

# Criminal Justice and Courts Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, are published separately as Bill 169 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Chris Grayling has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Criminal Justice and Courts Bill are compatible with the Convention rights.

# Criminal Justice and Courts Bill

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Make provision about how offenders are dealt with before and after conviction; to amend the offence of possession of extreme pornographic images; to make provision about the proceedings and powers of courts and tribunals; to make provision about judicial review; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

CRIMINAL JUSTICE

*Dangerous offenders*

**1 Maximum sentence for certain offences to be life imprisonment**

- (1) In section 4 of the Explosive Substances Act 1883 (making or possession of explosive under suspicious circumstances)— 5
- (a) in subsection (1), for the words from “guilty” to the end substitute “guilty of an offence”, and
  - (b) after that subsection insert —
- “(1A) A person who is guilty of an offence under subsection (1) is liable, on conviction on indictment — 10
- (a) in England and Wales or Northern Ireland, to imprisonment for life, and
  - (b) in Scotland, to imprisonment for a term not exceeding 14 years. 15
- (1B) Where a person is convicted of an offence under subsection (1) the explosive substance is to be forfeited.”

- (2) In section 54(6)(a) of the Terrorism Act 2000 (penalty on conviction on indictment of offence involving weapons training for terrorism), for “imprisonment for a term not exceeding ten years” substitute “imprisonment for life”.
- (3) In section 6(5)(a) of the Terrorism Act 2006 (penalty on conviction on indictment of offence involving training for terrorism), for “imprisonment for a term not exceeding 10 years” substitute “imprisonment for life”. 5
- (4) The amendments made by this section apply only in relation to an offence committed on or after the day on which they come into force.
- (5) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (4) to have been committed on the last of those days. 10

## 2 Specified offences

- (1) Schedule 15 to the Criminal Justice Act 2003 (specified offences for purposes of Chapter 5 of Part 12 of that Act) is amended as follows. 15
- (2) After paragraph 22 (offence under section 3 of the Explosive Substances Act 1883) insert –
- “22A An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances).”
- (3) For paragraph 64 (accessories and inchoate offences: violent offences) substitute – 20
- “64 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in the preceding paragraphs of this Part of this Schedule.
- (2) An attempt to commit such an offence. 25
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in the preceding paragraphs of this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.” 30
- (4) For paragraph 65 (attempt or conspiracy to commit murder) substitute –
- “65 (1) An attempt to commit murder.
- (2) Conspiracy to commit murder.
- (3) Incitement to commit murder. 35
- (4) 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.”
- (5) Omit paragraph 92 (offence of keeping a brothel under section 33 of the Sexual Offences Act 1956). 40

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- (6) After that paragraph insert –
- “92A An offence under section 33A of that Act (keeping a brothel used for prostitution).”
- (7) For paragraph 153 (accessories and inchoate offences: sexual offences) substitute – 5
- “153 (1) Aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule.
- (2) An attempt to commit such an offence.
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence. 10
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.”
- (8) The amendments made by this section apply in relation to a person sentenced for an offence on or after the day on which they come into force, whenever the offence was committed. 15
- (9) But subsection (8) does not apply for the purposes of the provisions referred to in subsection (10).
- (10) For the purposes of sections 225(1)(a) and 226(1)(a) of the Criminal Justice Act 2003 and sections 219(1)(b) and 221(1)(b) of the Armed Forces Act 2006, the amendments made by subsections (2), (4), (5) and (6) apply only in relation to a person sentenced for an offence that was committed on or after the day on which they come into force. 20
- (11) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (10) to have been committed on the last of those days. 25
- 3 Schedule 15B offences**
- (1) Part 1 of Schedule 15B to the Criminal Justice Act 2003 (offences under the law of England and Wales listed for the purposes of sections 224A(1) and (4), 226A and 246A of that Act) is amended as follows. 30
- (2) After paragraph 3 (offence under section 18 of the Offences Against the Person Act 1861) insert –
- “3A An offence under section 28 of that Act (causing bodily injury by explosives). 35
- 3B An offence under section 29 of that Act (using explosives etc with intent to do grievous bodily harm).
- 3C An offence under section 2 of the Explosive Substances Act 1883 (causing explosion likely to endanger life or property). 40

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- 3D An offence under section 3 of that Act (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).
- 3E An offence under section 4 of that Act (making or possession of explosive under suspicious circumstances).” 5
- (3) After paragraph 8 insert—
- “8A An offence under section 54 of the Terrorism Act 2000 (weapons training).”
- (4) In paragraph 9, for “the Terrorism Act 2000” substitute “that Act”.
- (5) After paragraph 40 (offence under section 5 of the Terrorism Act 2006) insert— 10
- “40A An offence under section 6 of that Act (training for terrorism).”
- (6) For the purposes of section 224A of the Criminal Justice Act 2003 and section 218A of the Armed Forces Act 2006, the amendments made by this section apply only in relation to a person sentenced for an offence that was committed on or after the day on which they come into force. 15
- (7) For the purposes of section 226A of the Criminal Justice Act 2003 and section 219A of the Armed Forces Act 2006, the amendments made by this section apply in relation to a person sentenced for an offence on or after the day on which they come into force, whenever the offence was committed.
- (8) For the purposes of section 246A of the Criminal Justice Act 2003, the amendments made by this section apply in relation to a person serving an extended sentence imposed on or after the day on which they come into force, whenever the offence in question was committed. 20
- (9) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (6) to have been committed on the last of those days. 25
- 4 Parole Board release when serving extended sentences**
- (1) Section 246A of the Criminal Justice Act 2003 (release on licence of prisoners serving extended sentences under section 226A or 226B) is amended as follows.
- (2) In subsection (2) (automatic release at the end of requisite custodial period), for the words from “unless” to the end substitute “if— 30
- (a) the sentence was imposed before the coming into force of section 4 of the Criminal Justice and Courts Act 2014,
- (b) the appropriate custodial term is less than 10 years, and
- (c) the sentence was not imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.” 35
- (3) In subsection (3) (release following Parole Board direction), for “If either or both of those conditions are met” substitute “In any other case”.

*Other offenders of particular concern*

**5 Sentence and Parole Board release for offenders of particular concern**

- (1) Part 1 of Schedule 1 contains –
- (a) provision about the sentence to be imposed on certain offenders of particular concern, and 5
  - (b) provision for such offenders to be released on licence following a Parole Board direction.
- (2) That Schedule also contains –
- (a) equivalent provision in respect of offenders convicted of service offences (see Part 2), 10
  - (b) transitional and transitory provision (see Part 3), and
  - (c) consequential provision (see Part 4).

*Release and recall of prisoners*

**6 Electronic monitoring following release on licence etc**

- (1) Part 3 of the Criminal Justice and Court Services Act 2000 (dealing with offenders) is amended as follows. 15
- (2) In section 62 (release on licence etc: conditions as to monitoring) –
- (a) for subsection (2) substitute –
    - “(2) The conditions may include electronic monitoring conditions.
    - (2A) An electronic monitoring condition imposed under this section must include provision for making a person responsible for the monitoring. 20
    - (2B) A person may not be made responsible for the monitoring unless the person is of a description specified in an order made by the Secretary of State.”, and 25
  - (b) after subsection (5) insert –
    - “(5A) In this section “electronic monitoring condition” means a condition requiring the person to submit to either or both of the following –
      - (a) electronic monitoring of the person’s compliance with another condition of release, and 30
      - (b) electronic monitoring of the person’s whereabouts (other than for the purpose of monitoring compliance with another condition of release).”
- (3) After section 62 insert – 35
- “62A Release on licence etc: compulsory electronic monitoring conditions**
- (1) The Secretary of State may by order provide that the power under section 62 to impose an electronic monitoring condition must be exercised.
  - (2) An order under this section may – 40

- 
- (a) require an electronic monitoring condition to be included for so long as the person’s release is required to be, or may be, subject to conditions or for a shorter period;
- (b) make provision generally or in relation to a case described in the order. 5
- (3) An order under this section may, in particular –
- (a) make provision in relation to cases in which compliance with a condition imposed on a person’s release is monitored by a person specified or described in the order;
- (b) make provision in relation to persons selected on the basis of criteria specified in the order or on a sampling basis; 10
- (c) make provision by reference to whether a person specified in the order is satisfied of a matter.
- (4) An order under this section may not make provision about a case in which the sentence imposed on the person is – 15
- (a) a detention and training order,
- (b) a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of offenders under 18 convicted of certain offences),
- (c) a sentence of detention under section 209 of the Armed Forces Act 2006 (detention of offenders under 18 convicted of certain offences), or 20
- (d) an order under section 211 of that Act.
- (5) In this section, “electronic monitoring condition” has the same meaning as in section 62. 25
- 62B Data from electronic monitoring: code of practice**
- (1) The Secretary of State must issue a code of practice relating to the processing of data gathered in the course of monitoring persons under electronic monitoring conditions imposed under section 62.
- (2) A failure to observe a code issued under this section does not of itself make a person liable to any criminal or civil proceedings.” 30
- (4) Schedule 2 to this Act contains consequential provision.
- (5) The amendments in this section and Schedule 2 apply in relation to a person who is released from prison on or after the day on which they come into force.
- 7 Test for release after recall: determinate sentences** 35
- (1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) is amended as follows.
- (2) In section 255A (suitability for automatic release after recall), after subsection (4) insert –
- “(4A) But a person is not suitable for automatic release if – 40
- (a) it appears to the Secretary of State that the person is highly likely to breach a condition included in the person’s licence if released at the end of the automatic release period, and
- (b) for that reason, the Secretary of State considers that it would not be appropriate to release the person at the end of that period.” 45

- (3) In section 255B (automatic release) –
- (a) in subsection (2), at the end insert “(but see subsections (3) and (3A))”,
  - (b) after subsection (3), insert –
    - “(3A) The Secretary of State must not release P under subsection (2) if –
      - (a) it appears to the Secretary of State that, if released, P is highly likely to breach a condition included in P’s licence, and
      - (b) for that reason, the Secretary of State considers that it is not appropriate to release P under that subsection.”,
  - (c) in subsection (4), for “that period” substitute “the period mentioned in subsection (1)(b)”,
  - (d) after subsection (4) insert –
    - “(4A) On a reference under subsection (4), the Board must determine the reference by –
      - (a) directing P’s immediate release on licence under this Chapter,
      - (b) directing P’s release on licence under this Chapter as soon as conditions specified in the direction are met, or
      - (c) giving no direction as to P’s release,(but see subsections (4B) and (4C)).
    - (4B) The Board must not give a direction under subsection (4A)(a) or (b) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
    - (4C) The Board must not give a direction under subsection (4A)(a) or (b) if –
      - (a) it appears to the Board that, if released, P is highly likely to breach a condition included in P’s licence, and
      - (b) for that reason, the Board considers that it is not appropriate to give the direction.”, and
  - (e) for subsection (5) substitute –
    - “(5) The Secretary of State must give effect to any direction under subsection (4A)(a) or (b).”
- (4) In section 255C (extended sentence prisoners and those not suitable for automatic release) –
- (a) in subsection (2), at the end insert “(but see subsections (3) and (3A))”,
  - (b) after subsection (3), insert –
    - “(3A) The Secretary of State must not release P under subsection (2) if –
      - (a) it appears to the Secretary of State that, if released, P is highly likely to breach a condition included in P’s licence, and
      - (b) for that reason, the Secretary of State considers that it is not appropriate to release P under that subsection.”,

- (c) after subsection (4) insert—
- “(4A) On a reference under subsection (4), the Board must determine the reference by—
- (a) directing P’s immediate release on licence under this Chapter, 5
  - (b) directing P’s release on licence under this Chapter as soon as conditions specified in the direction are met, or
  - (c) giving no direction as to P’s release, (but see subsections (4B) and (4C)).
- (4B) The Board must not give a direction under subsection (4A)(a) or (b) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison. 10
- (4C) The Board must not give a direction under subsection (4A)(a) or (b) if—
- (a) it appears to the Board that, if released, P is highly likely to breach a condition included in P’s licence, and 15
  - (b) for that reason, the Board considers that it is not appropriate to give the direction.”, and
- (d) for subsection (5) substitute—
- “(5) The Secretary of State must give effect to any direction under subsection (4A)(a) or (b).” 20
- (5) Omit section 256 (powers of Board where it does not direct immediate release).
- (6) In section 256A (further review)—
- (a) for subsection (1) substitute—
- “(1) Where a case has been referred to the Board under section 255C(4) or this section and the person has not been released, the Secretary of State must refer the person’s case back to the Board no later than the review date. 25
- (1A) In the case of a person serving one sentence of imprisonment, “the review date” is the first anniversary of the determination by the Board on the reference mentioned in subsection (1). 30
- (1B) In the case of a person serving more than one sentence of imprisonment, “the review date” is—
- (a) the first anniversary of the determination by the Board on the reference mentioned in subsection (1), or 35
  - (b) if later, the day on which the person has served—
    - (i) the requisite custodial period, and
    - (ii) if the sentences include a life sentence, the minimum term.”,
- (b) in subsection (2), for “that anniversary” substitute “the review date”, 40
- (c) in subsection (4), for paragraph (b) substitute—
- “(b) directing the person’s release on licence under this Chapter as soon as conditions specified in the direction are met,”
- (d) at the end of subsection (4) insert— 45
- “(but see subsections (4A) and (4B)).”,

- (e) after subsection (4) insert –
- “(4A) The Board must not give a direction under subsection (4)(a) or (b) unless the Board is satisfied that it is not necessary for the protection of the public that the person should remain in prison.
- (4B) The Board must not give a direction under subsection (4)(a) or (b) if –
- (a) it appears to the Board that, if released, the person is highly likely to breach a condition included in the person’s licence, and
- (b) for that reason, the Board considers that it is not appropriate to give the direction.”, and
- (f) for subsection (5) substitute –
- “(5) The Secretary of State must give effect to any direction under subsection (4)(a) or (b).
- (6) In subsection (1B)(b) –
- “life sentence” means a sentence mentioned in section 34(2) of the Crime (Sentences) Act 1997, and
- “the minimum term” means the part of the sentence specified in the minimum term order (as defined by section 28 of that Act).”
- (7) In Schedule 20A (application of Chapter 6 of Part 12 to pre 4 April 2005 cases), omit paragraph 6(5) (certain determinations to be treated as determinations under section 256(1) of the Criminal Justice Act 2003).
- (8) The amendments made by this section apply to a person recalled before the day on which they come into force as well as to a person recalled on or after that day.

## 8 Power to change test for release after recall: determinate sentences

- (1) In Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners), after section 256A insert –
- “256AZA Power to change test for release following recall**
- (1) The Secretary of State may by order change –
- (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
- (b) the tests to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
- (c) the tests to be applied by the Board in deciding how to determine a reference under section 255B(4), 255C(4) or 256A(1) or (2).
- (2) An order under subsection (1) may, in particular –
- (a) apply to people recalled before the day on which it comes into force as well as to people recalled on or after that day;
- (b) amend this Chapter.”
- (2) In section 330(5)(a) of that Act (orders subject to affirmative procedure) at the appropriate place insert –

“section 256AZA,”.

