is amended as follows.

(2) In subsection (3)—

(a) after paragraph (a) insert—

“(aa) such property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P”, and

(b) after paragraph (b) insert “, or

(c) there is in force in respect of such property an order under section 67A, 131A or 215A.”

(3) In subsection (4) for “subsection (3)(a) or (b)” substitute “ subsection (3)(a), (b) or (c) ”.

#### Commencement Information

**I171** Sch. 7 para. 91 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(bb\)](#)

**I172** Sch. 7 para. 91 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

92 (1) Section 430 (restriction of powers where company holds property subject to floating charge) is amended as follows.

(2) For subsection (2) substitute—

“(2) If a company holds property which is subject to a floating charge, and a receiver has been appointed by or on the application of the holder of the charge, the functions of the receiver are not exercisable in relation to the following property—

(a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;

(b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;

(c) property in respect of which an order under section 50, 128(3) or 198 is in force;

(d) property in respect of which an order under section 67A, 131A or 215A is in force.”

(3) In subsection (5)—

(a) in paragraph (a) for “67” substitute “ 67B, the powers conferred on an appropriate officer by section 47C ”,

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) in paragraph (b) after “Schedule 3” insert “, the powers conferred on an appropriate officer by section 127C”, and
- (c) in paragraph (c) for “215” substitute “ 215B, the powers conferred on an appropriate officer by section 195C”.

**Commencement Information**

**I173** Sch. 7 para. 92 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(cc\)](#)

**I174** Sch. 7 para. 92 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

93 (1) Section 432 (insolvency practitioners) is amended as follows.

(2) After subsection (6) insert—

“(6A) Subsection (7) also applies if—

- (a) property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,
- (b) a person acting as an insolvency practitioner incurs expenses which are not ones in respect of the detained property, and
- (c) the expenses are ones which (but for the effect of the detention of the property) might have been met by taking possession of and realising the property.”

(3) For subsection (7) substitute—

“(7) Whether or not the insolvency practitioner has seized or disposed of any property, the insolvency practitioner is entitled to payment of the expenses under—

- (a) section 54(2), 55(3) or 67D(2) if the restraint order was made under section 41 or (as the case may be) the property was detained under or by virtue of section 44A, 47J, 47K, 47M or 47P,
- (b) section 130(3), 131(3) or 131D(2) if the restraint order was made under section 120 or (as the case may be) the property was detained under or by virtue of section 122A, 127J, 127K, 127M or 127P, and
- (c) section 202(2), 203(3) or 215D(2) if the restraint order was made under section 190 or (as the case may be) the property was detained under or by virtue of section 193A, 195J, 195K, 195M or 195P.”

**Commencement Information**

**I175** Sch. 7 para. 93 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(dd\)](#)

**I176** Sch. 7 para. 93 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(i\)](#)

94 In section 453A(5) (offences in relation to financial investigators) for paragraph (a) substitute—

“(a) sections 47C to 47F or 195C to 195F (powers to seize and search for realisable property);”.

**Commencement Information**

**I177** Sch. 7 para. 94 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [arts. 2\(2\)\(e\)](#), [3\(ee\)](#)

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**I178** Sch. 7 para. 94 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), **art. 3(i)**

- 95 (1) Section 459 (orders and regulations) is amended as follows.
- (2) In subsection (4)(a) (orders not subject to negative procedure: Secretary of State etc.)
- 
- (a) after “section” insert “ 41A(5), 47S(4), ”, and
- (b) after “75(7) or (8),” insert “ 190A(5), 195S(4), ”.
- (3) In subsection (6)(a) (orders subject to affirmative procedure: Secretary of State etc.)
- 
- (a) after “section” insert “ 41A(5), 47S(4), ”, and
- (b) after “75(7) or (8),” insert “ 190A(5), 195S(4), ”.

#### **Commencement Information**

**I179** Sch. 7 para. 95 in force at 22.11.2014 by [S.I. 2014/3101](#), **art. 2(e)**

*Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))*

- 96 (1) Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (civil legal services: excluded services) is amended as follows.
- (2) In paragraph 2(d) (proceedings in a court of summary jurisdiction in which representation may be funded)—
- (a) in paragraph (xii) after “section” insert “ 195M, ”, and
- (b) after paragraph (xiii) insert—
- “(xiv) for the discharge or variation of an order under section 195M of the Proceeds of Crime Act 2002, or
- (xv) which relate to a direction under section 215D of the Proceeds of Crime Act 2002,”.
- (3) In paragraph 3 (certain Crown Court proceedings in which representation may be funded) after paragraph (c) insert—
- “(ca) proceedings which relate to a direction under section 215D;”.

