



Ministry
of Justice

New criminal offences

England and Wales

1st June 2009 – 31st May 2014

Ministry of Justice

Statistics Bulletin

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Introduction

The Ministry of Justice committed in its 2011-2015 business plan to establish a gateway to scrutinise all legislation containing criminal offences. It also committed to publish annual figures as part of the planned information strategy.

This publication provides users with information concerning the activity of government departments in creating new criminal offences in England and Wales during the period 1 June 2009 to 31 May 2014. Comparisons are made between the latest figures covering the 12 months ending 31 May 2014 with previous 12 month periods dating back to 1 June 2009.

This is an Official Statistic produced by the Ministry of Justice to the standards specified in the Code of Practice for Official Statistics. The most recent assessment by the UK Statistics Authority can be found at:

www.statisticsauthority.gov.uk/assessment/assessment-reports/index.html

Within the normal constraints of collective Cabinet responsibility, individual Government departments have sole responsibility for the development of their own policies and legislation. As part of the Coalition commitment to prevent the proliferation of unnecessary new criminal offences, the Secretary of State for Justice established a Criminal Offences Gateway in June 2010 to scrutinise proposals to create new criminal offences (but not the policy underpinning the legislation). This is to investigate whether the offences proposed are necessary. As part of this commitment, the Ministry of Justice also pledged to count the number of new criminal offences created each year across Government¹ and to publishing the resultant figures.

¹ This excludes offences created by the Ministry of Defence, these are specific to the armed forces and do not typically apply to the general public.

Key findings

Legislation and offences created

In the 12 months ending May 2014, new criminal offences were contained in 42 pieces of legislation; this compares to 60 pieces of legislation in the 12 months to May 2013. From the 42 pieces of legislation, 280 new criminal offences were created. This represents a 14.4% decrease in the number of new offences created compared with the preceding 12 months (327) and is 60.7% lower than the number created in the 12 months ending May 2010 (712), prior to the introduction of the Criminal Offence Gateway within the Ministry of Justice, set up to scrutinise new offences, to see if they are necessary.

Types of new offence created

Changes in the way the Criminal Gateway team collect information mean that, for the first time, we can distinguish between the types of offences created and we have more detail about the type of legislative source behind the offences. Of all the offences created in the latest period 183 (65.4%) were brand new offences, 62 (22.1%) were repealed and identically remade offences and 35 (12.5%) were offences repealed and remade with amendments.

The EU was responsible for the creation of almost half of the offences (46.1%, 129) in the 12 months ending May 2014, while over a quarter (26.8%, 75) of offences had a domestic (UK) source.

Repeals and revocations

Estimates of the number of pieces of legislation repealed in England and Wales and the number of offences contained in these pieces is taken from the Police National Legal Database (PNLD) and verified using a library of legal information². In the 12 months ending May 2014, 11 separate pieces of legislation contained repealed or revoked sections. These repealed or revoked sections of legislation contained 213 offences³. In the 12 months ending May 2013 there were 15 pieces of legislation repealed which contained 140 offences.

² Westlaw UK was used to verify the list of repealed sections of legislation which contained criminal offences.

³ Repealed offences are estimated using the Police National Legal Database on a different basis to that used by the Ministry of Justice for new offences and no comparison should be drawn between them.

1. Legislation and offences created

In England and Wales, in the 12 months ending May 2014, 42 separate pieces of legislation were created that containing criminal offences. This represents a 30.0% decrease since the 12 months ending May 2013 (60)⁴. The number of offences contained in the legislation in the most recent period (280) decreased by 14.4% compared to the previous period (327). This gives an average of seven offences for each piece of legislation created in the 12 months ending May 2014, compared to an average of five offences in the previous 12 months.

In the latest period, two out of three (193, 68.9%) offences were created in secondary legislation. This type of legislation has created the majority of offences in each period since the 12 months ending May 2010. The remaining offences (87, 31.1%) were created in primary legislation.

The majority of offences created in the latest period were triable either-way (183, 65.4%). This type of offence has accounted for the majority of offences in all previous 12 month periods since the introduction of the Criminal Offences Gateway. Summary offences accounted for one in three (33.9%, 95) offences in the latest period.

Only two indictable only offences were created in the most recent period (0.7% of the total offences created), compared to only one in the 12 months ending May 2013.

The two offences were:

- Failure to comply with a remedial order or a publicity order (given to care providers) under the Care Act (2014) which can result in a maximum sentence of a fine and;
- Firearms offences under the Anti-Social Behaviour, Crime and Policing Act (2014) which can result in life imprisonment.

Of the offences created in the latest period, two out of three (68.2%, 191) carried a possible custodial sentence. The maximum length of the sentence varied according to the method of trial. This is an increase from less than half (159, 48.6%) in the 12 months ending May 2013.

