

# **POLICE, CRIME, SENTENCING AND COURTS BILL: KEELING SCHEDULES FOR HOME OFFICE**

This document shows provisions in other enactments as they would be amended by the Bill. It is intended to assist the consideration of these provisions in the Bill and should not be taken as a definitive statement of the law as it would have effect on the enactment of the Bill.

Deletions are shown ~~struck through~~ and additions in *italics*.

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**SECTION 30A OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPHS 2 AND 17 OF SCHEDULE 4 TO THE BILL**

30A: Release of a person arrested elsewhere than at police station

~~(1) A constable may release a person who is arrested or taken into custody in the circumstances mentioned in section 30(1)—~~

~~(a) without bail unless subsection (1A) applies, or~~

~~(b) on bail if subsection (1A) applies.~~

*(1) If subsection (1A) applies, a constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).*

(1A) This subsection applies if—

(a) the constable is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and

(b) ~~a police officer of the rank of inspector or above~~ a custody officer authorises the release on bail (having considered any representations made by the person).

*(1B) In determining whether releasing the person on bail is necessary and proportionate in all the circumstances, the constable must have regard in particular to—*

*(a) the need to secure that the person surrenders to custody,*

*(b) the need to prevent offending by the person,*

*(c) the need to safeguard victims of crime and witnesses, taking into account any vulnerabilities of any alleged victim of, or alleged witness to, the offence for which the person was arrested where these vulnerabilities have been identified by the constable,*

*(d) the need to safeguard the person, taking into account any vulnerabilities of the person where these vulnerabilities have been identified by the constable, and*

*(e) the need to manage risks to the public.*

*(1C) If subsection (1A) does not apply, a constable may release without bail a person who is arrested or taken into custody in the circumstances mentioned in section 30(1).*

(2) A person may be released under subsection (1) or (1C) at any time before he arrives at a police station.

(3) A person released on bail under subsection (1) must be required to attend a police station.

(3A) Where a constable releases a person on bail under subsection (1)–  
    (a) no recognizance for the person's surrender to custody shall be taken from the person,  
    (b) no security for the person's surrender to custody shall be taken from the person or from anyone else on the person's behalf,  
    (c) the person shall not be required to provide a surety or sureties for his surrender to custody, and  
    (d) no requirement to reside in a bail hostel may be imposed as a condition of bail.

(3B) Subject to subsection (3A), where a constable releases a person on bail under subsection (1) the constable may impose, as conditions of the bail, such requirements as appear to the constable to be necessary–  
    (a) to secure that the person surrenders to custody,  
    (b) to secure that the person does not commit an offence while on bail,  
    (c) to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person, or  
    (d) for the person's own protection or, if the person is under the age of 18, for the person's own welfare or in the person's own interests.

(4) Where a person is released on bail under subsection (1), a requirement may be imposed on the person as a condition of bail only under the preceding provisions of this section.

(5) The police station which the person is required to attend may be any police station.

**SECTION 30B OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 25 OF SCHEDULE 4 TO THE BILL**

**30B: Section 30A: notices**

(1) Where a constable releases a person under section 30A, he must give that person a notice in writing before he is released.

(2) The notice must state—

- (a) the offence for which he was arrested,
- (b) the ground on which he was arrested, and
- (c) whether the person is being released without bail or on bail.

(3) A notice given to a person who is released on bail must inform him that he is required to attend a police station.

(4) The notice must also specify—

- (a) the police station which the person is required to attend, and
- (b) the time on the bail end date when the person is required to attend the police station.

(4A) If the person is granted bail subject to conditions under section 30A(3B), the notice also—

- (a) must specify the requirements imposed by those conditions,
- (b) must explain the opportunities under sections 30CA(1) and 30CB(1) for variation of those conditions.

(6) The person may be required to attend a different police station from that specified in the notice under subsection (1) or to attend at a different time or an additional time

(6A) A person may not be required under subsection (6) to attend a police station at a time which is after the bail end date in relation to the person.

(7) He must be given notice in writing of any such change as is mentioned in subsection (6) but more than one such notice may be given to him.

(8) In this section "bail end date", in relation to a person, means the last day of the period of ~~28 days~~ *3 months* beginning with the day after the day on which the person was arrested for the offence in relation to which bail is granted under section 30A.

**SECTION 34 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 3 OF SCHEDULE 4 AND PARAGRAPH 13 OF SCHEDULE 10 TO THE BILL**

**34: Limitations on police detention.**

(1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part of this Act.

(2) Subject to subsection (3) below, if at any time a custody officer—  
(a) becomes aware, in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply; and  
(b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part of this Act,  
it shall be the duty of the custody officer, subject to subsection (4) below, to order his immediate release from custody.

(3) No person in police detention shall be released except on the authority of a custody officer at the police station where his detention was authorised or, if it was authorised at more than one station, a custody officer at the station where it was last authorised.

(4) A person who appears to the custody officer to have been unlawfully at large when he was arrested is not to be released under subsection (2) above.

~~(5) A person whose release is ordered under subsection (2) above shall be released—~~

- ~~(a) without bail unless subsection (5A) applies, or~~
- ~~(b) on bail if subsection (5A) applies.~~

*(5) A person whose release is ordered under subsection (2) must be released on bail if subsection (5A) applies.*

(5A) This subsection applies if—

- (a) it appears to the custody officer—
  - (i) that there is need for further investigation of any matter in connection with which the person was detained at any time during the period of the person's detention, or
  - (ii) that, in respect of any such matter, proceedings may be taken against the person or the person may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998, and
- (b) the pre-conditions for bail are satisfied.

*(5AA) A person whose release is ordered under subsection (2) must be released without bail if subsection (5A) does not apply.*

(5B) Subsection (5C) applies where—

- (a) a person is released under subsection (5) or (5AA), and
- (b) the custody officer determines that—

- (i) there is not sufficient evidence to charge the person with an offence, or
- (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(5C) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(5D) Subsection (5C) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

(5E) In this Part “caution” *includes means*—

- ~~(a) a conditional caution within the meaning of Part 3 of the Criminal Justice Act 2003;~~
- (a) a diversionary or community caution under Part 6 of the Police, Crime, Sentencing and Courts Act 2021;
- (b) a youth conditional caution within the meaning of Chapter 1 of Part 4 of the Crime and Disorder Act 1998;
- (c) a youth caution under section 66ZA of that Act.

(6) For the purposes of this Part of this Act a person arrested under section 6D of the Road Traffic Act 1988 or section 30(2) of the Transport and Works Act 1992 (c. 42) is arrested for an offence.

(7) For the purposes of this Part a person who—

- (a) attends a police station to answer to bail granted under section 30A,
- (b) returns to a police station to answer to bail granted under this Part, or
- (c) is arrested under section 30D or 46A,

is to be treated as arrested for an offence and that offence is the offence in connection with which he was granted bail. But this subsection is subject to section 47(6) (which provides for the calculation of certain periods, where a person has been granted bail under this Part, by reference to time when the person is in police detention only)

(8) Subsection (7) does not apply in relation to a person who is granted bail subject to the duty mentioned in section 47(3)(b) and who either—

- (a) attends a police station to answer to such bail, or
- (b) is arrested under section 46A for failing to do so,

(provision as to the treatment of such persons for the purposes of this Part being made by section 46ZA).