#### **Commencement Information**

**I180** Sch. 7 para. 96 in force at 1.3.2016 by [S.I. 2016/147](#), **art. 3(i)**

## **PART 7**

### **PROCEEDS OF CRIME: FORFEITURE OF DETAINED CASH**

*Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))*

- 97 In paragraph 3(j) of Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings in a court of summary jurisdiction in respect of which legal aid may be given under Article 9) after “295, 297,” insert “ 297E, 297F, ”.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

**I181** Sch. 7 para. 97 in force at 1.3.2016 by S.I. 2016/147, art. 3(j)

*Access to Justice Act 1999 (c. 22)*

F3398 .....

**Textual Amendments**

**F33** Sch. 7 para. 98 repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 Pt. 2](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

*Proceeds of Crime Act 2002 (c. 29)*

99 The Proceeds of Crime Act 2002 is amended as follows.

**Commencement Information**

**I182** Sch. 7 para. 99 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

100 In section 7 (recoverable amount for the purpose of confiscation orders: England and Wales) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—

- (a) any property in respect of which a recovery order is in force under section 266,
- (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and
- (c) any property in respect of which a forfeiture order is in force under section 298(2).”

**Commencement Information**

**I183** Sch. 7 para. 100 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

101 (1) Section 82 (definition of “free property”) is amended as follows.

(2) At the beginning insert—

“(1) Property is free unless it falls within subsection (2) or (3).”

(3) The existing text becomes subsection (2).

(4) In that subsection for “Property is free unless” substitute “Property falls within this subsection if”.

(5) At the end insert—

“(3) Property falls within this subsection if—

*Status: Point in time view as at 01/03/2016.*

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- (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
- (b) it is detained under section 297C or 297D.”

**Commencement Information**

**I184** Sch. 7 para. 101 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 102 In section 93 (recoverable amount for the purpose of confiscation orders: Scotland) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—
- (a) any property in respect of which a recovery order is in force under section 266,
  - (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and
  - (c) any property in respect of which a forfeiture order is in force under section 298(2).”

**Commencement Information**

**I185** Sch. 7 para. 102 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 103 (1) Section 148 (definition of “free property”) is amended as follows.
- (2) At the beginning insert—

“(1) Property is free unless it falls within subsection (2) or (3).”
  - (3) The existing text becomes subsection (2).
  - (4) In that subsection for “Property is free unless” substitute “ Property falls within this subsection if”.
  - (5) At the end insert—

“(3) Property falls within this subsection if—

    - (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
    - (b) it is detained under section 297C or 297D.”

**Commencement Information**

**I186** Sch. 7 para. 103 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 104 In section 157 (recoverable amount for the purpose of confiscation orders: Northern Ireland) in subsection (4) for the words from “any property” to the end substitute “the following must be ignored—
- (a) any property in respect of which a recovery order is in force under section 266,
  - (b) any property which has been forfeited in pursuance of a forfeiture notice under section 297A, and

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- (c) any property in respect of which a forfeiture order is in force under section 298(2).”

**Commencement Information**

**I187** Sch. 7 para. 104 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 105 (1) Section 230 (definition of “free property”) is amended as follows.
- (2) At the beginning insert—
- “(1) Property is free unless it falls within subsection (2) or (3).”
- (3) The existing text becomes subsection (2).
- (4) In that subsection for “Property is free unless” substitute “ Property falls within this subsection if ”.
- (5) At the end insert—
- “(3) Property falls within this subsection if—
- (a) it has been forfeited in pursuance of a forfeiture notice under section 297A;
- (b) it is detained under section 297C or 297D.”

**Commencement Information**

**I188** Sch. 7 para. 105 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 106 In section 278 (limit on recovery by recovery order) after subsection (6) insert—
- “(6A) If—
- (a) recoverable property is forfeited in pursuance of a forfeiture notice under section 297A, and
- (b) the enforcement authority subsequently seeks a recovery order in respect of related property,
- the forfeiture notice is to be treated for the purposes of this section as if it were a recovery order obtained by the enforcement authority in respect of the forfeited property.”

