

LORDS AMENDMENTS TO THE
CRIMINAL JUSTICE AND COURTS BILL

[The page and line references are to HL Bill 30, the bill as first printed for the Lords.]

Clause 2

- 1** Page 3, line 22, leave out “, (4), (5) and (6)” and insert “and (4)”

Clause 3

- 2** Page 4, line 11, at end insert –

“() Part 4 of Schedule 15B to the Criminal Justice Act 2003 (offences under the law of Scotland, Northern Ireland or a member State other than the United Kingdom listed for the purposes of sections 224A(4) and 226A of that Act) is amended as follows.

() In paragraph 49, for “An offence” substitute “A civilian offence”.

() After paragraph 49 insert –

“49A A member State service offence which, if committed in England and Wales at the time of the conviction, would have constituted an offence specified in Part 1 or 2 of this Schedule.

49B In this Part of this Schedule –

“civilian offence” means an offence other than an offence described in Part 3 of this Schedule or a member State service offence;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.”

- 3** Page 4, line 21, leave out “this section” and insert “subsections (2) to (5)”

After Clause 4

- 4** Insert the following new Clause –

“Minor amendments

- (1) In section 224A of the Criminal Justice Act 2003 (life sentence for second listed offence), at the end insert –
 - “(12) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it must be taken for the purposes of subsections (1)(b) and (4)(a) to have been committed on the last of those days.”
- (2) In section 232A of that Act (certificates of conviction), for “section 224A” substitute “sections 224A and 226A”.
- (3) In section 218A of the Armed Forces Act 2006 (life sentence for second listed offence), at the end insert –
 - “(8) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it must be taken for the purposes of subsections (1)(c) and (5)(a) to have been committed on the last of those days.””

After Clause 6

- 5 Insert the following new Clause –

“Recall adjudicators

- (1) After section 239 of the Criminal Justice Act 2003 insert –

“239A Recall adjudicators

- (1) In this Chapter, “recall adjudicator” means a person for the time being appointed as such by the Secretary of State.
- (2) The Secretary of State may appoint the Board or another person.
- (3) The Secretary of State may, in particular, appoint a person –
 - (a) to carry out all or only some of the functions of a recall adjudicator;
 - (b) to carry out such functions only in relation to a specified area;
 - (c) to carry out such functions only in relation to a specified description of case.
- (4) The Secretary of State may make rules with respect to the proceedings of recall adjudicators.
- (5) The Secretary of State may appoint a recall adjudicator (referred to in this section as “the chief recall adjudicator”) to oversee the activities of recall adjudicators.
- (6) The chief recall adjudicator may, in particular –
 - (a) issue guidance with respect to the carrying out of the functions of recall adjudicators, and
 - (b) make recommendations to the Secretary of State about the termination of appointments under this section.
- (7) Before issuing guidance the chief recall adjudicator must consult the recall adjudicators and the Secretary of State.

- (8) A recall adjudicator must carry out his or her functions in accordance with guidance issued from time to time by the chief recall adjudicator.
- (9) The Secretary of State may make payments to a recall adjudicator.
- (10) A person is not to be regarded as acting on behalf of the Crown, or as enjoying any status, immunity or privilege of the Crown, by virtue of an appointment under this section.”
- (2) The amendments of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release etc of fixed-term prisoners) in section 7 of this Act confer functions on recall adjudicators in connection with the release of fixed-term prisoners following their recall.
- (3) Schedule (*Recall adjudicators: further provision*) to this Act contains further provision relating to recall adjudicators.”

Clause 7

- 6 Page 7, line 13, after “(4)” insert “ –
(i) ”
- 7 Page 7, line 14, at end insert “and
(ii) for “the Board” substitute “a recall adjudicator”,”
- 8 Page 7, line 16, leave out “Board” and insert “recall adjudicator”
- 9 Page 7, line 24, leave out “Board” and insert “recall adjudicator”
- 10 Page 7, line 25, leave out “the Board is”
- 11 Page 7, line 28, leave out “Board” and insert “recall adjudicator”
- 12 Page 7, line 30, leave out “Board” and insert “recall adjudicator”
- 13 Page 7, line 32, leave out “Board” and insert “recall adjudicator”
- 14 Page 7, line 47, at end insert –
“() in subsection (4), for “the Board” substitute “a recall adjudicator”,”
- 15 Page 8, line 2, leave out “Board” and insert “recall adjudicator”
- 16 Page 8, line 10, leave out “Board” and insert “recall adjudicator”
- 17 Page 8, line 11, leave out “the Board is”
- 18 Page 8, line 13, leave out “Board” and insert “recall adjudicator”
- 19 Page 8, line 15, leave out “Board” and insert “recall adjudicator”
- 20 Page 8, line 17, leave out “Board” and insert “recall adjudicator”
- 21 Page 8, line 25, leave out “the Board” and insert “a recall adjudicator”
- 22 Page 8, line 27, leave out “the Board” and insert “a recall adjudicator”
- 23 Page 8, line 31, leave out “Board” and insert “recall adjudicator”
- 24 Page 8, line 34, leave out “Board” and insert “recall adjudicator”
- 25 Page 8, line 40, after “(2)” insert “ –
(i) ”

- 26 Page 8, line 40, at end insert “and
(ii) for “the Board” substitute “a recall adjudicator”,”
- 27 Page 8, line 40, at end insert –
“() in subsection (3), for “The Board” substitute “A recall adjudicator”,”
- 28 Page 8, line 41, after “(4)” insert “ –
(i) for “Board” substitute “recall adjudicator”, and
(ii) ”
- 29 Page 9, line 2, leave out “Board” and insert “recall adjudicator”
- 30 Page 9, line 3, leave out “the Board is”
- 31 Page 9, line 5, leave out “Board” and insert “recall adjudicator”
- 32 Page 9, line 7, leave out “Board” and insert “recall adjudicator”
- 33 Page 9, line 10, leave out “Board” and insert “recall adjudicator”

Clause 8

- 34 Page 9, line 36, leave out “Board” and insert “recall adjudicator”

Clause 13

- 35 Page 14, line 28, at end insert –
“() In section 250 of the Criminal Justice Act 2003 (licence conditions), for subsection (5A) substitute –
“(5A) Subsection (5B) applies to a licence granted, either on initial release or after recall to prison, to 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).
(5B) The Secretary of State must not –
(a) include a condition referred to in subsection (4)(b)(ii) in the licence, either on release or subsequently, or
(b) vary or cancel any such condition included in the licence, unless the Board directs the Secretary of State to do so.”
() In section 260(2B) of the Criminal Justice Act 2003 (early removal from prison of extended sentence prisoners liable to removal from United Kingdom), for “section 246A” substitute “this Chapter”.”

After Clause 16

- 36 Insert the following new Clause –

“Alternatives to prosecution: rehabilitation of offenders in Scotland

In Schedule 3 to the Rehabilitation of Offenders Act 1974 (protection for spent alternatives to prosecution: Scotland), at the end insert –

- “9 (1) The powers conferred on the Scottish Ministers by –
(a) paragraph 6, and

(b) section 7(4), as applied by paragraph 8, may be exercised to make provision relating to reserved matters and are not subject to the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.

(2) In this paragraph, “reserved matters” has the same meaning as in the Scotland Act 1998.””

Clause 19

37 Page 19, line 34, at end insert –

- “() A person is not a care provider for the purposes of section 18 to the extent that the person carries out a function of a local authority in England mentioned in subsection (1) in respect of which either of the following has effect –
- (a) a direction under section 15(6)(a) of the Local Government Act 1999 (power of Secretary of State to direct functions of a best value authority to be carried out by another person);
 - (b) a direction under section 497A(4) or (4A) of the Education Act 1996 (power of Secretary of State to direct certain functions to be carried out by another person).”

38 Page 20, line 3, at end insert –

- “() A person is not a care provider for the purposes of section 18 to the extent that the person carries out a function of a local authority in Wales mentioned in subsection (3) in respect of which any of the following has effect –
- (a) a direction under section 29(6)(a) of the Local Government (Wales) Measure 2009 (nawm 2) (power of Welsh Ministers to direct certain functions of a Welsh improvement authority to be carried out by another person);
 - (b) a direction under section 25 or 26 of the School Standards and Organisation (Wales) Act 2013 (anaw 1) (powers of Welsh Ministers to direct education functions to be carried out by another person);
 - (c) a direction under section 154 or 155 of the Social Services and Well-Being (Wales) Act 2014 (anaw 4) (powers of Welsh Ministers to direct social services functions to be carried out by another person).”

39 Page 20, line 3, at end insert –

- “() A registered adoption society or registered adoption support agency is not a care provider for the purposes of section 18 to the extent that it provides adoption support services (as defined in section 2(6) of the Adoption and Children Act 2002).”

40 Page 20, line 11, at end insert –

““registered adoption society” means an adoption society (as defined in section 2 of the Adoption and Children Act 2002) which is a voluntary organisation (as defined in that section) and in respect of which a person is registered under Part 2 of the Care Standards Act 2000;

“registered adoption support agency” means an adoption support agency (as defined in section 8 of the Adoption and Children Act

2002) in respect of which a person is registered under Part 2 of the Care Standards Act 2000.”

Clause 23

- 41 Page 22, line 7, after “constable” insert “listed in subsection (3)”
- 42 Page 22, leave out line 13 and insert –
 “(3) The police constables referred to in subsection (1) are –”
- 43 Page 22, line 14, at end insert “in England and Wales”
- 44 Page 22, line 15, at end insert “in England and Wales”
- 45 Page 22, line 19, leave out from “designated” to “as” in line 20 and insert “under section 9 or 10 of the Crime and Courts Act 2013”
- 46 Page 23, line 5, leave out “England and Wales or in the adjacent” and insert “the United Kingdom or in”
- 47 Page 23, line 15, at end insert “in England and Wales or Northern Ireland”

Clause 25

- 48 Page 23, line 36, leave out from “had” to end of line 43 and insert “at least one relevant conviction (see section 1ZA)”
- 49 Page 24, line 1, leave out from beginning to “the” in line 2 and insert “Where this subsection applies,”
- 50 Page 24, line 5, after “offence” insert “, to the previous offence”
- 51 Page 24, line 11, at end insert –
 “(2CA) In considering whether it is of the opinion mentioned in subsection (2B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
 (2CB) Where –
 (a) an appropriate custodial sentence has been imposed on a person under subsection (2B), and
 (b) a relevant conviction without which subsection (2B) would not have applied has been subsequently set aside on appeal, notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).”
- 52 Page 24, line 18, leave out “(2B)(a)” and insert “(2C)(a)”
- 53 Page 24, line 21, at end insert –
 “() After section 1 insert –
“1ZA Offence under section 1: previous relevant convictions
 (1) For the purposes of section 1, “relevant conviction” means –
 (a) a conviction for an offence under –
 (i) section 1 or 1A of this Act, or

- (ii) section 139, 139A or 139AA of the Criminal Justice Act 1988,
 - (a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) In this section –
- “civilian offence” means an offence other than –
 - (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
 - (b) a member State service offence;
 - “conviction” includes –
 - (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction and
 - (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;
 - “member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.
- (3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.”