**SECTION 36 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 4 OF SCHEDULE 4 TO THE BILL**

**36: Custody officers at police stations.**

- (1) One or more custody officers shall be appointed for each designated police station.
- (2) A custody officer for a police station designated under section 35(1) above shall be appointed—
  - (a) by the chief officer of police for the area in which the designated police station is situated; or
  - (b) by such other police officer as the chief officer of police for that area may direct.
- (2A) A custody officer for a police station designated under section 35(2A) above shall be appointed—
  - (a) by the Chief Constable of the British Transport Police Force; or
  - (b) by such other member of that Force as that Chief Constable may direct.
- (3) No officer may be appointed a custody officer unless the officer is of at least the rank of sergeant.
- (4) An officer of any rank may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.
- (5) Subject to the following provisions of this section and to section 39(2) below, none of the functions of a custody officer in relation to a person shall be performed by an officer who at the time when the function falls to be performed is involved in the investigation of an offence for which that person is in police detention at that time.
- (6) Nothing in subsection (5) above is to be taken to prevent a custody officer—
  - (a) performing any function assigned to custody officers—
    - (i) by this Act; or
    - (ii) by a code of practice issued under this Act;
  - (b) carrying out the duty imposed on custody officers by section 39 below;
  - (c) doing anything in connection with the identification of a suspect; or
  - (d) doing anything under sections 7 and 8 of the Road Traffic Act 1988.
- (7) Where an arrested person is taken to a police station which is not a designated police station, the functions in relation to him which at a designated police station would be the functions of a custody officer shall be performed—
  - (a) by an officer who is not involved in the investigation of an offence for which he is in police detention, if such an officer is readily available; and
  - (b) if no such officer is readily available, by the officer who took him to the station or any other officer.

(7A) Subject to subsection (7B), subsection (7) applies where a person attends a police station which is not a designated station to answer to bail granted under section 30A as it applies where a person is taken to such a station.

(7B) Where subsection (7) applies because of subsection (7A), the reference in subsection (7)(b) to the officer who took him to the station is to be read as a reference to the officer who granted him bail.

*(7C) The reference to a custody officer in section 30A(1A)(b) includes a reference to an officer other than a custody officer who is performing the functions of a custody officer by virtue of subsection (4) above.*

(8) References to a custody officer in section 34 above or in the following provisions of this Act include references to an officer other than a custody officer who is performing the functions of a custody officer by virtue of subsection (4) or (7) above.

(9) Where by virtue of subsection (7) above an officer of a force maintained by a local policing body who took an arrested person to a police station is to perform the functions of a custody officer in relation to him, the officer shall inform an officer who—

- (a) is attached to a designated police station; and
- (b) is of at least the rank of inspector,

that he is to do so.

(10) The duty imposed by subsection (9) above shall be performed as soon as it is practicable to perform it.



**SECTION 37 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 5 OF SCHEDULE 4 AND PARAGRAPH 13 OF SCHEDULE 10 TO THE BILL**

37: Duties of custody officer before charge.

(1) Where—

(a) a person is arrested for an offence—

(i) without a warrant; or

(ii) under a warrant not endorsed for bail,

the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.

~~(2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released—~~

~~(a) without bail unless the pre-conditions for bail are satisfied, or~~

~~(b) on bail if those pre-conditions are satisfied,~~

~~(subject to subsection (3)).~~

(2) If—

(a) the custody officer (“C”) determines that C does not have such evidence before C, and

(b) the pre-conditions for bail are satisfied,

the person arrested must be released on bail (subject to subsection (3)).

(2A) If—

(a) the custody officer (“C”) determines that C does not have such evidence before C, and

(b) the pre-conditions for bail are not satisfied,

the person arrested must be released without bail (subject to subsection (3)).

(3) If the custody officer has reasonable grounds for believing that the person's detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person, he may authorise the person arrested to be kept in police detention.

(4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to subsection (6) below, the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.

(6) Subsection (5) above shall not apply where the person arrested is, at the time when the written record is made—

- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

(6A) Subsection (6B) applies where—

- (a) a person is released under subsection (2) *or* (2A), and
- (b) the custody officer determines that—
  - (i) there is not sufficient evidence to charge the person with an offence, or
  - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6B) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(6C) Subsection (6B) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

(7) Subject to section 41(7) below, if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested—

- (a) shall be—
  - (i) released without charge and on bail, or
  - (ii) kept in police detention,for the purpose of enabling the Director of Public Prosecutions to make a decision under section 37B below,  
~~(b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied;~~  
~~(c) shall be released without charge and on bail if those pre-conditions are satisfied but not for the purpose mentioned in paragraph (a), or~~  
*(b) shall be released—*
  - (i) without charge, and*
  - (ii) if the pre-conditions for bail are satisfied, on bail, but not for the purpose mentioned in paragraph (a),*  
*(c) shall be released—*
  - (i) without charge, and*
  - (ii) if the pre-conditions for bail are not satisfied, without bail, or*
- (d) shall be charged.

(7A) The decision as to how a person is to be dealt with under subsection (7) above shall be that of the custody officer.

(7B) Where a person is dealt with under subsection (7)(a) above, it shall be the duty of the custody officer to inform him that he is being released, or (as the case may be) detained, to enable the Director of Public Prosecutions to make a decision under section 37B below.

(8) Where—

- (a) a person is released under subsection (7)(b) or (c) above; and

(b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken, it shall be the duty of the custody officer so to inform him.

(8ZA) Where—

- (a) a person is released under subsection (7)(b) or (c), and
- (b) the custody officer makes a determination as mentioned in subsection (6A)(b),

subsections (6B) and (6C) apply.

(8A) Subsection (8B) applies if the offence for which the person is arrested is one in relation to which a sample could be taken under section 63B below and the custody officer—

- (a) is required in pursuance of subsection (2) above to release the person arrested and decides to release him on bail, or
- (b) decides in pursuance of subsection (7)(a) or ~~(c)~~ (b) above to release the person without charge and on bail.

(8B) The detention of the person may be continued to enable a sample to be taken under section 63B, but this subsection does not permit a person to be detained for a period of more than 24 hours after the relevant time.

(9) If the person arrested is not in a fit state to be dealt with under subsection (7) above, he may be kept in police detention until he is.

(10) The duty imposed on the custody officer under subsection (1) above shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

(15) In this Part of this Act—

“arrested juvenile” means a person arrested with or without a warrant who appears to be under the age of 18;

“endorsed for bail” means endorsed with a direction for bail in accordance with section 117(2) of the Magistrates' Courts Act 1980.

**SECTION 37CA OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 6 OF SCHEDULE 4 TO THE BILL**

**37CA: Breach of bail following release under ~~section 37(7)(c)~~ section 37(7)(b)**

(1) This section applies where a person released on bail under ~~section 37(7)(c)~~ section 37(7)(b) above or subsection (2)(b) below—

- (a) is arrested under section 46A below in respect of that bail, and
- (b) is being detained following that arrest at the police station mentioned in section 46A(2) below.

(2) The person arrested—

- (a) shall be charged, or
- ~~(b) shall be released without charge—~~
  - ~~(i) without bail unless the pre-conditions for bail are satisfied, or~~
  - ~~(ii) on bail if those pre-conditions are satisfied.~~
- (b) shall be released—*
  - (i) without charge, and*
  - (ii) if the pre-conditions for bail are satisfied, on bail, or*
- (c) shall be released—*
  - (i) without charge, and*
  - (ii) if the pre-conditions for bail are not satisfied, without bail.*

(3) The decision as to how a person is to be dealt with under subsection (2) above shall be that of a custody officer.

(4) A person released on bail under subsection (2)(b) above shall be released on bail subject to the same conditions (if any) which applied immediately before his arrest (and the reference in section 50A to any conditions of bail which would be imposed is to be read accordingly).