**Commencement Information**

**I189** Sch. 7 para. 106 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 107 In section 300(1) (application of cash forfeited by court under section 298) for “this Chapter” substitute “ section 298 ”.

**Commencement Information**

**I190** Sch. 7 para. 107 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(ff)

- 108 (1) Section 301 (victims and other owners: application for release of cash) is amended as follows.



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(2) In subsection (4)(c) for the words from “the conditions” to “that section” substitute “the release condition is met”.

(3) After subsection (4) insert—

“(5) The release condition is met—

- (a) in relation to cash detained under section 295, if the conditions in that section for the detention of the cash are no longer met,
- (b) in relation to cash detained under section 297C or 297D, if the cash is not recoverable property and is not intended by a person for use in unlawful conduct, and
- (c) in relation to cash detained under 298, if the court or sheriff decides not to make an order under that section in relation to the cash.”

#### Commencement Information

**1191** Sch. 7 para. 108 in force at 1.6.2015 for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(ff)

**1192** Sch. 7 para. 108 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

109 (1) Section 302 (compensation) is amended as follows.

(2) For subsection (1) substitute—

“(1) If cash detained under this Chapter was seized in England, Wales or Northern Ireland the person to whom the cash belongs or from whom it was seized may make an application to a magistrates' court for compensation if—

- (a) the cash is not forfeited in pursuance of a forfeiture notice, and
- (b) no forfeiture order is made in respect of the cash.

(1A) If cash detained under this Chapter was seized in Scotland the person to whom the cash belongs or from whom it was seized may make an application to the sheriff for compensation if no forfeiture order is made in respect of the cash.”

(3) After subsection (7B) insert—

“(7C) If any cash is detained under this Chapter and part only of the cash is forfeited in pursuance of a forfeiture notice, this section has effect in relation to the other part.”

#### Commencement Information

**1193** Sch. 7 para. 109 in force at 1.6.2015 for specified purposes for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(gg)

**1194** Sch. 7 para. 109 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

110 In section 341(3A)(a) and (b) (definition of detained cash investigation) for “section 295” substitute “that Chapter”.

#### Commencement Information

**1195** Sch. 7 para. 110 in force at 1.6.2015 for E.W.S. by S.I. 2015/983, arts. 2(2)(e), 3(hh)

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**I196** Sch. 7 para. 110 in force at 1.3.2016 in so far as not already in force by S.I. 2016/147, art. 3(j)

111 In paragraph 3(3) of Schedule 10 (capital gains tax) after “under section” insert “297C or”.

**Commencement Information**

**I197** Sch. 7 para. 111 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh)

*Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))*

112 In paragraph 2(d)(xii) of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (civil legal services: proceedings in a court of summary jurisdiction in which representation may be funded) after “295, 297,” insert “297E, 297F,”.

**Commencement Information**

**I198** Sch. 7 para. 112 in force at 1.3.2016 by S.I. 2016/147, art. 3(j)

*UK Borders Act 2007 (c. 30)*

113 In section 24(2)(c) of the UK Borders Act 2007 (application of Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 in relation to immigration officers) for “section 290” substitute “sections 290 and 297A”.

**Commencement Information**

**I199** Sch. 7 para. 113 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh)

## PART 8

### PROCEEDS OF CRIME: DETAINED CASH INVESTIGATIONS

114 In section 18 of the Civil Jurisdiction and Judgments Act 1982 (c. 27) (enforcement of UK judgments in other parts of UK), in subsection (2)—

- (a) in paragraph (f)—
  - (i) omit “or a detained cash investigation”, and
  - (ii) for “meanings” substitute “meaning”, and
- (b) after paragraph (f) insert—
  - “(g) an order made, or a warrant issued, under Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 for the purposes of a detained cash investigation within the meaning given by section 341 of that Act;”.

**Commencement Information**

**I200** Sch. 7 para. 114 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh) (with art. 6(1))

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- 115 In section 64 of the Criminal Justice and Police Act 2001 (c. 16) (meaning of “appropriate judicial authority”), in subsection (3)(aa), omit “or a detained cash investigation”.