54 Page 24, leave out line 26 and insert –

- “(a) a person is convicted of an offence under subsection (1) by a court in England and Wales,
- (aa) the offence was”

55 Page 24, line 29, leave out from “had” to end of line 35 and insert “at least one relevant conviction (see section 139AZA)”

- 56 Page 24, line 36, leave out from beginning to “the” in line 37 and insert “Where this subsection applies,”
- 57 Page 24, line 40, after “offence” insert “, to the previous offence”
- 58 Page 24, line 47, at end insert –
- “(6CA) In considering whether it is of the opinion mentioned in subsection (6B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (6CB) Where –
- (a) an appropriate custodial sentence has been imposed on a person under subsection (6B), and
- (b) a relevant conviction without which subsection (6B) would not have applied has been subsequently set aside on appeal, notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).”
- 59 Page 25, line 7, leave out “(6B)” and insert “(6C)(a)”
- 60 Page 25, leave out line 13 and insert –
- “(a) a person is convicted of an offence under subsection (1) or (2) by a court in England and Wales,
- (aa) the offence was”
- 61 Page 25, line 16, leave out from “had” to end of line 22 and insert “at least one relevant conviction (see section 139AZA)”
- 62 Page 25, line 23, leave out from beginning to “the” in line 24 and insert “Where this subsection applies,”
- 63 Page 25, line 27, after “offence” insert “, to the previous offence”
- 64 Page 25, line 34, at end insert –
- “(5CA) In considering whether it is of the opinion mentioned in subsection (5B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (5CB) Where –
- (a) an appropriate custodial sentence has been imposed on a person under subsection (5B), and
- (b) a relevant conviction without which subsection (5B) would not have applied has been subsequently set aside on appeal, notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).”
- 65 Page 25, line 41, leave out “(5B)” and insert “(5C)(a)”
- 66 Page 25, line 43, at end insert –
- “() After section 139A insert –

“139AZA Offences under sections 139 and 139A: previous relevant convictions

- (1) For the purposes of sections 139 and 139A, “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of the Prevention of Crime Act 1953, or
 - (ii) section 139, 139A or 139AA of this Act,(a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006, whenever committed, in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) In this section—
- “civilian offence” means an offence other than—
- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
 - (b) a member State service offence;
- “conviction” includes—
- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction, and
 - (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;
- “member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.
- (3) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.”

- “() Schedule (*Minimum sentence for repeat offences involving offensive weapons etc: consequential provision*) contains consequential provision.”

Before Clause 27

68 Insert the following new Clause –

“Extension of disqualification where custodial sentence also imposed

- (1) In section 35A of the Road Traffic Offenders Act 1988 (extension of disqualification where custodial sentence also imposed) –
 - (a) in subsection (4)(e) and (f), omit “calculated after that term has been reduced by any relevant discount”,
 - (b) in subsection (4)(h), omit “calculated after that sentence has been reduced by any relevant discount”, and
 - (c) omit subsection (6) (definition of “relevant discount”).
- (2) In section 147A of the Powers of Criminal Courts (Sentencing) Act 2000 (extension of disqualification where custodial sentence also imposed) –
 - (a) in subsection (4)(e) and (f), omit “calculated after that term has been reduced by any relevant discount”,
 - (b) in subsection (4)(h), omit “calculated after that sentence has been reduced by any relevant discount”, and
 - (c) omit subsection (6) (definition of “relevant discount”).
- (3) In consequence of the amendments made by subsections (1) and (2), omit paragraphs 8 and 12 of Schedule 13 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.”

69 Insert the following new Clause –

“Mutual recognition of driving disqualification in UK and Republic of Ireland

- (1) Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003 (EU Convention on driving disqualifications) is amended as follows.
- (2) For the heading of the Chapter substitute “Mutual recognition of driving disqualification in UK and Republic of Ireland”.
- (3) In section 54 (application of duty of the UK to give notice of driving disqualification) –
 - (a) in subsection (1), for paragraph (a) substitute –
 - “(a) an individual (“the offender”) is convicted of a qualifying UK road traffic offence,
 - (aa) when convicted, the offender –
 - (i) is normally resident in the Republic of Ireland, or
 - (ii) is not normally resident in the Republic of Ireland but holds a Republic of Ireland licence,” and
 - (b) after subsection (1) insert –
 - “(1A) A qualifying UK road traffic offence is –
 - (a) an offence under the law of England and Wales or Scotland mentioned in Schedule 3;

- (b) an offence under the law of Northern Ireland mentioned in Schedule 3A.”
- (4) In section 56(1) (application of duty of the UK to recognise driving disqualification imposed outside the UK), for paragraph (a) substitute –
 - “(a) an individual (“the offender”) is convicted in the Republic of Ireland of an offence described in Schedule 3B,
 - (aa) when convicted, the offender –
 - (i) is normally resident in the United Kingdom, or
 - (ii) is not normally resident in the United Kingdom but holds a Great Britain licence or a Northern Ireland licence,”.

- (5) After section 71 insert –

“71A The specified agreement on driving disqualifications

- (1) In this Chapter, “the specified agreement on driving disqualifications” means the agreement specified from time to time by the Secretary of State by regulations for the purposes of this Chapter.
- (2) The Secretary of State may only specify an agreement made –
 - (a) between the United Kingdom and the Republic of Ireland, and
 - (b) for the purpose of giving effect in one of those States to disqualification from driving imposed in the other on conviction for an offence.
- (3) In this section, “disqualification from driving” means disqualification from holding or obtaining a licence to drive a motor vehicle.”
- (6) In Schedule (*Mutual recognition of driving disqualification in UK and Republic of Ireland*) to this Act –
 - (a) Part 1 contains further provision for the purpose of implementing an agreement between the United Kingdom and the Republic of Ireland on the mutual recognition of driving disqualification;
 - (b) Part 2 contains provision about the transition from the EU Convention on driving disqualification to that agreement.”

After Clause 27

- 70 Insert the following new Clause –

“Disclosing private sexual photographs and films with intent to cause distress

- (1) It is an offence for a person to disclose a private sexual photograph or film if the disclosure is made –
 - (a) without the consent of an individual who appears in the photograph or film, and
 - (b) with the intention of causing that individual distress.
- (2) But it is not an offence under this section for the person to disclose the photograph or film to the individual mentioned in subsection (1)(a) and (b).

- (3) It is a defence for a person charged with an offence under this section to prove that he or she reasonably believed that the disclosure was necessary for the purposes of preventing, detecting or investigating crime.
- (4) It is a defence for a person charged with an offence under this section to show that—
 - (a) the disclosure was made in the course of, or with a view to, the publication of journalistic material, and
 - (b) he or she reasonably believed that, in the particular circumstances, the publication of the journalistic material was, or would be, in the public interest.
- (5) It is a defence for a person charged with an offence under this section to show that—
 - (a) he or she reasonably believed that the photograph or film had previously been disclosed for reward, whether by the individual mentioned in subsection (1)(a) and (b) or another person, and
 - (b) he or she had no reason to believe that the previous disclosure for reward was made without the consent of the individual mentioned in subsection (1)(a) and (b).
- (6) A person is taken to have shown the matters mentioned in subsection (4) or (5) if—
 - (a) sufficient evidence of the matters is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) For the purposes of subsections (1) to (5)—
 - (a) “consent” to a disclosure includes general consent covering the disclosure, as well as consent to the particular disclosure, and
 - (b) “publication” of journalistic material means disclosure to the public at large or to a section of the public.
- (8) A person charged with an offence under this section is not to be taken to have disclosed a photograph or film with the intention of causing distress merely because that was a natural and probable consequence of the disclosure.
- (9) 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).
- (10) Schedule (*Disclosing private sexual photographs or films: providers of information society services*) makes special provision in connection with the operation of this section in relation to persons providing information society services.
- (11) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (9)(b) to 12 months is to be read as a reference to 6 months.
- (12) 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 (9)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”

71 Insert the following new Clause –

“Meaning of “disclose” and “photograph or film”

- (1) The following apply for the purposes of section (*Disclosing private sexual photographs and films with intent to cause distress*), this section and section (*Meaning of “private” and “sexual”*).
- (2) A person “discloses” something to a person if, by any means, he or she gives or shows it to the person or makes it available to the person.
- (3) Something that is given, shown or made available to a person is disclosed –
 - (a) whether or not it is given, shown or made available for reward, and
 - (b) whether or not it has previously been given, shown or made available to the person.
- (4) “Photograph or film” means a still or moving image in any form that –
 - (a) appears to consist of or include one or more photographed or filmed images, and
 - (b) in fact consists of or includes one or more photographed or filmed images.
- (5) The reference in subsection (4)(b) to photographed or filmed images includes photographed or filmed images that have been altered in any way.
- (6) “Photographed or filmed image” means a still or moving image that –
 - (a) was originally captured by photography or filming, or
 - (b) is part of an image originally captured by photography or filming.
- (7) “Filming” means making a recording, on any medium, from which a moving image may be produced by any means.
- (8) References to a photograph or film include –
 - (a) a negative version of an image described in subsection (4), and
 - (b) data stored by any means which is capable of conversion into an image described in subsection (4).”