(5) Subsection (6) applies where—

- (a) a person is released under subsection (2), and
- (b) a custody officer determines that—
  - (i) there is not sufficient evidence to charge the person with an offence, or
  - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(6) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(7) Subsection (6) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

**SECTION 37D OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 7 OF SCHEDULE 4 TO THE BILL**

**37D: Release on bail under section 37: further provision**

[(1)-(3) Repealed]

(4) Where a person released on bail under section 37(7)(a) or 37C(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37B or 37C above or to enable the power under section 47(4A) to be exercised.

(4A) Where a person released on bail under ~~section 37(7)(c)~~ *section 37(7)(b)* or 37CA(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37CA above or to enable the power under section 47(4A) to be exercised.

(5) If the person mentioned in subsection (4) or (4A) above is not in a fit state to enable him to be dealt with as mentioned in that subsection or to enable the power under section 47(4A) to be exercised, he may be kept in police detention until he is.

(6) Where a person is kept in police detention by virtue of subsection (4), (4A) or (5) above, section 37(1) to (3) and (7) above (and section 40(8) below so far as it relates to section 37(1) to (3)) shall not apply to the offence in connection with which he was released on bail under section 37(7), 37C(2)(b) or 37CA(2)(b) above.

**SECTION 41 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPHS 8 AND 35 OF SCHEDULE 4 TO THE BILL**

**41: Limits on period of detention without charge.**

(1) Subject to the following provisions of this section and to sections 42 and 43 below, a person shall not be kept in police detention for more than 24 hours without being charged.

(2) The time from which the period of detention of a person is to be calculated (in this Act referred to as “the relevant time”)—

(a) in the case of a person to whom this paragraph applies, shall be—  
(i) the time at which that person arrives at the relevant police station;  
or

(ii) the time 24 hours after the time of that person's arrest,  
whichever is the earlier;

(b) in the case of a person arrested outside England and Wales, shall be—

(i) the time at which that person arrives at the first police station to which he is taken in the police area in England or Wales in which the offence for which he was arrested is being investigated; or

(ii) the time 24 hours after the time of that person's entry into England and Wales,

whichever is the earlier;

(c) in the case of a person who—

(i) attends voluntarily at a police station; or

(ii) accompanies a constable to a police station without having been arrested,

and is arrested at the police station, the time of his arrest;

(ca) in the case of a person who attends a police station to answer to bail granted under section 30A, the time when he arrives at the police station;

(d) in any other case, except where subsection (5) below applies, shall be the time at which the person arrested arrives at the first police station to which he is taken after his arrest.

(3) Subsection (2)(a) above applies to a person if—

(a) his arrest is sought in one police area in England and Wales;

(b) he is arrested in another police area; and

(c) he is not questioned in the area in which he is arrested in order to obtain evidence in relation to an offence for which he is arrested;

and in sub-paragraph (i) of that paragraph “the relevant police station” means the first police station to which he is taken in the police area in which his arrest was sought.

(4) Subsection (2) above shall have effect in relation to a person arrested under section 31 above as if every reference in it to his arrest or his being arrested were a reference to his arrest or his being arrested for the offence for which he was originally arrested.

(5) If—

- (a) a person is in police detention in a police area in England and Wales (“the first area”); and
- (b) his arrest for an offence is sought in some other police area in England and Wales (“the second area”); and
- (c) he is taken to the second area for the purposes of investigating that offence, without being questioned in the first area in order to obtain evidence in relation to it,

the relevant time shall be—

- (i) the time 24 hours after he leaves the place where he is detained in the first area; or
- (ii) the time at which he arrives at the first police station to which he is taken in the second area,

whichever is the earlier.

(6) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purpose of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part of this Act, but any other time while he is in hospital or on his way there or back shall not be so included.

(7) Subject to subsection (8) below, a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time —

- ~~(a) without bail unless the pre-conditions for bail are satisfied, or~~
- ~~(b) on bail if those pre-conditions are satisfied.~~
- (a) on bail, if the pre-conditions for bail are satisfied, or*
- (b) without bail, if those pre-conditions are not satisfied.*

(8) Subsection (7) above does not apply to a person whose detention for more than 24 hours after the relevant time has been authorised or is otherwise permitted in accordance with section 42 or 43 below.

(9) A person released under subsection (7) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release; but this subsection does not prevent an arrest under section 46A below.

(10) Subsection (11) applies where—

- (a) a person is released under subsection (7), and
- (b) a custody officer determines that—
  - (i) there is not sufficient evidence to charge the person with an offence, or
  - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(11) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(12) Subsection (11) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

*(13) Section 47(6) and (6A) makes further provision about the calculation of a period of police detention for the purposes of this Part.*



**SECTION 42 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 9 OF SCHEDULE 4 TO THE BILL**

**42: Authorisation of continued detention.**

(1) Where a police officer of the rank of superintendent or above who is responsible for the police station at which a person is detained has reasonable grounds for believing that—

- (a) the detention of that person without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
  - (b) an offence for which he is under arrest is an indictable offence; and
  - (c) the investigation is being conducted diligently and expeditiously,
- he may authorise the keeping of that person in police detention for a period expiring at or before 36 hours after the relevant time.

(2) Where an officer such as is mentioned in subsection (1) above has authorised the keeping of a person in police detention for a period expiring less than 36 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 36 hours after that time if the conditions specified in subsection (1) above are still satisfied when he gives the authorisation.

(3) If it is proposed to transfer a person in police detention to another police area, the officer determining whether or not to authorise keeping him in detention under subsection (1) above shall have regard to the distance and the time the journey would take.

(4) No authorisation under subsection (1) above shall be given in respect of any person—

- (a) more than 24 hours after the relevant time; or
- (b) before the second review of his detention under section 40 above has been carried out.

(5) Where an officer authorises the keeping of a person in police detention under subsection (1) above, it shall be his duty—

- (a) to inform that person of the grounds for his continued detention; and
- (b) to record the grounds in that person's custody record.

(6) Before determining whether to authorise the keeping of a person in detention under subsection (1) or (2) above, an officer shall give—

- (a) that person; or
- (b) any solicitor representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,

an opportunity to make representations to him about the detention.

(7) Subject to subsection (8) below, the person in detention or his solicitor may make representations under subsection (6) above either orally or in writing.

(8) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.

(9) Where—

- (a) an officer authorises the keeping of a person in detention under subsection (1) above; and
- (b) at the time of the authorisation he has not yet exercised a right conferred on him by section 56 or 58 below,

the officer—

- (i) shall inform him of that right;
- (ii) shall decide whether he should be permitted to exercise it;
- (iii) shall record the decision in his custody record; and
- (iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.

(10) Where an officer has authorised the keeping of a person who has not been charged in detention under subsection (1) or (2) above, he shall be released from detention, not later than 36 hours after the relevant time —

~~(a) without bail unless the pre-conditions for bail are satisfied, or~~

~~(b) on bail if those pre-conditions are satisfied,~~

~~(subject to subsection (10A)).~~

*(a) on bail, if the pre-conditions for bail are satisfied, or*

*(b) without bail, if those pre-conditions are not satisfied,*

*subject to subsection (10A).*

(10A) Subsection (10) does not apply if—

- (a) the person has been charged with an offence, or
- (b) the person's continued detention is authorised or otherwise permitted in accordance with section 43.

(11) A person released under subsection (10) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release; but this subsection does not prevent an arrest under section 46A below.