**Commencement Information**

**I201** Sch. 7 para. 115 in force at 1.6.2015 by S.I. 2015/983, arts. 2(2)(e), 3(hh) (with art. 6(2))

PROSPECTIVE

F34 116

**Textual Amendments**

**F34** Sch. 7 para. 116 omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), Sch. 48 para. 24

**PART 9**

EXTRADITION

- 117 In section 185(5) of the Extradition Act 2003 (c. 41) (limit on fees and expenses) after “amount” insert “ allowed ”.

**Commencement Information**

**I202** Sch. 7 para. 117 in force at 25.1.2010 by S.I. 2009/3096, art. 3(x)

**PART 10**

CRIMINAL RECORDS

- 118 In section 119 of the Police Act 1997 (c. 50) (sources of information) for subsection (1A) substitute—
- “(1A) The Secretary of State may require the Independent Safeguarding Authority to make available specified information for the purpose of enabling the Secretary of State to carry out functions under this Part in relation to—
- (a) any application for a certificate or for registration; or
  - (b) the determination of whether a person should continue to be a registered person.”

**Commencement Information**

**I203** Sch. 7 para. 118 in force at 10.9.2012 for E.W.N.I. by S.I. 2012/2235, art. 2(e)

*Status: Point in time view as at 01/03/2016.*

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PROSPECTIVE

## PART 11

### BORDER CONTROLS

- 119 (1) Section 141 of Criminal Justice Act 1988 (c. 33) (offensive weapons) is amended as follows.
- (2) Omit subsection (4) (prohibition on importation).
- (3) In subsections (5) and (8) omit—
- (a) paragraph (b), and
  - (b) the “or” immediately before that paragraph.
- (4) In subsection (11A), as inserted by the Violent Crime Reduction Act 2006 (c. 38), omit—
- (a) paragraph (b), and
  - (b) the “or” immediately before that paragraph.
- (5) In subsection (11A), as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17), omit “Subject to subsection (11C),”.
- (6) In subsection (11D), as inserted by the Violent Crime Reduction Act 2006—
- (a) in paragraph (a) omit “or from the prohibition in subsection (4) above”, and
  - (b) in paragraph (b) omit “, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,”.
- (7) Omit subsections (11C) to (11E) as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007.
- 120 In section 289(8) of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings: intimate searches) after “1979 (c. 2))” insert “ but see section 164A of that Act (additional Revenue and Customs powers to search for cash) ”.

## PART 12

### FOOTBALL SPECTATORS

- 121 In section 33 of the Serious Organised Crime and Police Act 2005 (c. 15) (disclosure of information by SOCA), at the end of subsection (2)(e) insert “or sections 104 to 106 of the Policing and Crime Act 2009”.

#### Commencement Information

**I204** Sch. 7 para. 121 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(w\)](#)

*Status: Point in time view as at 01/03/2016.*

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## PART 13

### REDUNDANT PROVISIONS ETC

#### *Proof of intention to supply a controlled drug*

- 122 (1) The Misuse of Drugs Act 1971 (c. 38) is amended as follows.
- (2) In section 5 (restriction of possession of controlled drugs) omit subsections (4A) to (4C).
- (3) In section 31 (general provisions as to regulations)—
- (a) in subsection (2) omit “, except as provided by subsection (2A),”, and
  - (b) omit subsections (2A) and (4A).
- (4) In section 38 (special provisions as to Northern Ireland) omit subsection (1A).

#### *Staff custody officers*

- 123 (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 30CA (bail under section 30A: variation of conditions by police), in subsection (5) omit the following—
- (a) in paragraph (a)—
    - (i) “, or a person designated as a staff custody officer under section 38 of the Police Reform Act 2002,”, and
    - (ii) “or officer”, and
  - (b) in paragraph (b), “or officer”.
- (3) In section 36 (custody officers at police stations)—
- (a) for subsection (3) substitute—

“(3) No officer may be appointed a custody officer unless the officer is of at least the rank of sergeant.”,
  - (b) in subsection (5) for “an individual” substitute “an officer”,
  - (c) in subsection (7)—
    - (i) in paragraph (a), omit “or a staff custody officer” and for “such a person” substitute “such an officer”, and
    - (ii) in paragraph (b), for “such person” substitute “such officer”,
  - (d) in subsection (8) for “a person” substitute “an officer”, and
  - (e) omit subsection (11).
- (4) In section 39 (responsibilities in relation to persons detained)—
- (a) in subsection (6)(a) omit “(or, if the custody officer is a staff custody officer, any police officer or any police employee)”, and
  - (b) omit subsection (7).
- (5) In section 55 (intimate searches), in the definition of “appropriate officer” in subsection (17), omit paragraph (c) and the “or” immediately before it.