⁴ Investigation into the reasons for the decrease in legislation created was not carried out.

2. Types of new offence created

Changes in the way the Criminal Gateway team collect information⁵ mean that, for the first time, we can distinguish between the types of offences created and we have more detail about the type of legislative source behind the offences⁶.

Of the 280 new criminal offences created: 183 (65.4%) were brand new offences, 62 (22.1%) were repealed and identically remade offences and 35 (12.5%) were offences which had been repealed and remade with amendments. Looking at the offences in this way shows that two out of three offences created in the most recent period were brand new. The rest (97, 34.6%) were offences which had previously existed in some way.

The new information collected also shows that, of all offences, almost half (46.1%, 129) came from European Union (EU) sources and a quarter (26.8%, 75) from domestic (UK) sources. The remaining offences were created by International (39, 13.9%), EU/domestic (24, 8.6%) and EU/International (13, 4.6%) sources⁷. From this we can estimate that over half (59.3 %, 166) of offences created in the latest period, in England and Wales, had some EU influence. One out of three (35.4%, 99) had some sort of domestic influence and almost one out of five (18.6%, 52) offences had some sort of international influence.

In the latest period, a quarter (24.3%, 68) of offences were created by the department for Business, Innovation and Skills. Of these offences 38 (55.9%) were brand new, 11(16.2%) were repealed and identically remade and 19 (27.9%) were repealed and remade with amendments. Of the brand new offences created by the Department for Business, Innovation and Skills , 24 (63.2%) were created in the Export Control (Syria Sanctions) Order (2013), which includes offences concerning the export of prohibited equipment and goods to Syria. This is the highest number of offences created by a single piece of legislation in the latest period. All offences are triable either-way and carry a maximum of ten years imprisonment if tried on indictment.

This legislation came from the EU and accounts for 18.6% (24) of the offences created by the same source (EU).

⁵ See ANNEX C: Methodology for detail.

⁶ This detail is available for the 12 months ending May 2014 only.

⁷ Each piece of legislation may have been influenced by more than one legislative driver.

The Home Office created 35 (12.5% of all offences) offences, all of which were brand new. Of these offences 22 (62.9%) were created in the Anti-Social Behaviour, Crime and Policing Act 2014⁸, which includes offences relating to a range of topics including forced marriage and firearms. Of the offences created 12 are summary, nine are triable either-way and one is indictable only (described above). This legislation came from domestic (UK) sources and accounts for almost one out of three (29.3%) of the 75 offences driven by the UK.

3. Repeals and revocations

An estimate of the number of offences contained within repealed or revoked sections of legislation, which also included criminal offences, is taken from the PNLD and verified with reference to a comprehensive library of legal information^{9 10}. The estimate does not indicate whether an offence has been remade¹¹ in another piece of legislation or if it has been completely removed from the statute book.

In England and Wales in the 12 months ending May 2014, 11 pieces of legislation were repealed or revoked. The repealed or revoked legislation contained 213 offences¹². This compares to 15 pieces of legislation repealed or revoked in the 12 months ending May 2013, which contained 140 offences¹⁰.

Of those offences contained within legislation repealed or revoked in the 12 months to May 2014 the majority (69.5%, 148) were summary only offences, the rest were triable either-way offences (30.5%, 65). No indictable only offences were contained within repealed or revoked legislation in the period. Half (50.2%, 107) of the offences contained within the repealed and revoked legislation were contained within the Heathrow Airport Byelaws which were replaced by the Heathrow Airport Byelaws 2014. This means that some of these offences may still exist.

⁸ Responsibility for offences in this legislation were allocated to the Home Office, however, the responsibility for some offences contained lie with other departments, including the Department for Energy and Climate Change (Defra) and the Ministry of Justice (MoJ).

⁹ Westlaw UK was used to verify the list of repealed sections of legislation which contained criminal offences.

¹⁰ This information is available for the 12 months ending May 2013 and 12 months ending May 2014.

¹¹ Offences contained within repealed legislation which are still applicable in law can be remade in a new piece of legislation.

¹² Repealed offences are counted by the Police National Legal Database on a different basis to that used by the Ministry of Justice for new offences and no comparison should be drawn between them.