(12) Subsection (13) applies where—

- (a) a person is released under subsection (10), and
- (b) a custody officer determines that—
  - (i) there is not sufficient evidence to charge the person with an offence, or
  - (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(13) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(14) Subsection (13) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

**SECTION 43 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 10 OF SCHEDULE 4 TO THE BILL**

**43: Warrants of further detention.**

(1) Where, on an application on oath made by a constable and supported by an information, a magistrates' court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

(2) A court may not hear an application for a warrant of further detention unless the person to whom the application relates—

- (a) has been furnished with a copy of the information; and
- (b) has been brought before the court for the hearing.

(3) The person to whom the application relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented—

- (a) the court shall adjourn the hearing to enable him to obtain representation; and
- (b) he may be kept in police detention during the adjournment.

(4) A person's further detention is only justified for the purposes of this section or section 44 below if—

- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is an indictable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(5) Subject to subsection (7) below, an application for a warrant of further detention may be made—

- (a) at any time before the expiry of 36 hours after the relevant time; or
- (b) in a case where—
  - (i) it is not practicable for the magistrates' court to which the application will be made to sit at the expiry of 36 hours after the relevant time; but
  - (ii) the court will sit during the 6 hours following the end of that period, at any time before the expiry of the said 6 hours.

(6) In a case to which subsection (5)(b) above applies—

- (a) the person to whom the application relates may be kept in police detention until the application is heard; and
- (b) the custody officer shall make a note in that person's custody record—
  - (i) of the fact that he was kept in police detention for more than 36 hours after the relevant time; and
  - (ii) of the reason why he was so kept.

(7) If—

(a) an application for a warrant of further detention is made after the expiry of 36 hours after the relevant time; and  
(b) it appears to the magistrates' court that it would have been reasonable for the police to make it before the expiry of that period,  
the court shall dismiss the application.

(8) Where on an application such as is mentioned in subsection (1) above a magistrates' court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified, it shall be its duty—

- (a) to refuse the application; or
- (b) to adjourn the hearing of it until a time not later than 36 hours after the relevant time.

(9) The person to whom the application relates may be kept in police detention during the adjournment.

(10) A warrant of further detention shall—

- (a) state the time at which it is issued;
- (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.

(11) Subject to subsection (12) below, the period stated in a warrant of further detention shall be such period as the magistrates' court thinks fit, having regard to the evidence before it.

(12) The period shall not be longer than 36 hours.

(13) If it is proposed to transfer a person in police detention to a police area other than that in which he is detained when the application for a warrant of further detention is made, the court hearing the application shall have regard to the distance and the time the journey would take.

(14) Any information submitted in support of an application under this section shall state—

- (a) the nature of the offence for which the person to whom the application relates has been arrested;
- (b) the general nature of the evidence on which that person was arrested;
- (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by them;
- (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries.

(15) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (16) below, released, —

- ~~(a) without bail unless the pre-conditions for bail are satisfied, or~~
- ~~(b) on bail if those pre-conditions are satisfied.~~
- (a) on bail, if the pre-conditions for bail are satisfied, or*
- (b) without bail, if those pre-conditions are not satisfied.*

(16) A person need not be released under subsection (15) above—  
    (a) before the expiry of 24 hours after the relevant time; or  
    (b) before the expiry of any longer period for which his continued detention is or has been authorised under section 42 above.

(17) Where an application under this section is refused, no further application shall be made under this section in respect of the person to whom the refusal relates, unless supported by evidence which has come to light since the refusal.

(18) Where a warrant of further detention is issued, the person to whom it relates shall, unless the person is charged, be released from police detention upon or before the expiry of the warrant—  
    ~~(a) without bail unless the pre-conditions for bail are satisfied, or~~  
    ~~(b) on bail if those pre-conditions are satisfied.~~  
    (a) on bail, if the pre-conditions for bail are satisfied, or  
    (b) without bail, if those pre-conditions are not satisfied.

(19) A person released under subsection (18) above shall not be re-arrested without a warrant for the offence for which he was previously arrested unless, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before his release; but this subsection does not prevent an arrest under section 46A below.

(20) Subsection (21) applies where—  
    (a) a person is released under subsection (15) or (18), and  
    (b) a custody officer determines that—  
        (i) there is not sufficient evidence to charge the person with an offence, or  
        (ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(21) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(22) Subsection (21) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.

**SECTION 44 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 11 OF SCHEDULE 4 TO THE BILL**

**44: Extension of warrants of further detention.**

(1) On an application on oath made by a constable and supported by an information a magistrates' court may extend a warrant of further detention issued under section 43 above if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.

(2) Subject to subsection (3) below, the period for which a warrant of further detention may be extended shall be such period as the court thinks fit, having regard to the evidence before it.

(3) The period shall not—  
(a) be longer than 36 hours; or  
(b) end later than 96 hours after the relevant time.

(4) Where a warrant of further detention has been extended under subsection (1) above, or further extended under this subsection, for a period ending before 96 hours after the relevant time, on an application such as is mentioned in that subsection a magistrates' court may further extend the warrant if it is satisfied as there mentioned; and subsections (2) and (3) above apply to such further extensions as they apply to extensions under subsection (1) above.

(5) A warrant of further detention shall, if extended or further extended under this section, be endorsed with a note of the period of the extension.

(6) Subsections (2), (3) and (14) of section 43 above shall apply to an application made under this section as they apply to an application made under that section.

(7) Where an application under this section is refused, the person to whom the application relates shall forthwith be charged or, subject to subsection (8) below, released —

~~(a) without bail unless the pre-conditions for bail are satisfied, or~~

~~(b) on bail if those pre-conditions are satisfied.~~

*(a) on bail, if the pre-conditions for bail are satisfied, or*

*(b) without bail, if those pre-conditions are not satisfied*

(8) A person need not be released under subsection (7) above before the expiry of any period for which a warrant of further detention issued in relation to him has been extended or further extended on an earlier application made under this section.

(9) Subsection (10) applies where—

(a) a person is released under subsection (7), and

(b) a custody officer determines that—

(i) there is not sufficient evidence to charge the person with an offence, or

(ii) there is sufficient evidence to charge the person with an offence but the person should not be charged with an offence or given a caution in respect of an offence.

(10) The custody officer must give the person notice in writing that the person is not to be prosecuted.

(11) Subsection (10) does not prevent the prosecution of the person for an offence if new evidence comes to light after the notice was given.



## **SECTION 47 OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 36 OF SCHEDULE 4 TO THE BILL**

### **47: Bail after arrest.**

(1) Subject to the following provisions of this section , a release on bail of a person under this Part of this Act shall be a release on bail granted in accordance with sections 3, 3A, 5 and 5A of the Bail Act 1976 as they apply to bail granted by a constable.

(1A) The normal powers to impose conditions of bail shall be available to him where a custody officer releases a person on bail under this Part (except sections 37C(2)(b) and 37CA(2)(b)). In this subsection, “the normal powers to impose conditions of bail” has the meaning given in section 3(6) of the Bail Act 1976.

(1B) No application may be made under section 5B of the Bail Act 1976 if a person is released on bail under section 37C(2)(b) or 37CA(2)(b) above.

(1C) Subsections (1D) to (1F) below apply where a person released on bail under section 37C(2)(b) or 37CA(2)(b) above is on bail subject to conditions.

(1D) The person shall not be entitled to make an application under section 43B of the Magistrates' Courts Act 1980.

(1E) A magistrates' court may, on an application by or on behalf of the person, vary the conditions of bail; and in this subsection “vary” has the same meaning as in the Bail Act 1976.