- 124 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S. I. 1989/1341 (N. I. 12)) is amended as follows.
- (2) In Article 37 (custody officers at police stations)—

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- (a) for paragraph (3) substitute—
    - “(3) No police officer may be appointed a custody officer unless the officer is of at least the rank of sergeant.”,
  - (b) in paragraph (5) for “an individual” substitute “an officer”,
  - (c) in paragraph (7)—
    - (i) in sub-paragraph (a) omit “or a staff custody officer” and for “such a person” substitute “such an officer”, and
    - (ii) in sub-paragraph (b) for “such person” substitute “such officer”,
  - (d) in paragraph (8) for “a person” substitute “an officer”, and
  - (e) omit paragraph (11).
- (3) In Article 40 (responsibilities in relation to persons detained)—
- (a) in paragraph (6)(a) omit “(or, if the custody officer is a staff custody officer, any police officer or any member of the police support staff)”, and
  - (b) omit paragraph (7).
- 125 (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In section 38 (police powers for police authority employees) omit the following—
- (a) subsection (2)(e),
  - (b) subsection (6)(e), and
  - (c) subsection (10).
- (3) In Schedule 4 (powers exercisable by police civilians)—
- (a) omit Part 4A, and
  - (b) in paragraph 36(2A), for “Parts 2 and 4A” substitute “Part 2”.
- 126 (1) The Police (Northern Ireland) Act 2003 (c. 6) is amended as follows.
- (2) In section 30 (police powers for designated police support staff), omit the following—
- (a) subsection (1)(d),
  - (b) subsection (6)(d), and
  - (c) subsection (11).
- (3) In Schedule 2 (powers exercisable by designated persons) omit Part 3A.
- Secretary of State's approval of devices for taking fingerprints and samples*
- 127 (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) In section 61 (fingerprinting in England and Wales) omit subsection (8A).
- (3) In section 63 (non-intimate samples in England and Wales) omit subsection (9A) (inserted by the Criminal Justice and Police Act 2001 (c. 16)).
- 128 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 (S. I. 1989/1341 (N. I. 12)) is amended as follows.
- (2) In Article 61 (fingerprinting in Northern Ireland) omit paragraph (8B).
- (3) In Article 63 (non-intimate samples in Northern Ireland) omit paragraph (10A).

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*Additional time limits for prosecuting persons under 18*

129 Omit section 22A of the Prosecution of Offences Act 1985 (c. 23).

*Access to driver licensing records*

130 Omit section 105(2)(b) of the Road Traffic Act 1988 (c. 52) (access to particulars of disqualified drivers).

131 Omit section 36 of the Vehicles (Crime) Act 2001 (c. 3) (access to motor insurance information).

132 Omit Article 81 of the Road Traffic (Northern Ireland) Order 2007 (S. I. 2007/916 (N. I. 10)) (disclosure of information about insurance status of vehicles).

*Minor amendment*

133 In section 40B(7) of the Police Act 1996 (c. 16) (report about direction given by Secretary of State), for “subsection (7)” substitute “subsection (6)”.

*Local child curfew schemes*

134 (1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) Omit sections 14 and 15 (which make provision for local child curfew schemes and for the enforcement of curfew notices).

(3) In section 16 (removal of truants to designated premises), in subsection (5), in the definition of “public place”, for “section 14 above” substitute “Part 2 of the Public Order Act 1986”.

SCHEDULE 8

Section 112

REPEALS AND REVOCATIONS

PART 1

APPOINTMENT OF SENIOR POLICE OFFICERS

**Commencement Information**

1205 Sch. 8 Pt. 1 in force at 19.4.2010 by S.I. 2010/999, art. 2(d)

<i>Reference</i>	<i>Extent of repeal</i>
Police Act 1996	Section 54(3A).
Police Reform Act 2002 (c. 30)	Section 84.

