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## SCHEDULES

### SCHEDULE 1

Section 6

#### SENTENCE AND PAROLE BOARD RELEASE FOR OFFENDERS OF PARTICULAR CONCERN

#### PART 1

#### SENTENCE AND RELEASE

##### *Introduction*

1 The Criminal Justice Act 2003 is amended as follows.

##### **Commencement Information**

**II** Sch. 1 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

##### *Sentence*

2 After Chapter 5 of Part 12 (sentencing) insert—

#### “CHAPTER 5A

#### OTHER OFFENDERS OF PARTICULAR CONCERN

##### **Special custodial sentence for certain offenders of particular concern**

236A(1) Subsection (2) applies where—

- (a) a person is convicted of an offence listed in Schedule 18A (whether the offence was committed before or after this section comes into force),
  - (b) the person was aged 18 or over when the offence was committed, and
  - (c) the court does not impose one of the following for the offence—
    - (i) a sentence of imprisonment for life, or
    - (ii) an extended sentence under section 226A.
- (2) If the court imposes a sentence of imprisonment for the offence, the term of the sentence must be equal to the aggregate of—
- (a) the appropriate custodial term, and
  - (b) a further period of 1 year for which the offender is to be subject to a licence.

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- (3) The “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.
- (4) The term of a sentence of imprisonment imposed under this section for an offence must not exceed the term that, at the time the offence was committed, was the maximum term permitted for the offence.
- (5) The references in subsections (1)(c) and (2) to a sentence imposed for the offence include a sentence imposed for the offence and one or more offences associated with it.
- (6) The Secretary of State may by order amend Schedule 18A by—
  - (a) adding offences, or
  - (b) varying or omitting offences listed in the Schedule.
- (7) An order under subsection (6) may, in particular, make provision that applies in relation to the sentencing of a person for an offence committed before the provision comes into force.”

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 3 In section 330(5)(a) (orders subject to affirmative procedure), at the appropriate place insert— “ section 236A(6), ”.

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

*Offences of particular concern*

- 4 After Schedule 18 insert—

“SCHEDULE  
18A

Section 236A

SENTENCE UNDER SECTION 236A: OFFENCES

*Terrorism offences*

- 1 An offence under section 4 of the Offences against the Person Act 1861 (soliciting murder) that has a terrorist connection.
- 2 An offence under section 28 of that Act (causing bodily injury by explosives) that has a terrorist connection.
- 3 An offence under section 29 of that Act (using explosives etc with intent to do grievous bodily harm) that has a terrorist connection.
- 4 An offence under section 2 of the Explosive Substances Act 1883 (causing explosion likely to endanger life or property) that has a terrorist connection.

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- 5 An offence under section 3 of that Act (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property) that has a terrorist connection.
- 6 An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances) that has a terrorist connection.
- 7 An offence under section 54 of the Terrorism Act 2000 (weapons training).
- 8 An offence under section 56 of that Act (directing terrorist organisation).
- 9 An offence under section 57 of that Act (possession of article for terrorist purposes).
- 10 An offence under section 59 of that Act (inciting terrorism overseas).
- 11 An offence under section 47 of the Anti-terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).
- 12 An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).
- 13 An offence under section 113 of that Act (use of noxious substance or thing to cause harm or intimidate).
- 14 An offence under section 5 of the Terrorism Act 2006 (preparation of terrorist acts).
- 15 An offence under section 6 of that Act (training for terrorism).
- 16 An offence under section 9 of that Act (making or possession of radioactive device or material).
- 17 An offence under section 10 of that Act (use of radioactive device or material for terrorist purposes etc).
- 18 An offence under section 11 of that Act (terrorist threats relating to radioactive devices etc).

#### *Sexual offences*

- 19 An offence under section 5 of the Sexual Offences Act 2003 (rape of a child under 13).
- 20 An offence under section 6 of that Act (assault of a child under 13 by penetration).

#### *Accessories and inchoate offences*

- 21 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Schedule (a “relevant offence”).
  - (2) An attempt to commit a relevant offence.
  - (3) Conspiracy to commit a relevant offence.
  - (4) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a relevant offence is the offence (or one of the offences) which the person intended or believed would be committed.
- 22 An offence in the following list that has a terrorist connection—

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- (a) an attempt to commit murder,
- (b) conspiracy to commit murder, and
- (c) an offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed.

*Abolished offences*

- 23 An offence that—
- (a) was abolished before the coming into force of section 236A, and
  - (b) if committed on the day on which the offender was convicted of the offence, would have constituted an offence specified in the preceding paragraphs of this Schedule.

*Meaning of “terrorist connection”*

- 24 For the purposes of this Schedule, an offence has a terrorist connection if a court has determined under section 30 of the Counter-Terrorism Act 2008 that the offence has such a connection.”

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

*Release on licence to be directed by Parole Board*

- 5 In section 244(1) (duty to release prisoners), after “243A” insert “, 244A ”.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 6 After section 244 insert—

**“244A Release on licence of prisoners serving sentence under section 236A**

- (1) This section applies to a prisoner (“P”) who is serving a sentence imposed under section 236A.
- (2) The Secretary of State must refer P's case to the Board—
  - (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (3) It is the duty of the Secretary of State to release P on licence under this section as soon as—
  - (a) P has served the requisite custodial period, and
  - (b) the Board has directed P's release under this section.
- (4) The Board must not give a direction under subsection (3) unless—

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- (a) the Secretary of State has referred P's case to the Board, and
  - (b) the Board is satisfied that it is not necessary for the protection of the public that P should be confined.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by sections 255A to 255C).
- (6) For the purposes of this section—
- “the appropriate custodial term” means the term determined as such by the court under section 236A;
  - “the requisite custodial period” means—
    - (a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and
    - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).”

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 7
- (1) Section 246 (power to release prisoners on licence before required to do so) is amended as follows.
  - (2) In subsection (4)(a) (disapplication of power), for “or 228” substitute “, 228 or 236A”.
  - (3) In subsection (6), in the definition of “term of imprisonment” for “or 228” substitute “, 228 or 236A”.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

## PART 2

### OFFENDERS CONVICTED OF SERVICE OFFENCES

*Armed Forces Act 2006 (c. 52)*

- 8 In the Armed Forces Act 2006, after section 224 insert—

#### “224A Special custodial sentence for certain offenders of particular concern

- (1) This section applies where—
  - (a) a person is convicted by the Court Martial of an offence under section 42 (criminal conduct) (whether the offence was committed before or after this section comes into force),

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- (b) the corresponding offence under the law of England and Wales is an offence listed in Schedule 18A to the 2003 Act,
  - (c) the person was aged 18 or over when the offence was committed, and
  - (d) the court does not impose one of the following for the offence—
    - (i) a sentence of imprisonment for life, or
    - (ii) an extended sentence of imprisonment under section 226A of the 2003 Act (as applied by section 219A of this Act).
- (2) If the court imposes a sentence of imprisonment for the offence, section 236A(2) to (4) of the 2003 Act apply in relation to the term of the sentence.
- (3) The references in subsections (1)(d) and (2) to a sentence imposed for the offence include a sentence imposed for the offence and one or more offences associated with it.
- (4) In Schedule 18A to the 2003 Act, as applied by this section, the reference in paragraph 24 to section 30 of the Counter-Terrorism Act 2008 is to be read as a reference to section 32 of that Act.”

**Commencement Information**

**18** Sch. 1 para. 8 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

**PART 3**

TRANSITIONAL AND TRANSITORY PROVISION

*Application of new provisions about special custodial sentences*

- 9 (1) Section 236A of the Criminal Justice Act 2003, inserted by paragraph 2 of this Schedule, applies in relation to the sentencing of a person for an offence after that paragraph comes into force, whether the person was convicted of the offence before or after it comes into force.
- (2) Section 224A of the Armed Forces Act 2006, inserted by paragraph 8 of this Schedule, applies in relation to the sentencing of a person for an offence after that paragraph comes into force, whether the person was convicted of the offence before or after it comes into force.

**Commencement Information**

**19** Sch. 1 para. 9 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

*Detention in a young offender institution*

- 10 (1) This paragraph applies in relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution).

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(2) Section 236A of the Criminal Justice Act 2003 applies as if at the end there were inserted—

“(8) In the case of a person aged under 21, this section applies as if the references to imprisonment were to detention in a young offender institution.”

(3) Section 224A of the Armed Forces Act 2006 applies as if at the end there were inserted—

“(5) In the case of a person aged under 21, this section applies as if the references to imprisonment were to detention in a young offender institution.”

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

**PART 4**

CONSEQUENTIAL PROVISION

*Road Traffic Offenders Act 1988 (c. 53)*

- 11 (1) Section 35A(4) of the Road Traffic Offenders Act 1988 (extension of disqualification where custodial sentence also imposed) is amended as follows.
- (2) In paragraph (e), for “that Act” (in the first place) substitute “ the Criminal Justice Act 2003 ”.
- (3) After paragraph (f) insert—
- “(fa) in the case of a sentence under section 236A of that Act (special custodial sentence for certain offenders of particular concern), a period equal to half of the term imposed pursuant to section 236A(2) (a) of that Act;”.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

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

- 12 (1) Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.
- (2) In paragraph 8(2)(a) (restricted transfers from England and Wales to Scotland), after “244” insert “ , 244A ”.
- (3) In paragraph 9(2)(a) (restricted transfers from England and Wales to Northern Ireland), after “244” insert “ , 244A ”.

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**Commencement Information**

**I12** Sch. 1 para. 12 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

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

- 13 (1) Section 147A(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (extension of disqualification where custodial sentence also imposed) is amended as follows.
- (2) In paragraph (e), for “that Act” (in the first place) substitute “ the Criminal Justice Act 2003 ”.
- (3) After paragraph (f) insert—
- “(fa) in the case of a sentence under section 236A of that Act (special custodial sentence for certain offenders of particular concern), a period equal to half of the term imposed pursuant to section 236A(2) (a) of that Act;”.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

*Criminal Justice Act 2003 (c. 44)*

- 14 The Criminal Justice Act 2003 is amended as follows.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 15 (1) Section 237 (meaning of “fixed-term prisoner”) is amended as follows.
- (2) In subsection (1)(b), for “ or 228” substitute “ , 228 or 236A ”.
- (3) In subsection (1B)—
- (a) omit “and” at the end of paragraph (c), and
- (b) at the end insert “, and
- (e) references to a sentence under section 236A of this Act include a sentence under that section passed as a result of section 224A of that Act.”
- (4) In subsection (3), for “or 227” substitute “ , 227 or 236A ”.

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 16 In section 240ZA(11) (time remanded in custody to count as time served), for “or 228” substitute “ , 228 or 236A ”.



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**Commencement Information**

**I16** Sch. 1 para. 16 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 17 (1) Section 250 (licence conditions) is amended as follows.
- (2) In subsection (4)—
- (a) for “or 227” substitute “, 227 or 236A”, and
  - (b) for “or 228” substitute “, 228 or 236A”.
- (3) In subsection (5A) (inserted by section 15 of this Act)—
- (a) for “to a prisoner” substitute “to—
    - (a) a prisoner”, and
    - (b) at the end insert “, or
      - (b) a prisoner serving a sentence imposed under section 236A.”

**Commencement Information**

**I17** Sch. 1 para. 17 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 18 In section 256AA(1) (supervision after end of sentence of prisoners serving less than 2 years), after paragraph (b) (but before “or”) insert—
- “(ba) the sentence was imposed under section 236A.”.

**Commencement Information**

**I18** Sch. 1 para. 18 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 19 In section 258(3A) (early release of fine defaulters and contemnors), for “or 228” substitute “, 228 or 236A”.

**Commencement Information**

**I19** Sch. 1 para. 19 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 20 (1) Section 260 (early removal of prisoners liable to removal from United Kingdom) is amended as follows.
- (2) In subsection (2A), after “226B” insert “ or a sentence under section 236A”.
- (3) In subsection (5), after “244” insert “, 244A”.

**Commencement Information**

**I20** Sch. 1 para. 20 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

- 21 In section 261(5)(b) (re-entry into United Kingdom of offender removed from prison early), after “244” insert “, 244A”.

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**Commencement Information**

**I21** Sch. 1 para. 21 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

22 In section 263(4) (concurrent terms), for “or 228” substitute “ , 228 or 236A ”.

**Commencement Information**

**I22** Sch. 1 para. 22 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

23 (1) Section 264 (consecutive terms) is amended as follows.

(2) For subsection (6) substitute—

“(6) In this section “custodial period” means—

- (a) in relation to an extended sentence imposed under section 226A or 226B, two-thirds of the appropriate custodial term determined by the court under that section,
- (b) in relation to an extended sentence imposed under section 227 or 228, one-half of the appropriate custodial term determined by the court under that section,
- (c) in relation to a sentence imposed under section 236A, one-half of the appropriate custodial term determined by the court under that section, and
- (d) in relation to any other sentence, one-half of the sentence.”

(3) In subsection (7), for “or 228” substitute “ , 228 or 236A ”.

**Commencement Information**

**I23** Sch. 1 para. 23 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

24 In section 265(2) (restriction on consecutive sentences for released prisoners), for “or 228” substitute “ , 228 or 236A ”.

**Commencement Information**

**I24** Sch. 1 para. 24 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

25 (1) Section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to change test for release on licence of certain prisoners) is amended as follows.

(2) In subsection (2), after paragraph (b) (but before “or”) insert—

“(ba) a section 236A prisoner.”.

(3) In subsection (3), before paragraph (b) insert—

“(ab) amend section 244A of the Criminal Justice Act 2003 (release on licence of section 236A prisoners).”.

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(4) In subsection (6), at the end insert—

““section 236A prisoner” means a prisoner who is serving a sentence under section 236A of the Criminal Justice Act 2003 (including one imposed as a result of section 224A of the Armed Forces Act 2006).”

**Commencement Information**

**I25** Sch. 1 para. 25 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 72

SCHEDULE 2

Section 7

ELECTRONIC MONITORING AND LICENCES ETC: CONSEQUENTIAL PROVISION

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

1 In section 31 of the Crime (Sentences) Act 1997 (duration and conditions of licences), for subsection (3) substitute—

“(3) The Secretary of State must not include a condition in a life prisoner's licence on release, insert a condition in such a licence or vary or cancel a condition of such a licence except—

- (a) in accordance with recommendations of the Parole Board, or
- (b) where required to do so by an order under section 62A of the Criminal Justice and Court Services Act 2000 (compulsory electronic monitoring conditions).”

**Commencement Information**

**I26** Sch. 2 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

*Criminal Justice and Court Services Act 2000 (c. 43)*

2 (1) Section 62 of the Criminal Justice and Court Services Act 2000 (release on licence etc: conditions as to monitoring) is amended as follows.

(2) Omit subsection (3).

(3) In the heading of that section, for “conditions as to monitoring” substitute “electronic monitoring conditions”.

**Commencement Information**

**I27** Sch. 2 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

*Criminal Justice Act 2003 (c. 44)*

3 The Criminal Justice Act 2003 is amended as follows.

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#### Commencement Information

**I28** Sch. 2 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

- 4 (1) Section 250(4) (licence conditions) is amended as follows.
- (2) After paragraph (a) (but before “and”) insert—
- “(aa) must include any electronic monitoring conditions required by an order under section 62A of the Criminal Justice and Court Services Act 2000.”
- (3) In paragraph (b)(i), after “any” insert “ other ”.

#### Commencement Information

**I29** Sch. 2 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

- 5 (1) Section 253 (curfew condition for licence under section 246, 255B or 255C) is amended as follows.
- (2) In subsection (1), for “requirements for securing the” substitute “ a requirement, imposed under section 62 of the Criminal Justice and Court Services Act 2000, to submit to ”.
- (3) Omit subsection (5).

#### Commencement Information

**I30** Sch. 2 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

- 6 In section 256B(7) (supervision after release of certain young offenders serving less than 12 months: requirements that may be imposed), in paragraphs (a) and (b), for “for securing the” substitute “ to submit to ”.

#### Commencement Information

**I31** Sch. 2 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 73

PROSPECTIVE

<sup>F1</sup>SCHEDULE 3

Section 8

RECALL ADJUDICATORS: FURTHER PROVISION

#### Textual Amendments

**F1** Sch. 3 omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 135(b), 208(5)(n)

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*<sup>F1</sup>Mental Health Act 1983 (c. 20)*

- <sup>F1</sup>1 .....
- <sup>F1</sup>2 .....
- <sup>F1</sup>3 .....

*<sup>F1</sup>Criminal Justice Act 2003 (c. 44)*

- <sup>F1</sup>4 .....
- <sup>F1</sup>5 .....
- <sup>F1</sup>6 .....
- <sup>F1</sup>7 .....
- <sup>F1</sup>8 .....
- <sup>F1</sup>9 .....
- <sup>F1</sup>10 .....
- <sup>F1</sup>11 .....

*<sup>F1</sup>Domestic Violence, Crime and Victims Act 2004 (c. 28)*

- <sup>F1</sup>12 .....

*<sup>F1</sup>Offender Management Act 2007 (c. 21)*

- <sup>F1</sup>13 .....
- <sup>F1</sup>14 .....
- <sup>F1</sup>15 .....

*<sup>F1</sup>Coroners and Justice Act 2009 (c. 25)*

- <sup>F1</sup>16 .....

*<sup>F1</sup>Equality Act 2010 (c. 15)*

- <sup>F1</sup>17 .....