(1F) Where a magistrates' court varies the conditions of bail under subsection (1E) above, that bail shall not lapse but shall continue subject to the conditions as so varied.

(2) Nothing in the Bail Act 1976 shall prevent the re-arrest without warrant of a person released on bail subject to a duty to attend at a police station if, since the person's release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person's release .

(3) Subject to subsections (3A) and (4) below, in this Part of this Act references to “bail” are references to bail subject to a duty—

(a) to appear before a magistrates' court at such time and such place as the custody officer may appoint;

(b) to attend at such police station as the custody officer may appoint at such time as he may appoint for the purposes of—

(i) proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 (use of live link direction at preliminary hearings where accused is at police station); and

(ii) any preliminary hearing in relation to which such a direction is given; or

(c) to attend at such police station as the custody officer may appoint at such time as he may appoint for purposes other than those mentioned in paragraph (b) (subject to section 47ZA).

(3A) Where a custody officer grants bail to a person subject to a duty to appear before a magistrates' court, he shall appoint for the appearance—

- (a) a date which is not later than the first sitting of the court after the person is charged with the offence; or
- (b) where he is informed by the designated officer for the relevant local justice area that the appearance cannot be accommodated until a later date, that later date.

(4) Where a custody officer has granted bail to a person subject to a duty to appear at a police station, the custody officer may give notice in writing to that person that his attendance at the police station is not required.

(4A) Where a person has been granted bail under this Part subject to a duty to attend at a police station, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail.

(4B) The custody officer must give the person notice in writing of the exercise of the power under subsection (4A).

(4C) The exercise of the power under subsection (4A) does not affect the conditions of bail (if any).

(4D) A custody officer may not appoint a time for a person's attendance under subsection (4A) which is after the end of the applicable bail period in relation to the person.

(4E) Subsection (4D) is subject to section 47ZL.

(6) Where a person who has been granted bail under this Part and either has attended at the police station in accordance with the grant of bail or has been arrested under section 46A above is detained at a police station, any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part of this Act and any time during which he was on bail shall not be so included.

*(6A) Where a person has been arrested under section 46A above (other than in a case within subsection (1ZA) or (1ZB) of that section) the period of 3 hours beginning with the time at which the person arrives at a police station following the arrest is not to be included as part of any period of police detention which falls to be calculated in relation to the person under this Part of this Act.*

(7) Where a person who was released on bail under this Part subject to a duty to attend at a police station is re-arrested, the provisions of this Part of this Act shall apply to him as they apply to a person arrested for the first time; but this subsection does not apply to a person who is arrested under section 46A above or has attended

a police station in accordance with the grant of bail (and who accordingly is deemed by section 34(7) above to have been arrested for an offence) or to a person to whom section 46ZA(4) or (5) applies.

(8) In the Magistrates' Courts Act 1980—

(a) the following section shall be substituted for section 43—

**43.— “Bail on arrest**

(1) Where a person has been granted bail under the Police and Criminal Evidence Act 1984 subject to a duty to appear before a magistrates' court, the court before which he is to appear may appoint a later time as the time at which he is to appear and may enlarge the recognizances of any sureties for him at that time.

(2) The recognizance of any surety for any person granted bail subject to a duty to attend at a police station may be enforced as if it were conditioned for his appearance before a magistrates' court for the petty sessions area in which the police station named in the recognizance is situated.”

; and

(b) the following subsection shall be substituted for section 117(3)—

“(3) Where a warrant has been endorsed for bail under subsection (1) above—

(a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and

(b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.”.

**SECTION 47ZB OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 26 OF SCHEDULE 4 TO THE BILL**

**47ZB: Applicable bail period: initial limit**

- (1) In this Part the "applicable bail period", in relation to a person, means—
- (a) in an ~~SFO case~~ *FCA case, HMRC case, NCA case or SFO case*, the period of ~~3 months~~ *6 months* beginning with the person's bail start date, or
  - (b) ~~in an FCA case or any other case~~ *in any other case*, the period of ~~28 days~~ *3 months* beginning with the person's bail start date.
- (2) The applicable bail period in relation to a person may be extended under sections 47ZD to 47ZG or treated as extended under section 47ZJ(3).
- (3) Subsection (1) and sections 47ZD to 47ZG are subject to sections 47ZL and 47ZM.
- (4) For the purposes of this Part—
- (a) a person's bail start date is the day after the day on which the person was arrested for the relevant offence,
  - (b) an "FCA case" is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by the Financial Conduct Authority, and
    - (ii) ~~a senior officer~~ *a member of staff of that Authority who is of the description designated for the purposes of this sub-paragraph by the Chief Executive of that Authority* confirms that sub-paragraph (i) applies,
  - (ba) an "HMRC case" is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by an officer of Revenue and Customs, and
    - (ii) an officer of Revenue and Customs confirms that sub-paragraph (i) applies,
  - (bb) an "NCA case" is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by the National Crime Agency, and
    - (ii) a National Crime Agency officer confirms that sub-paragraph (i) applies,
  - (c) an "SFO case" is a case in which—
    - (i) the relevant offence in relation to the person is being investigated by the Director of the Serious Fraud Office, and
    - (ii) ~~a senior officer~~ *a member of the Serious Fraud Office* confirms that sub-paragraph (i) applies, and
  - (d) ~~"senior officer" means a police officer of the rank of superintendent or above.~~

**SECTION 47ZC OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPHS 12 AND 27 OF SCHEDULE 4 TO THE BILL**

**47ZC: Applicable bail period: conditions A to D in sections 47ZD to 47ZG**

- (1) This section applies for the purposes of sections 47ZD to 47ZG.
- (2) Condition A is that the decision-maker has reasonable grounds for suspecting the person in question to be guilty of the relevant offence.
- (3) Condition B is that the decision-maker has reasonable grounds for believing—
  - (a) in a case where the person in question is or is to be released on bail under ~~section 37(7)(e)~~ *section 37(7)(b)* or 37CA(2)(b), that further time is needed for making a decision as to whether to charge the person with the relevant offence, or
  - (b) otherwise, that further investigation is needed of any matter in connection with the relevant offence.
- (4) Condition C is that the decision-maker has reasonable grounds for believing—
  - (a) in a case where the person in question is or is to be released on bail under ~~section 37(7)(e)~~ *section 37(7)(b)* or 37CA(2)(b), that the decision as to whether to charge the person with the relevant offence is being made diligently and expeditiously, or
  - (b) otherwise, that the investigation is being conducted diligently and expeditiously.
- (5) Condition D is that the decision-maker has reasonable grounds for believing that the release on bail of the person in question is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which are, or are to be, imposed).
- (6) In this section "decision-maker" means—
  - (a) in relation to a condition which falls to be considered by virtue of section 47ZD, the ~~senior officer~~ *relevant officer* in question;
  - (aa) *in relation to a condition which falls to be considered by virtue of section 47ZDA, the senior officer in question;*
  - (ab) *in relation to a condition which falls to be considered by virtue of section 47ZDB, the appropriate decisionmaker in question,*
  - (b) in relation to a condition which falls to be considered by virtue of section 47ZE, the ~~appropriate decision-maker~~ *qualifying police officer* in question;
  - (c) in relation to a condition which falls to be considered by virtue of section 47ZF or 47ZG, the court in question.