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## PART 2

### SEXUAL OFFENCES

#### Commencement Information

**I206** Sch. 8 Pt. 2 in force at 1.4.2010 by [S.I. 2010/507](#), [art. 5\(x\)](#)

<i>Short title and chapter</i>	<i>Extent of repeal or revocation</i>
Street Offences Act 1959 (c. 57)	Section 2.
Children and Young Persons Act 1969 (c. 54)	In section 32(1C), the word “or” at the end of paragraph (c).
Bail Act 1976 (c. 63)	In section 4(3), the word “or” at the end of paragraph (a).
Magistrates' Courts Act 1980 (c. 43)	In Schedule 7, paragraph 30.
Child Abduction Act 1984 (c. 37)	In the Schedule, the word “or” at the end of paragraph 2(1)(a).
Sexual Offences Act 1985 (c. 44)	The whole Act.
Road Traffic (Consequential Provisions) Act 1988 (c. 54)	In Schedule 3, paragraph 29.
Children Act 1989 (c. 41)	In section 21(2), the word “or” at the end of paragraph (c)(ii).
Sexual Offences Act 2003 (c. 42)	Section 115(6). In Schedule 1, paragraphs 3 and 4.
Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2))	In Article 58— (a) in paragraph (3), “In paragraph (2),”, and (b) paragraph (6).
1	The repeal in section 32(1C) of the Children and Young Persons Act 1969 extends to England and Wales, Scotland and Northern Ireland only.
2	The repeal of section 115(6) of the Sexual Offences Act 2003 extends to England and Wales and Northern Ireland only.

## PART 3

### ALCOHOL MISUSE

#### Commencement Information

**I207** Sch. 8 Pt. 3 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(u\)](#)

<i>Reference</i>	<i>Extent of repeal</i>
Confiscation of Alcohol (Young Persons) Act 1997 (c. 33)	In section 1— (a) in subsection (1), “and to state his name and address”, (b) subsection (1A), and



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(c) in subsection (6), “and (1A)”.

Licensing Act 2003 (c. 17)

Section 155(1)(b) and (c).

## PART 4

### PROCEEDS OF CRIME: CONFISCATION

#### Commencement Information

**I208** Sch. 8 Pt. 4 in force at 1.6.2015 for specified purposes by [S.I. 2015/983](#), [art. 2\(2\)\(f\)](#)

**I209** Sch. 8 Pt. 4 in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(k\)](#)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Bankruptcy (Scotland) Act 1985 (c. 66)	In section 31A(1), the word “and” at the end of paragraph (b).
Insolvency Act 1986 (c. 45)	In section 306A(1), the word “and” at the end of paragraph (b).
Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))	In Article 279A(1), the word “and” at the end of subparagraph (b).
Proceeds of Crime Act 2002 (c. 29)	Section 45. In section 87(2), the words from “; and for” to the end. Section 126. In section 153(2), the words from “; and for” to the end. Section 194. In section 235(2), the words from “; and for” to the end. In section 419(2), the word “or” at the end of paragraph (a). In section 422(2), the word “or” at the end of paragraph (a). In section 427(3), the word “or” at the end of paragraph (a). In section 429(3), the word “or” at the end of paragraph (a).
Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10))	In Schedule 2, the word “or” at the end of paragraph 2(d) (xii).
Serious Crime Act 2007 (c. 27)	Section 78. In Schedule 8, paragraphs 150, 151 and 154.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Policing and Crime Act 2009 is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART 5

### PROCEEDS OF CRIME: DETAINED CASH INVESTIGATIONS

#### Commencement Information

- I210** Sch. 8 Pt. 5 in force at 22.11.2014 for specified purposes by [S.I. 2014/3101](#), [art. 3](#)
- I211** Sch. 8 Pt. 5 in force at 1.6.2015 for E.W.S. in so far as not already in force by [S.I. 2015/983](#), [art. 2\(2\)\(g\)](#) (with [art. 5](#))
- I212** [Sch. 8 Pt. 5](#) in force at 1.3.2016 in so far as not already in force by [S.I. 2016/147](#), [art. 3\(l\)](#) (with [art. 5](#))

<i>Reference</i>	<i>Extent of repeal</i>
Civil Jurisdiction and Judgments Act 1982 (c. 27)	In section 18(2)(f), “or a detained cash investigation”.
Criminal Justice and Police Act 2001 (c. 16)	In section 64(3)(aa), “or a detained cash investigation”.
Proceeds of Crime Act 2002	In section 343(3), “or a detained cash investigation”. In section 344(b), “or a detained cash investigation”. In section 350(5)(b), “or a detained cash investigation”. In section 351(8), “or a detained cash investigation”. In section 356— (a) in the title, “and detained cash”, (b) in subsection (1), “or detained cash investigations”, and (c) subsections (11) and (12).
Serious Crime Act 2007 (c. 27)	Section 80(5) and (6). In Schedule 8, paragraph 107(3). In Schedule 10, paragraphs 3 to 6, 9 and 26 to 28.