ANNEX A: Data tables

Table 1.1a: Legislation coming into force and offences created by legislative vehicle and source, 12 months ending May 2010⁽¹⁾ to 12 months ending May 2014⁽²⁾

England and Wales														<i>Number and percentage (%)</i>									
	12 months ending May												2014 ⁽²⁾										
	2010 ⁽¹⁾				2011				2012						2013								
	Legislative provision		%		Offences		%		Legislative provision		%		Offences		%		Legislative provision		%		Offences		%
Vehicle																							
Primary	18	19.6	189	26.5	3	9.1	31	17.8	11	21.2	36	12.3	13	21.7	66	20.2	12	28.6	87	31.1			
Secondary	74	80.4	523	73.5	30	90.9	143	82.2	41	78.8	256	87.7	47	78.3	261	79.8	30	71.4	193	68.9			
Total	92	100.0	712	100.0	33	100.0	174	100.0	52	100.0	292	100.0	60	100.0	327	100.0	42	100.0	280	100.0			
Source																							
Domestic	48	52.2	278	39.0	4	12.1	25	14.4	14	26.9	36	12.3	20	33.3	104	31.8	15	35.7	75	26.8			
EU	44	47.8	434	61.0	26	78.8	125	71.8	37	71.2	250	85.6	39(3)	65.0	215	65.7	17	40.5	129	46.1			
International	-	-	-	-	3	9.1	24	13.8	1	1.9	6	2.1	1	1.7	8	2.4	6	14.3	39	13.9			
EU/ Domestic ⁽³⁾	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	3	7.1	24	8.6			
EU/ International ⁽³⁾	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	1	2.4	13	4.6			
Total	92	100.0	712	100.0	33	100.0	174	100.0	52	100.0	292	100.0	60	100.0	327	100.0	42	100.0	280	100.0			

'-' = Nil

*** = Not available, see footnote 3.

(1) Data for this period are part of a one-off retrospective historical count of published legislation.

(2) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(3) EU/ Domestic and EU/ International legislative drivers were groups used for the first time in the 12 months ending May 2014. Previous periods allocated the legislation and offences to the driver which had the largest impact.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.1b: Legislation coming into force and offences created by legislative vehicle, source and new offence type, 12 months ending May 2014⁽¹⁾

England and Wales

	12 months ending May 2014				
	Legislative provision	Total offences ⁽¹⁾	New offence type		Repealed and remade with amendments
			New	Repealed and remade	
Vehicle					
Primary	12	87	56	20	11
Secondary	30	193	127	42	24
Total	42	280	183	62	35
Source					
Domestic	15	75	66	3	6
EU	17	129	76	42	11
International	6	39	39	-	-
EU/ Domestic ⁽²⁾	3	24	2	17	5
EU/ International ⁽²⁾	1	13	-	-	13
Total	42	280	183	62	35

'-' = Nil

(1) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(2) EU/ Domestic and EU/ International legislative drivers were groups used for the first time in the 12 months ending May 2014. Previous periods allocated the legislation and offences to the driver which had the largest impact.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.2a: Legislation coming into force and offences created by government department, 12 months ending May 2010⁽¹⁾ to 12 months ending May 2014⁽²⁾

England and Wales																Number and percentage (%)				
Department ⁽³⁾	12 months ending May																			
	2010 ⁽¹⁾				2011				2012				2013				2014 ⁽²⁾			
	Legislative provision	%	Offences	%	Legislative provision	%	Offences	%	Legislative provision	%	Offences	%	Legislative provision	%	Offences	%	Legislative provision	%	Offences	%
Cabinet Office	2	2.2	27	3.8	1	3.0	17	9.8	-	-	-	-	1	1.7	1	0.3	1	2.4	10	3.6
Department For Business, Innovation and Skills	9	9.8	90	12.6	5	15.2	27	15.5	8	15.4	60	20.5	8	13.3	52	15.9	7	16.7	68	24.3
Department For Children, Schools and Families	1	1.1	2	0.3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department For Communities and Local Government	3	3.3	9	1.3	-	-	-	-	3	5.8	3	1.0	8	13.3	24	7.3	2	4.8	16	5.7
Department For Culture, Media and Sport	2	2.2	3	0.4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department for Education	-	-	-	-	-	-	-	-	1	1.9	2	0.7	-	-	-	-	1	2.4	12	4.3
Department for Energy and Climate Change	-	-	-	-	-	-	-	-	8	15.4	8	2.7	3	5.0	7	2.1	4	9.5	32	11.4
Department For Environment, Food and Rural Affairs	24	26.1	384	53.9	8	24.2	13	7.5	9	17.3	136	46.6	4	6.7	7	2.1	6	14.3	21	7.5
Department For Transport	25	27.2	76	10.7	4	12.1	13	7.5	6	11.5	24	8.2	10	16.7	27	8.3	3	7.1	7	2.5
Department For Work and Pensions	2	2.2	3	0.4	-	-	-	-	1	1.9	2	0.7	1	1.7	1	0.3	1	2.4	1	0.4
Department Of Health	12	13.0	37	5.2	1	3.0	1	0.6	-	-	-	-	2	3.3	66	20.2	2	4.8	15	5.4
Food Standards Agency	-	-	-	-	-	-	-	-	1	1.9	1	0.3	1	1.7	11	3.4	3	7.1	27	9.6
Foreign and Commonwealth Office	1	1.1	10	1.4	1	3.0	7	4.0	-	-	-	-	1	1.7	8	2.4	-	-	-	-
Health and Safety Executive	-	-	-	-	-	-	-	-	1	1.9	2	0.7	-	-	-	-	-	-	-	-
Her Majesty's Revenue and Customs	2	2.2	3	0.4	-	-	-	-	-	-	-	-	1	1.7	1	0.3	2	4.8	3	1.1
Her Majesty's Treasury	3	3.3	17	2.4	12	36.4	93	53.4	9	17.3	35	12.0	14	23.3	78	23.9	7	16.7	33	11.8
Home Office	3	3.3	26	3.7	1	3.0	3	1.7	3	5.8	8	2.7	4	6.7	41	12.5	3	7.1	35	12.5
Ministry Of Justice	3	3.3	25	3.5	-	-	-	-	2	3.8	11	3.8	1	1.7	2	0.6	-	-	-	-
Scotland Office	-	-	-	-	-	-	-	-	-	-	-	-	1	1.7	1	0.3	-	-	-	-
Total	92	100.0	712	100.0	33	100.0	174	100.0	52	100.0	292	100.0	60	100.0	327	100.0	42	100.0	280	100.0