72 Insert the following new Clause –

“Meaning of “private” and “sexual”

- (1) The following apply for the purposes of section (*Disclosing private sexual photographs and films with intent to cause distress*).
- (2) A photograph or film is “private” if it shows something that is not of a kind ordinarily seen in public.
- (3) A photograph or film is “sexual” if –
 - (a) it shows all or part of an individual’s exposed genitals or pubic area,
 - (b) it shows something that a reasonable person would consider to be sexual because of its nature, or
 - (c) its content, taken as a whole, is such that a reasonable person would consider it to be sexual.
- (4) Subsection (5) applies in the case of –

- (a) a photograph or film that consists of or includes a photographed or filmed image that has been altered in any way,
 - (b) a photograph or film that combines two or more photographed or filmed images, and
 - (c) a photograph or film that combines a photographed or filmed image with something else.
- (5) The photograph or film is not private and sexual if –
- (a) it does not consist of or include a photographed or filmed image that is itself private and sexual,
 - (b) it is only private or sexual by virtue of the alteration or combination mentioned in subsection (4), or
 - (c) it is only by virtue of the alteration or combination mentioned in subsection (4) that the person mentioned in section (*Disclosing private sexual photographs and films with intent to cause distress*)(1)(a) and (b) is shown as part of, or with, whatever makes the photograph or film private and sexual.”

73 Insert the following new Clause –

“Meeting a child following sexual grooming etc

- (1) In section 15(1)(a) of the Sexual Offences Act 2003 (meeting a child following sexual grooming etc), for “on at least two occasions” substitute “on one or more occasions”.
- (2) In a case in which person A met or communicated with person B only once before the event mentioned in section 15(1)(a)(i) to (iii) of the Sexual Offences Act 2003, an offence under that section is committed only if the meeting or communication took place after this section comes into force.”

Clause 29

74 Page 29, line 36, at end insert –

- “() No female, nor any male under the age of fifteen, may be placed in a secure college.”

After Clause 32

75 Insert the following new Clause –

“Duties of custody officer after charge: arrested juveniles

In section 37(15) of the Police and Criminal Evidence Act 1984 (definitions for the purposes of provisions about detention in Part 4 of that Act), in the definition of “arrested juvenile”, for “under the age of 17” substitute “under the age of 18”.”

Clause 36

76 Page 35, line 5, leave out “court” and insert “designated officer specified in the notice”

Clause 38

77 Page 37, leave out lines 9 to 12 and insert –

- “(3) The court may not hear any oral evidence and may consider only the contents of the following –
- (a) the documents specified in subsection (2),
 - (b) any document containing information to which subsection (3A) applies, and
 - (c) any written submission that the accused makes with a view to mitigation of sentence.
- (3A) This subsection applies to information if –
- (a) a notice describing the information was served on the accused at the same time as the documents specified in subsection (2), and
 - (b) a copy of the notice has been served on the designated officer specified in the single justice procedure notice.”

78 Page 37, line 19, at end insert –

- “() If the accused served on the designated officer specified in the notice a written notification stating a desire to plead guilty and to be tried in accordance with this section, the court may try the charge as if the accused had pleaded guilty.”

79 Page 37, line 32, leave out “try the written charge” and insert “convict the accused in proceedings conducted”

80 Page 40, line 7, at end insert –

“16F Admissibility of statements

- (1) A statement contained in a document is admissible in proceedings conducted in accordance with section 16A as evidence of a matter stated if, in the particular case –
- (a) the document is one in relation to which section 16A(1)(c) is satisfied, or
 - (b) section 16A(3A) applies to the information in that document (as the case may be).
- (2) Subsection (1) does not prevent a court taking into consideration the nature of the evidence placed before it when deciding whether it is appropriate to try the written charge in accordance with section 16A.
- (3) In this section “statement” means any representation of fact or opinion.””

Clause 39

81 Page 40, line 32, at end insert –

- “() making an order under section 30A of the Road Traffic Offenders Act 1988 (order to disregard penalty points if approved course attended);”

After Clause 40

82 Insert the following new Clause –

“Time limit for bringing certain criminal proceedings

Offence of making improper use of public electronic communications network

- (1) In section 127 of the Communications Act 2003 (improper use of public electronic communications network), at the end insert –
- “(5) An information or complaint relating to an offence under this section may be tried by a magistrates’ court in England and Wales or Northern Ireland if it is laid or made –
- (a) before the end of the period of 3 years beginning with the day on which the offence was committed, and
 - (b) before the end of the period of 6 months beginning with the day on which evidence comes to the knowledge of the prosecutor which the prosecutor considers sufficient to justify proceedings.
- (6) Summary proceedings for an offence under this section may be commenced in Scotland –
- (a) before the end of the period of 3 years beginning with the day on which the offence was committed, and
 - (b) before the end of the period of 6 months beginning with the day on which evidence comes to the knowledge of the prosecutor which the prosecutor considers sufficient to justify proceedings,
- and section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of this subsection as it applies for the purposes of that section.
- (7) A certificate of a prosecutor as to the date on which evidence described in subsection (5)(b) or (6)(b) came to his or her knowledge is conclusive evidence of that fact.”
- (2) The amendment made by this section applies only in relation to an offence committed on or after the day on which it comes into force.”

Before Clause 41

83 Insert the following new Clause –

“Low-value shoplifting: mode of trial

- (1) In section 22A of the Magistrates’ Courts Act 1980 (low-value shoplifting), in subsection (2) (right to elect trial by Crown Court), for paragraph (b) substitute –
- “(b) the court must proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998.”
- (2) In section 51 of the Crime and Disorder Act 1998 (sending cases to Crown Court: adults), in subsection (2)(b), after “21,” insert “22A(2)(b),”.

Clause 45

84 Page 46, line 26, leave out subsection (5) and insert –

- “() When assessing costs in the proceedings, a court which dismisses a claim under this section must deduct the amount recorded in accordance with subsection (4) from the amount which it would otherwise order the claimant to pay in respect of costs incurred by the defendant.”

After Clause 45

85 Insert the following new Clause –

“Rules against inducements to make personal injury claims

- (1) A regulated person is in breach of this section if –
 - (a) the regulated person offers another person a benefit or is treated as doing so under subsection (4),
 - (b) the offer of the benefit is an inducement to make a claim in civil proceedings for –
 - (i) damages for personal injury or death, or
 - (ii) damages arising out of circumstances involving personal injury or death, and
 - (c) the benefit is not related to the provision of legal services in connection with the claim.
- (2) An offer of a benefit to another person is an inducement to make a claim if the offer of the benefit –
 - (a) is intended to encourage the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
 - (b) is likely to have the effect of encouraging the person to do so.
- (3) An offer of a benefit may be an inducement to make a claim regardless of –
 - (a) when or by what means the offer is made,
 - (b) whether the receipt of the benefit pursuant to the offer is subject to conditions,
 - (c) when the benefit may be received pursuant to the offer, or
 - (d) whether the benefit may be received by the person to whom the offer is made or by a third party.
- (4) If a person other than a regulated person offers a benefit in accordance with arrangements made by or on behalf of a regulated person –
 - (a) the regulated person is to be treated as offering the benefit, and
 - (b) the offer of the benefit is to be treated as satisfying subsection (2)(a) if the arrangements were intended to encourage people to make claims or seek advice from a regulated person with a view to making a claim.
- (5) The Lord Chancellor may by regulations make provision as to the circumstances in which a benefit is related to the provision of legal services in connection with a claim, including provision about benefits relating to –
 - (a) fees to be charged in respect of the legal services,
 - (b) expenses which are or would be necessarily incurred in connection with the claim, or

- (c) insurance to cover legal costs and expenses in connection with the claim.”

86 Insert the following new Clause –

“Effect of rules against inducements

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing the restriction imposed on regulated persons by section (*Rules against inducements to make personal injury claims*).
- (2) A regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide that, in relation to anything done in breach of that section, the relevant regulator may exercise any powers that the regulator would have in relation to anything done by the regulated person in breach of another restriction (subject to subsection (4)).
- (4) A breach of section (*Rules against inducements to make personal injury claims*) –
 - (a) does not make a person guilty of an offence, and
 - (b) does not give rise to a right of action for breach of statutory duty.
- (5) Subsection (6) applies in a case where –
 - (a) a regulated person has offered a benefit to a person or is treated as having done so under section (*Rules against inducements to make personal injury claims*)(4), and
 - (b) it appears to the regulator that the offer of the benefit is an inducement to make a claim as mentioned in section (*Rules against inducements to make personal injury claims*)(1)(b).
- (6) Rules under subsection (2) may provide for the offer of the benefit to the person to be treated as an inducement to make a claim as mentioned in section (*Rules against inducements to make personal injury claims*)(1)(b) unless the regulated person shows –
 - (a) that the benefit was offered for a reason other than encouraging the person to make a claim or to seek advice from a regulated person with a view to making a claim, or
 - (b) that the benefit is related to the provision of legal services in connection with the claim (see regulations under section (*Rules against inducements to make personal injury claims*)(5)).”

87 Insert the following new Clause –

“Inducements: interpretation

- (1) In relation to an offer of a benefit which is an inducement to make a claim in civil proceedings for damages for personal injury or death or arising out of circumstances involving personal injury or death –
 - (a) a regulator is any person listed in column 1 below;
 - (b) a regulated person is any person listed in column 2;
 - (c) a regulator in column 1 is the relevant regulator in relation to the corresponding person in column 2.

<i>Regulator</i>	<i>Regulated person</i>
The General Council of the Bar	A person authorised by the Council to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Chartered Institute of Legal Executives	A person authorised by the Institute to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
The Law Society	A person authorised by the Society to carry on a reserved legal activity within the meaning of the Legal Services Act 2007
A licensing authority for the purposes of Part 5 of the Legal Services Act 2007 (alternative business structures)	A person who is licensed by the authority to carry on a reserved legal activity
A regulatory body specified for the purposes of this section in regulations made by the Lord Chancellor	A person of a description specified for the purposes of this section in regulations made by the Lord Chancellor in relation to the body specified under column 1

- (2) For the purposes of this section and sections (*Rules against inducements to make personal injury claims*) and (*Effect of rules against inducements*) –
- “benefit” means –
- (a) any benefit, whether or not in money or other property and whether temporary or permanent, and
 - (b) any opportunity to obtain a benefit;
- “claim” includes a counter-claim;
- “legal services” means services provided by a person which consist of or include legal activities (within the meaning of the Legal Services Act 2007) carried on by or on behalf of that person;
- “personal injury” includes any disease and any other impairment of a person’s physical or mental condition.
- (3) For the purposes of this section and section (*Effect of rules against inducements*) whether an offer of a benefit is an inducement to make a claim is to be determined in accordance with section (*Rules against inducements to make personal injury claims*).”

88 Insert the following new Clause –

“Inducements: regulations

- (1) This section applies to regulations under section (*Rules against inducements to make personal injury claims*) or (*Inducements: interpretation*).
- (2) The regulations are to be made by statutory instrument.