## PART 6

### EXTRADITION

#### Commencement Information

- I213** Sch. 8 Pt. 6 in force at 25.1.2010 by [S.I. 2009/3096](#), [art. 3\(y\)](#) (with [art. 4\(4\)](#))

<i>Reference</i>	<i>Extent of repeal</i>
Extradition Act 2003 (c. 41)	Sections 143 and 144. Section 151.

*Status: Point in time view as at 01/03/2016.*

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## PART 7

### SECURITY PLANNING AT AIRPORTS

#### Commencement Information

**I214** Sch. 8 Pt. 7 in force at 29.1.2010 by [S.I. 2010/125](#), [art. 2\(u\)](#)

<i>Reference</i>	<i>Extent of repeal</i>
Aviation Security Act 1982 (c. 36)	Section 25. Section 25A. In section 26(2A), the word “and” at the end of paragraph (a). Section 30. In section 31(1), the definition of designated airport.

## PART 8

### SAFEGUARDING VULNERABLE GROUPS AND CRIMINAL RECORDS

#### Commencement Information

**I215** Sch. 8 Pt. 8 in force at 29.1.2010 for specified purposes by [S.I. 2010/125](#), [art. 2\(u\)](#)

<i>Reference</i>	<i>Extent of repeal</i>
Police Act 1997 (c. 50)	In section 112(1)(a) “in the prescribed manner and form”. In section 113A(1)(a) “in the prescribed manner and form”. In section 113B(1)(a) “in the prescribed manner and form”. In section 114(1)(a) “in the prescribed form”. In section 116(1)(a) “in the prescribed form”.
Criminal Justice and Police Act 2001 (c. 16)	Section 134(2)(b).
Criminal Justice Act 2003 (c. 44)	In Schedule 35, paragraph 2.
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 14, paragraphs 4(a) and 8(a).
F35	F35
...	...

Note: the repeals made by this Part of this Schedule in the Police Act 1997 extend to England and Wales and Northern Ireland only.

*Status: Point in time view as at 01/03/2016.*

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Safeguarding Vulnerable Groups In Article 33—  
(Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11))

(a) in paragraphs (2) and (3), sub-paragraph (b) and the “, and” immediately before it, and  
(b) paragraphs (4) and (5).

Note: the repeals made by this Part of this Schedule in the Police Act 1997 extend to England and Wales and Northern Ireland only.

#### Textual Amendments

**F35** Entry in [Sch. 8 Pt. 8](#) 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)

## PART 9

### BORDER CONTROL POWERS IN RELATION TO CASH

#### Commencement Information

**I216** Sch. 8 Pt. 9 in force at 25.1.2010 by [S.I. 2010/52, art. 2](#)

<i>Reference</i>	<i>Extent of repeal</i>
Finance (No. 2) Act 1992 (c. 48)	In section 4— (a) in subsection (2), the “or” after “member States;” at the end of paragraph (b), and (b) in subsection (5), the “and” after “Economic Community;”.

PROSPECTIVE

## PART 10

### OFFENSIVE WEAPONS

<i>Reference</i>	<i>Extent of repeal</i>
Criminal Justice Act 1988 (c. 33)	Section 141(4). In section 141(5) and (8)— (a) paragraph (b), and (b) the “or” immediately before that paragraph. In section 141, in subsection (11A) as inserted by the Violent Crime Reduction Act 2006—

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- (a) paragraph (b), and
- (b) the “or” immediately before that paragraph.

In section 141, in subsection (11A) as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007, “Subject to subsection (11C),”.

In section 141, in subsection (11D) as inserted by the Violent Crime Reduction Act 2006—

- (a) in paragraph (a) “or from the prohibition in subsection (4) above”, and
- (b) in paragraph (b) “, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,”.

In section 141, subsections (11C) to (11E) as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007.

## PART 11

### FOOTBALL SPECTATORS

#### Commencement Information

I217 Sch. 8 Pt. 11 in force at 1.4.2010 by S.I. 2010/507, art. 5(x)

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Football Spectators Act 1989 (c. 37)	In section 14E(2), “in England and Wales”. In section 19(2B)(b), “if the match is outside the United Kingdom”.
Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)	In section 53(2)(a), “in Scotland”.
Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/1098)	Articles 1(5) and 5.