'-' = Nil

(1) Data for this period are part of a one-off retrospective historical count of published legislation.

(2) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(3) Legislation and the offences contained are allocated to the department with the principle responsibility for the legislation, rather than each offence.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.2b: Legislation coming into force and offences created by government department and new offence type, 12 months ending May 2014⁽¹⁾

England and Wales

Department ⁽²⁾	12 months ending May 2014				
	Legislative provision	Total offences ⁽¹⁾	New offence type		
			New	Repealed and remade	Repealed and remade with amendments
Cabinet Office	1	10	4	-	6
Department For Business, Innovation and Skills	7	68	38	11	19
Department For Children, Schools and Families	-	-	-	-	-
Department For Communities and Local Government	2	16	2	12	2
Department For Culture, Media and Sport	-	-	-	-	-
Department for Education	1	12	12	-	-
Department for Energy and Climate Change	4	32	10	17	5
Department For Environment, Food and Rural Affairs	6	21	15	4	2
Department For Transport	3	7	7	-	-
Department For Work and Pensions	1	1	1	-	-
Department Of Health	2	15	15	-	-
Food Standards Agency	3	27	9	18	-
Foreign and Commonwealth Office	-	-	-	-	-
Health and Safety Executive	-	-	-	-	-
Her Majesty's Revenue and Customs	2	3	3	-	-
Her Majesty's Treasury	7	33	32	-	1
Home Office	3	35	35	-	-
Ministry Of Justice	-	-	-	-	-
Scotland Office	-	-	-	-	-
Total	42	280	183	62	35

'-' = Nil

(1) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(2) Legislation and the offences contained are allocated to the department with the principle responsibility for the legislation, rather than each offence.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.3: New offences created by government department and source, 12 months ending May 2010⁽¹⁾ to 12 months ending May 2014⁽²⁾

England and Wales

Department ⁽³⁾	12 months ending May																
	2010 ⁽¹⁾			2011			2012			2013			2014 ⁽²⁾			EU/ ⁽⁴⁾	
	Domestic	EU	International	Domestic	EU	International	Domestic	EU	International	Domestic	EU	International	Domestic	EU	International	EU/ Domestic ⁽⁴⁾	International ⁽⁴⁾
Cabinet Office	27	-	-	17	-	-	-	-	-	1	-	-	10	-	-	-	-
Department For Business, Innovation and Skills	71	19	-	-	27	-	6	54	-	10	42	-	5	50	-	-	13
Department For Children, Schools and Families	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department For Communities and Local Government	4	5	-	-	-	-	3	-	-	21	3	-	3	13	-	-	-
Department For Culture, Media and Sport	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department for Education	-	-	-	-	-	-	2	-	-	-	-	-	12	-	-	-	-
Department for Energy and Climate Change	-	-	-	-	-	-	2	6	-	-	7	-	3	7	-	22	-
Department For Environment, Food and Rural Affairs	67	317	-	-	13	-	-	136	-	-	7	-	2	18	-	1	-
Department For Transport	21	55	-	5	8	-	-	18	6	7	20	-	-	1	5	1	-
Department For Work and Pensions	3	-	-	-	-	-	2	-	-	1	-	-	1	-	-	-	-
Department Of Health	17	20	-	-	1	-	-	-	-	14	52	-	3	12	-	-	-
Food Standards Agency	-	-	-	-	-	-	-	1	-	-	11	-	-	27	-	-	-
Foreign and Commonwealth Office	10	-	-	-	-	7	-	-	-	-	-	8	-	-	-	-	-
Health and Safety Executive	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	-
Her Majesty's Revenue and Customs	3	-	-	-	-	-	-	-	-	-	1	-	3	-	-	-	-
Her Majesty's Treasury	1	16	-	-	76	17	5	30	-	10	68	-	8	1	24	-	-
Home Office	26	-	-	3	-	-	8	-	-	39	2	-	25	-	10	-	-
Ministry Of Justice	25	-	-	-	-	-	8	3	-	-	2	-	-	-	-	-	-
Scotland Office	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-
Total	278	434	-	25	125	24	36	250	6	104	215	8	75	129	39	24	13