- (3) The regulations may include consequential, supplementary, incidental, transitional, transitory or saving provision.
- (4) Regulations under section (*Rules against inducements to make personal injury claims*) may not be made unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) A statutory instrument containing regulations under section (*Inducements: interpretation*) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Before Clause 46

89 Insert the following new Clause –

“Appeals from the Court of Protection

- (1) Section 53 of the Mental Capacity Act 2005 (rights of appeal from the Court of Protection) is amended as follows.
- (2) For subsection (2) substitute –
 - “(2) Court of Protection Rules may provide that, where a decision of the court is made by a specified description of person, an appeal from the decision lies to a specified description of judge of the court and not to the Court of Appeal.”
- (3) Omit subsection (3).
- (4) In subsection (4)(d), omit “higher”.”

Clause 51

90 Leave out Clause 51

Clause 52

91 Leave out Clause 52

After Clause 62

92 Insert the following new Clause –

“Reporting restrictions

Lifetime reporting restrictions in criminal proceedings for witnesses and victims under 18

- (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 45 (power to restrict reporting of criminal proceedings involving persons under 18) insert –
 - “**45A Power to restrict reporting of criminal proceedings for lifetime of witnesses and victims under 18**
 - (1) This section applies in relation to –

- (a) any criminal proceedings in any court (other than a service court) in England and Wales, and
 - (b) any proceedings (whether in the United Kingdom or elsewhere) in any service court.
- (2) The court may make a direction (“a reporting direction”) that no matter relating to a person mentioned in subsection (3) shall during that person’s lifetime be included in any publication if it is likely to lead members of the public to identify that person as being concerned in the proceedings.
- (3) A reporting direction may be made only in respect of a person who is under the age of 18 when the proceedings commence and who is –
 - (a) a witness, other than an accused, in the proceedings;
 - (b) a person against whom the offence, which is the subject of the proceedings, is alleged to have been committed.
- (4) For the purposes of subsection (2), matters relating to a person in respect of whom the reporting direction is made include –
 - (a) the person’s name,
 - (b) the person’s address,
 - (c) the identity of any school or other educational establishment attended by the person,
 - (d) the identity of any place of work of the person, and
 - (e) any still or moving picture of the person.
- (5) The court may make a reporting direction in respect of a person only if it is satisfied that –
 - (a) the quality of any evidence given by the person, or
 - (b) the level of co-operation given by the person to any party to the proceedings in connection with that party’s preparation of its case,is likely to be diminished by reason of fear or distress on the part of the person in connection with being identified by members of the public as a person concerned in the proceedings.
- (6) In determining whether subsection (5) is satisfied, the court must in particular take into account –
 - (a) the nature and alleged circumstances of the offence to which the proceedings relate;
 - (b) the age of the person;
 - (c) such of the following as appear to the court to be relevant –
 - (i) the social and cultural background and ethnic origins of the person,
 - (ii) the domestic, educational and employment circumstances of the person, and
 - (iii) any religious beliefs or political opinions of the person;
 - (d) any behaviour towards the person on the part of –
 - (i) an accused,
 - (ii) members of the family or associates of an accused, or
 - (iii) any other person who is likely to be an accused or a witness in the proceedings.

- (7) In determining that question the court must in addition consider any views expressed—
 - (a) by the person in respect of whom the reporting restriction may be made, and
 - (b) where that person is under the age of 16, by an appropriate person other than an accused.
- (8) In determining whether to make a reporting direction in respect of a person, the court must have regard to—
 - (a) the welfare of that person,
 - (b) whether it would be in the interests of justice to make the direction, and
 - (c) the public interest in avoiding the imposition of a substantial and unreasonable restriction on the reporting of the proceedings.
- (9) A reporting direction may be revoked by the court or an appellate court.
- (10) The court or an appellate court may by direction (“an excepting direction”) dispense, to any extent specified in the excepting direction, with the restrictions imposed by a reporting direction.
- (11) The court or an appellate court may only make an excepting direction if—
 - (a) it is satisfied that it is necessary in the interests of justice to do so, or
 - (b) it is satisfied that—
 - (i) the effect of the reporting direction is to impose a substantial and unreasonable restriction on the reporting of the proceedings, and
 - (ii) it is in the public interest to remove or relax that restriction.
- (12) No excepting direction shall be given under subsection (11)(b) by reason only of the fact that the proceedings have been determined in any way or have been abandoned.
- (13) In determining whether to make an excepting direction in respect of a person, the court or the appellate court must have regard to the welfare of that person.
- (14) An excepting direction—
 - (a) may be given at the time the reporting direction is given or subsequently, and
 - (b) may be varied or revoked by the court or an appellate court.
- (15) For the purposes of this section—
 - (a) criminal proceedings in a court other than a service court commence when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985, in accordance with section 15(2) of that Act;
 - (b) proceedings in a service court commence when the charge is brought under section 122 of the Armed Forces Act 2006.
- (16) In this section—

- (a) “appellate court”, in relation to any proceedings in a court, means a court dealing with an appeal (including an appeal by way of case stated) arising out of the proceedings or with any further appeal;
 - (b) “appropriate person” has the same meaning as in section 50;
 - (c) references to the quality of evidence given by a person are to its quality in terms of completeness, coherence and accuracy (and for this purpose “coherence” refers to a person’s ability in giving evidence to give answers which address the questions put to the person and can be understood both individually and collectively);
 - (d) references to the preparation of the case of a party to any proceedings include, where the party is the prosecution, the carrying out of investigations into any offence at any time charged in the proceedings.”
- (3) In section 49 (offences under Chapter 4) –
 - (a) after subsection (1) insert –
 - “(1A) This section also applies –
 - (a) in England and Wales, Scotland and Northern Ireland, if a publication includes any matter in contravention of a direction under section 45A(2) made by a service court;
 - (b) in England and Wales, if a publication includes any matter in contravention of a direction under section 45A(2) made by a court other than a service court.”, and
 - (b) at the end insert –
 - “(7) Schedule 2A makes special provision in connection with the operation of this section, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in relation to persons providing information society services.”
- (4) In section 50 (defences) –
 - (a) after subsection (6) insert –
 - “(6A) Where –
 - (a) a person is charged with an offence under section 49, and
 - (b) the offence relates to the inclusion of any matter in a publication in contravention of a direction under section 45A(2),it shall be a defence, unless subsection (6B) or (8) applies, to prove that the person in relation to whom the direction was given had given written consent to the inclusion of that matter in the publication.
 - (6B) Written consent is not a defence by virtue of subsection (6A) if the person was under the age of 18 at the time the consent was given.”, and
 - (b) in subsection (8), after “defence” insert “by virtue of subsections (5) to (7)”.

93 Insert the following new Clause—

“Reporting restrictions in proceedings other than criminal proceedings

- (1) Section 39 of the Children and Young Persons Act 1933 (power to prohibit publication of certain matter in newspapers) is amended as follows.
- (2) In subsection (1)—
 - (a) after “any proceedings” insert “, other than criminal proceedings,”, and
 - (b) after “direct that” insert “the following may not be included in a publication”.
- (3) In subsection (1)(a)—
 - (a) omit “no newspaper report of the proceedings shall reveal”, and
 - (b) omit “, or include any particulars calculated to lead to the identification,”.
- (4) In subsection (1), after paragraph (a) insert—

“(aa) any particulars calculated to lead to the identification of a child or young person so concerned in the proceedings;”.
- (5) In subsection (1)(b)—
 - (a) for “no picture shall be published in any newspaper as being or including” substitute “a picture that is or includes”, and
 - (b) omit “as aforesaid”.
- (6) In subsection (2), for “publishes any matter” substitute “includes matter in a publication”.
- (7) After subsection (2) insert—

“(3) In this section—
 “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include a document prepared for use in particular legal proceedings;
 “relevant programme” means a programme included in a programme service within the meaning of the Broadcasting Act 1990.”
- (8) In the heading of that section, omit “in newspapers”.
- (9) After that section insert—

“39A Prohibition on publication of certain matters: providers of information society services

Schedule 1A makes special provision in connection with the operation of section 39 in relation to persons providing information society services.”
- (10) In section 57(3) of the Children and Young Persons Act 1963 (extending section 39 of the Children and Young Persons Act 1933 to Scotland) after paragraph (a) (but before “and”) insert—

“(aa) as it extends to Scotland, the said section 39 has effect as if the references to a publication were references to a newspaper;”.

- (11) In consequence of the amendment made by subsection (2)(a), omit paragraph 2 of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999.
- (12) Subsection (2)(a) does not affect the operation of section 39 of the Children and Young Persons Act 1933 in relation to criminal proceedings instituted before the day on which it comes into force.
- (13) For the purposes of subsection (12) –
 - (a) proceedings other than proceedings on appeal are instituted when proceedings are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985, in accordance with section 15(2) of that Act;
 - (b) proceedings on appeal are instituted when the notice of appeal is given or the reference under section 9 or 11 of the Criminal Appeal Act 1995 is made.”

94 Insert the following new Clause –

“Reporting restrictions: information society services

Schedule (*Reporting restrictions: providers of information society services*) makes special provision in connection with the operation of the following in relation to persons providing information society services –

- (a) section 39 of the Children and Young Persons Act 1933;
- (b) section 49 of the Youth Justice and Criminal Evidence Act 1999 as it applies to a publication that includes matter in contravention of a direction under section 45A(2) of that Act.”

Before Clause 63

95 Insert the following new Clause –

“Representations to Parliament by the President of the Supreme Court

- (1) Section 5 of the Constitutional Reform Act 2005 (representations to Parliament) is amended as follows.
- (2) At the beginning insert –

“(A1) The President of the Supreme Court may lay before Parliament written representations on matters that appear to the President to be matters of importance relating to the Supreme Court or to the jurisdiction it exercises.”
- (3) In subsections (2) and (3), for “those matters” substitute “the matters mentioned in subsections (A1) and (1)”.

96 Insert the following new Clause –

“The supplementary panel of the Supreme Court

In section 39(4) of the Constitutional Reform Act 2005 (circumstances in which a judge of the Supreme Court becomes a member of the supplementary panel), after “while he holds such office” insert “or within 2 years of ceasing to hold such office”.