## 9 Initial release and release after recall: life sentences

- (1) In section 28(7)(c) of the Crime (Sentences) Act 1997 (duty to release certain life prisoners), for “one-half of that sentence” substitute “the requisite custodial period (as defined in section 268 of the Criminal Justice Act 2003)”. 5
- (2) In section 32 of the Crime (Sentences) Act 1997 (recall of life prisoners while on licence), after subsection (5) insert –
- “(5A) The Board must not give a direction unless satisfied that it is no longer necessary for the protection of the public that the life prisoner should remain in prison.” 10
- (3) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to change test for release on licence of certain prisoners), in subsection (3), after paragraph (a) insert –
- “(aa) amend section 32 of the Crime (Sentences) Act 1997 (recall of IPP prisoners and others while on licence and further release),”. 15
- (4) The amendment made by subsection (1) applies to a person sentenced before the day on which it comes into force as well as to a person sentenced on or after that day.
- (5) The amendment made by subsection (2) applies in relation to a person recalled before the day on which it comes into force as well as in relation to a person recalled on or after that day. 20

## 10 Offence of remaining unlawfully at large after recall

- (1) After section 32 of the Crime (Sentences) Act 1997 (recall of life prisoners) insert –
- “32ZA Offence of remaining unlawfully at large after recall”** 25
- (1) A person recalled to prison under section 32 commits an offence if the person –
- (a) has been notified of the recall orally or in writing, and
- (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible. 30
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if –
- (a) written notice of the recall has been delivered to an appropriate address, and
- (b) a period specified in the notice has elapsed. 35
- (3) In subsection (2) “an appropriate address” means –
- (a) an address at which, under the person’s licence, the person is permitted to reside or stay, or
- (b) an address nominated, in accordance with the person’s licence, for the purposes of this section. 40
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if –

- 
- (a) the person’s licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
- (b) the person has failed to comply with such an instruction, and
- (c) the person has not complied with such an instruction for at least 6 months. 5
- (5) A person who is guilty of an offence under this section is liable –
- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
- (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both). 10
- (6) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months.
- (7) 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 subsection (5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.” 15
- (2) After section 255 of the Criminal Justice Act 2003 (recall of prisoners) insert –
- “255ZA Offence of remaining unlawfully at large after recall”** 20
- (1) A person recalled to prison under section 254 or 255 commits an offence if the person –
- (a) has been notified of the recall orally or in writing, and
- (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible. 25
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if –
- (a) written notice of the recall has been delivered to an appropriate address, and
- (b) a period specified in the notice has elapsed. 30
- (3) In subsection (2) “an appropriate address” means –
- (a) an address at which, under the person’s licence, the person is permitted to reside or stay, or
- (b) an address nominated, in accordance with the person’s licence, for the purposes of this section. 35
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if –
- (a) the person’s licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
- (b) the person has failed to comply with such an instruction, and
- (c) the person has not complied with such an instruction for at least 6 months. 40
- (5) A person who is guilty of an offence under this section is liable –
- (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both); 45

- (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- (6) In relation to an offence committed before section 154(1) comes into force, the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months. 5
- (7) 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 subsection (5)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”
- (3) Section 32ZA of the Crime (Sentences) Act 1997 and section 255ZA of the Criminal Justice Act 2003 apply in relation to a person recalled to prison before or after this section comes into force. 10
- 11 Offence of remaining unlawfully at large after temporary release**
- (1) Section 1 of the Prisoners (Return to Custody) Act 1995 (remaining at large after temporary release) is amended as follows. 15
- (2) For subsection (3) substitute –
- “(3) A person guilty of an offence under this section 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).” 20
- (3) At the end insert –
- “(7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months. 25
- (8) 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 subsection (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”
- (4) The amendment made by subsection (2) does not apply where the period of temporary release expired, or the order of recall was made, before this section comes into force. 30
- 12 Definition of “requisite custodial period”**
- (1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) is amended as follows. 35
- (2) In section 268 (interpretation of Chapter), after subsection (1) insert –
- “(1A) In this Chapter, “the requisite custodial period” means –
- (a) in relation to a person serving an extended sentence imposed under section 226A or 226B, the requisite custodial period for the purposes of section 246A; 40
- (b) in relation to a person serving an extended sentence imposed under section 227 or 228, the requisite custodial period for the purposes of section 247;

- (c) in relation to a person serving a sentence imposed under section 236A, the requisite custodial period for the purposes of section 244A;
  - (d) in relation to any other fixed-term prisoner, the requisite custodial period for the purposes of section 243A or section 244 (as appropriate).” 5
- (3) In section 247 (release on licence of prisoner serving extended sentence under section 227 or 228) –
  - (a) in subsection (2)(a), for “one-half of the appropriate custodial term” substitute “the requisite custodial period”, and 10
  - (b) for subsection (7) substitute –
    - “(7) In this section –
      - “the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228; 15
      - “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).” 20
- (4) In section 260 (early removal of prisoners liable to removal from United Kingdom), omit subsection (7).
- (5) In section 261 (re-entry into United Kingdom of offender removed from prison early) – 25
  - (a) in subsection (5), omit paragraph (a),
  - (b) in subsection (5)(b) –
    - (i) omit “in any other case,” and
    - (ii) for “or 246A” substitute “, 246A or 247”, and
  - (c) in subsection (6), omit the definition of “requisite custodial period”. 30
- (6) In Schedule 20A (application of Chapter 6 of Part 12 to pre-4 April 2005 cases) –
  - (a) omit paragraph 8(2) (modification of section 260), and
  - (b) after paragraph 8 insert –
    - “8A Section 268(1A) (definition of “the requisite custodial period”) has effect as if it provided that, in relation to a person serving an extended sentence under section 85 of the Sentencing Act, the requisite custodial period means one-half of the custodial term determined under that section (subject to sections 263 and 264).” 35
- (7) The amendments made by this section apply in relation to a person sentenced before the day on which they come into force as well as in relation to a person sentenced on or after that day. 40

### 13 Minor amendments and transitional cases

- (1) In section 82A(3) of the Powers of Criminal Courts (Sentencing) Act 2000 45

- (determination of tariffs for life sentences), for paragraph (b) substitute –
- “(b) the effect that the following would have if the court had sentenced the offender to a term of imprisonment –
- (i) section 240ZA of the Criminal Justice Act 2003 (crediting periods of remand in custody); 5
  - (ii) section 246 of the Armed Forces Act 2006 (equivalent provision for service courts);
  - (iii) any direction which the court would have given under section 240A of the Criminal Justice Act 2003 (crediting periods of remand on bail subject to certain types of condition);” 10
- (2) In section 97 of the Powers of Criminal Courts (Sentencing) Act 2000 (term of detention in a young offender institution) –
- (a) in subsection (2), omit “Subject to subsection (3) below,” and
  - (b) omit subsection (3) (power to pass sentence of less than 21 days for offence under section 65(6) of the Criminal Justice Act 1991). 15
- (3) In section 106(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (persons subject concurrently to detention and training order and sentence of detention in young offender institution), for “Part II of the Criminal Justice Act 1991 (early release)” substitute “Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release, licences, supervision and recall)” 20
- (4) In section 246(4) of the Criminal Justice Act 2003 (cases in which power to release before required to do so is not available), after paragraph (g) insert –
- “(ga) the prisoner has at any time been released on licence under section 34A of the Criminal Justice Act 1991 and has been recalled to prison under section 38A(1)(a) of that Act (and the revocation of the licence has not been cancelled under section 38A(3) of that Act);” 25
- (5) In Schedule 20A to the Criminal Justice Act 2003 (application of Chapter 6 of Part 12 to pre-4 April 2005 cases), in paragraph 4 (modification of section 246: power to release before required to do so) –
- (a) number the existing text as sub-paragraph (1),
  - (b) in that sub-paragraph, for “Section 246 applies as if, in subsection (4)” substitute “Section 246(4) applies as if –”,
  - (c) in that sub-paragraph, omit paragraph (c), and 35
  - (d) after that sub-paragraph insert –
- “(2) Section 246(6) applies as if, in the definition of “term of imprisonment”, the reference to section 227 or 228 included a reference to section 85 of the Sentencing Act.”
- (6) In Schedule 20B to the Criminal Justice Act 2003 (modifications of Chapter 6 of Part 12 in certain transitional cases), omit paragraph 3(2)(a) (application of Part 2 of the Schedule to an extended sentence under section 85 of the Powers of Criminal Courts (Sentencing) Act 2000). 40
- (7) In paragraph 34 of that Schedule (licence conditions in certain transitional cases) –
- (a) in sub-paragraph (1), at the end insert “and which was granted to a person serving –
  - (a) a 1967 Act sentence,

- (b) a 1991 Act sentence, or
    - (c) a 2003 Act sentence which is an extended sentence imposed under section 227 or 228 before 14 July 2008.”, and
  - (b) in sub-paragraph (6)(a), after “condition” insert “referred to in section 250(4)(b)(ii)”.
- (8) The amendments made by subsections (1), (3) and (4) apply in relation to a person sentenced before the day on which they come into force as well as in relation to a person sentenced on or after that day.

*Cautions* 10

**14 Restrictions on use of cautions**

- (1) This section applies where, in England and Wales, a person aged 18 or over admits that he or she has committed an offence.
- (2) If the offence is an indictable-only offence, a constable may not give the person a caution except – 15
  - (a) in exceptional circumstances relating to the person or the offence, and
  - (b) with the consent of the Director of Public Prosecutions.
- (3) If the offence is an either-way offence specified by order made by the Secretary of State, a constable may not give the person a caution except in exceptional circumstances relating to the person or the offence. 20
- (4) If –
  - (a) the offence is a summary offence or an either-way offence not specified under subsection (3), and
  - (b) in the two years before the commission of the offence the person has been convicted of, or cautioned for, a similar offence, 25a constable may not give the person a caution except in exceptional circumstances relating to the person, the offence admitted or the previous offence.
- (5) It is for a police officer not below a rank specified by order made by the Secretary of State to determine – 30
  - (a) whether there are exceptional circumstances for the purposes of subsection (2), (3) or (4), and
  - (b) whether a previous offence is similar to the offence admitted for the purposes of subsection (4)(b).
- (6) A determination under subsection (5) must be made in accordance with guidance issued by the Secretary of State. 35
- (7) The Secretary of State may by order amend this section so as to provide for a different period for the purposes of subsection (4)(b).
- (8) For the purposes of this section – 40
  - (a) “caution” does not include a conditional caution under Part 3 of the Criminal Justice Act 2003, but
  - (b) a person has been “cautioned for” an offence if he or she has been given a caution, a conditional caution or a youth caution or youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998.

- (9) In this section –  
     “either-way offence” means an offence triable either way;  
     “indictable-only offence” means an offence which, if committed by an adult, is triable only on indictment.
- (10) This section applies whether the offence admitted was committed before or after the time when this section comes into force. 5

## 15 Orders under section 14

- (1) An order under section 14 may make different provision for different purposes.
- (2) An order under section 14 must be made by statutory instrument. 10
- (3) A statutory instrument containing an order under section 14(3) (specification of either-way offences) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under section 14(7) (change to period in section 14(4)(b)) may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament. 15

### *Offence of possession of extreme pornographic images*

## 16 Possession of pornographic images of rape and assault by penetration

- (1) Part 5 of the Criminal Justice and Immigration Act 2008 is amended as follows.
- (2) In section 63 (possession of extreme pornographic images) – 20
- (a) after subsection (5) insert –
- “(5A) In relation to possession of an image in England and Wales, an “extreme image” is an image which –
- (a) falls within subsection (7) or (7A), and
- (b) is grossly offensive, disgusting or otherwise of an obscene character.”, 25
- (b) in subsection (6), for “An” substitute “In relation to possession of an image in Northern Ireland, an”, and
- (c) after subsection (7) insert –
- “(7A) An image falls within this subsection if it portrays, in an explicit and realistic way, either of the following – 30
- (a) an act which involves the non-consensual penetration of a person’s vagina, anus or mouth by another with the other person’s penis, or
- (b) an act which involves the non-consensual sexual penetration of a person’s vagina or anus by another with a part of the other person’s body or anything else, 35
- and a reasonable person looking at the image would think that the persons were real.
- (7B) For the purposes of subsection (7A) – 40
- (a) penetration is a continuing act from entry to withdrawal;

- (b) “vagina” includes vulva.”
- (3) In section 66 (defence: participation in consensual acts) –
- (a) before subsection (1) insert –
- “(A1) Subsection (A2) applies where in England and Wales –
- (a) a person (“D”) is charged with an offence under section 63, and 5
- (b) the offence relates to an image that portrays an act or acts within subsection (7)(a) to (c) or (7A) of that section (but does not portray an act within subsection (7)(d) of that section). 10
- (A2) It is a defence for D to prove –
- (a) that D directly participated in the act or any of the acts portrayed, and
- (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and 15
- (c) if the image portrays an act within section 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse, and
- (d) if the image portrays an act within section 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.”, and 20
- (b) in subsection (1) –
- (i) for “This section” substitute “Subsection (2)”, and
- (ii) after “where” insert “in Northern Ireland”.
- (4) In section 67 (penalties for possession of extreme pornographic images) – 25
- (a) in subsection (2), for “Except where subsection (3) applies to the offence” substitute “If the offence relates to an image that portrays any relevant act (with or without other acts)”,
- (b) in subsection (3), for “act within section 63(7)(a) or (b)” substitute “relevant act”, and 30
- (c) after subsection (4) insert –
- “(5) In this section “relevant act” means –
- (a) in relation to England and Wales, an act within section 63(7)(a) or (b) or (7A)(a) or (b);
- (b) in relation to Northern Ireland, an act within section 63(7)(a) or (b).” 35
- (5) In Schedule 14 (special rules relating to providers of information society services) –
- (a) after paragraph 1(3) insert –
- “(3A) For the purposes of sub-paragraph (2), “extreme pornographic image” has the meaning given by section 63(2) and in determining whether a domestic service provider is in possession of such an image –
- (a) where the service provider is established in England and Wales, “extreme image” has the meaning given by section 63(5A); 45

- (b) where the service provider is established in Northern Ireland, “extreme image” has the meaning given by section 63(6).”, and
- (b) omit paragraph 6(2).

**PART 2**

5

## YOUNG OFFENDERS

*Detention of young offenders***17 Secure colleges and other places for detention of young offenders etc**

- (1) For section 43 of the Prison Act 1952 and the italic heading before it substitute— 10

*“Places for the detention of young offenders etc***43 Places for the detention of young offenders etc**

- (1) The Secretary of State may provide the following places for the detention of young persons sentenced to detention for an offence or remanded to custody (or for the detention of a class of such persons)— 15
- (a) young offender institutions,
- (b) secure training centres, and
- (c) in England, secure colleges.
- (2) In subsection (1), “young person” means a person who is aged under 18 or who was aged under 18 when convicted of the offence or remanded. 20
- (3) Sections 1 to 42A and Schedule A1 (“the prisons provisions”) apply in relation to places listed in subsection (1) and to persons detained in them as they apply to prisons and prisoners, subject to subsections (4) to (7).
- (4) The following provisions do not apply in relation to the following places— 25

<i>Place</i>	<i>Provisions</i>	
Young offender institutions	Sections 28 and 37(2)	
Secure training centres or secure colleges	Sections 5, 6(2) and (3), 12, 14, 19, 28 and 37(2) and Schedule A1	30

- (5) In their application in relation to secure colleges, the prisons provisions apply as if references to the governor and deputy governor were references to the principal and deputy principal. 35
- (6) In their application in relation to places listed in subsection (1), the prisons provisions apply—

- (a) as if references to imprisonment included references to detention in those places, and
- (b) subject to any other modifications specified in rules made by the Secretary of State (but see subsection (7)).
- (7) The following provisions, as they apply in relation to the following places, may not be modified by rules made under this section – 5
- | <i>Place</i>                               | <i>Provisions</i>                                             |    |
|--------------------------------------------|---------------------------------------------------------------|----|
| Young offender institutions                | Sections 5A, 6(2) and (3), 16, 22, 36 and 42A and Schedule A1 | 10 |
| Secure training centres or secure colleges | Sections 5A, 16, 22, 36 and 42A                               |    |
- (8) Rules made under this section may –
- (a) make different provision for different cases;
- (b) contain transitional, transitory or saving provision. 15
- (9) The references in this section to a young person sentenced to detention –
- (a) include a person sentenced to a detention and training order or an order under section 211 of the Armed Forces Act 2006;
- (b) do not include a person sentenced to service detention within the meaning of the Armed Forces Act 2006. 20
- (10) Subsections (11) to (13) have effect 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). 25
- (11) Subsection (2) of this section, as it applies for the purposes of the power under subsection (1) to provide young offender institutions, has effect as if for “18”, in each place, there were substituted “21”.
- (12) The Secretary of State may from time to time direct that a woman aged 21 or over who is serving a sentence of imprisonment or who has been committed to prison for default is to be detained in a young offender institution. 30
- (13) Nothing in this section prejudices the operation of section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt).” 35
- (2) In section 52 of the Prison Act 1952 (orders, rules and regulations), after subsection (2) insert –
- “(2ZA) A statutory instrument containing rules under section 43 is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) Schedule 3 contains further amendments relating to secure colleges and other places for the detention of young offenders. 40