## PART 12

### MISUSE OF DRUGS ACT 1971: WARRANTS

<i>Reference</i>	<i>Extent of repeal</i>
Misuse of Drugs Act 1971 (c. 38)	In section 23—

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- (a) in subsection (3), “acting for the police area in which the premises are situated”, and
- (b) subsection (5).

## PART 13

### REDUNDANT PROVISIONS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Misuse of Drugs Act 1971 (c. 38)	In section 5, subsections (4A) to (4C). In section 31— (a) in subsection (2), “, except as provided by subsection (2A),” and (b) subsections (2A) and (4A). Section 38(1A).
Police and Criminal Evidence Act 1984 (c. 60)	In section 30CA(5)— (a) in paragraph (a), “, or a person designated as a staff custody officer under section 38 of the Police Reform Act 2002,” and “or officer”, and (b) in paragraph (b), “or officer”. In section 36— (a) in subsection (7)(a), “or a staff custody officer”, and (b) subsection (11). In section 39— (a) in subsection (6)(a), “(or, if the custody officer is a staff custody officer, any police officer or any police employee)”, and (b) subsection (7). In section 55(17), in the definition of “appropriate officer”, paragraph (c) and the “or” immediately before it. Section 61(8A). Section 63(9A) (inserted by the Criminal Justice and Police Act 2001).
Prosecution of Offences Act 1985 (c. 23)	Section 22A. In section 22B, in subsection (1) (and the title) “or 22A(5)”.
Road Traffic Act 1988 (c. 52)	Section 105(2)(b).
Children Act 1989 (c. 41)	In section 47, in subsection (1)— (a) paragraph (a)(iii) (and the “or” immediately before it), and

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(b) the sentence at the end of that subsection.

Police and Criminal Evidence In Article 37—

(Northern Ireland) Order 1989 (S. I. 1989/1341 (N. I. 12)) (a) in paragraph (7)(a), “or a staff custody officer”,  
and

(b) paragraph (11).

In Article 40—

(a) in paragraph (6)(a), “(or, if the custody officer is a staff custody officer, any police officer or any member of the police support staff)”, and

(b) paragraph (7).

Article 61(8B).

Article 63(10A).

Crime and Disorder Act 1998 (c. 37) Section 11(3)(c).

Sections 14 and 15.

In section 18(1), the definitions of “curfew notice” and “local child curfew scheme”.

Section 44.

Criminal Justice and Court Services Act 2000 (c. 43) Section 71(5).

Vehicles (Crime) Act 2001 (c. 3) Section 36.

Section 45(3).

Criminal Justice and Police Act 2001 (c. 16) Sections 48 and 49.

Section 78(7).

Section 80(4).

Police Reform Act 2002 (c. 30) In section 38—

(a) subsection (2)(e),

(b) subsection (6)(e), and

(c) subsection (10).

In Schedule 4—

(a) paragraph 4B, and

(b) Part 4A.

Police (Northern Ireland) Act 2003 (c. 6) In section 30—

(a) subsection (1)(d),

(b) subsection (6)(d), and

(c) subsection (11).

In Schedule 2, Part 3A.

Serious Organised Crime and Police Act 2005 (c. 15) Section 120.

Section 121(2) to (4), (5)(b), (6) and (7).

Section 123(3).

In Schedule 4, paragraphs 170 to 172.

In Schedule 9, paragraph 10.

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Drugs Act 2005 (c. 17)	Section 2. Section 5(2)(b).
Gambling Act 2005 (c. 19)	In Schedule 16, paragraph 17.
Police and Justice Act 2006 (c. 48)	In Schedule 1, paragraph 78. In Schedule 5, paragraph 5(11).
Road Safety Act 2006 (c. 49)	In Schedule 3, paragraph 13(2)(b).
Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S. I. 2007/288 (N. I. 2))	Article 30(7). Article 33(4).
Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S. I. 2007/912 (N. I. 6))	Article 6(1). In Schedule 4, paragraphs 1(2) to (4), (5)(b) and (6) and 2 to 5.
Road Traffic (Northern Ireland) Order 2007 (S. I. 2007/916 (N.I. 10))	Article 81.

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