SCHEDULE 4

Section 20

ILL-TREATMENT OR WILFUL NEGLECT: EXCLUDED HEALTH CARE

*Excluded health care*

- 1 (1) For the purposes of section 20, “excluded health care” means—

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- (a) health care provided on the premises of an educational institution listed in paragraph 3, subject to sub-paragraph (2);
  - (b) health care provided at accommodation provided by an educational institution listed in paragraph 3 for an individual being educated at the institution, other than accommodation provided in connection with a residential trip away from the institution;
  - (c) health care provided at a children's home or a residential family centre in respect of which a person is registered under Part 2 of the Care Standards Act 2000;
  - (d) health care provided on a part of other premises at a time when the part is being used entirely or mainly for an education or childcare purpose;  
subject to sub-paragraph (3).
- (2) Health care is not excluded health care if it is provided on a part of the premises of an educational institution listed in paragraph 3 at a time when the sole or main purpose for which the part of the premises is being used—
- (a) is not connected with the operation of the institution, and
  - (b) is not an education or childcare purpose.
- (3) Health care is not excluded health care if it is provided on the premises of a hospital to an individual who is being educated there by reason of a decision made by a registered medical practitioner.

#### **Commencement Information**

**I32** Sch. 4 para. 1 in force at 13.4.2015 by [S.I. 2015/778](#), art. 3, [Sch. 1 para. 74](#)

#### *Use “for an education or childcare purpose”*

- 2 A part of premises is used “for an education or childcare purpose” when it is used—
- (a) for the purposes of education provided for an individual being educated at an educational institution listed in paragraph 3 in circumstances in which the institution requires the individual to attend at the premises for that purpose;
  - (b) for the purposes of education provided for a child of compulsory school age under section 19 of the Education Act 1996 or section 100 of the Education and Inspections Act 2006 (provision of education in cases of illness, exclusion etc);
  - (c) for the purposes of education provided for a child of compulsory school age as required by section 7 of the Education Act 1996, otherwise than by regular attendance at an educational institution listed in paragraph 3;
  - (d) for the purposes of early years provision or later years provision provided in England by a person who is registered, or required to be registered, to provide such provision under Part 3 of the Childcare Act 2006;
  - (e) for the purposes of later years provision provided in England for a child who is aged 8 or over in circumstances in which a requirement to register would arise under Part 3 of the Childcare Act 2006 if the child were aged under 8;

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- (f) for the purposes of childminding or day care provided in Wales by a person who is registered, or is required to be registered, to provide such care under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);
- (g) for the purposes of a holiday scheme for disabled children in England carried on or managed by a person who is registered to carry on or manage such schemes, or required to be so registered, under Part 2 of the Care Standards Act 2000.

#### Commencement Information

**I33** Sch. 4 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 74

#### *Educational institutions*

- 3 The educational institutions mentioned in paragraphs 1(1)(a) and (b) and (2) and 2(a) and (c) are—
- (a) a maintained school (as defined in section 20(7) of the School Standards and Framework Act 1998);
  - (b) a maintained nursery school (as defined in section 22(9) of the Schools Standards and Framework Act 1998);
  - (c) an independent school (as defined in section 463 of the Education Act 1996) entered on a register of independent schools kept under section 158 of the Education Act 2002;
  - (d) an independent educational institution (as defined in section 92(1) of the Education and Skills Act 2008) entered on a register of independent educational institutions kept under section 95 of that Act;
  - (e) a school approved under section 342 of the Education Act 1996 (non-maintained special schools);
  - (f) a pupil referral unit (as defined in section 19 of the Education Act 1996);
  - (g) an alternative provision Academy (as defined in section 1C(3) of the Academies Act 2010);
  - (h) a 16 to 19 Academy (as defined in section 1B(3) of the Academies Act 2010);
  - (i) a sixth form college (as defined in section 91(3A) of the Further and Higher Education Act 1992);
  - (j) a special post-16 institution (as defined in section 83(2) of the Children and Families Act 2014).

#### Commencement Information

**I34** Sch. 4 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 74

#### *Definitions*

- 4 In this Schedule—
- “childminding” has the same meaning as in Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);
  - “children's home” has the meaning given in section 1 of the Care Standards Act 2000;

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“day care” has the same meaning as in Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);

“early years provision” has the meaning given in section 96 of the Childcare Act 2006;

“education”—

(a) does not include higher education;

(b) includes vocational, social, physical and recreational training;

“health care” has the same meaning as in section 20;

“higher education” has the meaning given in section 579(1) of the Education Act 1996;

“hospital”—

(a) in relation to England, has the same meaning as in section 275 of the National Health Service Act 2006, and

(b) in relation to Wales, has the same meaning as in section 206 of the National Health Service (Wales) Act 2006;

“later years provision” has the meaning given in section 96 of the Childcare Act 2006;

“premises”, in relation to an educational institution, includes detached playing fields but does not include land occupied solely as a dwelling by a person employed at the institution;

“residential family centre” has the meaning given in section 4 of the Care Standards Act 2000.

#### Commencement Information

**I35** Sch. 4 para. 4 in force at 13.4.2015 by [S.I. 2015/778](#), art. 3, [Sch. 1 para. 74](#)

## SCHEDULE 5

Section 28

### MINIMUM SENTENCE FOR REPEAT OFFENCES INVOLVING OFFENSIVE WEAPONS ETC: CONSEQUENTIAL PROVISION

#### *Mental Health Act 1983 (c. 20)*

1 In section 37(1A) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship)—

(a) in paragraph (za), after “section” insert “ 1(2B) or ”, and

(b) in paragraph (aa), after “section” insert “ 139(6B), 139A(5B) or ”.

#### Commencement Information

**I36** Sch. 5 para. 1 in force at 17.7.2015 by [S.I. 2015/1463](#), art. 2(b)

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

2 In section 36(2)(b) of the Criminal Justice Act 1988 (reviews of sentencing)—



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- (a) in sub-paragraph (zi), after “section” insert “ 1(2B) or ”, and
- (b) in sub-paragraph (ia), after “section” insert “ 139(6B), 139A(5B) or ”.

**Commencement Information**

**I37** Sch. 5 para. 2 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

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

- 3 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

**Commencement Information**

**I38** Sch. 5 para. 3 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 4 (1) Section 12 (absolute and conditional discharge) is amended as follows.
- (2) In subsection (1), for the words from “section 110(2)” to “2006” substitute “ a provision mentioned in subsection (1A) ”.
- (3) After that subsection insert—

“(1A) The provisions referred to in subsection (1) are—

- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
- (b) section 51A(2) of the Firearms Act 1968;
- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
- (d) section 110(2) or 111(2) of this Act;
- (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
- (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”

**Commencement Information**

**I39** Sch. 5 para. 4 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 5 In section 100(1A) (offenders under 18: detention and training orders), for paragraphs (a) and (b) substitute—
- “(a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
- (b) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon).”

**Commencement Information**

**I40** Sch. 5 para. 5 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 6 (1) Section 130 (compensation orders against convicted persons) is amended as follows.

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(2) In subsection (2), for the words from “section 110(2)” to “2006” substitute “ a provision mentioned in subsection (2ZA) ”.

(3) After that subsection insert—

“(2ZA) The provisions referred to in subsection (2) are—

- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
- (b) section 51A(2) of the Firearms Act 1968;
- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
- (d) section 110(2) or 111(2) of this Act;
- (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
- (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”

**Commencement Information**

**I41** Sch. 5 para. 6 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

7 (1) Section 146 (driving disqualification for any offence) is amended as follows.

(2) In subsection (2), for the words from “section 110(2)” to “2006” substitute “ a provision mentioned in subsection (2A) ”.

(3) After that subsection insert—

“(2A) The provisions referred to in subsection (2) are—

- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
- (b) section 51A(2) of the Firearms Act 1968;
- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
- (d) section 110(2) or 111(2) of this Act;
- (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
- (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”

**Commencement Information**

**I42** Sch. 5 para. 7 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

8 In section 164(3) (further interpretive provisions)—

- (a) in paragraph (aa), after “section” insert “ 1(2B) or ”, and
- (b) in paragraph (ba), after “section” insert “ 139(6B), 139(5B) or ”.

**Commencement Information**

**I43** Sch. 5 para. 8 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

*Criminal Justice Act 2003 (c. 44)*

9 The Criminal Justice Act 2003 is amended as follows.

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#### Commencement Information

**I44** Sch. 5 para. 9 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 10 (1) Section 142 (purposes of sentencing: offenders aged 18 or over) is amended as follows.
- (2) In subsection (2)(c), for the words from “section 1A(5)” to “detention for life for certain dangerous offenders)” substitute “ a provision mentioned in subsection (2A)”.
- (3) After that subsection insert—
- “(2AA) The provisions referred to in subsection (2)(c) are—
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
  - (b) section 51A(2) of the Firearms Act 1968 (minimum sentence for certain firearms offences);
  - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon);
  - (d) section 110(2) or 111(2) of the Sentencing Act (minimum sentence for certain drug trafficking and burglary offences);
  - (e) section 224A of this Act (life sentence for second listed offence for certain dangerous offenders);
  - (f) section 225(2) or 226(2) of this Act (imprisonment or detention for life for certain dangerous offenders);
  - (g) section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentence in certain cases of using someone to mind a weapon).”

#### Commencement Information

**I45** Sch. 5 para. 10 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 11 (1) Section 142A (purposes of sentencing: offenders under 18) is amended as follows.
- (2) In subsection (4), for paragraph (b) substitute—
- “(b) to an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), or”.
- (3) At the end insert—
- “(5) The provisions referred to in subsection (4)(b) are—
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
  - (b) section 51A(2) of the Firearms Act 1968 (minimum sentence for certain firearms offences);

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- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon);
- (d) section 226(2) of this Act (detention for life for certain dangerous offenders);
- (e) section 29(6) of the Violent Crime Reduction Act 2006 (minimum sentence in certain cases of using someone to mind a weapon).”

**Commencement Information**

**I46** Sch. 5 para. 11 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 12 (1) Section 144 (reduction in sentences for early guilty pleas) is amended as follows.
- (2) In subsection (2), for the words from “an offence” to “nothing” substitute “an offender who—
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (3), and
  - (b) is aged 18 or over when convicted,
- nothing”.
- (3) In subsection (3)—
- (a) for “section 1A(6)(a)” substitute “ section 1(2B) or 1A(5) ”, and
  - (b) for “section 139AA(8)(a)” substitute “ section 139(6B), 139A(5B) or 139AA(7) ”.
- (4) In subsection (4), for the words from “an offence” to “nothing” substitute “an offender who—
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), and
  - (b) is aged 16 or 17 when convicted,
- nothing”.
- (5) In subsection (5)—
- (a) for “section 1A(6)(b)” substitute “ section 1(2B) or 1A(5) ”, and
  - (b) for “section 139AA(8)(b)” substitute “ section 139(6B), 139A(5B) or 139AA(7) ”.

**Commencement Information**

**I47** Sch. 5 para. 12 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 13 In section 150(2) (community order not available where sentence fixed by law etc), for paragraphs (a) and (b) substitute—
- “(a) falls to be imposed under section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons), or
  - (b) falls to be imposed under section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon).”

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#### Commencement Information

**I48** Sch. 5 para. 13 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 14 (1) Section 152 (general restrictions on imposing discretionary custodial sentence) is amended as follows.
- (2) In subsection (1)(b), for the words from “section 1A(5)” to the end substitute “ a provision mentioned in subsection (1A). ”
- (3) After that subsection insert—
- “(1A) The provisions referred to in subsection (1)(b) are—
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
  - (b) section 51A(2) of the Firearms Act 1968;
  - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
  - (d) section 110(2) or 111(2) of the Sentencing Act;
  - (e) section 224A, 225(2) or 226(2) of this Act;
  - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”

#### Commencement Information

**I49** Sch. 5 para. 14 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 15 (1) Section 153 (length of discretionary custodial sentences: general provision) is amended as follows.
- (2) In subsection (2), for the words from “section 1A(5)” to “this Act” substitute “ the provisions listed in subsection (3) ”.
- (3) After that subsection insert—
- “(3) The provisions referred to in subsection (2) are—
- (a) sections 1(2B) and 1A(5) of the Prevention of Crime Act 1953;
  - (b) section 51A(2) of the Firearms Act 1968;
  - (c) sections 139(6B), 139A(5B) and 139AA(7) of the Criminal Justice Act 1988;
  - (d) sections 110(2) and 111(2) of the Sentencing Act;
  - (e) sections 226A(4) and 226B(2) of this Act;
  - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”

#### Commencement Information

**I50** Sch. 5 para. 15 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

- 16 (1) Section 305(4) (interpretation of Part 12) is amended as follows.
- (2) In paragraph (za)—
- (a) for “subsection (5) of section 1A” substitute “ section 1(2B) or 1A(5) ”, and
  - (b) for “that subsection” substitute “ that provision ”.

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(3) In paragraph (aa)—

- (a) for “subsection (7) of section 139AA” substitute “ section 139(6B), 139A(5B) or 139AA(7) ”, and
- (b) for “that subsection” substitute “ that provision ”.

**Commencement Information**

**I51** Sch. 5 para. 16 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

*Coroners and Justice Act 2009 (c. 25)*

17 (1) Section 125(6) of the Coroners and Justice Act 2009 (sentencing guidelines: duty of court) is amended as follows.

(2) In paragraph (ea)—

- (a) for “section” substitute “ sections 1(2B) and ”, and
- (b) for “offence of threatening with offensive weapon in public” substitute “ certain offences involving offensive weapons ”.

(3) In paragraph (fa)—

- (a) for “section” substitute “ sections 139(6B), 139A(5B) and ”, and
- (b) for “offence of threatening with” substitute “ certain offences involving ”.

**Commencement Information**

**I52** Sch. 5 para. 17 in force at 17.7.2015 by S.I. 2015/1463, art. 2(b)

SCHEDULE 6

Section 29

OFFENCES COMMITTED BY DISQUALIFIED DRIVERS: FURTHER AMENDMENTS

*Road Traffic Act 1988 (c. 52)*

1 (1) Section 3ZB of the Road Traffic Act 1988 (causing death by driving: unlicensed, disqualified or uninsured drivers) is amended as follows.

(2) Omit paragraph (b) (but not the “or” at the end).

(3) In the heading, omit “, disqualified”.

**Commencement Information**

**I53** Sch. 6 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

*Road Traffic Offenders Act 1988 (c. 53)*

2 The Road Traffic Offenders Act 1988 is amended as follows.

*Status: Point in time view as at 08/08/2016.*

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#### Commencement Information

**I54** Sch. 6 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

- 3 (1) Section 24 (alternative verdicts: general) is amended as follows.
- (2) In subsection (A2)—
- (a) after paragraph (b) insert—
- “(ba) an offence under section 3ZC of that Act (causing death by driving: disqualified drivers),
- (bb) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers),”.
- (3) In the table in subsection (1), at the appropriate place insert—

“Section 3ZC (causing death by driving: Section 103(1)(b) (driving while disqualified) disqualified drivers)

Section 3ZD (causing serious injury by Section 103(1)(b) (driving while driving: disqualified drivers) disqualified)”.

#### Commencement Information

**I55** Sch. 6 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

- 4 In section 34(4)(a) (disqualification for certain offences), after sub-paragraph (ia) insert—
- “(iib) an offence under section 3ZC of that Act (causing death by driving: disqualified drivers), or
- (iic) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers), or”.

#### Commencement Information

**I56** Sch. 6 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

- 5 (1) Section 36(2) (disqualification until test is passed) is amended as follows.
- (2) At the end of paragraph (a) omit “or”.
- (3) For paragraph (b) substitute—
- “(b) an offence under section 1 of the Road Traffic Act 1988 (causing death by dangerous driving),
- (c) an offence under section 1A of that Act (causing serious injury by dangerous driving),
- (d) an offence under section 2 of that Act (dangerous driving),
- (e) an offence under section 3ZC of that Act (causing death by driving: disqualified drivers), or
- (f) an offence under section 3ZD of that Act (causing serious injury by driving: disqualified drivers).”

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**Commencement Information**

**I57** Sch. 6 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

6 In section 45 (effect of endorsement of counterparts), for subsection (6) substitute—

“(6) Where the offence was under one of the following sections of the Road Traffic Act 1988, the endorsement remains effective until four years have elapsed since the conviction—

- (a) section 1 (causing death by dangerous driving),
- (b) section 1A (causing serious injury by dangerous driving),
- (c) section 2 (dangerous driving),
- (d) section 3ZC (causing death by driving: disqualified drivers), or
- (e) section 3ZD (causing serious injury by driving: disqualified drivers).”

**Commencement Information**

**I58** Sch. 6 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

7 In section 45A (effect of endorsement of driving records), for subsection (4), as substituted by paragraph 42 of Schedule 3 to the Road Safety Act 2006 (endorsement: all drivers), substitute—

“(4) Where the offence was under one of the following sections of the Road Traffic Act 1988, the endorsement remains effective until four years have elapsed since the conviction—

- (a) section 1 (causing death by dangerous driving),
- (b) section 1A (causing serious injury by dangerous driving),
- (c) section 2 (dangerous driving),
- (d) section 3ZC (causing death by driving: disqualified drivers), or
- (e) section 3ZD (causing serious injury by driving: disqualified drivers).”

**Commencement Information**

**I59** Sch. 6 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

8 (1) The table in Schedule 1 (offences to which sections 1, 6, 11 and 12(1) apply) is amended as follows.

(2) In the entry relating to section 3ZB of the Road Traffic Act 1988, in the second column omit “, disqualified”.

(3) After that entry insert—

“RTA section 3ZC	Causing death by driving: disqualified drivers	Section 11 of this Act.
RTA section 3ZD	Causing serious injury by driving: disqualified drivers	Sections 11 and 12(1) of this Act.”



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**Commencement Information**

**I60** Sch. 6 para. 8 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

- 9 In the table in Part 1 of Schedule 2 (prosecution and punishment of offences under the Traffic Acts), in the entry relating to section 3ZB of the Road Traffic Act 1988, in column 2 omit “, disqualified”.

**Commencement Information**

**I61** Sch. 6 para. 9 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

*Crime (International Co-operation) Act 2003 (c. 32)*

- 10 (1) Paragraph 3 of Schedule 3 to the Crime (International Co-operation) Act 2003 (application of duty to give notice to foreign authorities of driving disqualification of a non-UK resident) is amended as follows.
- (2) In sub-paragraph (ca) omit “, disqualified”.
- (3) After that sub-paragraph insert—
- “(cb) section 3ZC (causing death by driving: disqualified drivers),  
(cc) section 3ZD (causing serious injury by driving: disqualified drivers)”.