'-' = Nil

"" = Not available, see footnote 4.

(1) Data for this period are part of a one-off retrospective historical count of published legislation.

(2) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(3) Legislation and the offences contained are allocated to the department with the principle responsibility for the legislation, rather than each offence.

(4) EU Domestic and EU International legislative drivers were groups used for the first time in the period ending May 2014. Previous periods allocated the legislation and offences to the driver which had the largest impact.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.4: New offences created by government department, mode of trial and number imprisonable, 12 months ending May 2011 to 12 months ending May 2014⁽¹⁾

England and Wales

Department ⁽²⁾	12 months ending May																			
	2011					2012					2013					2014 ⁽¹⁾				
	Total	Summary	TEW ⁽³⁾	Indictable	Imprisonable	Total	Summary	TEW ⁽³⁾	Indictable	Imprisonable	Total	Summary	TEW ⁽³⁾	Indictable	Imprisonable	Total	Summary	TEW ⁽³⁾	Indictable	Imprisonable
Cabinet Office	17	4	13	-	9	-	-	-	-	-	1	-	1	-	1	10	1	9	-	4
Department For Business, Innovation and Skills	27	2	25	-	16	60	4	56	-	51	52	4	48	-	37	68	8	60	-	49
Department For Children, Schools and Families	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department For Communities and Local Government	-	-	-	-	-	3	1	2	-	2	24	20	4	-	7	16	13	3	-	8
Department For Culture, Media and Sport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Department for Education	-	-	-	-	-	2	1	1	-	1	-	-	-	-	-	12	12	-	-	2
Department for Energy and Climate Change	-	-	-	-	-	8	3	5	-	2	7	-	7	-	4	32	9	23	-	22
Department For Environment, Food and Rural Affairs	13	6	7	-	4	136	7	129	-	120	7	2	5	-	3	21	7	14	-	13
Department For Transport	13	11	2	-	3	24	13	11	-	7	27	18	9	-	3	7	2	5	-	5
Department For Work and Pensions	-	-	-	-	-	2	-	2	-	2	1	1	-	-	-	1	-	1	-	1
Department Of Health	1	1	-	-	-	-	-	-	-	-	66	6	60	-	1	15	4	10	1	8
Food Standards Agency	-	-	-	-	-	1	-	1	-	-	11	4	7	-	7	27	10	17	-	19
Foreign and Commonwealth Office	7	-	7	-	7	-	-	-	-	-	8	-	7	1	8	-	-	-	-	-
Health and Safety Executive	-	-	-	-	-	2	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Her Majesty's Revenue and Customs	-	-	-	-	-	-	-	-	-	-	1	-	1	-	1	3	-	3	-	3
Her Majesty's Treasury	93	23	70	-	91	35	12	23	-	31	78	23	55	-	72	33	10	23	-	32
Home Office	3	-	1	2	3	8	2	6	-	6	41	34	7	-	14	35	19	15	1	25
Ministry Of Justice	-	-	-	-	-	11	6	5	-	6	2	1	1	-	1	-	-	-	-	-
Scotland Office	-	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	-	-
Total	174	47	125	2	133	292	50	242	-	228	327	114	212	1	159	280	95	183	2	191

.. = Nil

(1) For the 12 months ending May 2014 a new methodology was used which differentiated between the type of offence (i.e. brand new, repealed and remade, repealed and remade with amendments) created and had the department responsible for the legislation check each offence.

(2) Legislation and the offences contained are allocated to the department with the principle responsibility for the legislation, rather than each offence.

(3) Triable either-way offences. These offences can be tried either summarily or on indictment.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

Table 1.5: Offences contained in repealed or revoked sections of legislation by offence type, 12 months ending May 2013 to 12 months ending May 2014⁽¹⁾⁽²⁾

England and Wales		<i>Number and percentage (%)</i>			
		12 months ending May			
Offence type	2013		2014		
	Offences	%	Offences	%	
	15 legislative provisions		11 legislative provisions		
Summary	21	15.0	148	69.5	
TEW ⁽³⁾	118	84.3	65	30.5	
Indictable	1	0.7	-	-	
Total	140	100.0	213	100.0	

(1) Data derived for 12 months ending May 2013 derived from Police National Legal Database (PNLD), November 2013. Data derived for 12 months ending May 2014 derived from Police National Legal Database (PNLD), October 2014.