Clause 64

- 97 Page 64, line 35, leave out “must” and insert “may”
- 98 Page 64, line 37, leave out “not” and insert “decline to”
- 99 Page 65, line 10, leave out “must” and insert “may”
- 100 Page 65, line 13, leave out “must” and insert “may”
- 101 Page 65, line 33, leave out “must” and insert “may”
- 102 Page 65, line 40, leave out “must” and insert “may”

Clause 65

- 103 Page 66, line 10, after “paragraph” insert “or, notwithstanding a failure to do so, the court in its discretion considers that it is nevertheless appropriate to grant the applicant leave to make the application for judicial review”
- 104 Page 66, line 32, after “paragraph” insert “or, notwithstanding a failure to do so, the tribunal in its discretion considers that it is nevertheless appropriate to grant the applicant permission or leave to apply for relief”

Clause 66

- 105 Page 67, line 1, leave out “must” and insert “may”
- 106 Page 67, line 7, leave out “must” and insert “may”

Clause 67

- 107 Page 67, line 25, leave out subsections (2) to (6) and insert—
- “() The High Court and the Court of Appeal shall have a discretion whether to order an intervener to pay the costs of a relevant party to the proceedings, and shall have a discretion whether to order a relevant party to the proceedings to pay the intervener’s costs.”

Clause 75

- 108 Page 72, line 11, leave out “subsection (2)” and insert “subsections (1A) to (2A)”
- 109 Page 72, line 11, at end insert—
- “(1A) Section (*Low-value shoplifting: mode of trial*) comes into force at the end of the period of two months beginning with the day on which this Act is passed.”
- 110 Page 72, line 12, leave out “This Part comes” and insert “Section (*Appeals from the Court of Protection*) and this Part come”
- 111 Page 72, line 12, at end insert—

“(2A) Paragraphs 23 to 25 of Schedule (*Mutual recognition of driving disqualification in UK and Republic of Ireland*), and section (*Mutual recognition of driving disqualification in UK and Republic of Ireland*)(6)(b) so far as it relates to those paragraphs, come into force on the day on which this Act is passed.”

Clause 76

- 112 Page 72, line 22, leave out “to (4)” and insert “to (4A)”
- 113 Page 72, line 23, leave out subsection (2)
- 114 Page 72, line 29, at end insert—
“(4A) Section (*Reporting restrictions in proceedings other than criminal proceedings*)(9) and paragraph 1 of Schedule (*Reporting restrictions: providers of information society services*) extend to England and Wales only.”
- 115 Page 72, line 34, leave out “23” and insert “22”
- 116 Page 72, line 34, at end insert—
“() sections (*Disclosing private sexual photographs or films with intent to cause distress*) to (*Meaning of “private” and “sexual”*);”
- 117 Page 72, line 35, at end insert “and sections (*Rules against inducements to make personal injury claims*) to (*Inducements: regulations*)”
- 118 Page 72, line 37, at end insert—
“() Schedule (*Disclosing private sexual photographs or films: providers of information society services*);”

Schedule 1

- 119 Page 79, line 31, leave out from “Act” to end of line 32
- 120 Page 80, line 11, leave out from “Act” to end of line 12
- 121 Page 80, line 30, leave out sub-paragraph (3) and insert—
“() In subsection (5A) (inserted by section 13 of this Act)—
(a) for “to a prisoner” substitute “to—
(a) a prisoner”, and
(b) at the end insert “, or
(b) a prisoner serving a sentence imposed under section 236A.””
- 122 Page 81, line 8, leave out sub-paragraph (3)

Before Schedule 3

- 123 Insert the following new Schedule—

“RECALL ADJUDICATORS: FURTHER PROVISION

Mental Health Act 1983 (c. 20)

- 1 The Mental Health Act 1983 is amended as follows.
- 2 In section 50(3)(a) (further provisions as to prisoners under sentence: disregarding Parole Board powers when identifying release date), after

“Board” insert “or a recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003)”.

- 3 (1) Section 74 (restricted patients subject to restriction directions) is amended as follows.
- (2) In subsection (5A)(a) and (b), after “Board” (in each place) insert “or a recall adjudicator”.
- (3) At the end insert—
 - “(8) In this section “recall adjudicator” has the meaning given in section 239A of the Criminal Justice Act 2003.”

Criminal Justice Act 2003 (c. 44)

4 The Criminal Justice Act 2003 is amended as follows.

5 Before section 239 insert—

“Parole Board and recall adjudicators”.

6 In section 239(1)(b) (functions of the Parole Board), after “by” insert “or under”.

7 (1) Section 250 (licence conditions) is amended as follows.

(2) In subsection (5A) (inserted by section 13 of this Act), for “Subsection (5B) applies to a licence granted, either on initial release or after recall to prison,” substitute “Subsections (5B) and (5C) apply”.

(3) In subsection (5B) (inserted by section 13 of this Act), at the beginning insert “In the case of a licence granted when the prisoner is initially released,”.

(4) After that subsection insert—

“(5C) In the case of a licence granted when the prisoner is released after recall to prison, the Secretary of State must not—

(a) include a condition referred to in subsection (4)(b)(ii) in the licence, either on release or subsequently, or

(b) vary or cancel any such condition included in the licence, unless a recall adjudicator directs the Secretary of State to do so.”

8 In section 260(2B) (early removal from prison of extended sentence prisoners liable to removal from United Kingdom), after “Board” insert “or a recall adjudicator”.

9 In section 268 (interpretation of Chapter 6 of Part 12), at the appropriate place insert—

““recall adjudicator” has the meaning given in section 239A.”

10 In paragraph 34 of Schedule 20B (licence conditions in certain transitional cases), for sub-paragraph (6) substitute—

“(6) In the case of a Parole Board licence granted when the prisoner is initially released, the Secretary of State must not—

(a) include a condition referred to in section 250(4)(b)(ii) in the licence, either on release or subsequently, or

- (b) vary or cancel any such condition,
unless the Board directs the Secretary of State to do so.
- (7) In the case of a Parole Board licence granted when the prisoner is released after recall to prison, the Secretary of State must not—
- (a) include a condition referred to in section 250(4)(b)(ii) in the licence, either on release or subsequently, or
- (b) vary or cancel any such condition,
unless a recall adjudicator directs the Secretary of State to do so.”
- 11 In paragraph 37(2) of that Schedule (early removal from prison of prisoners liable to removal from United Kingdom in certain transitional cases)—
- (a) after “Board” insert “or the recall adjudicator”, and
- (b) for “paragraph 6, 15, 25 or 28” substitute “this Chapter”.

Domestic Violence, Crime and Victims Act 2004 (c. 28)

- 12 In Schedule 9 to the Domestic Violence, Crime and Victims Act 2004 (authorities within the remit of the Commissioner for Victims and Witnesses), after paragraph 26 insert—
- “26A A recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003).”

Offender Management Act 2007 (c. 21)

- 13 The Offender Management Act is amended as follows.
- 14 In section 3(7)(a) (arrangements for the provision of probation services: risk of conflict of interests), for “or to the Parole Board for England and Wales” substitute “, to the Parole Board for England and Wales or to a recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003)”.
- 15 In section 14(2) (disclosure of information for offender management purposes), after paragraph (d) insert—
- “(da) a recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003);”.

Coroners and Justice Act 2009 (c. 25)

- 16 In section 131(4)(d) of the Coroners and Justice Act 2009 (annual report of Sentencing Council for England and Wales: effect of factors not related to sentencing), after “Board” insert “or a recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003)”.

Equality Act 2010 (c. 15)

- 17 In Part 1 of the Schedule 19 to the Equality Act 2010 (public authorities: general), after the entry for the Parole Board for England and Wales insert—
- “A recall adjudicator (as defined in section 239A of the Criminal Justice Act 2003).”

Before Schedule 4

124 Insert the following new Schedule –

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

Mental Health Act 1983 (c. 20)

- 1 In section 37(1A) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) –
 - (a) in paragraph (za), after “section” insert “1(2B) or”, and
 - (b) in paragraph (aa), after “section” insert “139(6B), 139A(5B) or”.

Criminal Justice Act 1988 (c. 33)

- 2 In section 36(2)(b) of the Criminal Justice Act 1988 (reviews of sentencing) –
 - (a) in sub-paragraph (zi), after “section” insert “1(2B) or”, and
 - (b) in sub-paragraph (ia), after “section” insert “139(6B), 139A(5B) or”.

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

- 3 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 4 (1) Section 12 (absolute and conditional discharge) is amended as follows.
 - (2) In subsection (1), for the words from “section 110(2)” to “2006” substitute “a provision mentioned in subsection (1A)”.
 - (3) After that subsection insert –

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

 - (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
 - (b) section 51A(2) of the Firearms Act 1968;
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
 - (d) section 110(2) or 111(2) of this Act;
 - (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
 - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- 5 In section 100(1A) (offenders under 18: detention and training orders), for paragraphs (a) and (b) substitute –
 - “(a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
 - (b) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon).”

- 6 (1) Section 130 (compensation orders against convicted persons) is amended as follows.
- (2) In subsection (2), for the words from “section 110(2)” to “2006” substitute “a provision mentioned in subsection (2ZA)”.
- (3) After that subsection insert –
- “(2ZA) The provisions referred to in subsection (2) are –
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
 - (b) section 51A(2) of the Firearms Act 1968;
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
 - (d) section 110(2) or 111(2) of this Act;
 - (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
 - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- 7 (1) Section 146 (driving disqualification for any offence) is amended as follows.
- (2) In subsection (2), for the words from “section 110(2)” to “2006” substitute “a provision mentioned in subsection (2A)”.
- (3) After that subsection insert –
- “(2A) The provisions referred to in subsection (2) are –
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
 - (b) section 51A(2) of the Firearms Act 1968;
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
 - (d) section 110(2) or 111(2) of this Act;
 - (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
 - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- 8 In section 164(3) (further interpretive provisions) –
- (a) in paragraph (aa), after “section” insert “1(2B) or”, and
 - (b) in paragraph (ba), after “section” insert “139(6B), 139(5B) or”.