**Commencement Information**

**I62** Sch. 6 para. 10 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

*Criminal Justice Act 2003 (c. 44)*

- 11 In Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences for the purposes of sentencing dangerous offenders), after paragraph 48 (offence under section 1 of the Road Traffic Act 1988) insert—
- “48A An offence under section 3ZC of that Act (causing death by driving: disqualified drivers).”

**Commencement Information**

**I63** Sch. 6 para. 11 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

*Coroners and Justice Act 2009 (c. 25)*

- 12 (1) In paragraph 1(6) of Schedule 1 to the Coroners and Justice Act 2009 (suspension of investigations where certain criminal charges may be brought), in the definition of “homicide offence”, paragraph (b) is amended as follows.
- (2) In sub-paragraph (iii) omit “, disqualified”.
- (3) After that sub-paragraph insert—

*Status: Point in time view as at 08/08/2016.*

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“(iia) section 3ZC (causing death by driving: disqualified drivers);”.

**Commencement Information**

**I64** Sch. 6 para. 12 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 75

SCHEDULE 7

Section 31

MUTUAL RECOGNITION OF DRIVING DISQUALIFICATION IN UK AND REPUBLIC OF IRELAND

VALID FROM 23/02/2017

**PART 1**

FURTHER PROVISION

*Crime (International Co-operation) Act 2003 (c. 32)*

- 1 Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003 (EU Convention on driving disqualifications) is amended as follows.
- 2 (1) Section 54 (road traffic offences in UK: application of section 55) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “Schedule 3” insert “ or Part 1 of Schedule 3A ”, and
- (b) in paragraph (b), for “that Schedule” substitute “ Schedule 3 or Part 2 of Schedule 3A ”.
- (3) For subsection (3) substitute—
- “(3) The minimum period is—
- (a) for an offence mentioned in Part 2 of Schedule 3 in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
- (b) for an offence mentioned in Part 2 of Schedule 3A in relation to which the Department has by regulations specified a period of less than six months, that period;
- (c) for any other offence, a period of six months.”
- (4) After that subsection insert—
- “(3A) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3 is not less than the minimum period, an extension period imposed under any of the following is to be disregarded—
- (a) section 35A or 35C of the Road Traffic Offenders Act 1988;
- (b) section 248D of the Criminal Procedure (Scotland) Act 1995;

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- (c) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000.
- (3B) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3A is not less than the minimum period, an extension period imposed under any of the following is to be disregarded—
- (a) Article 8A of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6));
  - (b) Article 40A of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10));
  - (c) Article 91A of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).”
- (5) After subsection (5) insert—
- “(6) The Secretary of State may by regulations amend Schedule 3.
- (7) The Department may by regulations amend Schedule 3A.”
- 3 (1) Section 55 (duty to give notice to foreign authorities of driving disqualification of a non-UK resident) is amended as follows.
- (2) For the heading substitute “Duty to give notice to Republic of Ireland of UK driving disqualification”.
- (3) In subsection (1), for “the State in which the offender is normally resident” substitute “the Republic of Ireland”.
- (4) In subsection (2)(f), for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
- (5) In subsection (9)—
- (a) in paragraph (b), for “the State mentioned in subsection (1)” substitute “the Republic of Ireland”, and
  - (b) for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
- 4 For the italic heading before section 56 substitute “Road traffic offences in Republic of Ireland”.
- 5 (1) Section 56 (road traffic offences in Republic of Ireland: application of section 57) is amended as follows.
- (2) For subsection (2) substitute—
- “(2) The driving disqualification condition is met—
- (a) in relation to an offence mentioned in Part 1 of Schedule 3B, if the offender is disqualified in the Republic of Ireland as a result of the offence;
  - (b) in relation to an offence mentioned in Part 2 of that Schedule, if the offender is disqualified in the Republic of Ireland for a period not less than the minimum period as a result of the offence.”
- (3) In subsection (3)—
- (a) for “a State” substitute “the Republic of Ireland”,

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- (b) for “in that State” substitute “ there ”, and
  - (c) for “the law of that State” substitute “ the law of the Republic of Ireland ”.
- (4) For subsection (4) substitute—
- “(4) The minimum period is—
- (a) for an offence in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
  - (b) for any other offence, a period of six months.”
- (5) Omit subsection (5).
- (6) In subsection (6), for “the part of the United Kingdom in which the offender is normally resident” substitute “ the relevant part of the United Kingdom ”.
- (7) After that subsection insert—
- “(6A) In subsection (6), “the relevant part of the United Kingdom” means—
- (a) where the offender was normally resident in the United Kingdom when convicted, the part of the United Kingdom in which the offender was normally resident at that time;
  - (b) where the offender was not normally resident in the United Kingdom when convicted but held a Great Britain licence or a Northern Ireland licence, the part of the United Kingdom in which the offender was last normally resident before conviction.”
- (8) Omit subsection (7).
- (9) In subsection (8)—
- (a) for “treating” substitute “ about when ”,
  - (b) after the first “United Kingdom” insert “ are to be treated for the purposes of this section ”, and
  - (c) for “a member state other than the United Kingdom” substitute “ the Republic of Ireland ”.
- (10) After subsection (9) insert—
- “(10) The Secretary of State may by regulations amend Schedule 3B.”
- 6 (1) Section 57 (recognition in United Kingdom of foreign driving disqualification) is amended as follows.
- (2) In the heading, for “foreign” substitute “ Republic of Ireland ”.
- (3) In the following provisions, for “the foreign disqualification” substitute “ the Republic of Ireland disqualification ”
- (a) subsection (1)(a);
  - (b) subsection (2) (in both places);
  - (c) subsection (4)(b);
  - (d) subsection (5)(b);
  - (e) subsection (6);
  - (f) subsection (8) (in both places).
- (4) In subsection (1)(a) and (b), for “one month” substitute “ three months ”.

*Status: Point in time view as at 08/08/2016.*

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- (5) In subsection (2)(b), for “the State in which the offender was convicted” substitute “ the Republic of Ireland ”.
- (6) In subsection (3)—
- (a) for “a State” substitute “ the Republic of Ireland ”, and
  - (b) for “in that State” substitute “ there ”.
- 7 In section 58(1)(a) and (b) (notice under section 57), for “the foreign disqualification” substitute “ the Republic of Ireland disqualification ”.
- 8 (1) Section 63 (production of licence: Great Britain) is amended as follows.
- (2) In subsection (4), for “the competent authority of the relevant State” substitute “ the competent authority of the Republic of Ireland or the Department ”.
- (3) Omit subsection (5).
- 9 (1) Section 64 (production of licence: Northern Ireland) is amended as follows.
- (2) In subsection (4), for “the competent authority of the relevant State” substitute “ the competent authority of the Republic of Ireland or the Secretary of State ”.
- (3) Omit subsection (5).
- 10 In section 65(3) (production of licence: Community licence holders), for the words from “the same” to the end substitute “ the Republic of Ireland ”.
- 11 In section 68 (endorsement of licence: Great Britain), for subsection (1) substitute—
- “(1) This section applies where a person who—
- (a) is normally resident in Great Britain, or
  - (b) is not normally resident in Great Britain but holds a Great Britain licence,
- is disqualified by virtue of section 57.”
- 12 In section 69 (endorsement of licence: Northern Ireland), for subsection (1) substitute—
- “(1) This section applies where a person who—
- (a) is normally resident in Northern Ireland, or
  - (b) is not normally resident in Northern Ireland but holds a Northern Ireland licence,
- is disqualified by virtue of section 57.”
- 13 In section 70(1) (duty of appropriate Minister to inform competent authority)—
- (a) for “any State” substitute “ the Republic of Ireland ”, and
  - (b) for “the convention on driving disqualifications” substitute “ the specified agreement on driving disqualifications ”.
- 14 (1) Section 72 (regulations: Great Britain) is amended as follows.
- (2) In subsection (2), at the end insert “ , subject to subsection (2A) ”.
- (3) After subsection (2) insert—

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- “(2A) A statutory instrument containing regulations under section 54(6), 56(10) or 71A may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- 15 (1) Section 73 (regulations: Northern Ireland) is amended as follows.
- (2) In subsection (2), at the end insert “, subject to subsection (2A) ”.
- (3) After subsection (2) insert—
- “(2A) Regulations made under section 54(7) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”
- 16 (1) Section 74(1) (interpretation) is amended as follows.
- (2) For the definition of “central authority” substitute—
- ““central authority” means an authority designated by the Republic of Ireland as a central authority for the purposes of the specified agreement on driving disqualifications;”.
- (3) For the definition of “competent authority” substitute—
- ““competent authority” means an authority which is a competent authority in relation to the Republic of Ireland for the purposes of the specified agreement on driving disqualifications;”.
- (4) Omit the definition of “the convention on driving disqualifications”.
- (5) In the definition of “disqualified”, after “and” insert “, except in section 71A, ”.
- (6) Omit the definition of “foreign disqualification”.
- (7) At the end insert—
- ““Republic of Ireland disqualification” means the disqualification mentioned in section 56;
- ““Republic of Ireland licence” means a licence to drive a motor vehicle granted under the law of the Republic of Ireland, including a learner permit.”
- 17 In section 74(2) (interpretation of references to disqualification for life), for “foreign disqualification” substitute “Republic of Ireland disqualification ”.
- 18 In section 74, at the end insert—
- “(3) For the purposes of this Chapter, an individual is normally resident in, or in a part of, the United Kingdom, in Great Britain, in Northern Ireland or in the Republic of Ireland if his or her normal residence, as defined in Article 12 of Directive [2006/126/EC](#) of the European Parliament and of the Council of 20th December 2006 on driving licences, is there.”
- 19 (1) Schedule 3 (offences for the purposes of section 54) is amended as follows.
- (2) In the heading, at the end insert “ : Great Britain ”.
- (3) In paragraph 1, for sub-paragraph (2) substitute—

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“(2) Driver” has the same meaning as in the Road Traffic Act 1988.”

(4) In paragraph 2, omit “or Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2))”.

(5) In paragraph 3—

- (a) omit “or Articles of the Road Traffic (Northern Ireland) Order 1995”,
- (b) in sub-paragraph (a), omit “or Article 9”,
- (c) in sub-paragraph (b), omit “or Article 10”,
- (d) in sub-paragraph (c), omit “or Article 12”,
- (e) in sub-paragraph (d), omit “or Article 14”,
- (f) in sub-paragraph (e), omit “or Article 15”,
- (g) in sub-paragraph (f), omit “or Article 16”,
- (h) in sub-paragraph (g), omit “or Article 17”, and
- (i) in sub-paragraph (h), omit “or Article 18”.

(6) In paragraph 5, omit “or Article 167(1) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))”.

(7) In paragraph 6, omit “or Article 175(2) of the Road Traffic (Northern Ireland) Order 1981”.

(8) In paragraph 7(a), omit “or Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10))”.

20 After Schedule 3 insert—

“SCHEDULE  
3A

Section 54

OFFENCES FOR THE PURPOSES OF SECTION 54: NORTHERN IRELAND

**PART 1**

OFFENCES WHERE ORDER OF DISQUALIFICATION  
FOR A MINIMUM PERIOD UNNECESSARY

- 1 (1) Manslaughter by the driver of a motor vehicle.
- (2) “Driver” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).
- 2 An offence under Article 168A(1)(c) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (driving while disqualified).
- 3 An offence under Article 175(2) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (failing to stop after accident and give particulars or report of accident).
- 4 An offence under any of the following Articles of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18))—
  - (a) Article 9 (causing death or grievous bodily injury by dangerous driving),
  - (b) Article 10 (dangerous driving),

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- (c) Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving),
  - (d) Article 12 (careless, and inconsiderate, driving),
  - (e) Article 12B (causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers),
  - (f) Article 14 (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs),
  - (g) Article 15 (driving, or being in charge, when under the influence of drink or drugs),
  - (h) Article 16 (driving, or being in charge, of a motor vehicle with alcohol concentration above prescribed limit),
  - (i) Article 17 (failing to provide a specimen of breath for a breath test), or
  - (j) Article 18 (failing to provide a specimen for analysis or laboratory test).
- 5 An offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2)) (exceeding speed limit).

## PART 2

### OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD NECESSARY

- 6 An offence which—
- (a) is mentioned in Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)), but
  - (b) is not an offence mentioned in Part 1 of this Schedule.”

21 After Schedule 3A insert—

### “SCHEDULE 3B

Section 56

### OFFENCES FOR THE PURPOSES OF SECTION 56: REPUBLIC OF IRELAND

## PART 1

### OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD UNNECESSARY

- 1 An offence arising from—
- (a) reckless or dangerous driving, whether or not resulting in death, injury or serious risk,
  - (b) wilful failure to carry out the obligations placed on drivers after being involved in road accidents,
  - (c) driving a vehicle while under the influence of alcohol or other substances affecting or diminishing the mental and physical abilities of a driver,
  - (d) refusal to submit to alcohol and drug tests,



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- (e) driving a vehicle faster than the permitted speed, or
- (f) driving a vehicle while disqualified.

## PART 2

### OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD NECESSARY

- 2 An offence arising from conduct which is a road traffic offence that is not mentioned in Part 1 of this Schedule.”

### *Coroners and Justice Act 2009 (c. 25)*

- 22 In Schedule 21 to the Coroners and Justice Act 2009 (consequential amendments), omit paragraph 93 (uncommenced amendment of section 54 of the Crime (International Co-operation) Act 2003).

## PART 2

### TRANSITION FROM EU CONVENTION TO NEW AGREEMENT

#### *Transitional period*

- 23 In this Part of this Schedule, “the transitional period” means the period—
- (a) beginning with 1 December 2014, and
  - (b) ending with the day before the first day on which—
    - (i) section 31(2) to (5) are in force,
    - (ii) the Secretary of State has specified an agreement under section 71A of the Crime (International Co-operation) Act 2003 (“the 2003 Act”), and
    - (iii) that agreement has entered into force.

#### *Disapplication of duties and powers to give notices during the transitional period*

- 24 During the transitional period, the Secretary of State and the Department of the Environment in Northern Ireland—
- (a) are not required to give a notice under section 55 of the 2003 Act (duty to give notice to foreign authorities of driving disqualification of a non-UK resident),
  - (b) are not required or permitted to give a notice under section 57 of the 2003 Act (recognition in United Kingdom of foreign driving disqualification), and
  - (c) are not required to give reasons under section 70(3) of the 2003 Act (duty to give reasons for not giving a notice under section 57).
- 25 Paragraphs 23 and 24 are to be treated as having come into force on 1 December 2014.

*Status: Point in time view as at 08/08/2016.*

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VALID FROM 23/02/2017

*Application of duties and powers to give notices after the transitional period*

- 26 After the end of the transitional period, the Secretary of State and the Department of the Environment in Northern Ireland—
- (a) are required to give a notice under section 55 of the 2003 Act (duty to give notice to foreign authorities of driving disqualification of a non-UK resident),
  - (b) are required or permitted to give a notice under section 57 of the 2003 Act (recognition in United Kingdom of foreign driving disqualification), and
  - (c) are required to give reasons under section 70(3) of the 2003 Act (duty to give reasons for not giving a notice under section 57),
- only in a case in which the offence referred to in section 54(1) or 56(1) of the 2003 Act was committed after the end of the transitional period.

VALID FROM 23/02/2017

*Saving for pre-1 December 2014 cases*

- 27 The amendments made by section 31 and Part 1 of this Schedule do not have effect in relation to a case in which a notice was given to an offender under section 57 of the 2003 Act before 1 December 2014.

SCHEDULE 8

Section 33

DISCLOSING PRIVATE SEXUAL PHOTOGRAPHS OR  
 FILMS: PROVIDERS OF INFORMATION SOCIETY SERVICES

*England and Wales service providers: extension of liability*

- 1 (1) This paragraph applies where a service provider is established in England and Wales (an “E&W service provider”).
- (2) Section 33 applies to an E&W service provider who—
- (a) discloses a photograph or film in an EEA state other than the United Kingdom, and
  - (b) does so in the course of providing information society services,
- as well as to a person who discloses a photograph or film in England and Wales.
- (3) In the case of an offence under section 33, as it applies to an E&W service provider by virtue of sub-paragraph (2)—
- (a) proceedings for the offence may be taken at any place in England and Wales, and

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(b) the offence may for all incidental purposes be treated as having been committed at any such place.

(4) Nothing in this paragraph affects the operation of paragraphs 3 to 5.

#### Commencement Information

**I65** Sch. 8 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

#### *Non-UK service providers: restriction on institution of proceedings*

- 2 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).
- (2) Proceedings for an offence under section 33 may not be instituted against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is satisfied.
- (3) The derogation condition is satisfied where the institution of proceedings—
- (a) is necessary for the purposes of the public interest objective,
  - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
  - (c) is proportionate to that objective.
- (4) “The public interest objective” means the pursuit of public policy.

#### Commencement Information

**I66** Sch. 8 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

#### *Exceptions for mere conduits*

- 3 (1) A service provider is not capable of being guilty of an offence under section 33 in respect of anything done in the course of providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
  - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

*Status: Point in time view as at 08/08/2016.*

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- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

**Commencement Information**

**I67** Sch. 8 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

*Exception for caching*

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not capable of being guilty of an offence under section 33 in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service provider—
- (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) where sub-paragraph (4) applies, expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or
  - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

**Commencement Information**

**I68** Sch. 8 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

*Exception for hosting*

- 5 (1) A service provider is not capable of being guilty of an offence under section 33 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided—
- (a) that it consisted of or included a private sexual photograph or film,

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- (b) that it was provided without the consent of an individual who appears in the photograph or film, or
  - (c) that the photograph or film was provided with the intention of causing distress to that individual.
- (3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access to it.
- (4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

#### Commencement Information

**I69** Sch. 8 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

#### Interpretation

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Disclose” and “photograph or film” have the meanings given in section 34.
- (3) “Information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
  - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”, and “the E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (5) “Service provider” means a person providing an information society service.
- (6) For the purpose of interpreting references in this Schedule to a service provider who is established in England and Wales or an EEA state—
- (a) a service provider is established in England and Wales, or in a particular EEA state, if the service provider—
    - (i) effectively pursues an economic activity using a fixed establishment in England and Wales, or that EEA state, for an indefinite period, and
    - (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
  - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;

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- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.