**SECTION 47ZD OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 27 OF SCHEDULE 4 TO THE BILL**

**47ZD: Applicable bail period: extension of initial limit in standard cases**

- (1) This section applies in relation to a person if—
  - (a) the applicable bail period in relation to the person is the period mentioned in section 47ZB(1)(b),
  - (b) that period has not ended, and
  - (c) a ~~senior officer~~ *relevant officer* is satisfied that conditions A to D are met in relation to the person.
  
- (2) The ~~senior officer~~ *relevant officer* may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of ~~3 months~~ *6 months* beginning with the person's bail start date.
  
- (3) Before determining whether to give an authorisation under subsection (2) in relation to a person, the ~~senior officer~~ *relevant officer* must arrange for the person or the person's legal representative to be informed that a determination is to be made.
  
- (4) In determining whether to give an authorisation under subsection (2) in relation to a person, the ~~senior officer~~ *relevant officer* must consider any representations made by the person or the person's legal representative.
  
- (5) The ~~senior officer~~ *relevant officer* must arrange for the person or the person's legal representative to be informed whether an authorisation under subsection (2) has been given in relation to the person.
  
- (6) *For the purposes of this Part "relevant officer" means a police officer of the rank of inspector or above.*

**SECTION 47ZE OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 30 OF SCHEDULE 4 TO THE BILL**

**47ZE: Applicable bail period: extension of limit in designated cases**

(1) This section applies in relation to a person if *a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZDA.*

- ~~(a) the person's case is an SFO case, or~~
- ~~(b) a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZD.~~

(2) ~~A qualifying prosecutor~~ *The Director of Public Prosecutions* may designate the person's case as being an exceptionally complex case (a "designated case").

(3) ~~If an appropriate decision-maker~~ *a qualifying police officer* is satisfied that conditions A to D are met in relation to the person in a designated case, ~~the decision-maker~~ *the officer* may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of ~~6 months~~ *12 months* beginning with the person's bail start date.

~~(4) An appropriate decision-maker is—~~

- ~~(a) a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this paragraph by the Chief Executive of the Authority (in an FCA case),~~
- ~~(b) a member of the Serious Fraud Office who is of the Senior Civil Service (in an SFO case), or~~
- ~~(c) a qualifying police officer (in any other case).~~

(5) Before determining whether to give an authorisation under subsection (3) in relation to a person—

- ~~(a) the appropriate decision-maker~~ *qualifying police officer* must arrange for the person or the person's legal representative to be informed that a determination is to be made, and
- ~~(b) if the appropriate decision-maker is a qualifying police officer, the officer must consult a qualifying prosecutor.~~
- (b) the qualifying police officer must consult the Director of Public Prosecutions.*

(6) In determining whether to give an authorisation under subsection (3) in relation to a person, ~~the appropriate decision-maker~~ *qualifying police officer* must consider any representations made by the person or the person's legal representative.

(7) ~~The appropriate decision-maker~~ *qualifying police officer* must arrange for the person or the person's legal representative to be informed whether an authorisation under subsection (3) has been given in relation to the person.

(8) Any designation under subsection (2) must be made, and any authorisation under subsection (3) must be given, before the applicable bail period in relation to the person has ended.

(9) In this section—

"qualifying police officer" means a police officer of the rank of commander or assistant chief constable or above, and

~~"qualifying prosecutor" means a prosecutor of the description designated for the purposes of this section by the Chief Executive of the Financial Conduct Authority, the Director of the Serious Fraud Office or the Director of Public Prosecutions.~~



**SECTION 47ZF OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 31 OF SCHEDULE 4 TO THE BILL**

**47ZF: Applicable bail period: first extension of limit by court**

- (1) This section applies in relation to a person if—
- ~~(a) the person's case is an SFO case,~~
  - (b) a senior officer has authorised an extension of the applicable bail period in relation to the person under ~~section 47ZD~~ *section 47ZDA*,
  - (ba) an appropriate decision-maker has authorised an extension of the applicable bail period in relation to the person under section 47ZDB, or*
  - (c) ~~an appropriate decision-maker~~ *a qualifying police officer* has authorised an extension of the applicable bail period in relation to the person under section 47ZE.
- (2) Before the applicable bail period in relation to the person ends a qualifying applicant may apply to a magistrates' court for it to authorise an extension of the applicable bail period in relation to the person under this section.
- (3) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case does not fall within subsection (7),
- it may authorise the applicable bail period to be extended as specified in subsection (4).
- (4) The applicable bail period is to end—
- (a) in a case falling within ~~subsection (1)(a) or (b)~~ *subsection (1)(b)*, at the end of the period of ~~6 months~~ *12 months* beginning with the person's bail start date;
  - (b) in a case falling within ~~subsection (1)(c)~~ *subsection (1)(ba) or (c)*, at the end of the period of ~~9 months~~ *18 months* beginning with the person's bail start date.
- (5) If the court is satisfied that—
- (a) conditions B to D are met in relation to the person, and
  - (b) the case falls within subsection (7),
- it may authorise the applicable bail period to be extended as specified in subsection (6).
- (6) The applicable bail period is to end—
- (a) in a case falling within ~~subsection (1)(a) or (b)~~ *subsection (1)(b)*, at the end of the period of ~~9 months~~ *18 months* beginning with the person's bail start date;
  - (b) in a case falling within ~~subsection (1)(c)~~ *subsection (1)(ba) or (c)*, at the end of the period of ~~12 months~~ *24 months* beginning with the person's bail start date.
- (7) A case falls within this subsection if the nature of the decision or further investigations mentioned in condition B means that that decision is unlikely to be

made or those investigations completed if the applicable bail period in relation to the person is not extended as specified in subsection (6).

(8) In this section "qualifying applicant" means—

- (a) a constable,
- (b) a member of staff of the Financial Conduct Authority who is of the description designated for the purposes of this subsection by the Chief Executive of the Authority,
  - (ba) an officer of Revenue and Customs,*
  - (bb) a National Crime Agency officer,*
- (c) a member of the Serious Fraud Office, or
- (d) a Crown Prosecutor.

**SECTION 47ZM OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPH 33 OF SCHEDULE 4 TO THE BILL**

**47ZM: Applicable bail period: special cases of release on bail under section 30A and periods in hospital**

(1) Subsections (2) and (3) apply where a person was released on bail under section 30A.

(2) The period of ~~28 days~~ *3 months* mentioned in section 30B(8) in relation to the person is to be treated as being the period of ~~28 days~~ *3 months* mentioned in section 47ZB(1)(b) in relation to the person.

(3) Any reference to the relevant offence, in relation to the person, is to be read as a reference to the offence in respect of which the power in section 30A(1) was exercised.

(4) Subsection (5) applies if, at any time on the day on which the applicable bail period in relation to a person would end, the person is in hospital as an in-patient.

(5) The running of the applicable bail period in relation to the person is to be treated as having been suspended for any day on which the patient was in hospital as an in-patient.

**SECTION 50A OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY PARAGRAPHS 13 AND 18 OF SCHEDULE 4 TO THE BILL**

**50A: Interpretation of references to pre-conditions for bail**

(1) For the purposes of this Part the following are the pre-conditions for bail in relation to the release of a person by a custody officer—

- (a) that the custody officer is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and
- ~~(b) that an officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person or the person's legal representative).~~
- (b) that the custody officer has considered any representations made by the person or the person's legal representative.*

(2) *In determining whether releasing the person on bail is necessary and proportionate in all the circumstances, the custody officer must have regard in particular to—*

- (a) the need to secure that the person surrenders to custody,*
- (b) the need to prevent offending by the person,*
- (c) the need to safeguard victims of crime and witnesses, taking into account any vulnerabilities of any alleged victim of, or alleged witness to, the offence for which the person was arrested where these vulnerabilities have been identified by the custody officer,*
- (d) the need to safeguard the person, taking into account any vulnerabilities of the person where these vulnerabilities have been identified by the custody officer, and*
- (e) the need to manage risks to the public.*

**SECTION 64A OF THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY CLAUSE 48(2) OF AND PARAGRAPH 18 OF SCHEDULE 10 TO THE BILL**

**64A: Photographing of suspects etc.**

- (1) A person who is detained at a police station may be photographed—
- (a) with the appropriate consent; or
  - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.