Criminal Justice Act 2003 (c. 44)

- 9 The Criminal Justice Act 2003 is amended as follows.
- 10 (1) Section 142 (purposes of sentencing: offenders aged 18 or over) is amended as follows.
- (2) In subsection (2)(c), for the words from “section 1A(5)” to “detention for life for certain dangerous offenders)” substitute “a provision mentioned in subsection (2A)”.
- (3) After that subsection insert –
- “(2A) The provisions referred to in subsection (2)(c) are –

- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
 - (b) section 51A(2) of the Firearms Act 1968 (minimum sentence for certain firearms offences);
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon);
 - (d) section 110(2) or 111(2) of the Sentencing Act (minimum sentence for certain drug trafficking and burglary offences);
 - (e) section 224A of this Act (life sentence for second listed offence for certain dangerous offenders);
 - (f) section 225(2) or 226(2) of this Act (imprisonment or detention for life for certain dangerous offenders);
 - (g) section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentence in certain cases of using someone to mind a weapon)."
- 11 (1) Section 142A (purposes of sentencing: offenders under 18) is amended as follows.
- (2) In subsection (4), for paragraph (b) substitute –
- “(b) to an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), or”.
- (3) At the end insert –
- “(5) The provisions referred to in subsection (4)(b) are –
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons);
 - (b) section 51A(2) of the Firearms Act 1968 (minimum sentence for certain firearms offences);
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon);
 - (d) section 226(2) of this Act (detention for life for certain dangerous offenders);
 - (e) section 29(6) of the Violent Crime Reduction Act 2006 (minimum sentence in certain cases of using someone to mind a weapon).”
- 12 (1) Section 144 (reduction in sentences for early guilty pleas) is amended as follows.
- (2) In subsection (2), for the words from “an offence” to “nothing” substitute “an offender who –
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (3), and
 - (b) is aged 18 or over when convicted,
- nothing”.

- (3) In subsection (3) –
- (a) for “section 1A(6)(a)” substitute “section 1(2B) or 1A(5)”, and
 - (b) for “section 139AA(8)(a)” substitute “section 139(6B), 139A(5B) or 139AA(7)”.
- (4) In subsection (4), for the words from “an offence” to “nothing” substitute “an offender who –
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), and
 - (b) is aged 16 or 17 when convicted,
- nothing”.
- (5) In subsection (5) –
- (a) for “section 1A(6)(b)” substitute “section 1(2B) or 1A(5)”, and
 - (b) for “section 139AA(8)(b)” substitute “section 139(6B), 139A(5B) or 139AA(7)”.
- 13 In section 150(2) (community order not available where sentence fixed by law etc), for paragraphs (a) and (b) substitute –
- “(a) falls to be imposed under section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons), or
 - (b) falls to be imposed under section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon).”
- 14 (1) Section 152 (general restrictions on imposing discretionary custodial sentence) is amended as follows.
- (2) In subsection (1)(b), for the words from “section 1A(5)” to the end substitute “a provision mentioned in subsection (1A).”
- (3) After that subsection insert –
- “(1A) The provisions referred to in subsection (1)(b) are –
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
 - (b) section 51A(2) of the Firearms Act 1968;
 - (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
 - (d) section 110(2) or 111(2) of the Sentencing Act;
 - (e) section 224A, 225(2) or 226(2) of this Act;
 - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- 15 (1) Section 153 (length of discretionary custodial sentences: general provision) is amended as follows.
- (2) In subsection (2), for the words from “section 1A(5)” to “this Act” substitute “the provisions listed in subsection (3)”.
- (3) After that subsection insert –
- “(3) The provisions referred to in subsection (2) are –

- (a) sections 1(2B) and 1A(5) of the Prevention of Crime Act 1953;
 - (b) section 51A(2) of the Firearms Act 1968;
 - (c) sections 139(6B), 139A(5B) and 139AA(7) of the Criminal Justice Act 1988;
 - (d) sections 110(2) and 111(2) of the Sentencing Act;
 - (e) sections 226A(4) and 226B(2) of this Act;
 - (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.”
- 16 (1) Section 305(4) (interpretation of Part 12) is amended as follows.
- (2) In paragraph (za) –
 - (a) for “subsection (5) of section 1A” substitute “section 1(2B) or 1A(5)”, and
 - (b) for “that subsection” substitute “that provision”.
 - (3) In paragraph (aa) –
 - (a) for “subsection (7) of section 139AA” substitute “section 139(6B), 139A(5B) or 139AA(7)”, and
 - (b) for “that subsection” substitute “that provision”.

Coroners and Justice Act 2009 (c. 25)

- 17 (1) Section 125(6) of the Coroners and Justice Act 2009 (sentencing guidelines: duty of court) is amended as follows.
- (2) In paragraph (ea) –
 - (a) for “section” substitute “sections 1(2B) and”, and
 - (b) for “offence of threatening with offensive weapon in public” substitute “certain offences involving offensive weapons”.
 - (3) In paragraph (fa) –
 - (a) for “section” substitute “sections 139(6B), 139A(5B) and”, and
 - (b) for “offence of threatening with” substitute “certain offences involving”.

Before Schedule 5

125 Insert the following new Schedule –

“MUTUAL RECOGNITION OF DRIVING DISQUALIFICATION IN UK AND REPUBLIC OF IRELAND

PART 1

FURTHER PROVISION

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

- 1 Chapter 1 of Part 3 of the Crime (International Co-operation) Act 2003 (EU Convention on driving disqualifications) is amended as follows.
- 2 (1) Section 54 (road traffic offences in UK: application of section 55) is amended as follows.

- (2) In subsection (2) –
- (a) in paragraph (a), after “Schedule 3” insert “or Part 1 of Schedule 3A”, and
 - (b) in paragraph (b), for “that Schedule” substitute “Schedule 3 or Part 2 of Schedule 3A”.
- (3) For subsection (3) substitute –
- “(3) The minimum period is –
- (a) for an offence mentioned in Part 2 of Schedule 3 in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
 - (b) for an offence mentioned in Part 2 of Schedule 3A in relation to which the Department has by regulations specified a period of less than six months, that period;
 - (c) for any other offence, a period of six months.”
- (4) After that subsection insert –
- “(3A) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3 is not less than the minimum period, an extension period imposed under any of the following is to be disregarded –
- (a) section 35A or 35C of the Road Traffic Offenders Act 1988;
 - (b) section 248D of the Criminal Procedure (Scotland) Act 1995;
 - (c) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000.
- (3B) When determining whether the period of disqualification in respect of an offence mentioned in Part 2 of Schedule 3A is not less than the minimum period, an extension period imposed under any of the following is to be disregarded –
- (a) Article 8A of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6));
 - (b) Article 40A of the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10));
 - (c) Article 91A of the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)).”
- (5) After subsection (5) insert –
- (6) The Secretary of State may by regulations amend Schedule 3.
 - (7) The Department may by regulations amend Schedule 3A.”
- 3 (1) Section 55 (duty to give notice to foreign authorities of driving disqualification of a non-UK resident) is amended as follows.
- (2) For the heading substitute “Duty to give notice to Republic of Ireland of UK driving disqualification”.
 - (3) In subsection (1), for “the State in which the offender is normally resident” substitute “the Republic of Ireland”.
 - (4) In subsection (2)(f), for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
 - (5) In subsection (9) –

- (a) in paragraph (b), for “the State mentioned in subsection (1)” substitute “the Republic of Ireland”, and
 - (b) for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
- 4 For the italic heading before section 56 substitute “Road traffic offences in Republic of Ireland”.
- 5 (1) Section 56 (road traffic offences in Republic of Ireland: application of section 57) is amended as follows.
 - (2) For subsection (2) substitute –
 - “(2) The driving disqualification condition is met –
 - (a) in relation to an offence mentioned in Part 1 of Schedule 3B, if the offender is disqualified in the Republic of Ireland as a result of the offence;
 - (b) in relation to an offence mentioned in Part 2 of that Schedule, if the offender is disqualified in the Republic of Ireland for a period not less than the minimum period as a result of the offence.”
 - (3) In subsection (3) –
 - (a) for “a State” substitute “the Republic of Ireland”,
 - (b) for “in that State” substitute “there”, and
 - (c) for “the law of that State” substitute “the law of the Republic of Ireland”.
 - (4) For subsection (4) substitute –
 - “(4) The minimum period is –
 - (a) for an offence in relation to which the Secretary of State has by regulations specified a period of less than six months, that period;
 - (b) for any other offence, a period of six months.”
 - (5) Omit subsection (5).
 - (6) In subsection (6), for “the part of the United Kingdom in which the offender is normally resident” substitute “the relevant part of the United Kingdom”.
 - (7) After that subsection insert –
 - “(6A) In subsection (6), “the relevant part of the United Kingdom” means –
 - (a) where the offender was normally resident in the United Kingdom when convicted, the part of the United Kingdom in which the offender was normally resident at that time;
 - (b) where the offender was not normally resident in the United Kingdom when convicted but held a Great Britain licence or a Northern Ireland licence, the part of the United Kingdom in which the offender was last normally resident before conviction.”
 - (8) Omit subsection (7).
 - (9) In subsection (8) –

- (a) for “treating” substitute “about when”,
 - (b) after the first “United Kingdom” insert “are to be treated for the purposes of this section”, and
 - (c) for “a member state other than the United Kingdom” substitute “the Republic of Ireland”.
- (10) After subsection (9) insert –
 - “(10) The Secretary of State may by regulations amend Schedule 3B.”
- 6 (1) Section 57 (recognition in United Kingdom of foreign driving disqualification) is amended as follows.
 - (2) In the heading, for “foreign” substitute “Republic of Ireland”.
 - (3) In the following provisions, for “the foreign disqualification” substitute “the Republic of Ireland disqualification” –
 - (a) subsection (1)(a);
 - (b) subsection (2) (in both places);
 - (c) subsection (4)(b);
 - (d) subsection (5)(b);
 - (e) subsection (6);
 - (f) subsection (8) (in both places).
 - (4) In subsection (1)(a) and (b), for “one month” substitute “three months”.
 - (5) In subsection (2)(b), for “the State in which the offender was convicted” substitute “the Republic of Ireland”.
 - (6) In subsection (3) –
 - (a) for “a State” substitute “the Republic of Ireland”, and
 - (b) for “in that State” substitute “there”.
- 7 In section 58(1)(a) and (b) (notice under section 57), for “the foreign disqualification” substitute “the Republic of Ireland disqualification”.
- 8 (1) Section 63 (production of licence: Great Britain) is amended as follows.
 - (2) In subsection (4), for “the competent authority of the relevant State” substitute “the competent authority of the Republic of Ireland or the Department”.
 - (3) Omit subsection (5).
- 9 (1) Section 64 (production of licence: Northern Ireland) is amended as follows.
 - (2) In subsection (4), for “the competent authority of the relevant State” substitute “the competent authority of the Republic of Ireland or the Secretary of State”.
 - (3) Omit subsection (5).
- 10 In section 65(3) (production of licence: Community licence holders), for the words from “the same” to the end substitute “the Republic of Ireland”.
- 11 In section 68 (endorsement of licence: Great Britain), for subsection (1) substitute –