(2) The estimate of offences contained within repealed or revoked legislation includes those which have been remade in a new piece of legislation. The estimate cannot be used as an indication of offences which no longer exist.

(3) Triable either-way offences. These offences can be tried either summarily or on indictment.

Note: Every effort is made to ensure that the figures presented are accurate and complete. Care should be taken to ensure data collection processes and their limitations are taken into account when those data are used.

ANNEX B: Data sources and quality

Data for estimating the number of offences created was provided by an administrative system operated by the Criminal Offences Gateway Team in the Ministry of Justice (MOJ). The data summarises legislation commenced between 1 June and 31 May for each year from the 12 months ending May 2010 and has been subject to quality assurance processes.

Commencing with the 12 months ending 31 May 2014, the methodology for counting new offences has been reviewed and amended. It is now easier to distinguish between brand new offences, repealed and identically remade offences and offences repealed and remade with amendments. This gives a more complete representation of the types of offences created in a period. The methodology cannot be applied for periods before the 12 months ending 31 May 2014.

For the 12 months ending 31 May 2014 the data was provided by the Criminal Offences Gateway team in the Ministry of Justice. The data was then passed to the department with responsibility for the legislation, to ensure the quality and accuracy of the information.

The data for the 12 months ending 31 May 2011, 2012 and 2013 supplied by the Criminal Offences Gateway team does not distinguish between brand new offences, repealed and identically remade offences and offences repealed and remade with amendments. Responsibility for counting offences in these periods is with the MOJ, with the best information available.

Data for the period 1 June 2009 to 31 May 2010 was gathered via a retrospective count based on published legislation and to provide an indicative baseline against which the number of new criminal offences can be measured. This one off counting exercise used the same counting rules as applied to the new criminal offences identified 12 months ending 31 May 2011, 2012 and 2013. However, the legislation included in the retrospective counting exercise has been identified from the Government's Legislation database.

All figures have been quality assured by both the Criminal Offences Gateway Team and Justice Statistics Analytical Services.

The Ministry of Justice does not monitor repealed offences. The data on repeals and revocations has been provided from the Police National Legal Database (PNLD). The Ministry of Justice works in close collaboration with the PNLD team in maintaining a comprehensive list of criminal offences used in England and Wales. When a list of offences contained in repealed or revoked sections of legislation for the period is compiled it is then verified with reference to a comprehensive library of legal information¹³, to ensure that each section of legislation has been repealed or revoked. The offences contained in this list are counted on a different basis to that used by the Ministry of Justice for new offences and no comparison should be drawn between them. This information is available for the 12 months ending 31 May 2013 and 2014 only.

Every effort is made to ensure that the figures presented in this publication are accurate and complete; individual cases are quality assured and validated. Caution should be taken when extrapolating from subsets of the data due to the small figures reported.

¹³ Westlaw UK was used to verify the list of repealed sections of legislation which contained criminal offences.

ANNEX C: Methodology

Offences included in each period, are those contained in the legislation commencing/ coming into force in the period 1 June to 31 May. The commencement date of the offence itself may be different. (See glossary for more information).

Responsibility for each offence is allocated to the department with principal responsibility for creating the legislation containing that offence. In some cases this may mean that some departments have an artificially high or low number of offences.

For the first time, the 12 months ending 31 May 2014 identifies the type of new offences created, i.e. a brand new offence, repealed and identically remade offences and repealed and remade offences with amendments. In the previous periods (the 12 months ending 31 May 2010, 2011, 2012 and 2013) all offences were grouped into one 'New' offence group.

The estimate of New Criminal Offences does not include extended offences. This is because of the complexity of estimating extended offences.

Definitions

In this publication when counting new criminal offences, in the 12 months ending 31 May 2014, they are identified as either:

- **New:** A brand new offence not previously seen in legislation
- **Repealed and identically remade:** An offence which was repealed in previous legislation and created in its exact form in a new piece of legislation
- **Repealed and remade with amendments:** An offence which was repealed in previous legislation and created in a new piece of legislation with amendments

Another addition to information held for the 12 months ending 31 May 2014 relates to the legislative driver. It is now possible to classify the driver as either: Domestic (UK), EU, International, EU/domestic or EU/International. Previous periods identified the driver as either domestic (UK), EU or International- anything in with an EU/domestic or EU/International driver would have been allocated to the group with the greatest influence.