**Commencement Information**

**I70** Sch. 8 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 76

SCHEDULE 9

Section 38

SECURE COLLEGES ETC: FURTHER AMENDMENTS

*Prison Act 1952 (c. 52)*

- 1 The Prison Act 1952 is amended as follows.

**Commencement Information**

**I71** Sch. 9 para. 1 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 2 In section 37(4) (closing of prisons etc), for “or secure training centre” substitute “, secure training centre or secure college”.

**Commencement Information**

**I72** Sch. 9 para. 2 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 3 (1) Section 47 (rules for the management of prisons etc) is amended as follows.
- (2) In subsection (1), for “or secure training centres respectively” substitute “, secure training centres or secure colleges”.
- (3) In subsection (1A)(a), after “secure training centres” insert “, secure colleges”.
- (4) In subsection (4A)—
- (a) for “the inspection of secure training centres and” substitute “—
- (a) the inspection of secure training centres and secure colleges,
- and
- (b)”,
- (b) for “visit secure training centres” substitute “ visit them ”, and
- (c) for “detained in secure training centres” substitute “ detained there ”.
- (5) In subsection (5), for “or secure training centre” substitute “, secure training centre or secure college”.
- (6) For the heading of that section substitute “ Rules for the management of prisons and places for the detention of young offenders ”.

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**Commencement Information**

**I73** Sch. 9 para. 3 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 4 In section 49(5) (persons unlawfully at large: definition of “youth detention accommodation”), after paragraph (b) (but before “or”) insert—  
“(ba) a secure college;”.

**Commencement Information**

**I74** Sch. 9 para. 4 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Criminal Justice Act 1961 (c. 39)*

- 5 The Criminal Justice Act 1961 is amended as follows.

**Commencement Information**

**I75** Sch. 9 para. 5 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 6 In section 23(4) (prison rules), after “a young offender institution” insert “, a secure college, ”.

**Commencement Information**

**I76** Sch. 9 para. 6 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 7 In section 38(3)(a) (construction of references to sentence of imprisonment etc)—  
(a) for “young offenders” substitute “ young offender ”, and  
(b) after “secure training centre” insert “ or secure college ”.

**Commencement Information**

**I77** Sch. 9 para. 7 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Criminal Justice Act 1982 (c. 48)*

- 8 (1) Section 32 of the Criminal Justice Act 1982 (early release of prisoners) is amended as follows.
- (2) In subsection (1)(a)—  
(a) omit “under section 225 of the Criminal Justice Act 2003”, and  
(b) omit “under section 226A or 227 of that Act”.
- (3) For subsection (1A) substitute—  
“(1A) In this section—  
(a) references to a sentence of imprisonment include a sentence of detention (other than a sentence of service detention within the meaning of the Armed Forces Act 2006), including a detention and

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training order and an order under section 211 of the Armed Forces Act 2006;

- (b) references to a sentence of imprisonment for life include custody for life and detention at Her Majesty's pleasure;
- (c) references to a sentence of imprisonment for public protection are to a sentence under section 225 or 226 of the Criminal Justice Act 2003, including a sentence passed as a result of section 219 or 221 of the Armed Forces Act 2006;
- (d) references to an extended sentence are to a sentence under section 226A, 226B, 227 or 228 of the Criminal Justice Act 2003, including a sentence passed as a result of section 219A, 220, 221A or 222 of the Armed Forces Act 2006;
- (e) references to prison include youth detention accommodation (within the meaning of section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000)."

(4) In subsection (6), omit "not within subsection (5) above".

(5) After subsection (6) insert—

“(6A) Subsection (6) does not apply—

- (a) where the person is within subsection (5), or
- (b) where the sentence is a detention and training order or a sentence under section 211 of the Armed Forces Act 2006.”

(6) Omit subsections (7) and (7A).

**Commencement Information**

**I78** Sch. 9 para. 8 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

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

- 9 In section 17(1)(cb)(i) of the Police and Criminal Evidence Act 1984 (entry for purpose of arrest etc), for the words from “remand centre” to “secure training centre” substitute “ young offender institution, secure training centre or secure college ”.

**Commencement Information**

**I79** Sch. 9 para. 9 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Water Industry Act 1991 (c. 56)*

- 10 In paragraph 13(2) of Schedule 4A to the Water Industry Act 1991 (premises not to be disconnected for non-payment of a charge)—
- (a) in paragraph (b), omit the words from “within” to “, or”, and
  - (b) after that paragraph insert—
    - “(ba) a secure college, or”.



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**Commencement Information**

**I80** Sch. 9 para. 10 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Prisoners (Return to Custody) Act 1995 (c. 16)*

- 11 In section 1(2) of the Prisoners (Return to Custody) Act 1995 (remaining at large after temporary release), after “secure training centre” insert “ or secure college ”.

**Commencement Information**

**I81** Sch. 9 para. 11 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

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

- 12 In section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (definition of “youth detention accommodation” for the purposes of detention and training orders), after paragraph (a) insert—  
“(aa) a secure college;”.

**Commencement Information**

**I82** Sch. 9 para. 12 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Children Act 2004 (c. 31)*

- 13 The Children Act 2004 is amended as follows.

**Commencement Information**

**I83** Sch. 9 para. 13 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 14 In section 11(1) (arrangements to safeguard and promote welfare), after paragraph (l) insert—  
“(la) the principal of a secure college in England;”.

**Commencement Information**

**I84** Sch. 9 para. 14 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 15 In section 13(3) (establishment of Local Safeguarding Children Boards), after paragraph (i) insert—  
“(ia) the principal of a secure college in the area of the authority;”.

**Commencement Information**

**I85** Sch. 9 para. 15 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

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- 16 In section 15(3)(c) (funding of Local Safeguarding Children Boards), after “or prison” insert “ or the principal of a secure college ”.

**Commencement Information**

**I86** Sch. 9 para. 16 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 17 In section 25(4A) (co-operation to improve well-being: Wales)—  
 (a) for “Crown or” substitute “ Crown, ” and  
 (b) after “director” insert “ or the principal of a secure college ”.

**Commencement Information**

**I87** Sch. 9 para. 17 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 18 In section 28(1) (arrangements to safeguard and promote welfare: Wales), after paragraph (h) insert—  
 “(ha) the principal of a secure college in Wales;”.

**Commencement Information**

**I88** Sch. 9 para. 18 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 19 In section 31(3) (establishment of Local Safeguarding Children Boards in Wales), after paragraph (f) insert—  
 “(fa) the principal of a secure college in the area of the authority;”.

**Commencement Information**

**I89** Sch. 9 para. 19 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 20 In section 33(3)(c) (funding of Local Safeguarding Children Boards in Wales), after “or prison” insert “ or the principal of a secure college ”.

**Commencement Information**

**I90** Sch. 9 para. 20 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Childcare Act 2006 (c. 21)*

- 21 In section 18(7) of the Childcare Act 2006 (meaning of “childcare”)—  
 (a) in paragraph (a), omit “or”,  
 (b) at the end of paragraph (b), insert “ , or ”, and  
 (c) after paragraph (b) insert—  
 “(c) a secure college.”

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**Commencement Information**

**I91** Sch. 9 para. 21 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Education and Inspections Act 2006 (c. 40)*

- 22 (1) Section 146 of the Education and Inspections Act 2006 (inspection of secure training centres) is amended as follows.
- (2) In the heading, after “secure training centres” insert “ and secure colleges ”.
- (3) In subsection (1), after “secure training centres” insert “ and secure colleges ”.
- (4) Omit subsection (3).

**Commencement Information**

**I92** Sch. 9 para. 22 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)*

- 23 In section 2(7) of the Corporate Manslaughter and Corporate Homicide Act 2007 (relevant duty of care), in the definition of “custodial institution”, after “secure training centre,” insert “ a secure college, ”.

**Commencement Information**

**I93** Sch. 9 para. 23 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Offender Management Act 2007 (c. 21)*

- 24 The Offender Management Act 2007 is amended as follows.

**Commencement Information**

**I94** Sch. 9 para. 24 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 25 In section 1(4) (meaning of “the probation purposes”), in the definition of “prison”, for “and a secure training centre” substitute “ , a secure training centre and a secure college ”.

**Commencement Information**

**I95** Sch. 9 para. 25 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 26 In section 14(5)(a) (disclosure)—
- (a) in sub-paragraph (i), omit “and”,
- (b) in sub-paragraph (ii), at the end insert “ and ”, and
- (c) after sub-paragraph (ii) insert—
- “(iii) secure colleges or persons detained in them;”.

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**Commencement Information**

**I96** Sch. 9 para. 26 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Policing and Crime Act 2009 (c. 26)*

- 27 In paragraph 14(3) of Schedule 5A to the Policing and Crime Act 2009 (detention orders), after paragraph (a) insert—  
 “(aa) a secure college;”.

**Commencement Information**

**I97** Sch. 9 para. 27 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*

- 28 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

**Commencement Information**

**I98** Sch. 9 para. 28 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 29 In section 102(2) (definition of “youth detention accommodation” for the purposes of remand), after paragraph (a) insert—  
 “(aa) a secure college;”.

**Commencement Information**

**I99** Sch. 9 para. 29 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

- 30 In section 103(1) (arrangements for remand), for “the accommodation in secure children's homes, or accommodation within section 102(2)(d), of” substitute “ the provision of accommodation of a kind listed in section 102(2) for ”.

**Commencement Information**

**I100** Sch. 9 para. 30 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Prisons (Interference with Wireless Telegraphy) Act 2012 (c. 20)*

- 31 (1) Section 4 of the Prisons (Interference with Wireless Telegraphy) Act 2012 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “relevant institution”, after paragraph (d) insert—  
 “(e) a secure college in England or Wales;”.
- (3) In subsection (2), after paragraph (b) insert—

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“(ba) in the case of a secure college in England or Wales, its principal;”.

**Commencement Information**

**I101** Sch. 9 para. 31 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

*Social Services and Well-being (Wales) Act 2014 (anaw 4)*

- 32 (1) The Social Services and Well-being (Wales) Act 2014 is amended as follows.
- (2) In the English language text of section 134(8) (Safeguarding Children Boards and Safeguarding Adults Boards)—
- (a) for “Crown or” substitute “ Crown, ”, and
- (b) after “director” insert “ or the principal of a secure college ”.
- (3) In the Welsh language text of that provision—
- (a) for “Goron na” substitute “ Goron, ”, and
- (b) after “cyfarwyddwr” insert “ na phennaeth coleg diogel ”.
- (4) In the English language text of section 188(1) (interpretation of sections 185 to 187), in the definition of “youth detention accommodation”, after paragraph (b) insert—
- “(ba) a secure college;”.
- (5) In the Welsh language text of that provision, in the definition of “llety cadw ieuencid”, after paragraph (b) insert—
- “(ba) coleg diogel;”.

**Commencement Information**

**I102** Sch. 9 para. 32 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(c)

SCHEDULE 10

Section 39

CONTRACTING OUT SECURE COLLEGES

**PART 1**

CONTRACTING OUT PROVISION AND RUNNING OF SECURE COLLEGES

*Power to contract out*

- 1 (1) The Secretary of State may enter into a contract with another person for the other person to do either or both of the following—
- (a) provide a secure college or part of such a college;
- (b) run a secure college or part of such a college.
- (2) The contract may provide for the running of the secure college, or the part of the college, to be sub-contracted.

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(3) In this Schedule—

“contracted-out secure college” means a secure college or part of a secure college in respect of which a contract under this Part of this Schedule is for the time being in force;

“the contractor”, in relation to a contracted-out secure college, means the person who has contracted with the Secretary of State for the provision or running (or both) of the college;

“sub-contractor”, in relation to a contracted-out secure college, means a person who has contracted with the contractor for the running of the college or any part of it.

**Commencement Information**

**I103** Sch. 10 para. 1 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Running a contracted-out secure college*

- 2 A contracted-out secure college must be run in accordance with—
- (a) this Schedule,
  - (b) the Prison Act 1952 as it applies to contracted-out secure colleges by virtue of section 43 of that Act and this Schedule, and
  - (c) secure college rules.

**Commencement Information**

**I104** Sch. 10 para. 2 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Leases and tenancies of land*

- 3 (1) Where the Secretary of State grants a lease or tenancy of land for the purposes of a contract under this Part of this Schedule, none of the following enactments apply to the lease or tenancy—
- (a) Part 2 of the Landlord and Tenant Act 1954 (security of tenure);
  - (b) section 146 of the Law of Property Act 1925 (restrictions on and relief against forfeiture);
  - (c) section 19 of the Landlord and Tenant Act 1927 (covenants not to assign etc);
  - (d) the Landlord and Tenant Act 1988 (consent to assigning etc);
  - (e) the Agricultural Holdings Act 1986.
- (2) In this paragraph—
- “lease” includes an underlease;
- “tenancy” includes a sub-tenancy.

**Commencement Information**

**I105** Sch. 10 para. 3 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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### *Principal*

- 4 (1) The principal of a contracted-out secure college must be a secure college custody officer who is—
- (a) appointed by the contractor, and
  - (b) specially approved for the purposes of this paragraph by the Secretary of State.
- (2) The principal has the functions conferred on the principal by—
- (a) the Prison Act 1952 as it applies to contracted-out secure colleges, and
  - (b) secure college rules.

#### **Commencement Information**

**I106** Sch. 10 para. 4 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

### *Monitor*

- 5 (1) Every contracted-out secure college must have a monitor.
- (2) The monitor must be a Crown servant appointed by the Secretary of State.
- (3) The monitor must—
- (a) keep the running of the secure college by or on behalf of the principal under review,
  - (b) investigate any allegations made against secure college custody officers performing custodial duties at the secure college or officers of directly managed secure colleges who are temporarily attached to the secure college, and
  - (c) report to the Secretary of State on the matters described in paragraphs (a) and (b).
- (4) The monitor also has the other functions conferred on the monitor by secure college rules.
- (5) The contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the monitor of the functions described in this paragraph.
- (6) They may do so by giving directions to officers of the secure college or otherwise.

#### **Commencement Information**

**I107** Sch. 10 para. 5 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

### *Officers*

- 6 (1) Section 8 of the Prison Act 1952 (powers of prison officers) does not apply in relation to officers of a contracted-out secure college.
- (2) Sub-paragraph (1) does not affect the powers of an officer of a directly managed secure college who is temporarily attached to a contracted-out secure college.

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**Commencement Information**

**I108** Sch. 10 para. 6 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Officers who perform custodial duties*

- 7 Every officer of a contracted-out secure college who performs custodial duties at the college must be—
- (a) a secure college custody officer, or
  - (b) an officer of a directly managed secure college who is temporarily attached to the contracted-out secure college.

**Commencement Information**

**I109** Sch. 10 para. 7 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 8 A secure college custody officer performing custodial duties at a contracted-out secure college has the following duties in relation to persons detained there—
- (a) to prevent their escape from lawful custody,
  - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts,
  - (c) to ensure good order and discipline on their part, and
  - (d) to attend to their well-being.

**Commencement Information**

**I110** Sch. 10 para. 8 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 9 (1) A secure college custody officer performing custodial duties at a contracted-out secure college may search the following in accordance with secure college rules—
- (a) a person who is detained in the secure college,
  - (b) any other person who is in the secure college or who is seeking to enter the secure college, and
  - (c) an article in the possession of a person described in paragraph (b).
- (2) The power under sub-paragraph (1)(b) does not include power to require a person to submit to an intimate search (within the meaning of section 164(5) of the Customs and Excise Management Act 1979).

**Commencement Information**

**I111** Sch. 10 para. 9 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 10 If authorised to do so by secure college rules, a secure college custody officer may use reasonable force where necessary in carrying out functions under paragraph 8 or 9.



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**Commencement Information**

**II12** Sch. 10 para. 10 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 11 (1) This paragraph applies where a secure college custody officer performing custodial duties at a contracted-out secure college has reason to believe that a person who is in the college or seeking to enter the college, other than a person detained there, is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952.
- (2) The officer may require the person to wait with the officer for the arrival of a constable for such period as is necessary, except that the person may not be required to wait for longer than 2 hours.
- (3) The officer may use reasonable force to prevent the person from making off during that period.
- (4) A person who makes off during that period is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) In sub-paragraph (1), the reference to an offence under any of sections 39 to 40D of the Prison Act 1952 (a “1952 Act offence”) includes—
- (a) an offence of attempting to commit a 1952 Act offence,
  - (b) an offence of conspiracy to commit a 1952 Act offence, and
  - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which a 1952 Act offence is the offence which the person intended or believed would be committed.

**Commencement Information**

**II13** Sch. 10 para. 11 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Intervention by Secretary of State*

- 12 (1) This paragraph applies where it appears to the Secretary of State that—
- (a) the principal of a contracted-out secure college has lost effective control of the secure college or a part of it or is likely to do so, and
  - (b) it is necessary for the Secretary of State to exercise the power under sub-paragraph (2) in the interests of preserving a person's safety or preventing serious damage to property.
- (2) The Secretary of State may appoint a Crown servant (the “appointed person”) to act as principal of the secure college for the period—
- (a) beginning at the time specified in the appointment, and
  - (b) ending at the time specified in the notice of termination under sub-paragraph (4).
- (3) During that period—
- (a) all of the functions of the principal or monitor are to be carried out by the appointed person,
  - (b) the contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the appointed person of those functions, and

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- (c) the officers of the secure college must comply with any directions given by the appointed person in carrying out those functions.
- (4) The Secretary of State must, by notice to the appointed person, terminate the person's appointment if satisfied that—
  - (a) the person has secured effective control of the secure college or, as the case may be, the relevant part of it, and
  - (b) the person's appointment is no longer necessary as mentioned in sub-paragraph (1)(b).
- (5) The Secretary of State must—
  - (a) give notice of an appointment under this paragraph to the persons listed in sub-paragraph (6) as soon as practicable after making the appointment, and
  - (b) give a copy of a notice of termination of such an appointment to those persons as soon as practicable after terminating it.
- (6) Those persons are—
  - (a) the contractor,
  - (b) any sub-contractor,
  - (c) the principal, and
  - (d) the monitor.