- (1A) A person falling within subsection (1B) below may, on the occasion of the relevant event referred to in subsection (1B), be photographed elsewhere than at a police station—
- (a) with the appropriate consent; or
  - (b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.

- (1B) A person falls within this subsection if he has been—
- (a) arrested by a constable for an offence;
  - (b) taken into custody by a constable after being arrested for an offence by a person other than a constable;
  - (c) made subject to a requirement to wait with a community support officer or a community support volunteer under paragraph 7 of Schedule 3B to the Police Reform Act 2002 (“the 2002 Act”);
  - (ca) given a direction by a constable under section 35 of the Anti-social Behaviour, Crime and Policing Act 2014;
  - (cb) given a diversionary or community caution under Part 6 of the Police, Crime, Sentencing and Courts Act 2021;
  - (d) given a penalty notice by a constable under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001, a penalty notice by a constable under section 444A of the Education Act 1996, or a fixed penalty notice by a constable in uniform under section 54 of the Road Traffic Offenders Act 1988;
  - (e) given a fixed penalty notice by a community support officer or community support volunteer who is authorised to give the notice by virtue of his or her designation under section 38 of the Police Reform Act 2002; or
  - (f) given a notice in relation to a relevant fixed penalty offence (within the meaning of paragraph 1 of Schedule 5 to the 2002 Act) by an accredited person by virtue of accreditation specifying that that paragraph applies to him;
  - or
  - (g) given a notice in relation to a relevant fixed penalty offence (within the meaning of Schedule 5A to the 2002 Act) by an accredited inspector by virtue of accreditation specifying that paragraph 1 of Schedule 5A to the 2002 Act applies to him.

- (1C) A person to whom subsection (1) or (1A) does not apply may be photographed at a police station without the appropriate consent if that person falls within subsection (1D), (1F) or (1H).

*(1D) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—*

- (a) arrested for a recordable offence and released,*
- (b) charged with a recordable offence, or*
- (c) informed that they will be reported for such an offence, and either of the conditions in subsection (1E) is met in relation to that person.*

*(1E) The conditions referred to in subsection (1D) are—*

- (a) that the person has not been photographed in the course of the investigation of the offence by the police, or*
- (b) that the person has been so photographed but—*
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and*
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.*

*(1F) A person falls within this subsection if (before or after the coming into force of this subsection) that person has been—*

- (a) convicted of a recordable offence, or*
- (b) given a caution in respect of a recordable offence which, at the time of the caution they have admitted, and either of the conditions in subsection (1G) is met in relation to that person.*

*(1G) The conditions referred to in subsection (1F) are that—*

- (a) the person has not been photographed since being convicted or cautioned, or*
- (b) that the person has been so photographed but—*
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and*
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.*

*(1H) A person falls within this subsection if—*

- (a) under the law in force in a country or territory outside England and Wales the person has been convicted of an offence under that law (whether before or after the coming into force of this subsection and whether or not they have been punished for it),*
- (b) the act constituting the offence would constitute a qualifying offence if done in England and Wales (whether or not it constituted such an offence when the person was convicted), and*
- (c) either of the conditions in subsection (1I) is met in relation to that person.*

*(1I) The conditions referred to in subsection (1H) are that—*

- (a) the person has not been photographed on a previous occasion by virtue of being a person falling within subsection (1H), or*
- (b) that the person has been so photographed but—*
  - (i) any photograph taken on such a previous occasion is unavailable or inadequate, and*
  - (ii) a constable considers that taking a further photograph is necessary to assist in the prevention or detection of crime.*

*(1J) A person who falls within subsection (1F) or (1H) may be photographed under subsection (1C) only with the authorisation of an officer of at least the rank of inspector.*

*(1K) An officer may only give an authorisation under subsection (1J) if the officer is satisfied that taking the photograph is necessary to assist in the prevention or detection of crime.*

*(1L) In subsections (1E), (1G) and (1I)—*

*(a) references to a photograph being unavailable include references to a photograph being lost or destroyed, and*

*(b) references to a photograph being inadequate include references to a photograph being—*

*(i) unclear,*

*(ii) an incomplete photograph of the subject, or*

*(iii) no longer an accurate representation of the subject's appearance.*

*(1M) In subsections (1E), (1G), (1I) and (1K) references to crime include references to any conduct which—*

*(a) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom), or*

*(b) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences.*

(2) A person proposing to take a photograph of any person under this section—

(a) may, for the purpose of doing so, require the removal of any item or substance worn on or over the whole or any part of the head or face of the person to be photographed; and

(b) if the requirement is not complied with, may remove the item or substance himself.

(3) Where a photograph may be taken under this section, the only persons entitled to take the photograph are constables.

(4) A photograph taken under this section—

(a) may be used by, or disclosed to, any person for any purpose related to the prevention or detection of crime, the investigation of an offence or the conduct of a prosecution or to the enforcement of a sentence; and

(b) after being so used or disclosed, may be retained but may not be used or disclosed except for a purpose so related.

(5) In subsection (4)—

(a) the reference to crime includes a reference to any conduct which—

(i) constitutes one or more criminal offences (whether under the law of a part of the United Kingdom or of a country or territory outside the United Kingdom); or

(ii) is, or corresponds to, any conduct which, if it all took place in any one part of the United Kingdom, would constitute one or more criminal offences;

and

(b) the references to an investigation and to a prosecution include references, respectively, to any investigation outside the United Kingdom of any crime or suspected crime and to a prosecution brought in respect of any crime in a country or territory outside the United Kingdom; and

(c) “sentence” includes any order made by a court in England and Wales when dealing with an offender in respect of his offence.

(6) References in this section to taking a photograph include references to using any process by means of which a visual image may be produced; and references to photographing a person shall be construed accordingly.

(6A) In this section, a “photograph” includes a moving image, and corresponding expressions shall be construed accordingly.

(7) Nothing in this section applies to a person arrested under an extradition arrest power.



**PARAGRAPH 16 OF SCHEDULE 2A TO THE POLICE AND CRIMINAL EVIDENCE ACT 1984 AS AMENDED BY CLAUSE 49 OF THE BILL**

**Schedule 2A: Fingerprinting and samples: Power to require attendance at police station**

16 Date and time of attendance

~~(1) A requirement under this Schedule—~~

~~(a) shall give the person a period of at least seven days within which he must attend the police station; and~~

~~(b) may direct him so to attend at a specified time of day or between specified times of day.~~

*(1) A requirement under this Schedule—*

*(a) must direct the person to attend the police station on a specified date, and*

*(b) may either direct the person to attend the police station at a specified time on that date or direct the person to attend the police station between specified times on that date.*

(2) In specifying a ~~period or time or times of day~~ *date, time or times* for the purposes of sub-paragraph (1) above, the constable shall consider whether the fingerprints or sample could reasonably be taken at a time when the person is for any other reason required to attend the police station.