Repealed or revoked legislation is removed from the statute book by new legislation. The PNLD categorises individual offences by legislative provision, which differs from the counting methodology used by the Ministry of Justice to record new criminal offences. Even when an offence is contained within repealed or revoked legislation, it may be re-enacted in a new piece of legislation. If the offence is repealed and not re-enacted it may still be used to prosecute historical cases.

Welsh Government Legislation

The Government of Wales Act 2006 sets out the areas of devolved policy on which the Welsh Government may legislate. It is possible that new criminal offences will be created as a result of such legislation, however, as they fall within the Welsh Government's legislative competence, they will not be cleared through the Criminal Offences Gateway, nor included within the count of new criminal offences set out in the Bulletin.

Counting rules

To identify a new criminal offence for the purposes of this publication, the following rules have been considered:

- **behaviour:** identify particular conduct being criminalised.
- **legislative drafting:** how is the provision drafted? Does it as a matter of common sense read as a single offence or does the drafting create a number of separate offences?
- **penalties:** does each offence counted carry a single maximum penalty? Or are any of the offences divided into their constituent elements with differing maximum penalties?

A legislative provision drafted as a single offence with a single maximum penalty is counted as one offence, even if it targets a number of different types of conduct.

A legislative provision that appears to be drafted as a single criminal offence but which in fact criminalises diverse behaviour with differing maximum penalties is counted as more than one offence, depending on the number of different penalties applied.

An example is given on the next page:

Example:

The Misuse of Drugs Act 1971

Large sections of the Act refer to a small number of substantive criminal behaviours, for example ‘production of or being concerned in the production of a controlled drug’ contrary to section 4(2) of the Misuse of Drugs Act 1971:

“Subject to section 28 of this Act, it is an offence for a person—

(a) to produce a controlled drug in contravention of subsection (1) above; or

(b) to be concerned in the production of such a drug in contravention of that subsection by another.”

The drafting of the provision targets particular behaviour, as opposed to listing every type of drug which it is an offence to produce – thus it looks like a single offence.

However, there are three different maximum penalties available for this behaviour, reflecting the three different drug classifications (i.e. Class A, B and C), e.g. the production of heroin (Class A) carries a maximum sentence of life imprisonment, compared to 5 years for the production of ketamine (Class C).

Applying the Ministry of Justice’s counting rules; section 4(2) would be counted as containing three offences:

- an offence of producing or being concerned in the production of a Class A drug with a maximum custodial penalty of life imprisonment (on conviction on indictment) or 6 months (on summary conviction);
- an offence of producing or being concerned in the production of a Class B drug with a maximum custodial penalty of 14 years’ imprisonment (on conviction on indictment) or 6 months (on summary conviction), and;
- an offence of producing or being concerned in the production of a Class C drug with a maximum custodial penalty of 14 years’ imprisonment (on conviction on indictment) or 3 months (on summary conviction).

Legislation

This bulletin covers criminal offences in primary and secondary legislation which take effect in England and Wales. Legislation that applies outside England and Wales only or applies only at a limited local level has not been included.

Accordingly, the following legislative vehicles are not counted:

- Byelaws;
- Transport and Work Act orders;
- Harbour orders;
- Private Bills;
- Hybrid Bills;
- Devolved legislation

In addition, criminal offences created by the Ministry of Defence are not included. These are specific to the armed forces and do not apply to the public at large.

Timing

The point in time at which an offence is counted impacts on the number of offences included within a given 12 month period. Offences in secondary legislation have been counted at the date they come into force. Since the commencement of primary legislation can be very complicated, criminal offences contained in Acts of Parliament are counted from the date of Royal Assent.

International obligations

The UK is a signatory to various international treaties and Government departments are responsible, where appropriate, for implementing into domestic law requirements arising from these international obligations. The Ministry of Justice has recorded where the offence is arising from international obligations, such as European Union legislation.

Example:

The Export Control Order (Libya) 2011

This Order puts in place criminal penalties for breach of directly applicable EU legislation prohibiting trade, technical assistance, financial assistance or brokering in equipment that may be used for internal repression in Libya.

Under the powers of section 2(2) of the European Communities Act 1972 the criminal offences arising from Council Regulation (EU) No.961/2010 of 25 October 2010 were introduced domestically.

ANNEX D: Glossary

Byelaws

These are laws of local or limited application made by local councils or other bodies using powers granted by an Act of Parliament. Some byelaws are made by private companies or charities that exercise public or semi-public functions, such as airport operators, water companies or the National Trust.

Commencement date

This refers to the date on which a primary legislative provision comes into force. Different sections of the same Act of Parliament may be commenced at different times, and may even be commenced for different purposes at different times.

Criminal offence

An act punishable by law in the criminal courts of England & Wales. This does not include civil offences that may be categorised as criminal for the purposes of ensuring adequate procedural safeguards by the European Court of Human Rights.