**Commencement Information**

**I114** Sch. 10 para. 12 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Obstruction etc of secure college custody officers*

- 13 (1) A person who resists or wilfully obstructs a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Commencement Information**

**I115** Sch. 10 para. 13 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Assault of secure college custody officers*

- 14 (1) A person who assaults a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or a fine (or both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 51 weeks is to be read as a reference to 6 months.
- (4) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-

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paragraph (2) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

**Commencement Information**

**I116** Sch. 10 para. 14 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Wrongful disclosure of information relating to persons in youth detention accommodation*

- 15 (1) A person who is or has been employed at a contracted-out secure college (whether as a secure college custody officer or otherwise) commits an offence if the person discloses information—
- (a) which the person acquired in the course of the employment, and
  - (b) which relates to a particular person detained in youth detention accommodation.
- (2) It is not an offence under this paragraph for a person to disclose information—
- (a) in the course of the person's duty, or
  - (b) when authorised to do so by the Secretary of State.
- (3) A person who commits an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

**Commencement Information**

**I117** Sch. 10 para. 15 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

**PART 2**

CERTIFICATION OF SECURE COLLEGE CUSTODY OFFICERS

*Meaning of “secure college custody officer”*

- 16 In this Schedule, “secure college custody officer” means a person in respect of whom a certificate under this Part of this Schedule is for the time being in force certifying that the person has been approved by the Secretary of State for the purposes of performing custodial duties at secure colleges.

*Status: Point in time view as at 08/08/2016.*

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**Commencement Information**

**I118** Sch. 10 para. 16 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Issue of certificate*

- 17 (1) The Secretary of State may, on an application by a person, issue a certificate in respect of the person if satisfied that the person—
- (a) is a fit and proper person to perform custodial duties at secure colleges, and
  - (b) has received training to such standard as the Secretary of State considers appropriate for the performance of those functions.
- (2) The certificate must state that it is to cease to be in force on a date or on the occurrence of an event.
- (3) Once issued, the certificate continues in force until that date or event, subject to any previous suspension or revocation under paragraph 18 or 19.

**Commencement Information**

**I119** Sch. 10 para. 17 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Suspension of certificate*

- 18 (1) This paragraph applies where—
- (a) in the case of a secure college custody officer performing custodial duties at a contracted-out secure college, it appears to the monitor of the college that the officer is not a fit and proper person to perform such duties at secure colleges, or
  - (b) in the case of a secure college custody officer performing contracted-out functions at a directly managed secure college, it appears to the principal of the college that the officer is not a fit and proper person to perform custodial duties at secure colleges.
- (2) The monitor or principal may—
- (a) refer the matter to the Secretary of State for a decision under paragraph 19, and
  - (b) in circumstances prescribed by regulations made by the Secretary of State, suspend the officer's certificate pending that decision.
- (3) Regulations under this paragraph may—
- (a) prescribe different circumstances for different cases;
  - (b) include transitional, transitory or saving provision.
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.

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**Commencement Information**

**I120** Sch. 10 para. 18 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Revocation of certificate*

- 19 Where it appears to the Secretary of State that a secure college custody officer is not a fit and proper person to perform custodial duties at secure colleges, the Secretary of State may revoke the officer's certificate.

**Commencement Information**

**I121** Sch. 10 para. 19 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

**PART 3**

CONTRACTING OUT FUNCTIONS AT DIRECTLY MANAGED SECURE COLLEGES

*Power to contract out functions at directly managed secure college*

- 20 (1) The Secretary of State may enter into a contract with another person for functions to be carried out at a directly managed secure college by secure college custody officers provided by that person.
- (2) In this Schedule, “contracted-out functions” means any functions which, by virtue of a contract under this paragraph, fall to be performed by secure college custody officers.

**Commencement Information**

**I122** Sch. 10 para. 20 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Powers of officers carrying out contracted-out functions*

- 21 Paragraphs 6(1) and 8 to 11 apply in relation to a secure college custody officer carrying out contracted-out functions at a directly managed secure college as they apply in relation to a secure college custody officer carrying out functions at a contracted-out secure college.

**Commencement Information**

**I123** Sch. 10 para. 21 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 22 In relation to a directly managed secure college, the reference to an officer of the prison in section 13(2) of the Prison Act 1952 (legal custody of prisoners), as it applies to secure colleges, includes a reference to a secure college custody officer performing custodial duties at the secure college in accordance with a contract under paragraph 20.

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**Commencement Information**

**I124** Sch. 10 para. 22 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Obstruction etc of secure college custody officers*

- 23 (1) A person who resists or wilfully obstructs a secure college custody officer performing contracted-out functions at a directly managed secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

**Commencement Information**

**I125** Sch. 10 para. 23 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Assault of secure college custody officers*

- 24 (1) A person who assaults a secure college custody officer performing contracted-out functions at a directly managed secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or a fine (or both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 51 weeks is to be read as a reference to 6 months.
- (4) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (2) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

**Commencement Information**

**I126** Sch. 10 para. 24 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Wrongful disclosure of information relating to persons in youth detention accommodation*

- 25 (1) A person who is or has been employed to perform contracted-out functions at a directly managed secure college commits an offence if the person discloses any information—
- (a) which the person acquired in the course of the employment, and
  - (b) which relates to a particular person detained in youth detention accommodation.
- (2) It is not an offence under this paragraph for a person to disclose information—
- (a) in the course of the person's duty, or
  - (b) when authorised to do so by the Secretary of State.
- (3) A person who commits an offence under this paragraph is liable—

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- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.

**Commencement Information**

**I127** Sch. 10 para. 25 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Supplementary*

- 26 The references in paragraphs 20, 21 and 22 to the carrying out of functions or the performance of custodial duties at a secure college include references to the carrying out of functions or the performance of such duties for the purposes of, or for purposes connected with, a secure college.

**Commencement Information**

**I128** Sch. 10 para. 26 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

**PART 4**

DEFINITIONS

- 27 In this Schedule—
- “contracted-out functions” has the meaning given in paragraph 20;
  - “contracted-out secure college” has the meaning given in paragraph 1;
  - “the contractor”, in relation to a contracted-out secure college, has the meaning given in paragraph 1;
  - “directly managed secure college” means a secure college which is not a contracted-out secure college;
  - “secure college custody officer” has the meaning given in paragraph 16;
  - “secure college rules” means rules made under section 47 of the Prison Act 1952 for the regulation and management of secure colleges;
  - “sub-contractor”, in relation to a contracted-out secure college, has the meaning given in paragraph 1.

**Commencement Information**

**I129** Sch. 10 para. 27 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Status: Point in time view as at 08/08/2016.*

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## PART 5

### FURTHER AMENDMENTS

#### *Prison Act 1952 (c. 52)*

28 In section 52 of the Prison Act 1952 (exercise of power to make rules etc), after subsection (3) insert—

“(4) A statutory instrument containing rules under section 47 or 47A is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (5).

(5) A statutory instrument containing rules under section 47 that (whether alone or with other provision)—

(a) authorise a secure college custody officer performing custodial duties at a secure college to use reasonable force, or

(b) otherwise make a substantive change to the circumstances in which such an officer is authorised to do so,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(6) In subsection (5), “secure college custody officer” has the same meaning as in Schedule 10 to the Criminal Justice and Courts Act 2015.”

#### **Commencement Information**

**I130** Sch. 10 para. 28 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

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

29 Omit section 66(4) of the Criminal Justice Act 1967 (exercise of powers to make rules under sections 47 and 47A of the Prison Act 1952).

#### **Commencement Information**

**I131** Sch. 10 para. 29 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

#### *Firearms Act 1968 (c. 27)*

30 (1) Schedule 1 to the Firearms Act 1968 (offences to which section 17(2) of that Act applies) is amended as follows.

(2) After paragraph 6 insert—

“6A An offence under paragraph 14 or 24 of Schedule 10 to the Criminal Justice and Courts Act 2015 (assaulting secure college custody officer).”

(3) In paragraph 8, for “6” substitute “ 6A ”.



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**Commencement Information**

**I132** Sch. 10 para. 30 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Criminal Justice Act 1988 (c. 33)*

- 31 In section 40(3) of the Criminal Justice Act 1988 (powers to join in indictment count for certain offences), after paragraph (ab) insert—
- “(ac) an offence under paragraph 14 or 24 of Schedule 10 to the Criminal Justice and Courts Act 2015 (assaulting secure college custody officer);”.

**Commencement Information**

**I133** Sch. 10 para. 31 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Private Security Industry Act 2001 (c. 12)*

- 32 In paragraph 2(7) of Schedule 2 to the Private Security Industry Act 2001 (manned guarding activities not liable to control), after paragraph (c) insert—
- “(cza) activities that are carried out for the purposes of the performance of a contract entered into under, or for the purposes of, paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015 (contracting out of secure colleges) or paragraph 20 of that Schedule (contracted-out functions at directly managed secure colleges);”.

**Commencement Information**

**I134** Sch. 10 para. 32 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Children Act 2004 (c. 31)*

- 33 The Children Act 2004 is amended as follows.

**Commencement Information**

**I135** Sch. 10 para. 33 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 34 In section 15(3) (funding of Local Safeguarding Children Boards)—
- (a) in paragraph (c), after “principal of a” insert “ directly managed ”, and
- (b) in paragraph (d), after “or prison” insert “ or the principal of a contracted-out secure college ”.

**Commencement Information**

**I136** Sch. 10 para. 34 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 35 In section 33(3) (funding of Local Safeguarding Children Boards in Wales)—

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- (a) in paragraph (c), after “principal of a” insert “ directly managed ”, and
- (b) in paragraph (d), after “or prison” insert “ or the principal of a contracted-out secure college ”.

**Commencement Information**

**I137** Sch. 10 para. 35 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

- 36 (1) Section 65 (interpretation) is amended as follows.
- (2) In subsection (3), at the end insert—
- “(d) references to a directly managed secure college and to a contracted-out secure college, and to the contractor in relation to a contracted-out secure college, have the meanings given by paragraph 27 of Schedule 10 to the Criminal Justice and Courts Act 2015.”
- (3) In subsection (4)—
- (a) in paragraph (a), omit “or”,
  - (b) at the end of paragraph (b), insert “ or ”,
  - (c) after paragraph (b) insert—
    - “(c) a contract under paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015 is for the time being in force in relation to part of a secure college”, and”
  - (d) for “or prison” substitute “ , prison or secure college ”.

**Commencement Information**

**I138** Sch. 10 para. 36 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Offender Management Act 2007 (c. 21)*

- 37 In section 14(9) of the Offender Management Act 2007 (disclosure)—
- (a) in paragraph (a), after sub-paragraph (ii) insert—
    - “(iii) a secure college under paragraph 1 of Schedule 10 to the Criminal Justice and Courts Act 2015;”;
  - (b) in paragraph (a), for “section in question” substitute “ provision in question ”;
  - (c) in paragraph (b)(ii), omit the words from “for offenders” to the end.

**Commencement Information**

**I139** Sch. 10 para. 37 in force at 20.3.2015 by S.I. 2015/778, art. 2(1)(d)

*Status: Point in time view as at 08/08/2016.*

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## SCHEDULE 11

Section 50

### TRIAL BY SINGLE JUSTICE ON THE PAPERS: FURTHER AMENDMENTS

#### *Criminal Law Act 1977 (c. 45)*

- 1 (1) Section 39 of the Criminal Law Act 1977 (service of summons etc) is amended as follows.
- (2) In subsection (1), after paragraph (c) (but before “and”) insert—
- “(ca) a single justice procedure notice (within the meaning of that section) requiring a person charged with an offence to serve a written notification stating—
- (i) whether or not the person desires to plead guilty, and
- (ii) if the person desires to plead guilty, whether or not the person desires to be tried in accordance with section 16A of the Magistrates' Courts Act 1980.”
- (3) In subsection (1)(d), for “or (c)” substitute “, (c) or (ca) ”.
- (4) After subsection (1) insert—
- “(1A) The documents falling within subsection (1)(a) include a summons directed to a person that is issued after the person's trial has begun.”

#### **Commencement Information**

**I140** Sch. 11 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

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

- 2 The Magistrates' Courts Act 1980 is amended as follows.

#### **Commencement Information**

**I141** Sch. 11 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

- 3 (1) Section 1 (issue of summons to accused etc) is amended as follows.
- (2) In subsection (4A), for “public prosecutor” substitute “ relevant prosecutor authorised to issue requisitions ”.
- (3) Omit subsection (4B).
- (4) In subsection (6A), for “public prosecutor” substitute “ relevant prosecutor ”.

#### **Commencement Information**

**I142** Sch. 11 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

- 4 In section 11 (non-appearance of accused: general provisions), after subsection (5) insert—

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“(5A) Subsection (4) does not apply in relation to proceedings adjourned under section 16C(3)(a) because of section 16C(2) (adjournment of a section 16A trial because the accused indicates a wish to make representations).”

**Commencement Information**

**I143** Sch. 11 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

5 In section 123 (defect in process), after subsection (2) insert—

“(3) In the application of this section to proceedings conducted in accordance with section 16A—

- (a) a reference in subsection (1) or (2) to evidence adduced on behalf of the prosecutor at a hearing is to be read as a reference to evidence placed before the court on behalf of the prosecutor, and
- (b) subsection (2) is to be read as if for the words from “has been misled” to the end there were substituted “ is likely to have been misled by the variance, the court shall treat the written charge as not being appropriate for trial in accordance with section 16A ”.”

**Commencement Information**

**I144** Sch. 11 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

6 In section 150(1) (interpretation of other terms)—

- (a) omit the entry for “public prosecutor”, “requisition” and “written charge”, and
- (b) at the appropriate places insert—

““relevant prosecutor” has the meaning given by section 29 of the Criminal Justice Act 2003;”,

““requisition” has the meaning given by section 29 of the Criminal Justice Act 2003;”,

““single justice procedure notice” has the meaning given by section 29 of the Criminal Justice Act 2003;”, and

““written charge” has the meaning given by section 29 of the Criminal Justice Act 2003;”.

**Commencement Information**

**I145** Sch. 11 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

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

7 (1) Section 15 of the Prosecution of Offences Act 1985 (interpretation of Part 1) is amended as follows.

(2) In subsection (1)—

- (a) for ““public prosecutor”” substitute ““relevant prosecutor””, and

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- (b) after “requisition” insert “, “single justice procedure notice””.
- (3) In subsection (2)—
  - (a) in paragraph (ba), for “public prosecutor” substitute “ relevant prosecutor”, and
  - (b) after paragraph (ba) insert—
    - “(bb) where a relevant prosecutor issues a written charge and single justice procedure notice, when the written charge and single justice procedure notice are issued;”.

**Commencement Information**

**I146** Sch. 11 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Road Traffic Offenders Act 1988 (c. 53)*

8 The Road Traffic Offenders Act 1988 is amended as follows.

**Commencement Information**

**I147** Sch. 11 para. 8 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

- 9
- (1) Section 7 (duty of accused to provide licence) is amended as follows.
  - (2) After subsection (1) insert—
    - “(1A) Subsection (1B) applies where—
      - (a) proceedings in relation to an offence involving obligatory or discretionary disqualification are instituted by a written charge and a single justice procedure notice,
      - (b) the person prosecuted is the holder of a licence, and
      - (c) after being convicted in proceedings conducted in accordance with section 16A of the Magistrates' Courts Act 1980, the person is given the opportunity to make representations or further representations under section 16C(2)(a) of that Act.
    - (1B) Where this subsection applies, the person must (instead of complying with subsection (1))—
      - (a) cause the licence to be delivered to the designated officer specified in the single justice procedure notice within such period as the person is allowed for indicating a wish to make such representations,
      - (b) post it, at such time that in the ordinary course of post it would be delivered within that period, in a letter duly addressed to that officer and either registered or sent by the recorded delivery service, or
      - (c) if the person indicates a wish to make such representations, have the licence with him at the hearing appointed to be held because of that indication.
    - (1C) Subsection (1B) does not apply (and subsection (1) applies instead) if, before the period mentioned in subsection (1B)(a) comes to an end, a summons is issued under section 16B(3)(b) or 16C(3)(b) of the Magistrates' Courts Act 1980.”

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(3) In subsection (2)—

(a) for “In subsection (1) above “proper officer” means—” substitute “In this section—

“proper officer” means—”, and

(b) at the end insert—

““single justice procedure notice” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

**Commencement Information**

**I148** Sch. 11 para. 9 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

10 In section 8 (duty to include date of birth and sex in written plea of guilty), after paragraph (a) (but before “or”) insert—

“(aa) serves a written notification on the designated officer for a magistrates' court stating a desire to plead guilty and to be tried in accordance with section 16A of the Magistrates' Courts Act 1980 (trial by single justice on the papers),”.

**Commencement Information**

**I149** Sch. 11 para. 10 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

11 (1) Section 27 (production of licence) is amended as follows.

(2) After subsection (4) insert—

“(4A) Subsection (3) does not apply where section 7(1B) applies in relation to the proceedings and the holder of the licence—

(a) has caused a current receipt for the licence issued under section 56 to be delivered to the designated officer specified in the single justice procedure notice within the period described in section 7(1B)(a),

(b) has posted it to that officer within that period in such manner as is described in section 7(1B)(b), or

(c) surrenders such a receipt to the court at the hearing described in section 7(1B)(c),

and produces the licence to the court immediately on its return.”