**18 Contracting out secure colleges**

In Schedule 4 –

- (a) Part 1 makes provision about contracting out the provision and running of secure colleges,
- (b) Part 2 makes provision about the certification of secure college custody officers, 5
- (c) Part 3 makes provision about contracting out functions at directly managed secure colleges,
- (d) Part 4 contains definitions, and
- (e) Part 5 contains further amendments relating to contracted-out secure colleges. 10

**19 Powers of Youth Justice Board in relation to provision of accommodation**

- (1) Section 41(5)(i) of the Crime and Disorder Act 1998 (functions of the Youth Justice Board of entering into agreements for the provision of accommodation) is amended as follows. 15
- (2) In sub-paragraph (ii) –
  - (a) after “2000” insert “, section 226, 226B or 228 of the Criminal Justice Act 2003”, and
  - (b) for “or 218” substitute “218, 221, 221A or 222”.
- (3) Omit sub-paragraphs (v) and (vi). 20

*Other matters***20 Youth cautions and conditional cautions: involvement of appropriate adults**

- (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 66ZA (youth cautions) –
  - (a) in subsection (2) (caution to be given in presence of appropriate adult), omit “given to a person under the age of 17”, and 25
  - (b) in subsection (3)(b) (certain matters to be explained to appropriate adult), omit “where that person is under the age of 17”.
- (3) In section 66B(5) (requirements for giving youth conditional cautions: explanation and warning to be given in presence of appropriate adult), omit “If the offender is aged 16 or under,”. 30

**21 Referral orders: alternatives to revocation for breach**

- (1) In Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000, after paragraph 6 insert –
  - “Power of court to impose fine or extend period for which contract has effect 35
  - 6A (1) This paragraph applies where –
    - (a) an offender has been referred back to the appropriate court under section 22(2), 26(5) or 27(4), and

- (b) it is proved to the satisfaction of the court that the offender has failed, without reasonable excuse, to comply with the terms of a contract under section 23.
  - (2) If the court does not revoke the order under paragraph 5 it may –
    - (a) order the offender to pay a fine of an amount not exceeding £2,500, or
    - (b) make an order extending the length of the period for which the contract under section 23 has effect.
  - (3) The court may not extend the length of the period for which the contract has effect so that it becomes longer than 12 months.
  - (4) If the period for which the contract has effect has expired (whether before or after the referral of the offender back to court) the court –
    - (a) may make an order under sub-paragraph (2)(a), but
    - (b) may not make an order under sub-paragraph (2)(b).
  - (5) The court may not exercise a power under sub-paragraph (2) unless the offender is present before it.
  - (6) A fine imposed under sub-paragraph (2)(a) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
  - (7) The Secretary of State may by order amend any sum for the time being specified in sub-paragraph (2)(a).”
- (2) In paragraph 7 of that Schedule, in sub-paragraph (2), at the end insert “(subject to any order under paragraph 6A(2)(b))”.
  - (3) In the heading before paragraph 7 of that Schedule, at the beginning insert “Consequences of”.
  - (4) In section 160(3) of the Powers of Criminal Courts (Sentencing) Act 2000 (statutory instruments subject to affirmative resolution procedure), after “103(2)” insert “or paragraph 6A(7) of Schedule 1”.
  - (5) The amendments made by this section apply only in relation to a person who fails to comply with the terms of a youth offender contract after this section comes into force.

## 22 Referral orders: extension on further conviction

- (1) For paragraphs 10 to 12 of Schedule 1 to the Powers of Criminal Courts (Sentencing) Act 2000 substitute –
  - “10 (1) This paragraph applies where –
    - (a) an offender aged under 18 is subject to referral, and
    - (b) a relevant court is dealing with the offender for an offence in relation to which paragraphs (a) to (c) of section 16(1) apply.
  - (2) The relevant court may sentence the offender for the offence by making an order extending any compliance period.
  - (3) The relevant court may not extend the length of a compliance period so that it becomes longer than 12 months.

- (4) In this paragraph and paragraph 13 “relevant court” means a youth court or other magistrates’ court.”
- (2) In paragraph 13 of that Schedule –
- (a) omit sub-paragraphs (1), (6) and (7),
  - (b) in sub-paragraph (2), for “paragraph 11 or 12 above in respect of the offence mentioned in paragraph 10 above” substitute “paragraph 10 in respect of an offence”, and
  - (c) in sub-paragraph (8), for “paragraphs 10 to 12” substitute “paragraph 10”.
- (3) In consequence of the amendments made above –
- (a) in paragraphs 5(3) and 9 of that Schedule, for “paragraph 9ZD, 11 or 12” substitute “paragraphs 9ZD or 10”,
  - (b) in the heading before paragraph 13 of that Schedule, for “paragraph 11 and 12” substitute “paragraph 10”, and
  - (c) in paragraph 14(1)(a) of that Schedule, for “paragraph 11 or 12” substitute “paragraph 10”.
- (4) The amendments made by this section apply in relation to a person dealt with for an offence committed before or after this section comes into force.

### **23 Referral orders: revocation on further conviction**

- (1) The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows. 20
- (2) In Schedule 1 –
- (a) in paragraph 14(1)(b) (further conviction: cases where revocation not available), for “absolutely” substitute “, whether absolutely or conditionally”,
  - (b) for paragraph 14(2) substitute – 25
    - “(2) The court may revoke the referral order (or any one or more of the referral orders) if it appears to the court to be in the interests of justice to do so.
    - (2A) The revocation of a referral order under sub-paragraph (2) has the effect of revoking any related order under paragraph 9ZD or 10.”, and
  - (c) in the heading before paragraph 14, for “which lead to revocation of referral” substitute “: power to revoke referral orders”.
- (3) In section 18 (making of referral orders: general), after subsection (3) insert –
- “(3A) Where a court makes a referral order in respect of an offender who is subject to an earlier referral order, the court may direct that any youth offender contract under the later order is not to take effect under section 23 until the earlier order is revoked or discharged.” 35
- (4) The amendments made by this section apply in relation to a person dealt with for an offence committed before or after this section comes into force. 40

**PART 3**

COURTS AND TRIBUNALS

*Trial by single justice on the papers*

**24 Instituting proceedings by written charge**

- (1) Section 29 of the Criminal Justice Act 2003 (public prosecutor to institute proceedings by written charge) is amended as follows. 5
- (2) In subsection (1), for “public prosecutor” substitute “relevant prosecutor”.
- (3) For subsection (2) substitute –
  - “(2) Where a relevant prosecutor issues a written charge, it must at the same time issue – 10
    - (a) a requisition, or
    - (b) a single justice procedure notice.
  - (2A) A requisition is a document which requires the person on whom it is served to appear before a magistrates’ court to answer the written charge. 15
  - (2B) A single justice procedure notice is a document which requires the person on whom it is served to serve on the designated officer for a magistrates’ court specified in the notice a written notification stating –
    - (a) whether the person desires to plead guilty or not guilty, and
    - (b) 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.” 20
- (4) In subsection (3) –
  - (a) for “and requisition” substitute “and the requisition or single justice procedure notice”, and 25
  - (b) after “the requisition” insert “or, as the case may be, the single justice procedure notice”.
- (5) After subsection (3) insert –
  - “(3A) If a single justice procedure notice is served on the person, the relevant prosecutor must – 30
    - (a) at the same time serve on the person such documents as may be prescribed by Criminal Procedure Rules, and
    - (b) serve copies of those documents on the court.”
- (6) After subsection (3A) insert –
  - “(3B) The written notification required by a single justice procedure notice may be served by the legal representative of the person charged on the person’s behalf.” 35
- (7) In subsection (4), for the words from the beginning to “public prosecutor” substitute “A relevant prosecutor authorised to issue a requisition”.
- (8) In subsection (5), for ““public prosecutor”” substitute ““relevant prosecutor””. 40

- (9) After subsection (5) insert –
- “(5A) An order under subsection (5)(h) specifying a person for the purposes of this section must also specify whether that person and a person authorised by that person to institute criminal proceedings –
- (a) are authorised to issue requisitions and single justice procedure notices, or
- (b) are authorised to issue only single justice procedure notices.” 5
- (10) A person who immediately before the commencement of this section is –
- (a) a person specified in an order under section 29(5)(h) of the Criminal Justice Act 2003, or 10
- (b) a person authorised by a person so specified to institute criminal proceedings,
- is to be treated after the commencement of this section as authorised to issue requisitions and single justice procedure notices (subject to the order specifying that person being varied or revoked). 15
- 25 Instituting proceedings: further provision**
- (1) Section 30 of the Criminal Justice Act 2003 (further provision about method of instituting proceedings in section 29) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a), for “or requisitions” substitute “, requisitions or single justice procedure notices”, and 20
- (b) in paragraph (b), for “or requisitions” substitute “, requisitions or single justice procedure notices”.
- (3) In subsection (2)(b), after “further requisitions” insert “or further single justice procedure notices”. 25
- (4) In subsection (5) –
- (a) in paragraph (b), for “public prosecutor” substitute “relevant prosecutor”, and
- (b) after paragraph (b) insert “, and
- (c) any reference (however expressed) which is or includes a reference to a summons under section 1 of the Magistrates’ Courts Act 1980 (or to a justice of the peace issuing such a summons) is to be read as including a reference to a single justice procedure notice (or to a relevant prosecutor issuing a single justice procedure notice).” 30
- (5) After subsection (7) insert –
- “(7A) The reference in subsection (5) to an enactment contained in an Act passed before this Act is to be read, in relation to paragraph (c) of subsection (5), as including – 40
- (a) a reference to an enactment contained in an Act passed before or in the same Session as the Criminal Justice and Courts Act 2014, and
- (b) a reference to an enactment contained in such an Act as a result of an amendment to that Act made by the Criminal Justice and 45

Courts Act 2014 or by any other Act passed in the same Session as the Criminal Justice and Courts Act 2014.”

- (6) In subsection (8) –
- (a) for ““public prosecutor”,” substitute ““relevant prosecutor”,” and
  - (b) after ““requisition”” insert “, “single justice procedure notice””. 5

## 26 Trial by single justice on the papers

- (1) The Magistrates’ Courts Act 1980 is amended as follows.
- (2) In section 11 (non-appearance of accused: general provisions) –
- (a) in subsection (1), for “and (4)” substitute “, (4) and (8)”, and
  - (b) after subsection (7) insert – 10
- “(8) This section and sections 12 to 16 do not apply if and for so long as a written charge is to be tried by a magistrates’ court in accordance with section 16A.”

- (3) After section 16 insert –

*“Trial by single justice on the papers”* 15

### 16A Trial by single justice on the papers

- (1) A magistrates’ court may try a written charge in accordance with subsections (3) to (8) if –
- (a) the offence charged is a summary offence not punishable with imprisonment, 20
  - (b) the accused had attained the age of 18 years when charged,
  - (c) the court is satisfied that –
    - (i) the documents specified in subsection (2) have been served on the accused, and
    - (ii) service of all of the documents was effected at the same time, and 25
  - (d) the accused has not served on the designated officer for the magistrates’ court specified in the single justice procedure notice, within the period prescribed by Criminal Procedure Rules, a written notification stating either – 30
    - (i) a desire to plead not guilty, or
    - (ii) a desire not to be tried in accordance with this section.
- (2) The documents mentioned in subsection (1)(c) are –
- (a) a written charge and a single justice procedure notice (see section 29 of the Criminal Justice Act 2003), and 35
  - (b) such other documents as may be prescribed by Criminal Procedure Rules (see section 29(3A) of the Criminal Justice Act 2003).
- (3) The court must try the written charge in reliance only on –
- (a) the documents specified in subsection (2), and 40
  - (b) any written submission that the accused makes with a view to mitigation of sentence.

- 
- (4) The court may disregard a written submission that is not served on the designated officer for the magistrates' court specified in the single justice procedure notice within the period prescribed by Criminal Procedure Rules.
- (5) The court is not required to conduct any part of the proceedings in open court. 5
- (6) The court may try the charge in the absence of the parties and, if a party appears, must proceed as if the party were absent.
- (7) The court may not remand the accused.
- (8) If the resumed trial is to be conducted in accordance with subsections (3) to (7), no notice is required of the resumption of the trial after an adjournment. 10
- (9) A magistrates' court acting under this section may be composed of a single justice.
- (10) A magistrates' court not specified in the single justice procedure notice may try a written charge in accordance with subsections (3) to (8) as if it were the magistrates' court so specified. 15
- (11) Subsection (1) is subject to sections 16B and 16C.
- 16B Cases not tried in accordance with section 16A**
- (1) If a magistrates' court decides, before the accused is convicted of the offence, that it is not appropriate to try the written charge in accordance with section 16A, the court may not try or continue to try the charge in that way. 20
- (2) A magistrates' court may not try a written charge in accordance with section 16A if, at any time before the trial, the accused or the accused's legal representative on the accused's behalf gives notice to the designated officer for the magistrates' court specified in the single justice procedure notice that the accused does not desire to be tried in accordance with section 16A. 25
- (3) If a magistrates' court may not try or continue to try a written charge in accordance with section 16A because the conditions in section 16A(1) are not satisfied or because of subsection (1) or (2), the magistrates' court specified in the single justice procedure notice or, if different, the magistrates' court trying the written charge must – 30
- (a) adjourn the trial, if it has begun, and 35
- (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court for the trial of the written charge.
- (4) A magistrates' court issuing a summons under subsection (3)(b) may be composed of a single justice. 40
- 16C Cases that cease to be tried in accordance with section 16A**
- (1) If a magistrates' court decides, after the accused is convicted of the offence, that it is not appropriate to try the written charge in accordance with section 16A, the court may not continue to try the charge in that way. 45

- (2) If a magistrates' court trying a written charge in accordance with section 16A proposes, after the accused is convicted of the offence, to order the accused to be disqualified under section 34 or 35 of the Road Traffic Offenders Act 1988 –
- (a) the court must give the accused the opportunity to make representations or further representations about the proposed disqualification, and 5
  - (b) if the accused indicates a wish to make such representations, the court may not continue to try the case in accordance with section 16A. 10
- (3) If a magistrates' court may not continue to try a written charge in accordance with section 16A because of subsection (1) or (2), the magistrates' court must –
- (a) adjourn the trial, and
  - (b) issue a summons directed to the accused requiring the accused to appear before a magistrates' court to be dealt with in respect of the offence. 15

#### **16D Sections 16B and 16C: further provision**

- (1) If a summons is issued under section 16B(3)(b) or 16C(3)(b) –
- (a) a reference in sections 11 to 13 to a summons issued under section 1 is to be read, for the purposes of subsequent proceedings as regards the matter, as if it included a reference to a summons issued under section 16B(3)(b) or 16C(3)(b) (as the case may be), and 20
  - (b) the magistrates' court that issued the summons under section 16B(3)(b) or 16C(3)(b) and the magistrates' court specified in the summons are to be treated, for those purposes, as if they were in the same local justice area. 25
- (2) If a summons has been issued under section 16B(3)(b) or 16C(3)(b), a justice of the peace may issue a summons directed to the accused requiring the accused to appear before the magistrates' court specified in the summons under section 16B(3)(b) or 16C(3)(b) for the purpose specified in that summons; and subsection (1)(a) applies in relation to a summons under this section as it applies in relation to a summons under section 16B(3)(b) or 16C(3)(b). 30
- (3) Where a summons has been issued under section 16B(3)(b) or 16C(3)(b), a magistrates' court that afterwards tries the written charge or deals with the accused for the offence must be –
- (a) composed as described in section 121(1), or
  - (b) composed of a District Judge (Magistrates' Courts) sitting alone by virtue of section 26 of the Courts Act 2003. 40
- (4) Where –
- (a) the accused is convicted of an offence before a matter is adjourned under section 16C(3)(a), and
  - (b) the matter is tried after the adjournment by another magistrates' court, 45
- that other magistrates' court is to be treated as if it were the court that convicted the accused for the purposes of section 142(2).