Harbour Order

Orders made under powers given in the Harbours Act 1964 for the effective management of a harbour. Formerly under the responsibility of the Department for Transport, applications are now dealt with via the Marine Management Organisation.

Hybrid Bills

Hybrid Bills mix the characteristics of Public and Private Bills. The changes to the law proposed by a Hybrid Bill would partly affect the general public but would also have a significant impact for specific individuals or groups. The Bills passed concerning the construction of the Channel Tunnel are examples of Hybrid Bills.

Indictable only offences

These are the most serious criminal offences and must be tried in the Crown Court. Indictable only offences include murder, manslaughter, rape and robbery.

Primary legislation

General term used to describe an Act of Parliament. It originates as a Bill and is debated in both the House of Commons and the House of Lords, and becomes an Act of Parliament on receiving Royal Assent from the Queen.

Private Bill

Private Bills are usually promoted by organisations, like local authorities or private companies, to give themselves powers beyond, or in conflict with, the general law. Private Bills only change the law as it applies to specific individuals or organisations, rather than the general public. Groups or individuals potentially affected by these changes can petition Parliament against the proposed Bill and present their objections to committees of MPs and Lords.

Public Bill

Public Bills change the law as it applies to the general population and are the most common type of Bill introduced in Parliament. Government ministers propose the majority of Public Bills - those put forward by other MPs or Lords are known as Private Members' Bills.

Re-enactment

Re-making a law that has been repealed.

Repeal (primary legislation) **or Revoke** (secondary legislation)

A type of legislative amendment where the effect is to remove part or all of a piece of legislation. Amending legislation may specify that words or provisions "shall be omitted" or "shall cease to have effect" or it may simply say the provision "is revoked" or "is repealed".

Royal Assent

When a Bill has completed all its Parliamentary stages in both Houses, it will become an Act of Parliament (law) when it receives Royal Assent. Royal Assent is the Monarch's formal agreement to the legislation. This is not necessarily the point at which the legislation comes into effect.

Secondary legislation

Secondary, delegated or subordinate legislation is made by a person or body (usually a Minister) under authority contained in primary legislation. It allows the provisions of an Act of Parliament to be brought into force, supplemented or altered without having to pass a new Act. Secondary legislation includes rules, regulations and orders.

Summary only offences

These offences may only be tried in the magistrates' court (unless a defendant is tried at the Crown Court for a mixture of indictable and summary only offences). Summary only offences are the least serious offences.

Transport and Work Act Order

This is the usual means of authorising a new railway or tramway specific scheme in England and Wales. Applications for orders are made to the relevant Secretary of State or to the Welsh Assembly Government. Applications are made by, or on behalf of, the promoters of the scheme. For more information visit the Department for Transport website here: <http://www.dft.gov.uk/pgr/twa/>

Triable either-way offences

These offences may be tried summarily at the magistrates' court or on indictment at the Crown Court, carrying a different maximum sentence depending on where they are heard. These offences include theft and burglary for example.

ANNEX E: Revisions policy

In accordance with Principle 2 of the Code of Practice for Office Statistics, the Ministry of Justice is required to publish transparent guidance on its policy for revisions. A copy of this statement can be found at:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/218490/statistics-revisions-policy.pdf

The three reasons specified for statistics needing to be revised are changes in sources of administrative systems or methodology changes, receipt of subsequent information, and errors in statistical systems and processes. Each of these points, and its specific relevance to the criminal justice statistics publication, are addressed below:

1. Changes in source of administrative systems/methodology changes

The data within this publication comes from a variety of administrative systems. This technical document will clearly present where there have been revisions to data accountable to switches in methodology or administrative systems. In addition, statistics affected within the publication will be appropriately footnoted.

2. Receipt of subsequent information

The nature of any administrative system is that data may be received late. For the purpose of this New Criminal Offences bulletin, the late data will be reviewed on an annual basis but, unless it is deemed to make significant changes to the statistics released; revisions will be made to the annual statistics. However, if the review shows that the late data has major impact on the statistics then revisions will be released as part of a revised publication.

3. Errors in statistical systems and processes

Occasionally errors can occur in statistical processes; procedures are constantly reviewed to minimise this risk. Should a significant error be found the publication on the website will be updated and an errata slip published documenting the revision.

Contact points for further information

Current editions of this publication are available for download at:
www.justice.gov.uk/statistics/criminal-justice/new-criminal-offences

Press enquiries should be directed to the Ministry of Justice press office:

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We welcome the views of users on the format, content and timing of reports. These views and other general enquiries about the statistical work of the Ministry of Justice can be emailed to: statistics.enquiries@justice.gsi.gov.uk

Other National Statistics publications, and general information about the official statistics system of the UK, are available from www.statistics.gov.uk