(3) In subsection (5)—

(a) for “In subsection (4) above “proper officer” means—” substitute “In this section—

“proper officer” means—”, and

(b) at the end insert—

““single justice procedure notice” has the same meaning as in section 29 of the Criminal Justice Act 2003.”

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**Commencement Information**

**I150** Sch. 11 para. 11 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Pension Schemes Act 1993 (c. 48)*

- 12 (1) Section 68 of the Pension Schemes Act 1993 (unpaid premiums: supplementary) is amended as follows.
- (2) In subsection (1), after “1980” insert “ or in proceedings conducted in accordance with section 16A of that Act ”.
- (3) After subsection (1) insert—
- “(1A) Where subsection (1) applies in relation to a person being tried in accordance with section 16A of the Magistrates' Courts Act 1980, the reference in subsection (1)(b) to the designated officer for the court is to be treated as including a reference to the designated officer for a magistrates' court specified in the single justice procedure notice in question.”

**Commencement Information**

**I151** Sch. 11 para. 12 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Vehicle Excise and Registration Act 1994 (c. 22)*

- 13 (1) Section 55 of the Vehicle Excise and Registration Act 1994 (guilty plea by absent accused and amount payable under section 30 or 36) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) This section also applies if—
- (a) a person is convicted of an offence under section 29 or 35A while being tried in accordance with section 16A of the Magistrates' Courts Act 1980 (trial by single justice on the papers), and
- (b) it is proved to the satisfaction of the court, in the manner prescribed by Criminal Procedure Rules, that a relevant notice was served on the accused with the written charge.”
- (3) In subsection (3)—
- (a) in paragraph (a), for “in a case within subsection (1)(a)” substitute “ if the offence is an offence under section 29 ”, and
- (b) in paragraph (b), for “in a case within subsection (1)(b)” substitute “ if the offence is an offence under section 35A ”.
- (4) In subsection (5), for “The court shall not so proceed” substitute “ Where this section applies by virtue of subsection (1), the court shall not proceed as described in subsection (4) ”.
- (5) After subsection (5) insert—
- “(6) Where this section applies by virtue of subsection (2A), the court shall not proceed as described in subsection (4) if the written notification served by

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the accused or the legal representative of the accused in accordance with the single justice procedure notice includes a statement that the amount specified in the relevant notice is inappropriate.

(7) In subsection (6) “single justice procedure notice” has the meaning given by section 29 of the Criminal Justice Act 2003.”

**Commencement Information**

**I152** Sch. 11 para. 13 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

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

14 (1) Section 51 of the Criminal Justice and Public Order Act 1994 (intimidation etc of witnesses, jurors and others) is amended as follows.

(2) In subsection (9)—

- (a) for ““public prosecutor”” substitute ““relevant prosecutor””, and
- (b) after ““requisition”” insert “ , “single justice procedure notice” ”.

(3) In subsection (10)(a)(ia)—

- (a) for “public prosecutor” substitute “ relevant prosecutor ”, and
- (b) after “and requisition” insert “ or single justice procedure notice ”.

**Commencement Information**

**I153** Sch. 11 para. 14 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Drug Trafficking Act 1994 (c. 37)*

15 (1) Section 60 of the Drug Trafficking Act 1994 (Revenue and Customs prosecutions) is amended as follows.

(2) In subsection (6), for ““public prosecutor”” substitute ““relevant prosecutor””.

(3) In subsection (6A)(aa), for “public prosecutor” substitute “ relevant prosecutor ”.

**Commencement Information**

**I154** Sch. 11 para. 15 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Merchant Shipping Act 1995 (c. 21)*

16 (1) Section 145 of the Merchant Shipping Act 1995 (interpretation of section 144) is amended as follows.

(2) In subsection (2)(a)(ia), for “public prosecutor” substitute “ relevant prosecutor ”.

(3) In subsection (2A), for ““public prosecutor”” substitute ““relevant prosecutor””.



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**Commencement Information**

**I155** Sch. 11 para. 16 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Terrorism Act 2000 (c. 11)*

- 17 (1) In Schedule 4 to the Terrorism Act 2000 (forfeiture orders), paragraph 11 is amended as follows.
- (2) In sub-paragraph (1)(aa), for “public prosecutor” substitute “relevant prosecutor”.
- (3) In sub-paragraph (2A), for ““public prosecutor”” substitute ““relevant prosecutor””.

**Commencement Information**

**I156** Sch. 11 para. 17 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

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

- 18 (1) Section 85 of the Proceeds of Crime Act 2002 (proceedings) is amended as follows.
- (2) In subsection (1)(aa)—
- (a) for “public prosecutor” substitute “relevant prosecutor”, and
- (b) after “and requisition” insert “ or single justice procedure notice”.
- (3) In subsection (9)—
- (a) for ““public prosecutor”” substitute ““relevant prosecutor””, and
- (b) after ““requisition”” insert “ , “single justice procedure notice””.

**Commencement Information**

**I157** Sch. 11 para. 18 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Education Act 2002 (c. 32)*

- 19 (1) Section 141F of the Education Act 2002 (restrictions on reporting alleged offences by teachers) is amended as follows.
- (2) In subsection (15)(b)—
- (a) for “public prosecutor” substitute “relevant prosecutor”, and
- (b) after “and requisition” insert “ or single justice procedure notice”.
- (3) After subsection (15) insert—
- “(16) In subsection (15) “relevant prosecutor”, “requisition”, “single justice procedure notice” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.”

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**Commencement Information**

**I158** Sch. 11 para. 19 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Crime (International Co-operation) Act 2003 (c. 32)*

20 The Crime (International Co-operation) Act 2003 is amended as follows.

**Commencement Information**

**I159** Sch. 11 para. 20 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

- 21 (1) Section 4A (general requirements for service of written charge or requisition) is amended as follows.
- (2) In the heading, for “or requisition” substitute “ etc ”.
- (3) In subsection (1), after paragraph (b) insert “and  
(c) a single justice procedure notice (within the meaning of that section).”
- (4) In subsection (2), for “The written charge or requisition” substitute “ Each of the documents ”.
- (5) In subsection (3), for “the written charge or requisition”, in both places, substitute “ the document ”.
- (6) In subsection (4), for “A written charge or requisition” substitute “ Such a document ”.
- (7) In subsection (5)—
- (a) after “a requisition” insert “ or single justice procedure notice ”, and
- (b) after “the requisition” insert “ or single justice procedure notice ”.

**Commencement Information**

**I160** Sch. 11 para. 21 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

- 22 (1) Section 4B (service of written charge or requisition otherwise than by post) is amended as follows.
- (2) In the heading, for “or requisition” substitute “ etc ”.
- (3) In subsection (1), for “or requisition” substitute “ , requisition or single justice procedure notice ”.
- (4) In subsection (2), for “the written charge or requisition” substitute “ the document ”.
- (5) In subsection (3)(b), for “the written charge or requisition” substitute “ the document ”.

*Status: Point in time view as at 08/08/2016.*

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**Commencement Information**

**I161** Sch. 11 para. 22 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

*Criminal Justice Act 2003 (c. 44)*

- 23 In section 164 of the Criminal Justice Act 2003 (fixing of fines), after subsection (5) (a) (but before “or”) insert—
- “(aa) an offender has been convicted in the offender's absence in proceedings conducted in accordance with section 16A of the Magistrates' Courts Act 1980 (trial by single justice on the papers),”.

**Commencement Information**

**I162** Sch. 11 para. 23 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 77

SCHEDULE 12

Section 54

FURTHER PROVISION ABOUT CRIMINAL COURTS CHARGE

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

- 1 In section 1(3) of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions: definition of sentence), at the end insert—
- “(c) an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge).”

**Commencement Information**

**I163** Sch. 12 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

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

- 2 The Magistrates' Courts Act 1980 is amended as follows.

**Commencement Information**

**I164** Sch. 12 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

- 3 In section 82 (restriction on power to impose imprisonment for default), for subsection (1A) substitute—
- “(1A) A magistrates' court may not issue a warrant of commitment in reliance on subsection (1)(c) for a default in paying—
- (a) a charge ordered to be paid under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge), or

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- (b) a surcharge ordered to be paid under section 161A of the Criminal Justice Act 2003.”

**Commencement Information**

**I165** Sch. 12 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

- 4 In section 108 (right of appeal to the Crown Court), after subsection (4) insert—  
“(5) Subsection (3) does not prevent an appeal against an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge).”

**Commencement Information**

**I166** Sch. 12 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

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

- 5 In the Prosecution of Offences Act 1985, at the beginning of the heading of Part 2 insert “ Defence, prosecution and third party ”.

**Commencement Information**

**I167** Sch. 12 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

*Insolvency Act 1986 (c. 45)*

- 6 In section 281(4A) of the Insolvency Act 1986 (effect of discharge from bankruptcy debts)—  
(a) after “fine” insert “ imposed for an offence ”, and  
(b) after “a reference to” insert “—  
(a) a charge ordered to be paid under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge), whether on conviction or otherwise;  
(b)”.

**Commencement Information**

**I168** Sch. 12 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

*Criminal Justice Act 1991 (c. 53)*

- 7 In section 24(4) of the Criminal Justice Act 1991 (recovery of fines etc from certain benefits), in the definition of “fine”, after paragraph (b) insert—  
“(ba) a charge ordered to be paid under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge);”.

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**Commencement Information**

**I169** Sch. 12 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

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

8 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

**Commencement Information**

**I170** Sch. 12 para. 8 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

9 (1) Section 12 (absolute and conditional discharge) is amended as follows.

(2) In subsection (7)—

- (a) omit “from making an order for costs against the offender or”, and
- (b) for “him” substitute “ the offender ”.

(3) At the end insert—

“(8) Nothing in this section shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of an offence, from—

- (a) making an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge), or
- (b) making an order for costs against the offender.”

**Commencement Information**

**I171** Sch. 12 para. 9 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

10 In section 142(1) (power of Crown Court to order search of persons before it), after paragraph (b) insert—

“(ba) the Crown Court makes an order against a person under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge),”.

**Commencement Information**

**I172** Sch. 12 para. 10 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

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

11 In section 13(3)(a) of the Proceeds of Crime Act 2002 (effect of order on court's other powers), after “other than” insert “ an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) or ”.

**Commencement Information**

**I173** Sch. 12 para. 11 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

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*Criminal Justice Act 2003 (c. 44)*

12 The Criminal Justice Act 2003 is amended as follows.

**Commencement Information**

**I174** Sch. 12 para. 12 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

13 In section 151(5) (community order or youth rehabilitation order for persistent offender previously fined), before “a compensation order” insert “an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge), or”.

**Commencement Information**

**I175** Sch. 12 para. 13 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

14 In section 256AC(11) (breach of supervision requirements imposed under section 256AA: appeal)—

(a) after “against” insert “—  
 (a)”,  
 and

(b) at the end insert “under this section, and  
 (b) an order made by the court under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) when dealing with the person under this section.”

**Commencement Information**

**I176** Sch. 12 para. 14 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

15 In Schedule 8 (breach or amendment of community order), in paragraph 9(8) (appeals)—

(a) after “against” insert “—  
 (a)”,  
 and

(b) at the end insert “, and  
 (b) an order made by the court under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) when imposing that sentence.”

**Commencement Information**

**I177** Sch. 12 para. 15 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

16 In Schedule 12 (breach or amendment of suspended sentence order), in paragraph 9(3) (appeals)—

(a) for “any order made by the court under paragraph 8(2)(a) or (b)” substitute “each of the following orders”, and

(b) at the end insert “—  
 (a) an order made by the court under paragraph 8(2)(a) or (b);

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- (b) an order made by the court under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) when making an order described in paragraph (a).”

**Commencement Information**

**I178** Sch. 12 para. 16 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 78

SCHEDULE 13

Section 75

JURIES AT INQUESTS

*Jurors and electronic communications devices*

1 After section 9 of the Coroners and Justice Act 2009 insert—

**“9A Surrender of electronic communications devices by jurors**

- (1) A senior coroner holding an inquest with a jury may order the members of the jury to surrender any electronic communications devices for a period.
- (2) An order may be made only if the senior coroner considers that—
  - (a) the order is necessary or expedient in the interests of justice, and
  - (b) the terms of the order are a proportionate means of safeguarding those interests.
- (3) An order may only specify a period during which the members of the jury are—
  - (a) in the building in which the inquest is being heard,
  - (b) in other accommodation provided at the senior coroner's request,
  - (c) visiting a place in accordance with arrangements made for the purposes of the inquest, or
  - (d) travelling to or from a place mentioned in paragraph (b) or (c).
- (4) An order may be made subject to exceptions.
- (5) It is a contempt of court for a member of a jury to fail to surrender an electronic communications device in accordance with an order under this section.
- (6) Proceedings for a contempt of court under this section may only be instituted on the motion of a senior coroner having jurisdiction to deal with it.
- (7) In this section, “electronic communications device” means a device that is designed or adapted for a use which consists of or includes the sending or receiving of signals that are transmitted by means of an electronic communications network (as defined in section 32 of the Communications Act 2003).

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### **9B Surrender of electronic communications devices: powers of search etc**

- (1) This section applies where an order has been made under section 9A in respect of the members of a jury.
- (2) A coroners' officer must, if ordered to do so by a senior coroner, search a member of the jury in order to determine whether the juror has failed to surrender an electronic communications device in accordance with the order.
- (3) Subsection (2) does not authorise the officer to require a person to remove clothing other than a coat, jacket, headgear, gloves or footwear.
- (4) If the search reveals a device which is required by the order to be surrendered—
  - (a) the officer must ask the juror to surrender the device, and
  - (b) if the juror refuses to do so, the officer may seize it.
- (5) Subject to subsection (6), a coroners' officer may retain an article which was surrendered or seized under subsection (4) until the end of the period specified in the order.
- (6) If a coroners' officer reasonably believes that the device may be evidence of, or in relation to, an offence, the officer may retain it until the later of—
  - (a) the end of the period specified in the order, and
  - (b) the end of such period as will enable the officer to draw it to the attention of a constable.
- (7) A coroners' officer may not retain a device under subsection (6)(b) for a period of more than 24 hours from the time when it was surrendered or seized.
- (8) The Lord Chancellor may by regulations make provision as to—
  - (a) the provision of written information about coroners' officers' powers of retention to persons by whom devices have been surrendered, or from whom devices have been seized, under this section,
  - (b) the keeping of records about devices which have been surrendered or seized under this section,
  - (c) the period for which unclaimed devices have to be kept, and
  - (d) the disposal of unclaimed devices at the end of that period.
- (9) In this section—
 

“electronic communications device” has the same meaning as in section 9A;

“unclaimed device” means a device retained under this section which has not been returned and whose return has not been requested by a person entitled to it.”

#### **Commencement Information**

**I179** Sch. 13 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79

- 2 (1) Part 4 of the Courts Act 2003 (court security officers) is amended as follows.



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- (2) In section 54A (powers in relation to jurors' electronic communications devices) (inserted by section 70 of this Act)—
- (a) in subsection (1), after “1974” insert “ or section 9A of the Coroners and Justice Act 2009 ”,
  - (b) in subsection (2), after “judge” insert “ or a senior coroner ”, and
  - (c) for subsection (5) substitute—  
“(5) In this section—  
“electronic communications device” means a device that is designed or adapted for a use which consists of or includes the sending or receiving of signals that are transmitted by means of an electronic communications network (as defined in section 32 of the Communications Act 2003);  
“senior coroner” has the same meaning as in the Coroners and Justice Act 2009.”
- (3) In section 55(1A) (powers to retain articles surrendered or seized) (inserted by section 70 of this Act), after “1974” insert “ or section 9A of the Coroners and Justice Act 2009 ”.

**Commencement Information**

**I180** Sch. 13 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79

*Offences relating to research by jurors etc*

- 3 Part 1 of Schedule 6 to the Coroners and Justice Act 2009 (offences relating to jurors at inquests) is amended as follows.

**Commencement Information**

**I181** Sch. 13 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79

- 4 Before paragraph 1 insert— “ Serving while disqualified, failure to attend etc ”.

**Commencement Information**

**I182** Sch. 13 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79

- 5 After paragraph 5 insert—

*“Research by jurors*

- 5A (1) It is an offence for a member of a jury at an inquest to research the case during the inquest period, subject to the exceptions in sub-paragraphs (6) and (7).
- (2) A person researches a case if (and only if) the person—
- (a) intentionally seeks information, and
  - (b) when doing so, knows or ought reasonably to know that the information is or may be relevant to the inquest.

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- (3) The ways in which a person may seek information include—
- (a) asking a question,
  - (b) searching an electronic database, including by means of the internet,
  - (c) visiting or inspecting a place or object,
  - (d) conducting an experiment, and
  - (e) asking another person to seek the information.
- (4) Information relevant to the inquest includes information about—
- (a) a person involved in events relevant to the inquest,
  - (b) the senior coroner dealing with the inquest,
  - (c) any other person who is involved in the inquest, whether as a lawyer, a witness or otherwise,
  - (d) the law relating to the case,
  - (e) the law of evidence, and
  - (f) procedure at inquests.
- (5) “The inquest period”, in relation to a member of a jury at an inquest, is the period—
- (a) beginning when the person is sworn to inquire into the case, and
  - (b) ending when the senior coroner discharges the jury or, if earlier, when the senior coroner discharges the person.
- (6) It is not an offence under this paragraph for a person to seek information if the person needs the information for a reason which is not connected with the case.
- (7) It is not an offence under this paragraph for a person—
- (a) to attend proceedings at the inquest;
  - (b) to seek information from the senior coroner dealing with the case;
  - (c) to do anything which the senior coroner dealing with the case directs or authorises the person to do;
  - (d) to seek information from another member of the jury, unless the person knows or ought reasonably to know that the other member of the jury contravened this paragraph in the process of obtaining the information;
  - (e) to do anything else which is reasonably necessary in order for the jury to make a determination or finding in the case.
- (8) A person guilty of an offence under this paragraph is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (9) Proceedings for an offence under this paragraph may only be instituted by or with the consent of the Attorney General.