**16E Accused not aware of single justice procedure notice**

- (1) This section applies if—
  - (a) a single justice procedure notice has been issued, and
  - (b) the written charge is being tried, or has been tried, in accordance with section 16A. 5
- (2) The proceedings subsequent to the single justice procedure notice are void if—
  - (a) the accused makes a statutory declaration that the accused did not know of the single justice procedure notice or the proceedings until a date that the accused specifies in the statutory declaration, 10
  - (b) that date is a date after a magistrates’ court began to try the written charge,
  - (c) the declaration is served on the designated officer for the magistrates’ court specified in the single justice procedure notice within 21 days of that date in such manner as Criminal Procedure Rules may prescribe, and 15
  - (d) at the same time as serving the declaration, the accused responds to the single justice procedure notice by serving a written notification on that designated officer. 20
- (3) Subsection (2) does not affect the validity of a written charge or a single justice procedure notice.
- (4) A magistrates’ court may accept service of a statutory declaration required by subsection (2) after the period described in subsection (2)(c) if, on application by the accused, it appears to the court that it was not reasonable to expect the accused to serve that statutory declaration within that period. 25
- (5) A magistrates’ court that accepts a statutory declaration under subsection (4) is to be treated as accepting service of a written notification that is served at the same time. 30
- (6) A statutory declaration accepted under subsection (4) and a written notification treated as accepted under subsection (5) are to be treated as having been served as required by subsection (2).
- (7) If proceedings have become void under subsection (2), the reference in section 16A to the period within which a written notification must be served is to be read as referring to a period that ends on—
  - (a) the date on which a written notification is served under subsection (2)(d), or
  - (b) if a magistrates’ court is treated as accepting service of a written notification by virtue of subsection (5), the date on which the written notification is so treated as accepted. 40
- (8) If proceedings have become void under subsection (2), the written charge may not be tried again by any of the same justices.
- (9) A magistrates’ court carrying out functions under subsection (4) may be composed of a single justice.” 45

## 27 Trial by single justice on the papers: sentencing etc

In section 121 of the Magistrates' Courts Act 1980 (constitution etc of a magistrates' court), after subsection (5) insert –

- “(5A) A magistrates' court that is trying a summary offence in accordance with section 16A is restricted to the following in dealing with the accused for the offence – 5
- (a) imposing a fine;
  - (b) imposing a penalty under section 102(3)(aa) of the Customs and Excise Management Act 1979 or section 29, 35A or 37 of the Vehicle Excise and Registration Act 1994 (penalties imposed for certain offences in relation to vehicle excise licences); 10
  - (c) ordering an amount to be paid under section 30, 36 or 38 of the Vehicle Excise and Registration Act 1994 (liability to additional duty);
  - (d) making an order under section 130(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders); 15
  - (e) ordering payment of a surcharge under section 161A of the Criminal Justice Act 2003 (victim surcharge);
  - (f) making an order as to costs to be paid by the accused to the prosecutor under section 18 of the Prosecution of Offences Act 1985; 20
  - (g) making an order as to costs to be paid by the accused by virtue of section 19 of the Prosecution of Offences Act 1985;
  - (h) ordering payment of a charge under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge); 25
  - (i) making an order under section 34 or 35 of the Road Traffic Offenders Act 1988 (disqualification from driving);
  - (j) making an order under section 44 of the Road Traffic Offenders Act 1988 (endorsement of a driving record);
  - (k) making an application to the Secretary of State by virtue of section 24(1)(a) of the Criminal Justice Act 1991 (benefit deductions); 30
  - (l) making an attachment of earnings order under Part 3 of Schedule 5 to the Courts Act 2003;
  - (m) making an application for benefits deductions to the Secretary of State under Part 3 of Schedule 5 to the Courts Act 2003; 35
  - (n) making a collection order under Part 4 of Schedule 5 to the Courts Act 2003;
  - (o) discharging the accused absolutely or conditionally.
- (5B) The limit in subsection (5) does not apply to fines imposed as described in subsection (5A).” 40

## 28 Further amendments

Schedule 5 contains further amendments relating to the provision made by sections 24 to 27.

*Costs of criminal courts***29 Criminal courts charge**

- (1) In the Prosecution of Offences Act 1985, after Part 2 insert –

**“PART 2A****COURT COSTS IN CRIMINAL CASES**

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**21A Criminal courts charge**

- (1)
- A court mentioned in section 21B must, at the times listed there, order a person convicted of an offence to pay a charge in respect of relevant courts costs, subject to –*

- (a)
- subsections (2) and (3), and*
- 
- (b)
- section 21C.*

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- (2)
- An order must not be made if the person was under 18 when the offence was committed.*

- (3)
- An order must not be made in a case or class of case prescribed by the Lord Chancellor by regulations.*

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- (4)
- A court must not take into account the duty under subsection (1) or any order under this section when dealing with a person (other than under this section) for an offence or for a failure to comply with a requirement mentioned in section 21B.*

- (5)
- In this section –*

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*“court costs” means costs of providing the judiciary and the rest of the system of courts, but does not include defence or prosecution costs;**“relevant court costs” means court costs incurred in connection with criminal proceedings or proceedings for a failure to comply with a requirement mentioned in section 21B, but does not include costs of providing the Supreme Court or judges of that Court.*

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**21B Criminal courts charge: courts and times**

- (1)
- A magistrates’ court must make an order under section 21A at the following times –*

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- (a)
- when dealing with the person for the offence;*
- 
- (b)
- when dealing with the person under Schedule 8 to the Criminal Justice Act 2003 for failure to comply with any of the requirements of a community order;*

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- (c)
- when dealing with the person under Schedule 12 to the Criminal Justice Act 2003 for failure to comply with any of the community requirements of a suspended sentence order;*

- (d)
- when dealing with the person under section 256AC of the Criminal Justice Act 2003 for failure to comply with a supervision requirement imposed under section 256AA of that Act.*

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- (2)
- The Crown Court must make an order under section 21A at the following times –*

- 
- (a) when dealing with the person for the offence;
  - (b) when dealing with the person under Schedule 8 to the Criminal Justice Act 2003 for failure to comply with any of the requirements of a community order;
  - (c) when dealing with the person under Schedule 12 to the Criminal Justice Act 2003 for failure to comply with any of the community requirements of a suspended sentence order; 5
  - (d) when dismissing an appeal by the person against conviction or sentence for the offence.
- (3) The Court of Appeal must make an order under section 21A at the following times – 10
- (a) when dismissing an appeal under Part 1 of the Criminal Appeal Act 1968 against the person’s conviction or sentence for the offence;
  - (b) when dismissing an application for leave to bring such an appeal. 15
- 21C Amount of criminal courts charge**
- (1) A charge ordered to be paid under section 21A must be of an amount specified by the Lord Chancellor by regulations.
  - (2) When specifying amounts under this section, the Lord Chancellor must seek to secure that an amount specified in respect of a class of case does not exceed the relevant court costs reasonably attributable to a case of that class. 20
  - (3) In this section “relevant court costs” has the same meaning as in section 21A. 25
- 21D Interest on criminal courts charge**
- (1) The Lord Chancellor may by regulations provide that a person who is ordered to pay a charge under section 21A must pay interest on the charge if or to the extent that it remains unpaid.
  - (2) The regulations may, in particular – 30
    - (a) make provision about the rate of interest,
    - (b) make provision about periods when interest is or is not payable, and
    - (c) make provision by reference to a measure or document as amended from time to time. 35
  - (3) The regulations may not make provision for a rate of interest that is higher than the rate that the Lord Chancellor considers would maintain the value in real terms of amounts that remain unpaid.
  - (4) An amount of interest payable under the regulations is to be treated as part of the charge ordered to be paid under section 21A. 40
- 21E Power to remit criminal courts charge**
- (1) A magistrates’ court may remit the whole or part of a charge ordered to be paid by a person under section 21A, subject to the restrictions in subsections (2) to (4).
  - (2) It may remit the charge only if – 45

- 
- (a) it is satisfied that the person has taken all reasonable steps to pay it, having regard to the person’s personal circumstances, or
- (b) it is satisfied that collection and enforcement of the charge is impracticable.
- (3) It may not remit the charge at a time when the person is detained in prison. 5
- (4) It may not remit the charge unless each of following has expired –
- (a) a specified period beginning with the day on which an order under section 21A was last made in respect of the person;
- (b) a specified period beginning with the day on which the person was last convicted of an offence; 10
- (c) where relevant, a specified period beginning with the day on which the person was last released from prison.
- (5) Where a court remits a charge under section 21A after an order has been made under section 300(2) of the Criminal Justice Act 2003 (power to impose unpaid work requirement etc on fine defaulter) for default in paying the charge (or the charge and other amounts), the court must –
- (a) reduce the total number of hours or days to which the order relates by the same proportion as the amount remitted bears to the total amount in respect of which the order was made, or 15
- (b) if the total number of hours or days would be reduced to nil under paragraph (a), revoke the order. 20
- (6) In calculating a reduction required by subsection (5), any fraction of an hour or day is to be rounded down to the nearest hour or day.
- (7) In this section – 25
- “prison” includes any place where a person serving a sentence of detention for an offence is liable to be detained;
- “specified period” means a period of a length specified by the Lord Chancellor by regulations.
- 21F Regulations under this Part 30**
- Regulations under this Part may include transitional, transitory and saving provision.”
- (2) In Part 1 of Schedule 9 to the Administration of Justice Act 1970 (cases where payment enforceable as on summary conviction) –
- (a) after paragraph 9 insert – 35
- “9A Where a court orders the payment of a charge in respect of relevant court costs under section 21A of the Prosecution of Offences Act 1985.”,
- (b) re-number paragraph 13 as paragraph 12A, and
- (c) re-number paragraph 13A as paragraph 12B. 40
- (3) Schedule 6 to this Act makes further provision about the criminal courts charge.
- (4) Section 21A of the Prosecution of Offences Act 1985 applies only in relation to a person convicted of an offence committed after that section comes into force.

### 30 Duty to review criminal courts charge

- (1) After the end of the initial period, the Lord Chancellor must carry out a review of the operation of Part 2A of the Prosecution of Offences Act 1985 (inserted by section 29).
- (2) “The initial period” is the period of 3 years beginning with the day on which section 29(1) comes into force. 5
- (3) If the Lord Chancellor considers it appropriate, having regard to the conclusions reached on the review, the Lord Chancellor must by regulations repeal Part 2A of the Prosecution of Offences Act 1985.
- (4) Regulations under this section may include consequential, transitional, transitory and saving provision, including provision amending an Act (whenever passed or made). 10
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15

#### *Collection of fines etc*

### 31 Variation of collection orders etc

- (1) Schedule 5 to the Courts Act 2003 (collection of fines and other sums imposed on conviction) is amended as follows. 20
- (2) For paragraph 21 (application of Part 6: variation of collection orders containing payment terms) substitute –
  - “21 This Part applies if –
    - (a) the court has made a collection order, and
    - (b) the order contains payment terms but does not contain reserve terms.” 25
- (3) In paragraph 22 (variation of collection order) –
  - (a) omit sub-paragraph (1),
  - (b) in sub-paragraph (2), for “P may apply for” substitute “P may at any time apply to the fines officer under this paragraph for”, 30
  - (c) in sub-paragraph (4)(a), omit “in P’s favour”,
  - (d) after sub-paragraph (4) insert –
    - “(4A) The fines officer may not vary the payment terms under sub-paragraph (4)(a) so that they are less favourable to P without P’s consent.”, and 35
  - (e) for sub-paragraph (7) substitute –
    - “(7) The fines officer may not vary the order so that it states reserve terms which are less favourable to P than the payment terms without P’s consent.”
- (4) In paragraph 25 (application of Part 7: effect of first default on collection order 40

- containing payment terms), for paragraphs (a) and (b) substitute –
- “(a) an application to a fines officer under paragraph 22 (application for variation of order or for attachment of earnings order etc) that was made at a time when P was not in default on the collection order; 5
  - (b) an appeal under paragraph 23 against a decision of a fines officer on an application described in paragraph (a);”.
- (5) In paragraph 31 (variation of reserve terms) –
- (a) for sub-paragraph (1) substitute –
    - “(1) P may, at any time after the date of a payment notice under paragraph 30, apply to the fines officer for the reserve terms to be varied.” 10
  - (b) in sub-paragraph (3)(a), omit “in P’s favour”, and
  - (c) after sub-paragraph (3) insert –
    - “(3A) The fines officer may not vary the reserve terms under sub-paragraph (3)(a) so that they are less favourable to P without P’s consent.” 15
- (6) In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice), in sub-paragraph (1)(c), for sub-paragraphs (i) and (ii) substitute – 20
- “(i) an application to a fines officer under paragraph 31 (application for variation of reserve terms) that was made at a time when P was not in default on the collection order;
  - (ii) an appeal under paragraph 32 against a decision of a fines officer on an application described in sub-paragraph (i);” 25

*Appeals in civil proceedings*

**32 Appeals from the High Court to the Supreme Court**

- (1) Part 2 of the Administration of Justice Act 1969 (appeal from High Court to Supreme Court) is amended as follows. 30
- (2) In section 12 (grant of a certificate by the trial judge enabling an appeal to the Supreme Court), in subsection (1) –
- (a) in paragraph (a), after “those proceedings” insert “or that the conditions in subsection (3A) (“the alternative conditions”) are satisfied in relation to those proceedings”; 35
  - (b) omit paragraph (c) (requirement that all parties consent to the grant of the certificate) and the “and” before it.
- (3) After subsection (3) insert –
- “(3A) The alternative conditions, in relation to a decision of the judge in any proceedings, are that a point of law of general public importance is involved in the decision and that – 40
    - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,

- (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the judge, a hearing by the Supreme Court is justified, or
      - (c) the judge is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.” 5
    - (4) In section 16 (application of Part 2 to Northern Ireland), after subsection (1) insert –
    - “(1A) In the application of this Part of this Act to Northern Ireland, section 12 has effect as if –
    - (a) in subsection (1)(a) there were omitted “or that the conditions in subsection (3A) (“the alternative conditions”) are satisfied in relation to those proceedings”;
      - (b) after subsection (1)(b) there were inserted “, and
      - (c) that all the parties to the proceedings consent to the grant of a certificate under this section,”;
      - (d) subsection (3A) were omitted.” 15
- 33 Appeals from the Upper Tribunal to the Supreme Court**
- In the Tribunals, Courts and Enforcement Act 2007, after section 14 insert – 20
- “14A Appeal to Supreme Court: grant of certificate by Upper Tribunal**
- (1) If the Upper Tribunal is satisfied that –
  - (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Upper Tribunal’s decision in any proceedings, and
    - (b) as regards that decision, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 14B,the Upper Tribunal may grant a certificate to that effect. 25
  - (2) The Upper Tribunal may grant a certificate under this section only on an application made by a party to the proceedings. 30
  - (3) The Upper Tribunal may grant a certificate under this section only if the relevant appellate court as regards the proceedings is –
  - (a) the Court of Appeal in England and Wales, or
    - (b) the Court of Appeal in Northern Ireland.
  - (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision of the Upper Tribunal and that point of law is –
  - (a) a point of law that –
    - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and 40
      - (ii) has been fully argued in the proceedings and fully considered in the judgment of the Upper Tribunal in the proceedings, or
    - (b) a point of law –

- 
- (i) in respect of which the Upper Tribunal is bound by a decision of the relevant appellate court or the Supreme Court in previous proceedings, and
    - (ii) that was fully considered in the judgments given by the relevant appellate court or, as the case may be, the Supreme Court in those previous proceedings. 5
  - (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision of the Upper Tribunal and that –
    - (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter, 10
    - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Upper Tribunal, a hearing by the Supreme Court is justified, or 15
    - (c) the Upper Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
  - (6) Before the Upper Tribunal decides an application made to it under this section, the Upper Tribunal must specify the court that would be the relevant appellate court if the application were an application for permission (or leave) under section 13. 20
  - (7) In this section except subsection (6) and in sections 14B and 14C, “the relevant appellate court”, as respects an application, means the court specified as respects that application by the Upper Tribunal under subsection (6). 25
  - (8) No appeal lies against the grant or refusal of a certificate under subsection (1).
- 14B Appeal to Supreme Court: permission to appeal**
- (1) If the Upper Tribunal grants a certificate under section 14A in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court. 30
  - (2) An application under subsection (1) must be made –
    - (a) within one month from the date on which that certificate is granted, or
    - (b) within such time as the Supreme Court may allow in a particular case. 35
  - (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal. 40
  - (4) If permission is granted under this section –
    - (a) no appeal from the decision to which the certificate relates lies to the relevant appellate court, but
    - (b) an appeal lies from that decision to the Supreme Court.
  - (5) An application under subsection (1) is to be determined without a hearing. 45

- (6) Subject to subsection (4), no appeal lies to the relevant appellate court from a decision of the Upper Tribunal in respect of which a certificate is granted under section 14A until –
- (a) the time within which an application can be made under subsection (1) has expired, and
  - (b) where such an application is made, that application has been determined in accordance with this section.