- “(1) This section applies where a person who –
 (a) is normally resident in Great Britain, or
 (b) is not normally resident in Great Britain but holds a Great Britain licence,
 is disqualified by virtue of section 57.”
- 12 In section 69 (endorsement of licence: Northern Ireland), for subsection (1) substitute –
 “(1) This section applies where a person who –
 (a) is normally resident in Northern Ireland, or
 (b) is not normally resident in Northern Ireland but holds a Northern Ireland licence,
 is disqualified by virtue of section 57.”
- 13 In section 70(1) (duty of appropriate Minister to inform competent authority) –
 (a) for “any State” substitute “the Republic of Ireland”, and
 (b) for “the convention on driving disqualifications” substitute “the specified agreement on driving disqualifications”.
- 14 (1) Section 72 (regulations: Great Britain) is amended as follows.
 (2) In subsection (2), at the end insert “, subject to subsection (2A)”.
 (3) After subsection (2) insert –
 “(2A) A statutory instrument containing regulations under section 54(6), 56(10) or 71A may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- 15 (1) Section 73 (regulations: Northern Ireland) is amended as follows.
 (2) In subsection (2), at the end insert “, subject to subsection (2A)”.
 (3) After subsection (2) insert –
 “(2A) Regulations made under section 54(7) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.”
- 16 (1) Section 74(1) (interpretation) is amended as follows.
 (2) For the definition of “central authority” substitute –
 ““central authority” means an authority designated by the Republic of Ireland as a central authority for the purposes of the specified agreement on driving disqualifications;”.
- (3) For the definition of “competent authority” substitute –
 ““competent authority” means an authority which is a competent authority in relation to the Republic of Ireland for the purposes of the specified agreement on driving disqualifications;”.
- (4) Omit the definition of “the convention on driving disqualifications”.
- (5) In the definition of “disqualified”, after “and” insert “, except in section 71A,”.

- (6) Omit the definition of “foreign disqualification”.
- (7) At the end insert –
- ““Republic of Ireland disqualification” means the disqualification mentioned in section 56;
- “Republic of Ireland licence” means a licence to drive a motor vehicle granted under the law of the Republic of Ireland, including a learner permit.”
- 17 In section 74(2) (interpretation of references to disqualification for life), for “foreign disqualification” substitute “Republic of Ireland disqualification”.
- 18 In section 74, at the end insert –
- “(3) For the purposes of this Chapter, an individual is normally resident in, or in a part of, the United Kingdom, in Great Britain, in Northern Ireland or in the Republic of Ireland if his or her normal residence, as defined in Article 12 of Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences, is there.”
- 19 (1) Schedule 3 (offences for the purposes of section 54) is amended as follows.
- (2) In the heading, at the end insert “: Great Britain”.
- (3) In paragraph 1, for sub-paragraph (2) substitute –
- “(2) “Driver” has the same meaning as in the Road Traffic Act 1988.”
- (4) In paragraph 2, omit “or Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2))”.
- (5) In paragraph 3 –
- (a) omit “or Articles of the Road Traffic (Northern Ireland) Order 1995”,
- (b) in sub-paragraph (a), omit “or Article 9”,
- (c) in sub-paragraph (b), omit “or Article 10”,
- (d) in sub-paragraph (c), omit “or Article 12”,
- (e) in sub-paragraph (d), omit “or Article 14”,
- (f) in sub-paragraph (e), omit “or Article 15”,
- (g) in sub-paragraph (f), omit “or Article 16”,
- (h) in sub-paragraph (g), omit “or Article 17”, and
- (i) in sub-paragraph (h), omit “or Article 18”.
- (6) In paragraph 5, omit “or Article 167(1) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))”.
- (7) In paragraph 6, omit “or Article 175(2) of the Road Traffic (Northern Ireland) Order 1981”.
- (8) In paragraph 7(a), omit “or Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10))”.
- 20 After Schedule 3 insert –

“SCHEDULE 3A

Section 54

OFFENCES FOR THE PURPOSES OF SECTION 54: NORTHERN IRELAND

PART 1

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD
UNNECESSARY

- 1 (1) Manslaughter by the driver of a motor vehicle.
- (2) “Driver” has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)).
- 2 An offence under Article 168A(1)(c) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (driving while disqualified).
- 3 An offence under Article 175(2) of the Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1)) (failing to stop after accident and give particulars or report of accident).
- 4 An offence under any of the following Articles of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)) –
 - (a) Article 9 (causing death or grievous bodily injury by dangerous driving),
 - (b) Article 10 (dangerous driving),
 - (c) Article 11A (causing death or grievous bodily injury by careless or inconsiderate driving),
 - (d) Article 12 (careless, and inconsiderate, driving),
 - (e) Article 12B (causing death or grievous bodily injury by driving: unlicensed, disqualified or uninsured drivers),
 - (f) Article 14 (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs),
 - (g) Article 15 (driving, or being in charge, when under the influence of drink or drugs),
 - (h) Article 16 (driving, or being in charge, of a motor vehicle with alcohol concentration above prescribed limit),
 - (i) Article 17 (failing to provide a specimen of breath for a breath test), or
 - (j) Article 18 (failing to provide a specimen for analysis or laboratory test).
- 5 An offence under Article 43(1) of the Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2)) (exceeding speed limit).

PART 2

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD
NECESSARY

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

21 After Schedule 3A insert –

“SCHEDULE 3B

Section 56

OFFENCES FOR THE PURPOSES OF SECTION 56: REPUBLIC OF IRELAND

PART 1

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD
UNNECESSARY

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

PART 2

OFFENCES WHERE ORDER OF DISQUALIFICATION FOR A MINIMUM PERIOD
NECESSARY

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

Coroners and Justice Act 2009 (c. 25)

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

PART 2

TRANSITION FROM EU CONVENTION TO NEW AGREEMENT

Transitional period

- 23 In this Part of this Schedule, “the transitional period” means the period –

- (a) beginning with 1 December 2014, and
- (b) ending with the day before the first day on which—
 - (i) section (*Mutual recognition of driving disqualification in UK and Republic of Ireland*)(2) to (5) are in force,
 - (ii) the Secretary of State has specified an agreement under section 71A of the Crime (International Co-operation) Act 2003 (“the 2003 Act”), and
 - (iii) that agreement has entered into force.

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

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

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

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

Saving for pre-1 December 2014 cases

- 27 The amendments made by section (*Mutual recognition of driving disqualification in UK and Republic of Ireland*) and Part 1 of this Schedule do not have effect in relation to a case in which a notice was given to an offender under section 57 of the 2003 Act before 1 December 2014.”

126 Insert the following new Schedule—

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

England and Wales service providers: extension of liability

- 1 (1) This paragraph applies where a service provider is established in England and Wales (an “E&W service provider”).
- (2) Section (*Disclosing private sexual photographs and films with intent to cause distress*) applies to an E&W service provider who—
 - (a) discloses a photograph or film in an EEA state other than the United Kingdom, and
 - (b) does so in the course of providing information society services, as well as to a person who discloses a photograph or film in England and Wales.
- (3) In the case of an offence under section (*Disclosing private sexual photographs and films with intent to cause distress*), as it applies to an E&W service provider by virtue of sub-paragraph (2)—
 - (a) proceedings for the offence may be taken at any place in England and Wales, and
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (4) Nothing in this paragraph affects the operation of paragraphs 3 to 5.

Non-UK service providers: restriction on institution of proceedings

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

Exceptions for mere conduits

- 3 (1) A service provider is not capable of being guilty of an offence under section (*Disclosing private sexual photographs and films with intent to cause distress*) in respect of anything done in the course of providing so much of an information society service as consists in—
 - (a) the provision of access to a communication network, or
 - (b) the transmission in a communication network of information provided by a recipient of the service,

if the condition in sub-paragraph (2) is satisfied.

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

Exception for caching

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

Exception for hosting

- 5 (1) A service provider is not capable of being guilty of an offence under section (*Disclosing private sexual photographs and films with intent to cause distress*) in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.

- (2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided—
 - (a) that it consisted of or included a private sexual photograph or film,
 - (b) that it was provided without the consent of an individual who appears in the photograph or film, or
 - (c) that the disclosure of the photograph or film was provided with the intention of causing distress to that individual.
- (3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access to it.
- (4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Disclose” and “photograph or film” have the meanings given in section (*Meaning of “disclose” and “photograph or film”*).
- (3) “Information society services”—
 - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”,and “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (5) “Service provider” means a person providing an information society service.
- (6) For the purpose of interpreting references in this Schedule to a service provider who is established in England and Wales or an EEA state—
 - (a) a service provider is established in England and Wales, or in a particular EEA state, if the service provider—
 - (i) effectively pursues an economic activity using a fixed establishment in England and Wales, or that EEA state, for an indefinite period, and
 - (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;

- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider's activities relating to that service."

Schedule 5

127 Page 92, line 1, after "In" insert "the English language text of"

128 Page 92, line 4, at end insert –

“() In the Welsh language text of that provision –

(a) for “Goron na” substitute “Goron,” and

(b) after “cyfarwyddwr)” insert “na phennaeth coleg diogel.””

129 Page 92, line 5, after “In” insert “the English language text of”

130 Page 92, line 7, at end insert –

“() In the Welsh language text of that provision, in the definition of “llety cadw ieuenctid”, after paragraph (b) insert –

“(ba) coleg diogel;”.”

Schedule 6

131 Page 100, line 6, at end insert –

“*Prison Act 1952 (c. 52)*

27A In section 52 of the Prison Act 1952 (exercise of power to make rules etc), after subsection (3) insert –

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

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

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

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

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

(6) In subsection (5), “secure college custody officer” has the same meaning as in Schedule 6 to the Criminal Justice and Courts Act 2014.”

Criminal Justice Act 1967 (c. 80)

- 27B Omit section 66(4) of the Criminal Justice Act 1967 (exercise of powers to make rules under sections 47 and 47A of the Prison Act 1952)."

Schedule 7

- 132 Page 101, line 39, at end insert –

“() After subsection (1) insert –

“(1A) The documents falling within subsection (1)(a) include a summons directed to a person that is issued after the person’s trial has begun.””