*Sharing research with other jurors*

- 5B (1) It is an offence for a member of a jury at an inquest intentionally to disclose information to another member of the jury during the inquest period if—
- (a) the member contravened paragraph 5A in the process of obtaining the information, and

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- (b) the information has not been provided at the inquest.
- (2) Information has been provided at the inquest if (and only if) it has been provided as part of—
  - (a) evidence presented at the inquest, or
  - (b) other information provided to the jury or a juror during the inquest period by, or with the permission of, the senior coroner dealing with the case.
- (3) A person guilty of an offence under this paragraph is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (4) Proceedings for an offence under this paragraph may not be instituted except by or with the consent of the Attorney General.
- (5) In this paragraph, “the inquest period” has the same meaning as in paragraph 5A.

*Jurors engaging in other prohibited conduct*

- 5C (1) It is an offence for a member of a jury at an inquest intentionally to engage in prohibited conduct during the inquest period, subject to the exceptions in sub-paragraphs (4) and (5).
- (2) “Prohibited conduct” means conduct from which it may reasonably be concluded that the person intends to make a determination or finding otherwise than on the basis of the evidence presented at the inquest.
- (3) An offence under this paragraph is committed whether or not the person knows that the conduct is prohibited conduct.
- (4) It is not an offence under this paragraph for a member of the jury to research the case (as defined in paragraph 5A(2) to (4)).
- (5) It is not an offence under this paragraph for a member of the jury to disclose information to another member of the jury.
- (6) A person guilty of an offence under this paragraph is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (7) Proceedings for an offence under this paragraph may not be instituted except by or with the consent of the Attorney General.
- (8) In this paragraph, “the inquest period” has the same meaning as in paragraph 5A.”

**Commencement Information**

**I183** Sch. 13 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79 (with Sch. 2 para. 3(b))

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*Offence relating to jury's deliberations*

- 6 In Schedule 6 to the Coroners and Justice Act 2009 (offences relating to inquests), after Part 1 insert—

**“PART 1A**

OFFENCE RELATING TO JURY'S DELIBERATIONS

**Offence**

- 5D (1) It is an offence for a person intentionally—
- (a) to disclose information about statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in proceedings at an inquest, or
  - (b) to solicit or obtain such information,
- subject to the exceptions in paragraphs 5E to 5G.
- (2) A person guilty of an offence under this paragraph is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) Proceedings for an offence under this paragraph may not be instituted except by or with the consent of the Attorney General.

**Initial exceptions**

- 5E (1) It is not an offence under paragraph 5D for a person to disclose information in the inquest mentioned in paragraph 5D(1) for the purposes of enabling the jury to make findings or a determination or in connection with the delivery of findings or a determination.
- (2) It is not an offence under paragraph 5D for the senior coroner dealing with that inquest to disclose information—
- (a) for the purposes of dealing with the inquest, or
  - (b) for the purposes of an investigation by a relevant investigator into whether an offence or contempt of court has been committed by or in relation to a juror in the inquest.
- (3) It is not an offence under paragraph 5D for a person who reasonably believes that a disclosure described in sub-paragraph (2)(b) has been made to disclose information for the purposes of the investigation.
- (4) It is not an offence under paragraph 5D to publish information disclosed as described in sub-paragraph (1) or (2)(a) in the inquest mentioned in paragraph 5D(1).
- (5) In this paragraph—
- “publish” means make available to the public or a section of the public;
- “relevant investigator” means—
- (a) a police force;

*Status: Point in time view as at 08/08/2016.*

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- (b) the Attorney General;
  - (c) any other person or class of person specified by the Lord Chancellor for the purposes of this paragraph by regulations.
- (6) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this paragraph.

### Further exceptions

- 5F (1) It is not an offence under paragraph 5D for a person to disclose information to a person listed in sub-paragraph (2) if—
- (a) the disclosure is made after the jury at the inquest mentioned in paragraph 5D(1) has been discharged, and
  - (b) the person making the disclosure reasonably believes that—
    - (i) an offence or contempt of court has been, or may have been, committed by or in relation to a juror in connection with that inquest, or
    - (ii) conduct of a juror in connection with that inquest may provide grounds for an application under section 13(1)(b) of the Coroners Act 1988.
- (2) Those persons are—
- (a) a member of a police force;
  - (b) the Attorney General's Office;
  - (c) a judge of the High Court;
  - (d) the Chief Coroner;
  - (e) the senior coroner who dealt with the inquest mentioned in paragraph 5D(1);
  - (f) a coroner's officer or a member of staff assisting a senior coroner who would reasonably be expected to disclose the information only to a person mentioned in paragraphs (b) to (e).
- (3) It is not an offence under paragraph 5D for a member of a police force to disclose information for the purposes of obtaining assistance in deciding whether to submit the information to a person listed in sub-paragraph (2), provided that the disclosure does not involve publishing the information.
- (4) It is not an offence under paragraph 5D for the Attorney General's Office or a judge of the High Court to disclose information for the purposes of an investigation by a relevant investigator into—
- (a) whether an offence or contempt of court has been committed by or in relation to a juror in connection with the inquest mentioned in paragraph 5D(1), or
  - (b) whether conduct of a juror in connection with that inquest may provide grounds for an application under section 13(1)(b) of the Coroners Act 1988.
- (5) It is not an offence under paragraph 5D for a person who reasonably believes that a disclosure described in sub-paragraph (4) has been made to disclose information for the purposes of the investigation.

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- (6) It is not an offence under paragraph 5D for a person to disclose information in evidence in—
- (a) proceedings for an offence or contempt of court alleged to have been committed by or in relation to a juror in connection with the inquest mentioned in paragraph 5D(1),
  - (b) proceedings on an application to the High Court under section 13(1)(b) of the Coroners Act 1988 in connection with the inquest mentioned in paragraph 5D(1) where an allegation relating to conduct of or in relation to a juror forms part of the grounds for the application, or
  - (c) proceedings on any further appeal, reference or investigation arising out of proceedings mentioned in paragraph (a) or (b).
- (7) It is not an offence under paragraph 5D for a person to disclose information in the course of taking reasonable steps to prepare for proceedings described in sub-paragraph (6)(a) to (c).
- (8) It is not an offence under paragraph 5D to publish information disclosed as described in sub-paragraph (6).
- (9) In this paragraph—
- “the Attorney General's Office” means the Attorney General, the Solicitor General or a member of staff of the Attorney General's Office;
- “publish” means make available to the public or a section of the public;
- “relevant investigator” means—
- (a) a police force;
  - (b) the Attorney General;
  - (c) the Criminal Cases Review Commission;
  - (d) the Crown Prosecution Service;
  - (e) a senior coroner, area coroner or assistant coroner;
  - (f) any other person or class of person specified by the Lord Chancellor for the purposes of this paragraph by regulations.
- (10) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this paragraph.

### **Exceptions for soliciting disclosures or obtaining information**

- 5G (1) It is not an offence under paragraph 5D to solicit a disclosure described in paragraph 5E(1) to (4) or paragraph 5F(1) to (8).
- (2) It is not an offence under paragraph 5D to obtain information—
- (a) by means of a disclosure described in paragraph 5E(1) to (4) or paragraph 5F(1) to (8), or
  - (b) from a document that is available to the public or a section of the public.”

*Status: Point in time view as at 08/08/2016.*

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**Commencement Information**

**I184** Sch. 13 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79 (with Sch. 2 para. 4(b))

*Saving for contempt of court*

7 In Part 3 of Schedule 6 to the Coroners and Justice Act 2009 (offences relating to inquests: miscellaneous), at the end insert—

“11 Nothing in paragraph 5A, 5B or 5C affects what constitutes contempt of court at common law.”

**Commencement Information**

**I185** Sch. 13 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 79

SCHEDULE 14

Section 76

MEMBERS OF THE COURT MARTIAL

**PART 1**

OFFENCES

1 The Armed Forces Act 2006 is amended as follows.

**Commencement Information**

**I186** Sch. 14 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

2 In Chapter 2 of Part 7 (trial by Court Martial: proceedings), after section 163 insert—

**“163A Offences**

Schedule 2A makes provision about offences relating to members of the Court Martial and their deliberations.”

**Commencement Information**

**I187** Sch. 14 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

3 After Schedule 2 insert—

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“SCHEDULE  
2A

Section 163A

OFFENCES RELATING TO MEMBERS OF THE COURT MARTIAL

*Interpretation*

- 1 (1) In this Schedule, “lay member” means a member of the Court Martial other than a judge advocate.
- (2) References in this Schedule to a member, or lay member, of the Court Martial are to any member, or lay member, whether or not the person is a person subject to service law or a civilian subject to service discipline.
- (3) In this Schedule, “the trial period”, in relation to a person specified as a lay member of the Court Martial for proceedings, is the period—
- (a) beginning when the person is sworn to try the case, and
  - (b) ending when the proceedings terminate or, if earlier, when the lay member is discharged by the judge advocate.

*Research by lay members*

- 2 (1) It is an offence for a lay member of the Court Martial for proceedings to research the case that is the subject of the proceedings during the trial period, subject to the exceptions in sub-paragraphs (5) and (6).
- (2) A person researches a case if (and only if) the person—
- (a) intentionally seeks information, and
  - (b) when doing so, knows or ought reasonably to know that the information is or may be relevant to the case.
- (3) The ways in which a person may seek information include—
- (a) asking a question,
  - (b) searching an electronic database, including by means of the internet,
  - (c) visiting or inspecting a place or object,
  - (d) conducting an experiment, and
  - (e) asking another person to seek the information.
- (4) Information relevant to the case includes information about—
- (a) a person involved in events relevant to the case,
  - (b) the judge advocate for the proceedings,
  - (c) any other person involved in the trial, whether as a lawyer, a witness or otherwise,
  - (d) the law relating to the case,
  - (e) the law of evidence, and
  - (f) Court Martial procedure.
- (5) It is not an offence under this paragraph for a person to seek information if the person needs the information for a reason which is not connected with the case.
- (6) It is not an offence under this paragraph for a person—



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- (a) to attend the proceedings in question;
  - (b) to seek information from the judge advocate for the proceedings;
  - (c) to seek information from the court administration officer or from a member of the Military Court Service;
  - (d) to do anything which the Judge Advocate General directs or authorises the person to do;
  - (e) to do anything which the judge advocate dealing with the issue directs or authorises the person to do;
  - (f) to seek information from another lay member of the Court Martial for the proceedings, unless the person knows or ought reasonably to know that the other lay member contravened this paragraph in the process of obtaining the information;
  - (g) to do anything else which is reasonably necessary in order for the Court Martial to make a finding on a charge or pass a sentence.
- (7) A person guilty of an offence under this paragraph is liable to any punishment mentioned in the Table in section 164, but a sentence of imprisonment imposed in respect of the offence must not exceed two years.

*Sharing research with other lay members*

- 3 (1) It is an offence for a lay member of the Court Martial for proceedings intentionally to disclose information to another lay member of that court for the proceedings during the trial period if—
- (a) the lay member contravened paragraph 2 in the process of obtaining the information, and
  - (b) the information has not been provided to the Court Martial during the course of the proceedings.
- (2) Information has been provided to the Court Martial during the course of the proceedings if (and only if) it has been provided as part of—
- (a) evidence presented in the proceedings,
  - (b) information provided to a lay member or the lay members during the trial period by the court administration officer or a member of the Military Court Service, or
  - (c) other information provided to a lay member or the lay members during the trial period by, or with the permission of, the judge advocate dealing with the issue.
- (3) A person guilty of an offence under this paragraph is liable to any punishment mentioned in the Table in section 164, but a sentence of imprisonment imposed in respect of the offence must not exceed two years.

*Engaging in other prohibited conduct*

- 4 (1) It is an offence for a lay member of the Court Martial for proceedings intentionally to engage in prohibited conduct during the trial period, subject to the exceptions in sub-paragraphs (4) and (5).
- (2) “Prohibited conduct” means conduct from which it may reasonably be concluded that the person intends to make a finding on a charge or a decision

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about a sentence otherwise than on the basis of the evidence presented in the proceedings.

- (3) An offence under this paragraph is committed whether or not the person knows that the conduct is prohibited conduct.
- (4) It is not an offence under this paragraph for a person to research the case that is the subject of the proceedings (as defined in paragraph 2(2) to (4)).
- (5) It is not an offence under this paragraph for a person to disclose information to another lay member of the Court Martial.
- (6) A person guilty of an offence under this paragraph is liable to any punishment mentioned in the Table in section 164, but a sentence of imprisonment imposed in respect of the offence must not exceed two years.

*Disclosing information about members' deliberations etc*

- 5 (1) It is an offence for a person intentionally—
  - (a) to disclose information about statements made, opinions expressed, arguments advanced or votes cast by members of the Court Martial for proceedings in the course of their deliberations, or
  - (b) to solicit or obtain such information,
 subject to the exceptions in paragraphs 6 to 8.
- (2) Where a person guilty of an offence under this paragraph—
  - (a) was a member of the Court Martial for the proceedings, or
  - (b) at the time the offence was committed, was a person subject to service law or a civilian subject to service discipline,
 the person is liable to any punishment mentioned in the Table in section 164, but any sentence of imprisonment imposed in respect of the offence must not exceed two years.
- (3) Where any other person is guilty of an offence under this paragraph—
  - (a) the person is liable, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both), and
  - (b) proceedings for the offence may not be instituted except by or with the consent of the Attorney General.
- (4) The Crown Court has jurisdiction to try an offence under this paragraph committed in England and Wales other than by a person described in subparagraph (2), including an offence committed in respect of deliberations of members of the Court Martial sitting outside England and Wales.

*Disclosing information about members' deliberations etc: initial exceptions*

- 6 (1) It is not an offence under paragraph 5 for a person to disclose information in the proceedings mentioned in paragraph 5(1)—
  - (a) for the purposes of enabling the Court Martial to make a finding on a charge or pass a sentence, or
  - (b) in connection with the delivery of the findings or sentence.
- (2) It is not an offence under paragraph 5 for the judge advocate for those proceedings to disclose information—

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- (a) for the purposes of dealing with the proceedings, or
  - (b) for the purposes of an investigation by a relevant investigator into whether an offence or contempt of court has been committed by or in relation to a lay member in the proceedings mentioned in paragraph 5(1).
- (3) It is not an offence under paragraph 5 for a person who reasonably believes that a disclosure described in sub-paragraph (2)(b) has been made to disclose information for the purposes of the investigation.
- (4) It is not an offence under paragraph 5 to publish information disclosed as described in sub-paragraph (1) or (2)(a) in the proceedings mentioned in paragraph 5(1).
- (5) In this paragraph—
- “publish” means make available to the public or a section of the public;
  - “relevant investigator” means—
    - (a) a police force listed in section 375;
    - (b) the Attorney General;
    - (c) any other person or class of person specified by the Lord Chancellor for the purposes of this paragraph by regulations.
- (6) The Lord Chancellor must obtain the consent of the Lord Chief Justice of England and Wales before making regulations under this paragraph.

*Disclosing information about members' deliberations etc: further exceptions*

- 7 (1) It is not an offence under paragraph 5 for a person to disclose information to a person listed in sub-paragraph (2) if—
- (a) the disclosure is made after the proceedings mentioned in paragraph 5(1) terminate, and
  - (b) the person making the disclosure reasonably believes that—
    - (i) an offence or contempt of court has been, or may have been, committed by or in relation to a lay member in connection with those proceedings, or
    - (ii) conduct of a lay member in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (2) Those persons are—
- (a) a member of a police force listed in section 375;
  - (b) a judge of the Court of Appeal;
  - (c) a judge of the Court Martial Appeal Court;
  - (d) the registrar of criminal appeals;
  - (e) the judge advocate who dealt with the proceedings mentioned in paragraph 5(1);
  - (f) the court administration officer for the Court Martial;
  - (g) a member of the Military Court Service who would reasonably be expected to disclose the information only to a person mentioned in paragraphs (b) to (f).

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- (3) It is not an offence under paragraph 5 for a member of a police force listed in section 375 to disclose information for the purposes of obtaining assistance in deciding whether to submit the information to—
- (a) a judge of the Court of Appeal,
  - (b) a judge of the Court Martial Appeal Court, or
  - (c) the registrar of criminal appeals,
- provided that the disclosure does not involve publishing the information.
- (4) It is not an offence under paragraph 5 for a judge of the Court of Appeal, a judge of the Court Martial Appeal Court or the registrar of criminal appeals to disclose information for the purposes of an investigation by a relevant investigator into—
- (a) whether an offence or contempt of court has been committed by or in relation to a lay member in connection with the proceedings mentioned in paragraph 5(1), or
  - (b) whether conduct of a lay member in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (5) It is not an offence under paragraph 5 for a judge of the Court of Appeal, a judge of the Court Martial Appeal Court or the registrar of criminal appeals to disclose information for the purposes of enabling or assisting—
- (a) a person who was the defendant in the proceedings mentioned in paragraph 5(1), or
  - (b) a legal representative of such a person,
- to consider whether conduct of a lay member in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (6) It is not an offence under paragraph 5 for a person who reasonably believes that a disclosure described in sub-paragraph (4) or (5) has been made to disclose information for the purposes of the investigation or consideration in question.
- (7) It is not an offence under paragraph 5 for a person to disclose information in evidence in—
- (a) proceedings for an offence or contempt of court alleged to have been committed by or in relation to a lay member in connection with the proceedings mentioned in paragraph 5(1),
  - (b) proceedings on an appeal, or an application for leave to appeal, against a decision in the proceedings mentioned in paragraph 5(1) where an allegation relating to conduct of or in relation to a lay member forms part of the grounds of appeal, or
  - (c) proceedings on any further appeal or reference arising out of proceedings mentioned in paragraph (a) or (b).
- (8) It is not an offence under paragraph 5 for a person to disclose information in the course of taking reasonable steps to prepare for proceedings described in sub-paragraph (7)(a) to (c).
- (9) It is not an offence under paragraph 5 to publish information disclosed as described in sub-paragraph (7).