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#### **14C Appeal to Supreme Court: exclusions**

- (1) No certificate may be granted under section 14A in respect of a decision of the Upper Tribunal in any proceedings where, by virtue of any enactment (other than sections 14A and 14B), no appeal would lie from that decision of the Upper Tribunal to the relevant appellate court, with or without the permission (or leave) of the Upper Tribunal or the relevant appellate court.
- (2) No certificate may be granted under section 14A in respect of a decision of the Upper Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the relevant appellate court on that decision of the Upper Tribunal to the Supreme Court, with or without the permission (or leave) of the relevant appellate court or the Supreme Court.
- (3) Where no appeal would lie to the relevant appellate court from the decision of the Upper Tribunal except with the permission (or leave) of the Upper Tribunal or the relevant appellate court, no certificate may be granted under section 14A in respect of a decision of the Upper Tribunal unless it appears to the Upper Tribunal that it would be a proper case for giving permission (or leave) to appeal to the relevant appellate court.
- (4) No certificate may be granted under section 14A in respect of a decision or order of the Upper Tribunal made by it in the exercise of its jurisdiction to punish for contempt.”

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#### **34 Appeals from the Employment Appeal Tribunal to the Supreme Court**

In the Employment Tribunals Act 1996, after section 37 insert –

##### **“37A Appeals to Supreme Court: grant of certificate by Appeal Tribunal**

- (1) If the Appeal Tribunal is satisfied that –
- (a) the conditions in subsection (4) or (5) are fulfilled in relation to the Appeal Tribunal’s decision or order in any proceedings, and
  - (b) as regards that decision or order, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 37B,
- the Appeal Tribunal may grant a certificate to that effect.
- (2) The Appeal Tribunal may grant a certificate under this section only on an application made by a party to the proceedings.
- (3) The Appeal Tribunal may not grant a certificate under this section in the case of proceedings in Scotland.

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- 
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that point of law is –
- (a) a point of law that –
    - (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
    - (ii) has been fully argued in the proceedings and fully considered in the judgment of the Appeal Tribunal in the proceedings, or
  - (b) a point of law –
    - (i) in respect of which the Appeal Tribunal is bound by a decision of the Court of Appeal or the Supreme Court in previous proceedings, and
    - (ii) that was fully considered in the judgments given by the Court of Appeal or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the decision or order of the Appeal Tribunal and that –
- (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
  - (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Appeal Tribunal, a hearing by the Supreme Court is justified, or
  - (c) the Appeal Tribunal is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1).
- 37B Appeals to Supreme Court: permission to appeal**
- (1) If the Appeal Tribunal grants a certificate under section 37A in relation to any proceedings, a party to those proceedings may apply to the Supreme Court for permission to appeal directly to the Supreme Court.
- (2) An application under subsection (1) must be made –
- (a) within one month from the date on which the certificate is granted, or
  - (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal.
- (4) If permission is granted under this section –
- (a) no appeal from the decision or order to which the certificate relates lies to the Court of Appeal, but
  - (b) an appeal lies from that decision or order to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.

- (6) Subject to subsection (4), no appeal lies to the Court of Appeal from a decision or order of the Appeal Tribunal in respect of which a certificate is granted under section 37A until –
- (a) the time within which an application can be made under subsection (1) has expired, and
  - (b) where such an application is made, that application has been determined in accordance with this section.

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### **37C Appeals to Supreme Court: exclusions**

- (1) No certificate may be granted under section 37A in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment (other than sections 37A and 37B), no appeal would lie from that decision or order of the Appeal Tribunal to the Court of Appeal, with or without the leave or permission of the Appeal Tribunal or the Court of Appeal.
- (2) No certificate may be granted under section 37A in respect of a decision or order of the Appeal Tribunal in any proceedings where, by virtue of any enactment, no appeal would lie from a decision of the Court of Appeal on that decision or order of the Appeal Tribunal to the Supreme Court, with or without the leave or permission of the Court of Appeal or the Supreme Court.
- (3) Where no appeal would lie to the Court of Appeal from the decision or order of the Appeal Tribunal except with the leave or permission of the Appeal Tribunal or the Court of Appeal, no certificate may be granted under section 37A in respect of a decision or order of the Appeal Tribunal unless it appears to the Appeal Tribunal that it would be a proper case for granting leave or permission to appeal to the Court of Appeal.
- (4) No certificate may be granted under section 37A where the decision or order of the Appeal Tribunal is made in the exercise of its jurisdiction to punish for contempt.”

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### **35 Appeals from the Special Immigration Appeals Commission to the Supreme Court**

- (1) The Special Immigration Appeals Commission Act 1997 is amended as follows.
- (2) Before section 8 insert –

#### **“7B Appeals to Supreme Court: grant of certificate by Commission**

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- (1) If the Special Immigration Appeals Commission is satisfied that –
- (a) the conditions in subsection (4) or (5) are fulfilled in relation to a final determination to which section 7(1) or (1A) applies, and
  - (b) in respect of that final determination, a sufficient case for an appeal to the Supreme Court has been made out to justify an application under section 7C,
- the Commission may grant a certificate to that effect.
- (2) The Commission may grant a certificate under this section only on an application made by a party to the appeal or review to which the final determination relates.

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- (3) The Commission may not grant a certificate under this section if the final determination is made by the Commission in Scotland.
- (4) The conditions in this subsection are that a point of law of general public importance is involved in the final determination and that point of law is – 5
- (a) a point of law that –
- (i) relates wholly or mainly to the construction of an enactment or statutory instrument, and
- (ii) has been fully argued in the proceedings on the appeal or review to which the final determination relates and fully considered in the judgment of the Commission, or 10
- (b) a point of law –
- (i) in respect of which the Commission is bound by a decision of the appropriate appeal court or the Supreme Court in previous proceedings, and 15
- (ii) that was fully considered in the judgments given by the appropriate appeal court or, as the case may be, the Supreme Court in those previous proceedings.
- (5) The conditions in this subsection are that a point of law of general public importance is involved in the final determination and that – 20
- (a) the proceedings entail a decision relating to a matter of national importance or consideration of such a matter,
- (b) the result of the proceedings is so significant (whether considered on its own or together with other proceedings or likely proceedings) that, in the opinion of the Commission, a hearing by the Supreme Court is justified, or 25
- (c) the Commission is satisfied that the benefits of earlier consideration by the Supreme Court outweigh the benefits of consideration by the Court of Appeal.
- (6) No appeal lies against the grant or refusal of a certificate under subsection (1). 30

### 7C Appeals to Supreme Court: permission to appeal

- (1) If the Special Immigration Appeals Commission grants a certificate under section 7B in relation to a final determination, a party to the appeal or review to which the final determination relates may apply to the Supreme Court for permission to appeal directly to the Supreme Court. 35
- (2) An application under subsection (1) must be made –
- (a) within one month from the date on which that certificate is granted, or 40
- (b) within such time as the Supreme Court may allow in a particular case.
- (3) If on such an application it appears to the Supreme Court to be expedient to do so, the Supreme Court may grant permission for such an appeal. 45
- (4) If permission is granted under this section –
- (a) no appeal from the final determination to which the certificate relates lies to the appropriate appeal court, but

- (b) an appeal lies from that determination to the Supreme Court.
- (5) An application under subsection (1) is to be determined without a hearing.
- (6) Subject to subsection (4), no appeal lies to the appropriate appeal court from a final determination of the Commission in respect of which a certificate is granted under section 7B until –
  - (a) the time within which an application can be made under subsection (1) has expired, and
  - (b) where such an application is made, that application has been determined in accordance with this section.

**7D Appeals to Supreme Court: exclusions**

- (1) No certificate may be granted under section 7B in respect of a final determination of the Special Immigration Appeals Commission where, by virtue of any enactment (other than sections 7B and 7C), no appeal would lie from that decision of the Commission to the appropriate appeal court, with or without the leave or permission of the Commission or the appropriate appeal court.
- (2) No certificate may be granted under section 7B in respect of a final determination of the Commission where, by virtue of any enactment, no appeal would lie from a decision of the appropriate appeal court on that determination of the Commission to the Supreme Court, with or without the permission or leave of the appropriate appeal court or the Supreme Court.
- (3) Where no appeal would lie to the appropriate appeal court from a final determination of the Commission except with the leave or permission of the Commission or the appropriate appeal court, no certificate may be granted under section 7B in respect of a final determination unless it appears to the Commission that it would be a proper case for granting leave to appeal to the appropriate appeal court.
- (4) No certificate may be granted under section 7B in respect of a decision or order of the Commission made by it in the exercise of its jurisdiction to punish for contempt.”
- (3) In section 1(4) (challenges to decisions of the Commission), after “section 7” insert “and sections 7B to 7D”.
- (4) In section 7(3) (appeals from the Commission: definition of “the appropriate appeal court”), after “In this section” insert “and sections 7B to 7D”.
- (5) In section 8 (procedure on applications for leave to appeal) –
  - (a) in subsection (1), at the end insert “or for the grant of a certificate under section 7B”, and
  - (b) in subsection (2), omit “for leave to appeal”.
- (6) In the heading of section 8, after “leave to appeal” insert “etc”.

*Costs in civil proceedings***36 Wasted costs in certain civil proceedings**

- (1) Section 51 of the Senior Courts Act 1981 (costs in civil division of Court of Appeal, High Court, family court and county court) is amended as follows.
- (2) After subsection (7) (wasted costs) insert – 5
- “(7A) Where the court exercises a power under subsection (6) in relation to costs incurred by a party, it must inform such of the following as it considers appropriate –
- (a) an approved regulator;
- (b) the Director of Legal Aid Casework.” 10
- (3) After subsection (12) insert –
- “(12A) In subsection (7A) –
- “approved regulator” has the meaning given by section 20 of the Legal Services Act 2007;
- “the Director of Legal Aid Casework” means the civil servant designated under section 4 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.” 15

*Contempt of court***37 Strict liability: limitations and defences in England and Wales**

- (1) The Contempt of Court Act 1981 is amended as follows. 20
- (2) In section 2 (limitation of scope of strict liability) –
- (a) after subsection (2) insert –
- “(2A) In England and Wales, the strict liability rule applies to a publication only if the proceedings in question are active within the meaning of this section at a time when the publication is available to the public or a section of the public.”, and 25
- (b) in subsection (3), at the beginning insert “In Scotland and Northern Ireland,”.
- (3) In section 3 (defence of innocent publication or distribution), at the end insert –
- “(5) In England and Wales, where a person – 30
- (a) makes matter available to the public, or a section of the public, continuously over a limited or unlimited period, and
- (b) at the beginning of the period, has a defence under subsection (1) or (2) as regards the making available of the matter at that time, 35
- the person continues to have that defence as regards the making available of the matter until (and only until) the person has relevant knowledge or a reason to have a relevant suspicion.”

- (4) In section 4 (contemporary reports of proceedings), at the end insert –
- “(5) In England and Wales, a person has a defence under this section only in respect of a contempt of court under the strict liability rule arising in connection with –
- (a) the proceedings that are the subject of the report, or 5
  - (b) any other legal proceedings that are active within the meaning of section 2 when the report is first published.”
- (5) After section 4 insert –
- “4A Conduct begun before relevant proceedings: England and Wales**
- (1) This section applies where – 10
    - (a) a person makes matter available to the public, or a section of the public, continuously over a period, and
    - (b) during the period, legal proceedings become active within the meaning of section 2.
  - (2) In England and Wales, in making the matter available over the period, the person is not guilty of a contempt of court under the strict liability rule in connection with those proceedings, subject to subsection (3). 15
  - (3) If the Attorney General gives the person a notice in respect of the matter and the proceedings, the person does not have a defence under subsection (2) in connection with the proceedings as regards the making available of the matter after the date specified in the notice. 20
  - (4) The Secretary of State may by regulations make provision about the giving of a notice under this section, including provision about the information to be included in a notice.
  - (5) Regulations under this section are to be made by statutory instrument. 25
  - (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (7) If, over a period, a person makes the same matter available to the public, or a section of the public, in different forms or by different means, this section applies separately to the making available of the matter in each of those forms or by each of those means. 30
  - (8) In this section –
    - (a) references to making matter available to the public are to doing so as publisher, as distributor or otherwise; 35
    - (b) references to a period are to a limited or unlimited period.”
- (6) In section 21 (extent etc) –
- (a) after subsection (3) insert –

“(3A) Section 2(3) does not extend to England and Wales.”,
  - (b) in subsection (4) (provisions that do not extend to Scotland), after “Sections” insert “2(2A), 3(5), 4(5), 4A,”, and 40
  - (c) in subsection (5) (provisions that do not extend to Northern Ireland), after “sections” insert “2(2A), 3(5), 4(5), 4A,”.

**38 Strict liability: appeal against injunction**

In section 159(1) of the Criminal Justice Act 1988 (Crown Court proceedings: orders restricting or preventing reports or restricting public access), before paragraph (a) insert –

- “(za) an injunction granted under section 45(4) of the Senior Courts Act 1981 in respect of contempt of court under the strict liability rule (as defined in section 1 of the Contempt of Court Act 1981);”.

*Juries and members of the Court Martial*

**39 Upper age limit for jury service to be 75** 10

- (1) The Juries Act 1974 is amended as follows.
- (2) In section 1(1)(a) (qualification for jury service) for the words from “and” to the end substitute “and aged eighteen or over but under seventy six”.
- (3) In section 3(1) (electoral register as basis of jury selection), for “less than eighteen or more than seventy years of age” substitute “ –
  - (a) aged under eighteen, or
  - (b) aged seventy six or over”.

**40 Jurors and electronic communications devices**

In the Juries Act 1974, after section 15 insert –

**“15A Surrender of electronic communications devices** 20

- (1) A judge dealing with an issue may order the members of a jury trying the issue to surrender any electronic communications devices for a period.
- (2) An order may be made only if the judge 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 trial is being heard,
  - (b) in other accommodation provided at the judge’s request,
  - (c) visiting a place in accordance with arrangements made by the court, or
  - (d) travelling to or from a place mentioned in paragraph (b) or (c).
- (4) An order may be made subject to exceptions. 35
- (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 court having jurisdiction to deal with it. 40

- (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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#### 41 Jurors and electronic communications devices: powers of search etc

- (1) Part 4 of the Courts Act 2003 (court security officers) is amended as follows.  
(2) After section 54 insert –

##### “54A Powers in relation to jurors’ electronic communications devices

- (1) This section applies where an order has been made under section 15A of the Juries Act 1974 (surrender of electronic communications devices by jurors) in respect of the members of a jury. 10
- (2) A court security officer acting in the execution of the officer’s duty must, if ordered to do so by a judge, 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. 15
- (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 – 20
- (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) 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).” 25
- (3) In section 55 (powers to retain articles surrendered or seized) –
- (a) after subsection (1) insert –
- “(1A) Subject to subsection (2), a court security officer may retain an article which was – 30
- (a) surrendered in response to a request under section 54A(4)(a), or
- (b) seized under section 54A(4)(b),
- until the end of the period specified in the relevant order under section 15A of the Juries Act 1974.”, and 35
- (b) in subsection (2), for paragraph (a) substitute –
- “(a) the time specified in subsection (1) or (1A) (as appropriate), or”.
- (4) In section 56(1)(a) (regulations about retention of articles) – 40
- (a) in sub-paragraph (i), after “54(1)” insert “or 54A(4)(a)”, and
- (b) in sub-paragraph (ii), after “54(2)” insert “or 54A(4)(b)”.