- 133 Page 102, line 7, at end insert –

“3A In section 11 (non-appearance of accused: general provisions), after subsection (5) insert –

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

- 134 Page 102, line 7, at end insert –

“3B In section 123 (defect in process), after subsection (2) insert –

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

(a) a reference in subsection (1) or (2) to evidence adduced on behalf of the prosecutor at a hearing is to be read as a reference to evidence placed before the court on behalf of the prosecutor, and

(b) subsection (2) is to be read as if for the words from “has been misled” to the end there were substituted “is likely to have been misled by the variance, the court shall treat the written charge as not being appropriate for trial in accordance with section 16A”.””

- 135 Page 102, line 34, at end insert –

“5A The Road Traffic Offenders Act 1988 is amended as follows.

5B (1) Section 7 (duty of accused to provide licence) is amended as follows.

(2) After subsection (1) insert –

“(1A) Subsection (1B) applies where –

(a) proceedings in relation to an offence involving obligatory or discretionary disqualification are instituted by a written charge and a single justice procedure notice,

(b) the person prosecuted is the holder of a licence, and

(c) after being convicted in proceedings conducted in accordance with section 16A of the Magistrates’ Courts Act 1980, the person is given the opportunity to make representations or further representations under section 16C(2)(a) of that Act.

- (1B) Where this subsection applies, the person must (instead of complying with subsection (1)) –
- (a) cause the licence to be delivered to the designated officer specified in the single justice procedure notice within such period as the person is allowed for indicating a wish to make such representations,
 - (b) post it, at such time that in the ordinary course of post it would be delivered within that period, in a letter duly addressed to that officer and either registered or sent by the recorded delivery service, or
 - (c) if the person indicates a wish to make such representations, have the licence with him at the hearing appointed to be held because of that indication.
- (1C) Subsection (1B) does not apply (and subsection (1) applies instead) if, before the period mentioned in subsection (1B)(a) comes to an end, a summons is issued under section 16B(3)(b) or 16C(3)(b) of the Magistrates’ Courts Act 1980.”

- (3) In subsection (2) –
- (a) for “In subsection (1) above “proper officer” means –” substitute “In this section –
“proper officer” means –”, and
 - (b) at the end insert –
““single justice procedure notice” and “written charge” have the same meaning as in section 29 of the Criminal Justice Act 2003.””

136 Page 102, line 41, at end insert –

“6A (1) Section 27 (production of licence) is amended as follows.

(2) After subsection (4) insert –

- “(4A) Subsection (3) does not apply where section 7(1B) applies in relation to the proceedings and the holder of the licence –
- (a) has caused a current receipt for the licence issued under section 56 to be delivered to the designated officer specified in the single justice procedure notice within the period described in section 7(1B)(a),
 - (b) has posted it to that officer within that period in such manner as is described in section 7(1B)(b), or
 - (c) surrenders such a receipt to the court at the hearing described in section 7(1B)(c),
- and produces the licence to the court immediately on its return.”

- (3) In subsection (5) –
- (a) for “In subsection (4) above “proper officer” means –” substitute “In this section –
“proper officer” means –”, and
 - (b) at the end insert –
““single justice procedure notice” has the same meaning as in section 29 of the Criminal Justice Act 2003.””

137 Page 102, line 41, at end insert –

“Pension Schemes Act 1993 (c. 48)

- 6B (1) Section 68 of the Pension Schemes Act 1993 (unpaid premiums: supplementary) is amended as follows.
- (2) In subsection (1), after “1980” insert “or in proceedings conducted in accordance with section 16A of that Act”.
- (3) After subsection (1) insert –
- “(1A) Where subsection (1) applies in relation to a person being tried in accordance with section 16A of the Magistrates’ Courts Act 1980, the reference in subsection (1)(b) to the designated officer for the court is to be treated as including a reference to the designated officer for a magistrates’ court specified in the single justice procedure notice in question.”

138 Page 102, line 41, at end insert –

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

- 6C (1) Section 55 of the Vehicle Excise and Registration Act 1994 (guilty plea by absent accused and amount payable under section 30 or 36) is amended as follows.
- (2) After subsection (2) insert –
- “(2A) This section also applies if –
- (a) a person is convicted of an offence under section 29 or 35A while being tried in accordance with section 16A of the Magistrates’ Courts Act 1980 (trial by single justice on the papers), and
- (b) it is proved to the satisfaction of the court, in the manner prescribed by Criminal Procedure Rules, that a relevant notice was served on the accused with the written charge.”
- (3) In subsection (3) –
- (a) in paragraph (a), for “in a case within subsection (1)(a)” substitute “if the offence is an offence under section 29”, and
- (b) in paragraph (b), for “in a case within subsection (1)(b)” substitute “if the offence is an offence under section 35A”.
- (4) In subsection (5), for “The court shall not so proceed” substitute “Where this section applies by virtue of subsection (1), the court shall not proceed as described in subsection (4)”.
- (5) After subsection (5) insert –
- “(6) Where this section applies by virtue of subsection (2A), the court shall not proceed as described in subsection (4) if the written notification served by the accused or the legal representative of the accused in accordance with the single justice procedure notice includes a statement that the amount specified in the relevant notice is inappropriate.
- (7) In subsection (6) “single justice procedure notice” has the meaning given by section 29 of the Criminal Justice Act 2003.”

139 Page 104, line 37, at end insert –

“Criminal Justice Act 2003 (c. 44)

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

Schedule 8

140 Page 106, line 18, at end insert –

“Proceeds of Crime Act 2002 (c. 29)

- 10A In section 13(3)(a) of the Proceeds of Crime Act 2002 (effect of order on court’s other powers), after “other than” insert “an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) or”.

Before Schedule 11

141 Insert the following new Schedule –

“REPORTING RESTRICTIONS: PROVIDERS OF INFORMATION SOCIETY SERVICES

Children and Young Persons Act 1933 (c. 12)

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

“SCHEDULE 1A Section 39A

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

Domestic service providers: extension of liability

- 1 (1) This paragraph applies where a service provider is established in England and Wales (a “domestic service provider”).
- (2) Section 39 applies to a domestic service provider who –
- (a) includes matter in a publication in an EEA state other than the United Kingdom, and
- (b) does so in the course of providing information society services,
- as well as to a person who includes matter in a publication in England and Wales.
- (3) In the case of an offence under section 39, as it applies to a domestic service provider by virtue of sub-paragraph (2) –
- (a) proceedings for the offence may be taken at any place in England and Wales, and
- (b) the offence may for all incidental purposes be treated as having been committed at any such place.

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

Non-UK service providers: restriction on institution of proceedings

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

Exceptions for mere conduits

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

Exception for caching

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

Exception for hosting

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

Interpretation

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Publication” has the same meaning given in section 39.

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

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

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

“SCHEDULE 2A

Section 49

RESTRICTION OF REPORTING OF CRIMINAL PROCEEDINGS FOR LIFETIME OF
WITNESSES AND VICTIMS UNDER 18: PROVIDERS OF INFORMATION SOCIETY
SERVICES*Domestic service providers: extension of liability*

- 1 (1) This paragraph applies where a service provider is established in England and Wales, Scotland or Northern Ireland (a “domestic service provider”).
- (2) Section 49, so far as it relates to a publication falling within subsection (1A)(a) of that section, applies to a domestic service provider who –
 - (a) includes matter in a publication in an EEA state other than the United Kingdom, and
 - (b) does so in the course of providing information society services,
 as well as to a person who includes matter in a publication in England and Wales, Scotland or Northern Ireland.
- (3) In the case of an offence under section 49, as it applies to a domestic service provider by virtue of sub-paragraph (2) –
 - (a) proceedings for the offence may be taken at any place in England and Wales, Scotland or Northern Ireland, and
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (4) Section 49, so far as it relates to a publication falling within subsection (1A)(b) of that section, applies to a domestic service provider established in England and Wales who –
 - (a) includes matter in a publication in an EEA state other than the United Kingdom, and
 - (b) does so in the course of providing information society services,
 as well as to a person who includes matter in a publication in England and Wales.
- (5) In the case of an offence under section 49, as it applies to a domestic service provider established in England and Wales by virtue of sub-paragraph (4) –
 - (a) proceedings for the offence may be taken at any place in England and Wales, and
 - (b) the offence may for all incidental purposes be treated as having been committed at any such place.
- (6) Nothing in this paragraph affects the operation of paragraphs 3 to 5.

Non-UK service providers: restriction on institution of proceedings

- 2 (1) This paragraph applies where a service provider is established in an EEA state other than the United Kingdom (a “non-UK service provider”).

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

Exceptions for mere conduits

- 3 (1) A service provider is not capable of being guilty of an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in respect of anything done in the course of providing so much of an information society service as consists in –
 - (a) the provision of access to a communication network, or
 - (b) the transmission in a communication network of information provided by a recipient of the service,if the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the service provider does not –
 - (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1) –
 - (a) the provision of access to a communication network, and
 - (b) the transmission of information in a communication network,includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.

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

Exception for hosting

- 5 (1) A service provider is not capable of being guilty of an offence under section 49, so far as it relates to a publication that includes matter in contravention of a direction under section 45A(2), in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service if sub-paragraph (2) or (3) is satisfied.
- (2) This sub-paragraph is satisfied if the service provider had no actual knowledge when the information was provided that it consisted of or included matter whose inclusion in a publication is prohibited by a direction under section 45A(2).
- (3) This sub-paragraph is satisfied if, on obtaining such knowledge, the service provider expeditiously removed the information or disabled access to it.
- (4) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Information society services”—
 - (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of

the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and

- (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”,

and “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).

- (3) “Recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible.
- (4) “Service provider” means a person providing an information society service.
- (5) For the purpose of interpreting references in this Schedule to a service provider who is established in England and Wales, Scotland, Northern Ireland or an EEA state—
- (a) a service provider is established in England and Wales, Scotland, Northern Ireland or in a particular EEA state, if the service provider—
- (i) effectively pursues an economic activity using a fixed establishment in England and Wales, Scotland, Northern Ireland or that EEA state, for an indefinite period, and
- (ii) is a national of an EEA state or a company or firm mentioned in Article 54 of the Treaty on the Functioning of the European Union;
- (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
- (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment at the centre of the service provider’s activities relating to that service.”

In the Title

- 142** Line 5, after “drivers;” insert “to create an offence of disclosing private sexual photographs or films with intent to cause distress;”
- 143** Line 5, after “drivers;” insert “to amend the offence of meeting a child following sexual grooming;”

LORDS AMENDMENTS TO THE
CRIMINAL JUSTICE AND COURTS
BILL

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