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- (10) In this paragraph—
- “publish” means make available to the public or a section of the public;
  - “relevant investigator” means—
    - (a) a police force listed in section 375;
    - (b) the Attorney General;
    - (c) the Criminal Cases Review Commission;
    - (d) the Crown Prosecution Service;
    - (e) the Service Prosecuting Authority;
    - (f) any other person or class of person specified by the Lord Chancellor for the purposes of this paragraph by regulations.
- (11) The Lord Chancellor must obtain the consent of the Lord Chief Justice of England and Wales before making regulations under this paragraph.

*Disclosing information about members' deliberations:  
exceptions for soliciting disclosures or obtaining information*

- 8 (1) It is not an offence under paragraph 5 to solicit a disclosure described in paragraph 6(1) to (4) or paragraph 7(1) to (9).
- (2) It is not an offence under paragraph 5 to obtain information—
- (a) by means of a disclosure described in paragraph 6(1) to (4) or paragraph 7(1) to (9), or
  - (b) from a document that is available to the public or a section of the public.

*Saving for contempt of court*

- 9 Nothing in paragraph 2, 3 or 4 affects what constitutes contempt of court at common law or what may be certified under section 311.”

**Commencement Information**

**I188** Sch. 14 para. 3 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80 (with Sch. 2 para. 3(c)4(c))

**PART 2**

FURTHER AMENDMENTS

- 4 The Armed Forces Act 2006 is amended as follows.

**Commencement Information**

**I189** Sch. 14 para. 4 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

- 5 In section 50(2) (jurisdiction of the Court Martial: service offences), after paragraph (f) insert—

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- “(fa) an offence under paragraph 2, 3 or 4 of Schedule 2A (offences committed by a lay member of the Court Martial);
- (fb) an offence under paragraph 5 of that Schedule (disclosing information about members' deliberations etc) committed by a person described in sub-paragraph (2) of that paragraph;”.

**Commencement Information**

**I190** Sch. 14 para. 5 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

- 6 In section 51(3) (jurisdiction of the Service Civilian Court: excluded offences), after paragraph (c) insert—
- “(ca) an offence under paragraph 2, 3, 4 or 5 of Schedule 2A (offences relating to members of the Court Martial);”.

**Commencement Information**

**I191** Sch. 14 para. 6 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

- 7 In section 373 (orders, regulations and rules), after subsection (1) insert—
- “(1A) The powers conferred by paragraphs 6 and 7 of Schedule 2A on the Lord Chancellor to make regulations are exercisable by statutory instrument.”

**Commencement Information**

**I192** Sch. 14 para. 7 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

- 8 In Schedule 2 (offences required to be referred to a service police force or the Director of Service Prosecutions under sections 113 and 116), at the end insert—
- “14 An offence under paragraph 4 of Schedule 2A (lay member of the Court Martial engaging in prohibited conduct).
  - 15 An offence under paragraph 5 of Schedule 2A (disclosing information about the deliberations of members of the Court Martial) committed by a person described in sub-paragraph (2) of that paragraph.”

**Commencement Information**

**I193** Sch. 14 para. 8 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

- 9 The reference in section 286(4) of the Armed Forces Act 2006 (hearing by the Court Martial of appeals from Service Civilian Court) to Part 7 of that Act includes the provisions inserted in that Part by this Schedule.

**Commencement Information**

**I194** Sch. 14 para. 9 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 80

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SCHEDULE 15

Section 80

REPORTING RESTRICTIONS: PROVIDERS OF INFORMATION SOCIETY SERVICES

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

1 After Schedule 1 to the Children and Young Persons Act 1933 insert—

“SCHEDULE  
1A

Section 39A

PROHIBITION ON PUBLICATION OF CERTAIN MATTERS:  
PROVIDERS OF INFORMATION SOCIETY SERVICES

*Domestic service providers: extension of liability*

- 1 (1) This paragraph applies where a service provider is established in England and Wales (a “domestic service provider”).
- (2) Section 39 applies to a domestic service provider who—
- (a) includes matter in a publication in an EEA state other than the United Kingdom, and
  - (b) does so in the course of providing information society services, as well as to a person who includes matter in a publication in England and Wales.
- (3) In the case of an offence under section 39, as it applies to a domestic service provider by virtue of sub-paragraph (2)—
- (a) proceedings for the offence may be taken at any place in England and Wales, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (4) Nothing in this paragraph affects the operation of paragraphs 3 to 5.

*Non-UK service providers: restriction on institution of proceedings*

- 2 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).
- (2) Proceedings for an offence under section 39 may not be instituted against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is satisfied.
- (3) The derogation condition is satisfied where the institution of proceedings—
- (a) is necessary for the purposes of the public interest objective,
  - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
  - (c) is proportionate to that objective.
- (4) “The public interest objective” means the pursuit of public policy.

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*Exceptions for mere conduits*

- 3 (1) A service provider is not capable of being guilty of an offence under section 39 in respect of anything done in the course of providing so much of an information society service as consists in—
- (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,
- if the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the service provider does not—
- (a) initiate the transmission,
  - (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
  - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

*Exception for caching*

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not capable of being guilty of an offence under section 39 in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service provider—
- (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) where sub-paragraph (4) applies, expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or



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- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

*Exception for hosting*

- 5 (1) A service provider is not capable of being guilty of an offence under section 39 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided that it consisted of or included matter whose inclusion in a publication is prohibited by a direction under section 39.
- (3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access to it.
- (4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

*Interpretation*

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Publication” has the meaning given in section 39.
- (3) “Information society services”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
- (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”,
- and “the E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (5) “Service provider” means a person providing an information society service.
- (6) For the purpose of interpreting references in this Schedule to a service provider who is established in England and Wales or an EEA state—
- (a) a service provider is established in England and Wales or in a particular EEA state, if the service provider—

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- (i) effectively pursues an economic activity using a fixed establishment in England and Wales or that EEA state, for an indefinite period, and
- (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.”

**Commencement Information**

**I195** Sch. 15 para. 1 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 81 (with Sch. 2 para. 5)

*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

2 After Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 insert—

“SCHEDULE  
2A

Section 49

RESTRICTION OF REPORTING OF CRIMINAL PROCEEDINGS  
FOR LIFETIME OF WITNESSES AND VICTIMS UNDER  
18: PROVIDERS OF INFORMATION SOCIETY SERVICES

*Domestic service providers: extension of liability*

- 1 (1) This paragraph applies where a service provider is established in England and Wales, Scotland or Northern Ireland (a “domestic service provider”).
- (2) Section 49, so far as it relates to a publication falling within subsection (1A) (a) of that section, applies to a domestic service provider who—
  - (a) includes matter in a publication in an EEA state other than the United Kingdom, and
  - (b) does so in the course of providing information society services, as well as to a person who includes matter in a publication in England and Wales, Scotland or Northern Ireland.
- (3) In the case of an offence under section 49, as it applies to a domestic service provider by virtue of sub-paragraph (2)—
  - (a) proceedings for the offence may be taken at any place in England and Wales, Scotland or Northern Ireland, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.

*Status: Point in time view as at 08/08/2016.*

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- (4) Section 49, so far as it relates to a publication falling within subsection (1A) (b) of that section, applies to a domestic service provider established in England and Wales who—
  - (a) includes matter in a publication in an EEA state other than the United Kingdom, and
  - (b) does so in the course of providing information society services, as well as to a person who includes matter in a publication in England and Wales.
- (5) In the case of an offence under section 49, as it applies to a domestic service provider established in England and Wales by virtue of sub-paragraph (4)—
  - (a) proceedings for the offence may be taken at any place in England and Wales, and
  - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (6) Nothing in this paragraph affects the operation of paragraphs 3 to 5.

*Non-UK service providers: restriction on institution of proceedings*

- 2 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).
- (2) Proceedings for an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), may not be instituted against a non-UK service provider in respect of anything done in the course of the provision of information society services unless the derogation condition is satisfied.
- (3) The derogation condition is satisfied where the institution of proceedings—
  - (a) is necessary for the purposes of the public interest objective,
  - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to that objective, and
  - (c) is proportionate to that objective.
- (4) “The public interest objective” means the pursuit of public policy.

*Exceptions for mere conduits*

- 3 (1) A service provider is not capable of being guilty of an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in respect of anything done in the course of providing so much of an information society service as consists in—
  - (a) the provision of access to a communication network, or
  - (b) the transmission in a communication network of information provided by a recipient of the service,if the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the service provider does not—
  - (a) initiate the transmission,

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- (b) select the recipient of the transmission, or
  - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1)—
- (a) the provision of access to a communication network, and
  - (b) the transmission of information in a communication network,
- includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

*Exception for caching*

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The service provider is not capable of being guilty of an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in respect of the automatic, intermediate and temporary storage of information so provided, if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
  - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service provider—
- (a) does not modify the information,
  - (b) complies with any conditions attached to having access to the information, and
  - (c) where sub-paragraph (4) applies, expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
  - (b) access to it has been disabled, or
  - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

*Exception for hosting*

- 5 (1) A service provider is not capable of being guilty of an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.

*Status: Point in time view as at 08/08/2016.*

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- (2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided that it consisted of or included matter whose inclusion in a publication is prohibited by a direction under section 45A(2).
- (3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access to it.
- (4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

#### *Interpretation*

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Information society services”—
  - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
  - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”,  
and “the E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (3) “Recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (4) “Service provider” means a person providing an information society service.
- (5) For the purpose of interpreting references in this Schedule to a service provider who is established in England and Wales, Scotland, Northern Ireland or an EEA state—
  - (a) a service provider is established in England and Wales, Scotland, Northern Ireland or in a particular EEA state, if the service provider—
    - (i) effectively pursues an economic activity using a fixed establishment in England and Wales, Scotland, Northern Ireland or that EEA state, for an indefinite period, and
    - (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
  - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;

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- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service.”

**Commencement Information**

**I196** Sch. 15 para. 2 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 81

SCHEDULE 16

Section 91

PROCEDURE FOR CERTAIN PLANNING CHALLENGES

*Town and Country Planning Act 1990 (c. 8)*

- 1 Part 12 of the Town and Country Planning Act 1990 (validity) is amended as follows.

**Commencement Information**

**I197** Sch. 16 para. 1 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii)

- 2 In section 284 (validity of development plans and certain orders, decisions and directions)—
- (a) in subsection (1), after paragraph (f) insert “or—
- (g) a relevant costs order made in connection with an order mentioned in subsection (2) or an action mentioned in subsection (3),”, and
- (b) after subsection (3) insert—
- “(3A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”

**Commencement Information**

**I198** Sch. 16 para. 2 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

- 3 (1) Section 287 (proceedings for questioning validity of development plans and certain schemes and orders) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) An application under this section may not be made without the leave of the High Court.
- (2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”

*Status: Point in time view as at 08/08/2016.*

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(3) After subsection (3) insert—

“(3ZA) An interim order has effect—

- (a) if made on an application for leave, until the final determination of—
  - (i) the question of whether leave should be granted, or
  - (ii) where leave is granted, the proceedings on any application under this section made with such leave;
- (b) in any other case, until the proceedings are finally determined.”

(4) Omit subsections (3C) and (4).

(5) In subsection (5), for “subsection (4)” substitute “ subsection (2B) ”.

(6) After subsection (5) insert—

“(5A) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (2A).”

#### **Commencement Information**

**I199** Sch. 16 para. 3 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(b))

4 (1) Section 288 (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.

(2) After subsection (1) insert—

“(1A) If a person is aggrieved by a relevant costs order made in connection with an order or action to which this section applies and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

- (a) that the relevant costs order is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to the order.”

(3) In subsection (2)—

- (a) after “subsection (1)” (in the first place) insert “ or (1A) ”,
- (b) after “applies,” (in the second place) insert “ or with any relevant costs order ”, and
- (c) after “subsection (1)” (in the second place) insert “ or (1A) (as the case may be) ”.

(4) Omit subsection (3).

(5) After subsection (4) insert—

“(4A) An application under this section may not be made without the leave of the High Court.

(4B) An application for leave for the purposes of subsection (4A) must be made before the end of the period of six weeks beginning with the day after—

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- (a) in the case of an application relating to an order under section 97 that takes effect under section 99 without confirmation, the date on which the order takes effect;
  - (b) in the case of an application relating to any other order to which this section applies, the date on which the order is confirmed;
  - (c) in the case of an application relating to an action to which this section applies, the date on which the action is taken;
  - (d) in the case of an application relating to a relevant costs order, the date on which the order is made.
- (4C) When considering whether to grant leave for the purposes of subsection (4A), the High Court may, subject to subsection (6), make an interim order suspending the operation of any order or action the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
  - (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (6) In subsection (5)—
- (a) in paragraph (a), for “the order or action” substitute “ any order or action ”, and
  - (b) in paragraph (b), for “the order or action in question” substitute “ any such order or action ”.
- (7) For subsection (6) substitute—
- “(6) The High Court may not suspend a tree preservation order under subsection (4C) or (5)(a).”
- (8) In subsection (7), after “subsection” insert “ (4C) or ”.
- (9) For subsection (9) substitute—
- “(9) In this section—
- “relevant costs order” has the same meaning as in section 284;
  - “the relevant requirements”—
  - (a) in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to that order or action;
  - (b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the relevant costs order.”
- (10) After subsection (10) insert—
- “(11) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”



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**Commencement Information**

**I200** Sch. 16 para. 4 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

*Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)*

5 In section 62 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (validity of certain orders and decisions)—

- (a) in subsection (1), after paragraph (b) insert “or
- (c) a relevant costs order made in connection with any such order or decision,”, and
- (b) after subsection (2) insert—

“(2A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”

**Commencement Information**

**I201** Sch. 16 para. 5 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

6 (1) Section 63 of that Act (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.

(2) In subsection (1), for “section 62(1)” substitute “ section 62(1)(a) or (b) ”.

(3) After subsection (1) insert—

“(1A) If a person is aggrieved by a relevant costs order made in connection with an order or decision mentioned in section 62(1)(a) or (b) and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

- (a) that the relevant costs order is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to the order.”

(4) In subsection (2)—

- (a) after “subsection (1)” insert “ or (1A) ”,
- (b) for “such order or decision” substitute “ order or decision mentioned in section 62(1) ”, and
- (c) for “those grounds” substitute “ the grounds mentioned in subsection (1) or (1A) (as the case may be) ”.

(5) For subsection (3) substitute—

“(3) An application under this section may not be made without the leave of the High Court.

(3A) An application for leave for the purposes of subsection (3) must be made before the end of the period of six weeks beginning with the day after—

*Status: Point in time view as at 08/08/2016.*

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- (a) in the case of an application relating to an order under section 23 that takes effect under section 25 without confirmation, the date on which the order takes effect;
  - (b) in the case of an application relating to any other order mentioned in section 62(1)(a), the date on which the order is confirmed;
  - (c) in the case of an application relating to a decision mentioned in section 62(1)(b) or a relevant costs order, the date on which the decision or order is made.
- (3B) When considering whether to grant leave for the purposes of subsection (3), the High Court may make an interim order suspending the operation of any order or decision the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
  - (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (6) In subsection (4)—
- (a) after “this section” insert “ (other than an application for leave) ”,
  - (b) in paragraph (a), for “the order or decision” substitute “ any order or decision ”, and
  - (c) in paragraph (b)(i), for “the order or decision” substitute “ any such order or decision ”.
- (7) For subsection (6) substitute—
- “(6) In this section—
- “relevant costs order” has the same meaning as in section 62;
- “the relevant requirements”—
- (a) in relation to an order or decision mentioned in section 62(1)(a) or (b), means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to the order or decision;
  - (b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the order.”

**Commencement Information**

**I202** Sch. 16 para. 6 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

*Planning (Hazardous Substances) Act 1990 (c. 10)*

- 7 (1) Section 22 of the Planning (Hazardous Substances) Act 1990 (validity of decisions as to applications) is amended as follows.
- (2) In subsections (1) and (2), omit “within six weeks from the date on which the decision is taken”.

*Status: Point in time view as at 08/08/2016.*

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(3) After subsection (2) insert—

“(2A) An application under this section may not be made without the leave of the High Court.

(2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day after the date on which the decision to which the application relates is taken.

(2C) When considering whether to grant leave for the purposes of subsection (2A), the High Court may by interim order suspend the operation of the decision the validity of which the person or authority concerned wishes to question, until the final determination of—

- (a) the question of whether leave should be granted, or
- (b) where leave is granted, the proceedings on any application under this section made with such leave.”

(4) In subsection (3), after “section” insert “ (other than an application for leave) ”.

**Commencement Information**

**I203** Sch. 16 para. 7 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(a))

*Planning and Compulsory Purchase Act 2004 (c. 5)*

8 (1) Section 113 of the Planning and Compulsory Purchase Act 2004 (validity of strategies, plans and documents) is amended as follows.

(2) After subsection (3) insert—

“(3A) An application may not be made under subsection (3) without the leave of the High Court.

(3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”

(3) Omit subsection (4).

(4) After subsection (5) insert—

“(5A) An interim order has effect—

- (a) if made on an application for leave, until the final determination of—
  - (i) the question of whether leave should be granted, or
  - (ii) where leave is granted, the proceedings on any application under this section made with such leave;
- (b) in any other case, until the proceedings are finally determined.”

(5) Omit subsection (8).

**Commencement Information**

**I204** Sch. 16 para. 8 in force at 26.10.2015 by S.I. 2015/1778, art. 3(b)(ii) (with art. 4(c))

**Status:**

Point in time view as at 08/08/2016.

**Changes to legislation:**

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