**42 Research by jurors**

- (1) The Juries Act 1974 is amended as follows.
- (2) For the heading of section 20 substitute “Offences: failure to attend, serving while disqualified etc”.
- (3) After section 20 insert – 5

**“20A Offence: research by jurors**

  - (1) It is an offence for a member of a jury that tries an issue in a case before a court to research the case during the trial period, subject to the exceptions in subsections (6) and (7).
  - (2) A person researches a case if (and only if) the person – 10
    - (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 – 15
    - (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. 20
  - (4) Information relevant to the case includes information about – 25
    - (a) a person involved in events relevant to the case,
    - (b) the judge dealing with the issue,
    - (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 procedure.
  - (5) “The trial period”, in relation to a member of a jury that tries an issue, is the period – 30
    - (a) beginning when the person is sworn to try the issue, and
    - (b) ending when the judge discharges the jury or, if earlier, when the judge discharges the person.
  - (6) It is not an offence under this section for a person to seek information if the person needs the information for a reason which is not connected with the case. 35
  - (7) It is not an offence under this section for a person – 40
    - (a) to attend proceedings before the court on the issue;
    - (b) to seek information from the judge dealing with the issue;
    - (c) to do anything which the judge dealing with the issue directs or authorises the person to do; 40
    - (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 section in the process of obtaining the information; 45

- (e) to do anything else which is reasonably necessary in order for the jury to try the issue.
- (8) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both). 5
- (9) Proceedings for an offence under this section may only be instituted by or with the consent of the Attorney General.”

#### 43 Sharing research with other jurors

In the Juries Act 1974, after section 20A insert –

##### “20B Offence: sharing research with other jurors 10

- (1) It is an offence for a member of a jury that tries an issue in a case before a court intentionally to disclose information to another member of the jury during the trial period if –
  - (a) the member contravened section 20A in the process of obtaining the information, and 15
  - (b) the information has not been provided by the court.
- (2) Information has been provided by the court if (and only if) it has been provided as part of –
  - (a) evidence presented in the proceedings on the issue, or
  - (b) other information provided to the jury or a juror during the trial period by, or with the permission of, the judge dealing with the issue. 20
- (3) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both). 25
- (4) Proceedings for an offence under this section may not be instituted except by or with the consent of the Attorney General.
- (5) In this section, “the trial period” has the same meaning as in section 20A.”

#### 44 Jurors engaging in other prohibited conduct 30

In the Juries Act 1974, after section 20B insert –

##### “20C Offence: jurors engaging in other prohibited conduct

- (1) It is an offence for a member of a jury that tries an issue in a case before a court intentionally to engage in prohibited conduct during the trial period, subject to the exceptions in subsections (4) and (5). 35
- (2) “Prohibited conduct” means conduct from which it may reasonably be concluded that the person intends to try the issue otherwise than on the basis of the evidence presented in the proceedings on the issue.
- (3) An offence under this section is committed whether or not the person knows that the conduct is prohibited conduct. 40

- (4) It is not an offence under this section for a member of the jury to research the case (as defined in section 20A(2) to (4)).
- (5) It is not an offence under this section for a member of the jury to disclose information to another member of the jury.
- (6) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both). 5
- (7) Proceedings for an offence under this section may not be instituted except by or with the consent of the Attorney General.
- (8) In this section, “the trial period” has the same meaning as in section 20A.” 10

#### 45 Disclosing jury’s deliberations

- (1) In the Juries Act 1974, after section 20C insert –

##### “20D Offence: disclosing jury’s deliberations

- (1) It is an offence for a person intentionally – 15
  - (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 before a court, or
  - (b) to solicit or obtain such information, 20
    - subject to the exceptions in sections 20E and 20F.
- (2) A person guilty of an offence under this section 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 section may not be instituted except by or with the consent of the Attorney General. 25

##### 20E Offence of disclosing jury’s deliberations: initial exceptions

- (1) It is not an offence under section 20D for a person to disclose information in the proceedings mentioned in section 20D(1) for the purposes of enabling the jury to arrive at their verdict or in connection with the delivery of that verdict. 30
- (2) It is not an offence under section 20D for the judge dealing with those proceedings to disclose information –
  - (a) for the purposes of dealing with the case, 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 proceedings mentioned in section 20D(1). 35
- (3) It is not an offence under section 20D for a person who reasonably believes that a disclosure described in subsection (2)(b) has been made to disclose information for the purposes of the investigation. 40

- (4) It is not an offence under section 20D to publish information disclosed as described in subsection (1) or (2)(a) in the proceedings mentioned in section 20D(1).
- (5) It is not an offence under section 20D to solicit a disclosure described in subsections (1) to (4). 5
- (6) It is not an offence under section 20D to obtain information –  
(a) by means of a disclosure described in subsections (1) to (4), or  
(b) from a document that is available to the public or a section of the public.
- (7) In this section – 10  
“publish” means make available to the public or a section of the public;  
“relevant investigator” means –  
(a) a police force;  
(b) the Attorney General; 15  
(c) any other person or class of person specified by the Lord Chancellor for the purposes of this section by regulations made by statutory instrument.
- (8) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this section. 20
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

**20F Offence of disclosing jury’s deliberations: further exceptions**

- (1) It is not an offence under section 20D for a judge of the Court of Appeal or the registrar of criminal appeals to disclose information for the purposes of an investigation by a relevant investigator into – 25  
(a) whether an offence or contempt of court has been committed by or in relation to a juror in connection with the proceedings mentioned in section 20D(1), or 30  
(b) whether conduct of a juror in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (2) It is not an offence under section 20D for a judge of the Court of Appeal or the registrar of criminal appeals to disclose information to – 35  
(a) a person who was the defendant in the proceedings mentioned in section 20D(1), or  
(b) a legal representative of such a person, 40  
for the purposes of considering whether conduct of a juror in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (3) It is not an offence under section 20D for a person to disclose information for a purpose mentioned in subsection (1) or (2) to –  
(a) a judge of the Court of Appeal,  
(b) the registrar of criminal appeals, 45  
(c) a judge of the court where the proceedings mentioned in section 20D(1) took place, or

- (d) a member of staff of that court who would reasonably be expected to disclose the information only to a person mentioned in paragraphs (a) to (c).
- (4) It is not an offence under section 20D for a person who reasonably believes that a disclosure described in subsection (1) has been made to disclose information for the purposes of the investigation. 5
- (5) It is not an offence under section 20D 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 proceedings mentioned in section 20D(1), 10
- (b) proceedings on an appeal, or an application for leave to appeal, against a decision in the proceedings mentioned in section 20D(1) where an allegation relating to conduct of or in relation to a juror forms part of the grounds of appeal, or 15
- (c) proceedings on any further appeal or reference arising out of proceedings mentioned in paragraph (a) or (b).
- (6) It is not an offence under section 20D to publish information disclosed as described in subsection (5).
- (7) It is not an offence under section 20D to solicit a disclosure described in subsections (1) to (6). 20
- (8) It is not an offence under section 20D to obtain information—
- (a) by means of a disclosure described in subsections (1) to (6), or
- (b) from a document that is available to the public or a section of the public. 25
- (9) In this section—
- “publish” means make available to the public or a section of the public;
- “relevant investigator” means—
- (a) a police force; 30
- (b) the Attorney General;
- (c) the Criminal Cases Review Commission;
- (d) the Crown Prosecution Service;
- (e) any other person or class of person specified by the Lord Chancellor for the purposes of this section by regulations made by statutory instrument. 35
- (10) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this section.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.” 40
- (2) In the Contempt of Court Act 1981, as it extends to England and Wales, section 8 (confidentiality of jury’s deliberations) is repealed.
- (3) In section 8(1) of that Act, as it extends to Scotland and Northern Ireland, at the beginning insert “In Scotland and Northern Ireland,”. 45

- (4) In the heading of that section, at the end insert “: Scotland and Northern Ireland”.

#### **46 Juries at inquests**

Schedule 7 makes provision about juries at inquests and their deliberations.

#### **47 Members of the Court Martial**

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Schedule 8 makes provision about members of the Court Martial and their deliberations.

#### **48 Supplementary provision**

- (1) In Schedule 1 to the Juries Act 1974 (persons disqualified for jury service), after paragraph 6 insert – 10
- “6A A person who at any time in the last ten years has been convicted of –
- (a) an offence under section 20A, 20B, 20C or 20D of this Act,
  - (b) an offence under paragraph 5A, 5B, 5C or 5D of Schedule 6 to the Coroners and Justice Act 2009 (equivalent offences relating to jurors at inquests), or 15
  - (c) an offence under paragraph 2, 3, 4 or 5 of Schedule 2A to the Armed Forces Act 2006 (equivalent offences relating to members of the Court Martial).”
- (2) In section 22 of the Juries Act 1974 (consequential amendments, savings and repeals), at the beginning insert – 20
- “(A1) Nothing in section 20A, 20B or 20C affects what constitutes contempt of court at common law.”

#### *Other matters*

#### **49 Minor amendments**

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- (1) In section 132(4A) of the Powers of Criminal Courts (Sentencing) Act 2000 (compensation orders: appeals etc), for “House of Lords” substitute “the Supreme Court”.
- (2) In section 13(6A)(a) of the Tribunals, Courts and Enforcement Act 2007 (rules of court about when the Court of Session may grant permission to appeal against a decision of the Upper Tribunal), after “principle” insert “or practice”. 30

### **PART 4**

#### **JUDICIAL REVIEW**

#### *Judicial review in the High Court and Upper Tribunal*

#### **50 Likelihood of substantially different outcome for applicant**

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- (1) In section 31 of the Senior Courts Act 1981 (applications for judicial review),

- after subsection (2) insert –
- “(2A) The High Court –
- (a) must refuse to grant relief on an application for judicial review, and
  - (b) may not make an award under subsection (4) on such an application, 5
- if it appears to the court to be highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred.”
- (2) In that section, before subsection (4) insert – 10
- “(3B) When considering whether to grant leave to make an application for judicial review, the High Court –
- (a) may of its own motion consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and 15
  - (b) must consider that question if the defendant asks it to do so.
- (3C) If, on considering that question, it appears to the High Court to be highly likely that the outcome for the applicant would not have been substantially different, the court must refuse to grant leave.”
- (3) In that section, after subsection (7) insert – 20
- “(8) In this section “the conduct complained of”, in relation to an application for judicial review, means the conduct (or alleged conduct) of the defendant that the applicant claims justifies the High Court in granting relief.”
- (4) In section 15 of the Tribunals, Courts and Enforcement Act 2007 (the Upper Tribunal’s “judicial review” jurisdiction), after subsection (5) insert – 25
- “(5A) In cases arising under the law of England and Wales, section 31(2A) of the Senior Courts Act 1981 applies to the Upper Tribunal when deciding whether to grant relief under subsection (1) as it applies to the High Court when deciding whether to grant relief on an application for judicial review.” 30
- (5) In section 16 of the Tribunals, Courts and Enforcement Act 2007 (application for relief under section 15(1)), before subsection (4) insert –
- “(3B) In cases arising under the law of England and Wales, when considering whether to grant permission to make the application, the tribunal – 35
- (a) may of its own initiative consider whether the outcome for the applicant would have been substantially different if the conduct complained of had not occurred, and
  - (b) must consider that question if the respondent asks it to do so.
- (3C) In subsection (3B) “the conduct complained of” means the conduct (or alleged conduct) of the respondent that the applicant claims justifies the tribunal in granting relief. 40
- (3D) If, on considering the question mentioned in subsection (3B)(a) and (b), it appears to the tribunal to be highly likely that the outcome for the applicant would not have been substantially different, the tribunal must refuse to grant permission.” 45

- (6) In that section, after subsection (6) insert –
- “(6A) In cases arising under the law of England and Wales, section 31(2A) of the Senior Courts Act 1981 applies to the Upper Tribunal as regards the making of an award under subsection (6) as it applies to the High Court as regards the making of an award under section 31(4) of the Senior Courts Act 1981.” 5

## 51 Provision of information about financial resources

- (1) In section 31(3) of the Senior Courts Act 1981 (applications for leave to apply for judicial review) –
- (a) after “unless” insert “ – 10  
(a) ”, and  
(b) at the end insert “, and  
(b) the applicant has provided the court with any information about the financing of the application that is specified in rules of court for the purposes of this paragraph.” 15
- (2) In that section, after subsection (3) insert –
- “(3A) The information that may be specified for the purposes of subsection (3)(b) includes –
- (a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and 20  
(b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability to provide financial support for the purposes of the application.” 25
- (3) In section 16(3) of the Tribunals, Courts and Enforcement Act 2007 (applications for permission or leave to apply for relief under section 15(1): Upper Tribunal’s “judicial review” jurisdiction) – 30
- (a) after “unless” insert “ –  
(a) ”, and  
(b) at the end insert “, and  
(b) in cases arising under the law of England and Wales, the applicant has provided the tribunal with any information about the financing of the application that is specified in Tribunal Procedure Rules for the purposes of this paragraph.” 35
- (4) In that section, after subsection (3) insert –
- “(3A) The information that may be specified for the purposes of subsection (3)(b) includes – 40
- (a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and  
(b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability 45

to provide financial support for the purposes of the application.”

## 52 Use of information about financial resources

- (1) This section applies when the High Court, the Upper Tribunal or the Court of Appeal is determining by whom and to what extent costs of or incidental to judicial review proceedings are to be paid. 5
- (2) The information to which the court or tribunal must have regard includes –
  - (a) information about the financing of the proceedings provided in accordance with section 31(3)(b) of the Senior Courts Act 1981 or section 16(3)(b) of the Tribunals, Courts and Enforcement Act 2007, and 10
  - (b) any supplement to that information provided in accordance with rules of court or Tribunal Procedure Rules.
- (3) The court or tribunal must consider whether to order costs to be paid by a person, other than a party to the proceedings, who is identified in that information as someone who is providing financial support for the purposes of the proceedings or likely or able to do so. 15
- (4) In this section “judicial review proceedings” means –
  - (a) proceedings on an application for leave to apply for judicial review,
  - (b) proceedings on an application for judicial review,
  - (c) proceedings on an application for permission to apply for relief under section 15 of the Tribunals, Courts and Enforcement Act 2007 in a case arising under the law of England and Wales, 20
  - (d) proceedings on an application for such relief in such a case,
  - (e) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a), (b), (c) or (d), and 25
  - (f) proceedings on an appeal from such a decision.

## 53 Interveners and costs

- (1) This section applies where, in judicial review proceedings, a person other than a relevant party to the proceedings (an “intervener”) is granted permission to file evidence or make representations in the proceedings. 30
- (2) A relevant party to the proceedings may not be ordered by the High Court or the Court of Appeal to pay the intervener’s costs in connection with the proceedings.
- (3) Subsection (2) does not prevent the court making an order if it considers that there are exceptional circumstances that make it appropriate to do so. 35
- (4) On an application to the High Court or the Court of Appeal by a relevant party to the proceedings, the court must order the intervener to pay any costs specified in the application that the court considers have been incurred by that party as a result of the intervener’s involvement in the proceedings.
- (5) Subsection (4) does not require the court to make an order if it considers that there are exceptional circumstances that make it inappropriate to do so. 40
- (6) In determining whether there are exceptional circumstances that are relevant for the purposes of subsection (3) or (5), the court must have regard to criteria specified in rules of court.

- 
- (7) In this section, “judicial review proceedings” means –
- (a) proceedings on an application for leave to apply for judicial review,
  - (b) proceedings on an application for judicial review,
  - (c) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a) or (b), and 5
  - (d) proceedings on an appeal from such a decision.
- (8) For the purposes of this section, “a relevant party” to judicial review proceedings means any of the following –
- (a) the applicant and the defendant,
  - (b) in the case of proceedings on an appeal, the appellant and the respondent, and 10
  - (c) any other person who is directly affected by the proceedings and on whom the application for judicial review, or for leave to apply for judicial review, has been served.
- 54 Capping of costs** 15
- (1) A costs capping order may not be made by the High Court or the Court of Appeal in connection with judicial review proceedings except in accordance with this section and sections 55 and 56
- (2) A “costs capping order” is an order limiting or removing the liability of a party to judicial review proceedings to pay another party’s costs in connection with any stage of the proceedings. 20
- (3) The court may make a costs capping order only if leave to apply for judicial review has been granted.
- (4) The court may make a costs capping order only on an application for such an order made by the applicant for judicial review in accordance with rules of court. 25
- (5) Rules of court may, in particular, specify information that must be contained in the application, including –
- (a) information about the source, nature and extent of financial resources available, or likely to be available, to the applicant to meet liabilities arising in connection with the application, and 30
  - (b) if the applicant is a body corporate that is unable to demonstrate that it is likely to have financial resources available to meet such liabilities, information about its members and about their ability to provide financial support for the purposes of the application. 35
- (6) The court may make a costs capping order only if it is satisfied that –
- (a) the proceedings are public interest proceedings,
  - (b) in the absence of the order, the applicant for judicial review would withdraw the application for judicial review or cease to participate in the proceedings, and 40
  - (c) it would be reasonable for the applicant for judicial review to do so.
- (7) The proceedings are “public interest proceedings” only if –
- (a) an issue that is the subject of the proceedings is of general public importance,
  - (b) the public interest requires the issue to be resolved, and 45

- (c) the proceedings are likely to provide an appropriate means of resolving it.
- (8) The matters to which the court must have regard when determining whether proceedings are public interest proceedings include –
- (a) the number of people likely to be directly affected if relief is granted to the applicant for judicial review, 5
  - (b) how significant the effect on those people is likely to be, and
  - (c) whether the proceedings involve consideration of a point of law of general public importance.
- (9) The Lord Chancellor may by regulations amend this section by adding, omitting or amending matters to which the court must have regard when determining whether proceedings are public interest proceedings. 10
- (10) Regulations under this section are to be made by statutory instrument.
- (11) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (12) In this section and sections 55 and 56 –
- “costs capping order” has the meaning given in subsection (2);
  - “the court” means the High Court or the Court of Appeal;
  - “judicial review proceedings” means – 20
    - (a) proceedings on an application for leave to apply for judicial review,
    - (b) proceedings on an application for judicial review,
    - (c) any proceedings on an application for leave to appeal from a decision in proceedings described in paragraph (a) or (b), and 25
    - (d) proceedings on an appeal from such a decision,
 and the proceedings described in paragraphs (a) to (d) are “stages” of judicial review proceedings.
- (13) For the purposes of this section and section 55, in relation to judicial review proceedings – 30
- (a) the applicant for judicial review is the person who is or was the applicant in the proceedings on the application for judicial review, and
  - (b) references to relief being granted to the applicant for judicial review include the upholding on appeal of a decision to grant such relief at an earlier stage of the proceedings. 35

## 55 Capping of costs: orders and their terms

- (1) The matters to which the court must have regard when considering whether to make a costs capping order in connection with judicial review proceedings, and what the terms of such an order should be, include –
- (a) the financial resources of the parties to the proceedings, including the financial resources of any person who provides, or may provide, financial support to the parties; 40
  - (b) the extent to which the applicant for the order is likely to benefit if relief is granted to the applicant for judicial review;

- (c) the extent to which any person who has provided, or may provide, the applicant with financial support is likely to benefit if relief is granted to the applicant for judicial review;
  - (d) whether legal representatives for the applicant for the order are acting free of charge; 5
  - (e) whether the applicant for the order is an appropriate person to represent the interests of other persons or the public interest generally.
- (2) A costs capping order that limits or removes the liability of the applicant for judicial review to pay the costs of another party to the proceedings if relief is not granted to the applicant for judicial review must also limit or remove the liability of the other party to pay the applicant’s costs if it is. 10
- (3) The Lord Chancellor may by regulations amend this section by adding to, omitting or amending the matters listed in subsection (1).
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (6) In this section –  
“free of charge” means otherwise than for or in expectation of fee, gain or reward; 20  
“legal representative”, in relation to a party to proceedings, means a person exercising a right of audience or conducting litigation on the party’s behalf.

## 56 Capping of costs: environmental cases

- (1) The Lord Chancellor may by regulations provide that sections 54 and 55 do not apply in relation to judicial review proceedings which, in the Lord Chancellor’s opinion, have as their subject an issue relating entirely or partly to the environment. 25
- (2) Regulations under this section –  
(a) may make provision generally or only in relation to proceedings described in the regulations, and 30  
(b) may include transitional, transitory or saving provision.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 35

### *Planning proceedings*

## 57 Leave of court required for certain planning proceedings

- (1) Section 288 of the Town and Country Planning Act 1990 (proceedings for questioning the validity of other orders, decisions and directions) is amended as follows. 40
- (2) In subsection (3) after “this section” insert “relating to anything other than an English matter”.

- (3) After subsection (3) insert –
- “(3A) An application under this section relating to an English matter may not be made without the leave of the High Court.
- (3B) An application for leave for the purposes of subsection (3A) must be made within six weeks from (as the case may be) – 5
- (a) the date on which the order is confirmed or (in the case of an order under section 97 which takes effect under section 99 without confirmation) takes effect, or
- (b) the date on which the action is taken.”
- (4) After subsection (5) insert – 10
- “(5A) When considering whether to grant leave for the purposes of subsection (3A), the High Court may, subject to subsection (6), by interim order suspend the operation of the order or action the validity of which the person or authority concerned wishes to question, until the final determination of – 15
- (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.”
- (5) In subsection (6), after “orders” insert “; and subsection (5A) shall not apply where leave is sought to make such an application.” 20
- (6) After subsection (9) insert –
- “(9A) In this section “English matter” means –
- (a) an order to which this section applies which is made by –
- (i) a local planning authority in England,
- (ii) a mineral planning authority in England, or 25
- (iii) the Secretary of State, or
- (b) action to which this section applies which is on the part of the Secretary of State.”
- (7) 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 (3A).” 30

## PART 5

### FINAL PROVISIONS

#### 58 Power to make consequential and supplementary provision etc

- (1) The Lord Chancellor or the Secretary of State may by regulations make consequential, supplementary, incidental, transitional, transitory or saving provision in relation to any provision of this Act. 35
- (2) The regulations may, in particular, amend, repeal or revoke legislation.
- (3) Regulations under this section are to be made by statutory instrument.

- 
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (5).
- (5) A statutory instrument containing regulations under this section that amend or repeal a provision of an Act (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 5
- (6) In this section –  
“Act” includes an Act or Measure of the National Assembly for Wales;  
“legislation”, in relation to regulations made under this section, means – 10  
(a) an Act passed before or in the same Session as this Act, or  
(b) an instrument made under an Act before the regulations come into force.
- 59 Financial provision**
- There is to be paid out of money provided by Parliament –* 15  
(a) *any expenditure incurred by a Minister of the Crown under or by virtue of this Act, and*  
(b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*
- 60 Commencement** 20
- (1) The provisions of this Act come into force on such day as the Lord Chancellor or the Secretary of State may appoint by order, subject to subsection (2).
- (2) This Part comes into force on the day on which this Act is passed.
- (3) An order under this section is to be made by statutory instrument.
- (4) An order under this section may – 25  
(a) appoint different days for different purposes, and  
(b) make transitional, transitory or saving provision.
- 61 Extent**
- (1) An amendment or repeal made by this Act has the same extent as the provision amended or repealed (ignoring extent by virtue of an Order in Council), subject to subsections (2) to (4). 30
- (2) Section 37(2)(a), (3), (4) and (5) extend to England and Wales only.
- (3) An amendment or repeal of a provision of the Armed Forces Act 2006 extends to England and Wales, Scotland and Northern Ireland.
- (4) An amendment or repeal of any other provision, so far as it is applied by the Armed Forces Act 2006, extends to England and Wales, Scotland and Northern Ireland (and section 385 of that Act does not apply in relation to the amendment or repeal). 35
- (5) A provision of this Act, other than an amendment or repeal, extends to England and Wales, Scotland and Northern Ireland, subject to subsection (6). 40
- (6) The following provisions extend to England and Wales only –

- (a) sections 14 and 15;
- (b) section 18;
- (c) sections 52 to 56;
- (d) Schedule 4.

<b>62</b>	<b>Channel Islands, Isle of Man and British overseas territories</b>	5
(1)	The power conferred by paragraph 19 of Schedule 1 to the Crime (Sentences) Act 1997 (power to extend to Isle of Man) is exercisable in relation to any amendment of that Schedule that is made by or under this Act.	
(2)	The power conferred by section 9(3) of the Special Immigration Appeals Commission Act 1997 (power to extend to Channel Islands and Isle of Man) is exercisable in relation to any amendment of that Act that is made by or under this Act.	10
(3)	The power conferred by section 338 of the Criminal Justice Act 2003 (power to extend to Channel Islands etc) is exercisable in relation to any amendment of that Act that is made by or under this Act.	15
(4)	The power conferred by section 39(6) of the Terrorism Act 2006 (power to extend to Channel Islands and Isle of Man) is exercisable in relation to any amendment of that Act that is made by or under this Act.	
(5)	Her Majesty may by Order in Council provide for an armed forces provision to extend, with or without modifications, to—	20
	<ul style="list-style-type: none"> <li>(a) any of the Channel Islands,</li> <li>(b) the Isle of Man, or</li> <li>(c) any of the British overseas territories.</li> </ul>	
(6)	“Armed forces provision” means—	
	<ul style="list-style-type: none"> <li>(a) an amendment or repeal made by or under this Act of a provision of the Armed Forces Act 2006;</li> <li>(b) an amendment or repeal made by or under this Act of any other provision, so far as the provision is applied by the Armed Forces Act 2006.</li> </ul>	25
<b>63</b>	<b>Short title</b>	30
	This Act may be cited as the Criminal Justice and Courts Act 2014.	

## SCHEDULES

### SCHEDULE 1

Section 5

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

##### PART 1

##### SENTENCE AND RELEASE

5

##### *Introduction*

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

##### *Sentence*

- 2 After Chapter 5 of Part 12 (sentencing) insert –

##### **“CHAPTER 5A**

10

##### OTHER OFFENDERS OF PARTICULAR CONCERN

##### **236A Special custodial sentence for certain offenders of particular concern**

- (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), 15
  - (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 – 20
    - (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 – 25
- (a) the appropriate custodial term, and
  - (b) a further period of 1 year for which the offender is to be subject to a licence.
- (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. 30

- 
- (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 5
- (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.”
- 3 In section 330(5)(a) (orders subject to affirmative procedure), at the appropriate place insert – 10
- “section 236A(6),”.

*Offences of particular concern*

- 4 After Schedule 18 insert –
- “SCHEDULE 18A Section 236A 15
- 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. 20
- 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. 25
- 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. 30
- 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). 35
- 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). 40

- |    |                                                                                                              |    |
|----|--------------------------------------------------------------------------------------------------------------|----|
| 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).    | 5  |
| 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).             | 10 |
| 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).             | 15 |

*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).   | 20 |

*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.                                                                                                                                                        | 25 |
|    | (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—                                                                                                                                   | 30 |
|    | (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.             | 35 |

*Abolished offences*

- |    |                                                                     |    |
|----|---------------------------------------------------------------------|----|
| 23 | An offence that—                                                    |    |
|    | (a) was abolished before the coming into force of section 236A, and | 40 |

- (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”* 5

- 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.”

*Release on licence to be directed by Parole Board* 10

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

- 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. 15
- (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. 20
- (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. 25
- (4) The Board must not give a direction under subsection (3) unless –
- (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). 30
- (6) For the purposes of this section – 35
- “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 40
    - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).”

- 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”. 5

## PART 2

### OFFENDERS CONVICTED OF SERVICE OFFENCES

#### *Armed Forces Act 2006 (c. 52)*

- 8 In the Armed Forces Act 2006, after section 224 insert – 10
- “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), 15
- (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 – 20
- (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). 25
- (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. 30
- (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.”

## PART 3

35

### 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. 40

- (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.

*Detention in a young offender institution* 5

- 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).
- (2) Section 236A of the Criminal Justice Act 2003 applies as if at the end there were inserted – 10
- “(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 – 15
- “(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.”

PART 4

CONSEQUENTIAL PROVISION 20

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

- 11 (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”. 25
- (3) In paragraph 9(2)(a) (restricted transfers from England and Wales to Northern Ireland), after “244” insert “, 244A”.

*Criminal Justice Act 2003 (c. 44)*

- 12 The Criminal Justice Act 2003 is amended as follows.
- 13 (1) Section 237 (meaning of “fixed-term prisoner”) is amended as follows. 30
- (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.” 35
- (4) In subsection (3), for “or 227” substitute “, 227 or 236A”.

- 14 In section 240ZA(11) (time remanded in custody to count as time served), for “or 228” substitute “, 228 or 236A”.
- 15 (1) Section 250 (licence conditions) is amended as follows.
- (2) In subsection (4) –
- (a) for “or 227” substitute “, 227 or 236A”, and 5
- (b) for “or 228” substitute “, 228 or 236A”.
- (3) For subsection (5A) substitute –
- “(5A) When a prisoner described in subsection (5B) is released on licence, either initially or after recall to prison, the Secretary of State must not include in the licence a condition referred to in subsection (4)(b)(ii) unless the Board directs the Secretary of State to do so. 10
- (5B) Those prisoners are –
- (a) a prisoner serving an extended sentence imposed under section 226A or 226B, other than a sentence that meets the conditions in section 246A(2) (release without direction of the Board), and 15
- (b) a prisoner serving a sentence imposed under section 236A.”
- 16 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,”. 20
- 17 In section 258(3A) (early release of fine defaulters and contemnors), for “or 228” substitute “, 228 or 236A”.
- 18 (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”. 25
- (3) In subsection (2B), after “section” insert “244A or”.
- (4) In subsection (5), after “244” insert “, 244A”.
- 19 In section 261(5)(b) (re-entry into United Kingdom of offender removed from prison early), after “244” insert “, 244A”.
- 20 In section 263(4) (concurrent terms), for “or 228” substitute “, 228 or 236A”. 30
- 21 (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, 35
- (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 40
- (d) in relation to any other sentence, one-half of the sentence.”

- (3) In subsection (7), for “or 228” substitute “, 228 or 236A”.
- 22 In section 265(2) (restriction on consecutive sentences for released prisoners), for “or 228” substitute “, 228 or 236A”.
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*
- 23 (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. 5
- (2) In subsection (2), after paragraph (b) (but before “or”) insert –  
“(ba) a section 236A prisoner;”.
- (3) In subsection (3), before paragraph (b) insert – 10  
“(ab) amend section 244A of the Criminal Justice Act 2003 (release on licence of section 236A prisoners);”.
- (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).” 15

## SCHEDULE 2

Section 6

### ELECTRONIC MONITORING AND LICENCES ETC: CONSEQUENTIAL PROVISION

- Crime (Sentences) Act 1997 (c. 43)* 20
- 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 – 25
- (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).”
- Criminal Justice and Court Services Act 2000 (c. 43)* 30
- 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”. 35
- Criminal Justice Act 2003 (c. 44)*
- 3 The Criminal Justice Act 2003 is amended as follows.

- 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,”. 5
- (3) In paragraph (b)(i), after “any” insert “other”.
- 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”. 10
- (3) Omit subsection (5).
- 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”. 15

### SCHEDULE 3

Section 17

#### SECURE COLLEGES ETC: FURTHER AMENDMENTS

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

- 1 The Prison Act 1952 is amended as follows.
- 2 In section 37(4) (closing of prisons etc), for “or secure training centre” substitute “, secure training centre or secure college”. 20
- 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”. 25
- (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 30  
(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”. 35
- (6) For the heading of that section substitute “Rules for the management of prisons and places for the detention of young offenders”.
- 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;”.

*Criminal Justice Act 1961 (c. 39)*

- 5 The Criminal Justice Act 1961 is amended as follows.
- 6 In section 23(4) (prison rules), after “a young offender institution” insert “, a 5  
secure college;”.
- 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”. 10

*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 15
  - (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 20  
within the meaning of the Armed Forces Act 2006), including  
a detention and 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; 25
  - (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 30  
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 35  
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 40
  - (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).

*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”. 5

*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 – 10  
“(ba) a secure college, or”.

*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”. 15

*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;”. 20

*Children Act 2004 (c. 31)*

- 13 The Children Act 2004 is amended as follows.  
14 In section 11(1) (arrangements to safeguard and promote welfare), after paragraph (l) insert –  
“(la) the principal of a secure college in England;”. 25  
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;”.  
16 In section 15(3)(c) (funding of Local Safeguarding Children Boards), after “or prison” insert “or the principal of a secure college”. 30

*Childcare Act 2006 (c. 21)*

- 17 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 – 35  
“(c) a secure college.”

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

- 18 (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”. 5
- (4) Omit subsection (3).

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

- 19 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,”. 10

*Offender Management Act 2007 (c. 21)*

- 20 The Offender Management Act 2007 is amended as follows.
- 21 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”. 15
- 22 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;”. 20

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

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

*Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)* 25

- 24 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- 25 In section 102(2) (definition of “youth detention accommodation” for the purposes of remand), after paragraph (a) insert –
- “(aa) a secure college;”. 30
- 26 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”.

*Prisons (Interference with Wireless Telegraphy) Act 2012 (c. 20)* 35

- 27 (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;”.
- (3) In subsection (2), after paragraph (b) insert –  
    “(ba) in the case of a secure college in England, its principal;”.

## SCHEDULE 4

Section 18

5

### 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 – 10
- (a) provide a secure college or part of such a college;
  - (b) run a secure college of 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. 15
- (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; 20
  - “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. 25

###### *Application of Prison Act 1952 and secure college rules*

- 2 A contracted-out secure college must be run in accordance with – 30
- (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.

###### *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 – 35
- (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 – 5
- “lease” includes an underlease;
  - “tenancy” includes a sub-tenancy.

### *Principal*

- 4 (1) The principal of a contracted-out secure college must be a secure college custody officer who is – 10
- (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 – 15
- (a) the Prison Act 1952 as it applies to contracted-out secure colleges, and
  - (b) secure college rules.

### *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. 20
- (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 25
  - (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. 30
- (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. 35

### *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. 40

*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. 5
- 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, 10
  - (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.
- 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 20
  - (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).
- 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. 25
- 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. 30
- (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. 35
- (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. 45

*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. 5
- (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 10
  - (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, 15
  - (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
  - (c) the officers of the secure college must comply with any directions given by the appointed person in carrying out those functions. 20
- (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). 25
- (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 30
  - (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, 35
  - (c) the principal, and
  - (d) the monitor.

*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. 40
- (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.

*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). 5
- (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. 10

*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 – 15
- (a) which the person acquired in the course of the employment, and
- (b) which relates to a particular person detained in youth detention accommodation. 20
- (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 – 25
- (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. 30
- (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. 35

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 40

force certifying that the person has been approved by the Secretary of State for the purposes of performing custodial duties at secure colleges.

*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 – 5
- (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. 10
- (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.

*Suspension of certificate*

- 18 (1) This paragraph applies where – 15
- (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. 20
- (2) The monitor or principal may – 25
- (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 – 30
- (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 35

*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.

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. 5
- (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.

*Powers of officers carrying out contracted-out functions* 10

- 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.
- 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. 15

*Obstruction etc of secure college custody officers* 20

- 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. 25

*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). 30
- (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. 35
- (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.

*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 5
  - (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 10
  - (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 51 weeks or a fine (or both). 15
- (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. 20

*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. 25

PART 4

DEFINITIONS 30

- 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; 35
  - “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; 40
  - “sub-contractor”, in relation to a contracted-out secure college, has the meaning given in paragraph 1.

PART 5

FURTHER AMENDMENTS

*Firearms Act 1968 (c. 27)*

- 28 (1) Schedule 1 to the Firearms Act 1968 (offences to which section 17(2) of that Act applies) is amended as follows. 5
- (2) After paragraph 6 insert –
- “6A An offence under paragraph 14 or 24 of Schedule 4 to the Criminal Justice and Courts Act 2014 (assaulting secure college custody officer).”
- (3) In paragraph 8 for “6” substitute “6A”. 10

*Criminal Justice Act 1988 (c. 33)*

- 29 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 4 to the Criminal Justice and Courts Act 2014 (assaulting secure college custody officer);” 15

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

- 30 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 4 to the Criminal Justice and Courts Act 2014 (contracting out of secure colleges) or paragraph 20 of that Schedule (contracted-out functions at directly managed secure colleges);” 20 25

*Children Act 2004 (c. 31)*

- 31 The Children Act 2004 is amended as follows.
- 32 In section 15(3)(d) (funding of Local Safeguarding Children Boards), after “or prison” insert “or the principal of a contracted-out secure college”. 30
- 33 (1) Section 65 (interpretation) is amended as follows.
- (2) In subsection (3), at the end insert –
- “(d) references to a contracted-out secure college, and to the contractor in relation to such a secure college, have the meanings given by paragraph 1 of Schedule 4 to the Criminal Justice and Courts Act 2014.” 35
- (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 4 to the  
         Criminal Justice and Courts Act 2014 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”.

*Offender Management Act 2007 (c. 21)*

- 34 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 4 to the Criminal Justice and Courts  
         Act 2014;”;  
 (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.

SCHEDULE 5

Section 28

TRIAL BY SINGLE JUSTICE ON THE PAPERS: FURTHER AMENDMENTS

*Criminal Law Act 1977 (c. 45)*

- 1 (1) Section 39(1) of the Criminal Law Act 1977 (service of summons etc in  
 Scotland or Northern Ireland) is amended as follows. 20  
 (2) 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 25  
         (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 paragraph (d), for “or (c)” substitute “, (c) or (ca)”.

*Magistrates’ Courts Act 1980 (c. 43)* 30

- 2 The Magistrates’ Courts Act 1980 is amended as follows.  
 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). 35  
 (4) In subsection (6A), for “public prosecutor” substitute “relevant prosecutor”.  
 4 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;”.

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

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- 5 (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
- (b) after ““requisition”” insert “, “single justice procedure notice”.

15

- (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;”.

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

- 6 In section 8 of the Road Traffic Offenders Act 1988 (duty to include date of birth and sex in written plea of guilty), after paragraph (a) (but before “or”) insert –

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“(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);”.

30

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

- 7 (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) –

35

- (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”.

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*Drug Trafficking Act 1994 (c. 37)*

- 8 (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”.

5

*Merchant Shipping Act 1995 (c. 21)*

- 9 (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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*Terrorism Act 2000 (c. 11)*

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- 10 (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””.

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

- 11 (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””.

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*Education Act 2002 (c. 32)*

- 12 (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”.

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(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.”

*Crime (International Co-operation) Act 2003 (c. 32)* 5

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

14 (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).” 10

(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”. 15

(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 20

(b) after “the requisition” insert “or single justice procedure notice”.

15 (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”. 25

(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”. 30

## SCHEDULE 6

Section 29

### 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 – 35

“(c) an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge).”

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

- 2 The Magistrates' Courts Act 1980 is amended as follows.
- 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
- (b) a surcharge ordered to be paid under section 161A of the Criminal Justice Act 2003.”
- 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).”

*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”.

*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) ”.

*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);”.

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

- 8 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows. 35
- 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.”
- 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),”.

*Criminal Justice Act 2003 (c. 44)*

- 11 The Criminal Justice Act 2003 is amended as follows.
- 12 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”.
- 13 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.”
- 14 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.”
- 15 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);
  - (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).”

## SCHEDULE 7

Section 46

## 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** 5
- (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 – 10
- (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 periods during which the members of the jury are – 15
- (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 20
- (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. 25
- (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). 30
- 9B Surrender of electronic communications devices: powers of search etc** 35
- (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. 40

- 
- (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 – 5
- (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. 10
- (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. 15
- (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 – 20
- (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, 25
  - (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 – 30
- “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.”
- 2 (1) Part 4 of the Courts Act 2003 (court security officers) is amended as follows. 35
- (2) In section 54A (powers in relation to jurors’ electronic communications devices) (inserted by section 41) –
- (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 40
  - (c) for subsection (5) substitute –
- “(5) In this section – 45
  - “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 41), after “1974” insert “or section 9A of the Coroners and Justice Act 2009”. 5

*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. 10
- 4 Before paragraph 1 insert –
- “*Serving while disqualified, failure to attend etc*”.
- 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 subparagraphs (6) and (7). 15
- (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. 20
- (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, 25
- (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, 30
- (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 35
- (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 40
- (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; 5
  - (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; 10
  - (e) to do anything else which is reasonably necessary in order for the jury to make a determination or finding in the case. 15
- (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.” 20

*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 25
  - (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 30
  - (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). 35
- (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. 40

*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. 5
- (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. 10
- (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. 15
- (8) In this paragraph, “the inquest period” has the same meaning as in paragraph 5A.”

*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— 20

## “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, 25
- subject to the exceptions in paragraphs 5E and 5F. 30
- (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. 35

*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. 40

- (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. 5
- (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. 10
- (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) It is not an offence under paragraph 5D to solicit a disclosure described in sub-paragraphs (1) to (4). 15
- (6) It is not an offence under paragraph 5D to obtain information –
- (a) by means of a disclosure described in sub-paragraphs (1) to (4), or
  - (b) from a document that is available to the public or a section of the public. 20
- (7) In this paragraph –
- “publish” means make available to the public or a section of the public;
  - “relevant investigator” means – 25
    - (a) a police force;
    - (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. 30
- (8) 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 the Attorney General or a judge of the High Court to disclose information for the purposes of an investigation by a relevant investigator into – 35
- (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. 40
- (2) It is not an offence under paragraph 5D for a person to disclose information for the purposes mentioned in sub-paragraph (1) to – 45
- (a) the Attorney General,
  - (b) a judge of the High Court,

- 
- (c) the senior coroner who dealt with the inquest mentioned in paragraph 5D(1), or
- (d) a coroners' 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 (a) to (c). 5
- (3) It is not an offence under paragraph 5D for a person who reasonably believes that a disclosure described in sub-paragraph (1) has been made to disclose information for the purposes of the investigation. 10
- (4) 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), 15
- (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 20
- (c) proceedings on any further appeal, reference or investigation arising out of proceedings mentioned in paragraph (a) or (b).
- (5) It is not an offence under paragraph 5D to publish information disclosed as described in sub-paragraph (4). 25
- (6) It is not an offence under paragraph 5D to solicit a disclosure described in sub-paragraphs (1) to (5).
- (7) It is not an offence under paragraph 5D to obtain information –
- (a) by means of a disclosure described in sub-paragraphs (1) to (5), or 30
- (b) from a document that is available to the public or a section of the public.
- (8) In this paragraph –
- “publish” means make available to the public or a section of the public; 35
- “relevant investigator” means –
- (a) a police force;
- (b) the Attorney General;
- (c) the Criminal Cases Review Commission; 40
- (d) the Crown Prosecution Service;
- (e) any other person or class of person specified by the Lord Chancellor for the purposes of this paragraph by regulations.
- (9) The Lord Chancellor must obtain the consent of the Lord Chief Justice before making regulations under this paragraph.” 45

*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.” 5

SCHEDULE 8

Section 47

MEMBERS OF THE COURT MARTIAL

PART 1

OFFENCES

- 1 The Armed Forces Act 2006 is amended as follows. 10
- 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.” 15
- 3 After Schedule 2 insert –

“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. 20
- (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. 25
- (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. 30

*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). 35

- 
- (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 – 5
- (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 10
  - (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, 15
  - (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. 20
- (6) It is not an offence under this paragraph for a person –
- (a) to attend the proceedings in question;
  - (b) to seek information from the judge advocate for the proceedings; 25
  - (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; 30
  - (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; 35
  - (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. 40
- (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 – 5
- (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 – 10
- (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 15
  - (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. 20

*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). 25
- (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 about a sentence otherwise than on the basis of the evidence presented in the proceedings. 30
- (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)). 35
- (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. 40

*Disclosing information about members’ deliberations etc*

- 5 (1) It is an offence for a person intentionally – 45

- 
- (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, 5  
subject to the exceptions in paragraphs 6 and 7.
- (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, 10  
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— 15
- (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. 20
- (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 sub-paragraph (2), including an offence committed in respect of deliberations of members of the Court Martial sitting outside England and Wales. 25

*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 30
- (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—
- (a) for the purposes of dealing with the proceedings, or 35
- (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. 40
- (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). 45

- 
- (5) It is not an offence under paragraph 5 to solicit a disclosure described in sub-paragraphs (1) to (4).
- (6) It is not an offence under paragraph 5 to obtain information –
- (a) by means of a disclosure described in sub-paragraphs (1) to (4), or 5
  - (b) from a document that is available to the public or a section of the public.
- (7) In this paragraph –
- “publish” means make available to the public or a section of the public; 10
  - “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. 15
- (8) 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* 20
- 7 (1) 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 25
  - (b) whether conduct of a lay member in connection with those proceedings may provide grounds for an appeal against conviction or sentence. 30
- (2) 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 to –
- (a) a person who was the defendant in the proceedings mentioned in paragraph 5(1), or 35
  - (b) a legal representative of such a person,
- for the purposes of considering whether conduct of a lay member in connection with those proceedings may provide grounds for an appeal against conviction or sentence.
- (3) It is not an offence under paragraph 5 for a person to disclose information for a purpose mentioned in sub-paragraph (1) or (2) to – 40
- (a) a judge of the Court of Appeal,
  - (b) a judge of the Court Martial Appeal Court,
  - (c) the registrar of criminal appeals, 45
  - (d) the judge advocate who dealt with the proceedings mentioned in paragraph 5(1),

- 
- (e) the court administration officer for the Court Martial, or  
 (f) a member of the Military Court Service who would reasonably be expected to disclose the information only to a person mentioned in paragraphs (a) to (e).
- (4) It is not an offence under paragraph 5 for a person who reasonably believes that a disclosure described in sub-paragraph (1) has been made to disclose information for the purposes of the investigation. 5
- (5) 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), 10
- (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 15
- (c) proceedings on any further appeal or reference arising out of proceedings mentioned in paragraph (a) or (b). 20
- (6) It is not an offence under paragraph 5 to publish information disclosed as described in sub-paragraph (5).
- (7) It is not an offence under paragraph 5 to solicit a disclosure described in sub-paragraphs (1) to (6).
- (8) It is not an offence under paragraph 5 to obtain information – 25
- (a) by means of a disclosure described in sub-paragraphs (1) to (6), or
- (b) from a document that is available to the public or a section of the public.
- (9) In this paragraph – 30
- “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; 35
- (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. 40
- (10) The Lord Chancellor must obtain the consent of the Lord Chief Justice of England and Wales before making regulations under this paragraph.

*Saving for contempt of court*

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

PART 2

5

FURTHER AMENDMENTS

- 4 The Armed Forces Act 2006 is amended as follows.
- 5 In section 50(2) (jurisdiction of the Court Martial: service offences), after paragraph (f) insert –
- “(fa) an offence under paragraph 2, 3 or 4 of Schedule 2A (offences committed by a lay member of the Court Martial); 10
- (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;”.
- 6 In section 51(3) (jurisdiction of the Service Civilian Court: excluded offences), after paragraph (c) insert – 15
- “(ca) an offence under paragraph 2, 3, 4 or 5 of Schedule 2A (offences relating to members of the Court Martial);”.
- 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.” 20
- 8 In Schedule 2 (offences required to be referred to service police force or Director of Service Prosecutions under sections 113 and 116), at the end insert – 25
- “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.” 30
- 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.

# Criminal Justice and Courts Bill

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## B I L L

To make provision about how offenders are dealt with before and after conviction; to amend the offence of possession of extreme pornographic images; to make provision about the proceedings and powers of courts and tribunals; to make provision about judicial review; and for connected purposes.

*Presented by Secretary Chris Grayling,  
supported by  
The Prime Minister,  
The Deputy Prime Minister,  
Mr Chancellor of the Exchequer,  
Secretary Theresa May, Secretary Eric Pickles,  
The Attorney General and Simon Hughes.*

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*Ordered, by The House of Commons,  
to be Printed, 5th February 2014.*

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