~~(3) A requirement under this Schedule may specify a period shorter than seven days if—~~

~~(a) there is an urgent need for the fingerprints or sample for the purposes of the investigation of an offence; and~~

~~(b) the shorter period is authorised by an officer of at least the rank of inspector.~~

~~(4) Where an authorisation is given under sub-paragraph (3)(b) above—~~

~~(a) the fact of the authorisation, and~~

~~(b) the reasons for giving it,~~

~~shall be recorded as soon as practicable after it has been given.~~

(5) If the constable giving a requirement under this Schedule and the person to whom it is given so agree, it may be varied so as to specify ~~any period within which, or date or time at which~~ *any date, time at which or times between which*, the person must attend; but a variation shall not have effect unless confirmed by the constable in writing.

## Public Order Act 1986 – Sections 12 and 14

### SECTION 12 OF THE PUBLIC ORDER ACT 1986 AS AMENDED BY CLAUSES 55 AND 57(3) TO (6) OF THE BILL

#### Section 12: Imposing conditions on public processions.

(1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public procession is being held or is intended to be held and to its route or proposed route, reasonably believes that—

(a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or

*(aa) in the case of a procession in England and Wales, the noise generated by persons taking part in the procession may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the procession,*

*(ab) in the case of a procession in England and Wales—*

*(i) the noise generated by persons taking part in the procession may have a relevant impact on persons in the vicinity of the procession, and*

*(ii) that impact may be significant, or*

(b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do,

he may give directions imposing on the persons organising or taking part in the procession such conditions as appear to him necessary to prevent such disorder, damage, disruption, *impact* or intimidation, including conditions as to the route of the procession or prohibiting it from entering any public place specified in the directions.

(2) In subsection (1) “the senior police officer” means —

(a) in relation to a procession being held, or to a procession intended to be held in a case where persons are assembling with a view to taking part in it, the most senior in rank of the police officers present at the scene, and

(b) in relation to a procession intended to be held in a case where paragraph (a) does not apply, the chief officer of police.

*(2A) For the purposes of subsection (1)(ab)(i), the noise generated by persons taking part in a public procession may have a relevant impact on persons in the vicinity of the procession if—*

*(a) it may result in the intimidation or harassment of persons of reasonable firmness with the characteristics of persons likely to be in the vicinity, or*

*(b) it may cause such persons to suffer serious unease, alarm or distress.*

*(2B) In considering for the purposes of subsection (1)(ab)(ii) whether the noise generated by persons taking part in a public procession may have a significant impact on persons in the vicinity of the procession, the senior police officer must have regard to—*

*(a) the likely number of persons of the kind mentioned in paragraph (a) of subsection (2A) who may experience an impact of the kind mentioned in paragraph (a) or (b) that subsection,*

*(b) the likely duration of that impact on such persons, and*

*(c) the likely intensity of that impact on such persons.*

(3) A direction given by a chief officer of police by virtue of subsection (2)(b) shall be given in writing.

(4) ~~A person~~ *Subject to subsection (5A), a person* who organises a public procession and ~~knowingly~~ fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(5) ~~A person~~ *Subject to subsection (5A), a person* who takes part in a public procession and ~~knowingly~~ fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

*(5A) A person is guilty of an offence under subsection (4) or (5) only if—*

*(a) in the case of a public procession in England and Wales, at the time the person fails to comply with the condition the person knows or ought to know that the condition has been imposed;*

*(b) in the case of a public procession in Scotland, the person knowingly fails to comply with the condition.*

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) [Repealed]

~~(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.~~

~~(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.~~

~~(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.~~

*(8) A person guilty of an offence under subsection (4) is liable on summary conviction—*

*(a) in the case of a public procession in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 4 on the standard scale or both;*

*(b) in the case of a public procession in Scotland, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.*

*(9) A person guilty of an offence under subsection (5) is liable on summary conviction—*

*(a) in the case of a public procession in England and Wales, to a fine not exceeding level 4 on the standard scale;*

*(b) in the case of a public procession in Scotland, to a fine not exceeding level 3 on the standard scale.*

*(10) A person guilty of an offence under subsection (6) is liable on summary conviction—*

*(a) in the case of a public procession in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 4 on the standard scale or both;*

*(b) in the case of a public procession in Scotland, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.*

*(10A) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the references in subsections (8)(a) and to (10)(a) to 51 weeks are to be read as references to 6 months.*

*(11) In Scotland this section applies only in relation to a procession being held, and to a procession intended to be held in a case where persons are assembling with a view to taking part in it.*

*(12) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of—*

*(a) serious disruption to the activities of an organisation which are carried on in the vicinity of a public procession, or*

*(b) serious disruption to the life of the community.*

*(13) Regulations under subsection (12) may, in particular—*

*(a) define any aspect of an expression mentioned in subsection (12)(a) or (b) for the purposes of this section;*

*(b) give examples of cases in which a public procession is or is not to be treated as resulting in—*

*(i) serious disruption to the activities of an organisation which are carried on in the vicinity of the procession, or*

*(ii) serious disruption to the life of the community.*

*(14) Regulations under subsection (12)—*

*(a) are to be made by statutory instrument;*

*(b) may apply only in relation to public processions in England and Wales;*

*(c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.*

*(15) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.*

**SECTION 14 OF THE PUBLIC ORDER ACT 1986 AS AMENDED BY CLAUSE 56 AND 57(8) TO (11)**

**Section 14: Imposing conditions on public assemblies.**

(1) If *Subsection (1A) applies if* the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that—

(a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or

*(aa) in the case of an assembly in England and Wales, the noise generated by persons taking part in the assembly may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the assembly,*

*(ab) in the case of an assembly in England and Wales—*

*(b) the noise generated by persons taking part in the assembly may have a relevant impact on persons in the vicinity of the assembly, and*

*(ii) that impact may be significant, or*

(b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do,

~~he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.~~

*(1A) The senior police officer may give directions imposing on the persons organising or taking part in the assembly—*

*(a) in the case of an assembly in England and Wales, such conditions as appear to the officer necessary to prevent the disorder, damage, disruption, impact or intimidation mentioned in subsection (1);*

*(b) in the case of an assembly in Scotland, such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to the officer necessary to prevent the disorder, damage, disruption or intimidation mentioned in subsection (1)(a) or (b).*

(2) In ~~subsection (1)~~ *this section* “the senior police officer” means —

(a) in relation to an assembly being held, the most senior in rank of the police officers present at the scene, and

(b) in relation to an assembly intended to be held, the chief officer of police.

*(2A) For the purposes of subsection (1)(ab)(i), the noise generated by persons taking part in an assembly may have a relevant impact on persons in the vicinity of the assembly if—*

*(a) it may result in the intimidation or harassment of persons of reasonable firmness with the characteristics of persons likely to be in the vicinity, or*

*(b) it may cause such persons to suffer serious unease, alarm or distress.*

*(2B) In considering for the purposes of subsection (1)(ab)(ii) whether the noise generated by persons taking part in an assembly may have a significant impact on persons in the vicinity of the assembly, the senior police officer must have regard to—*

*(a) the likely number of persons of the kind mentioned in paragraph (a) of subsection (2A) who may experience an impact of the kind mentioned in paragraph (a) or (b) that subsection,*

*(b) the likely duration of that impact on such persons, and*

*(c) the likely intensity of that impact on such persons.*

(3) A direction given by a chief officer of police by virtue of subsection (2)(b) shall be given in writing.

(4) ~~A person~~ *Subject to subsection (5A), a person* who organises a public assembly and ~~knowingly~~ fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(5) ~~A person~~ *Subject to subsection (5A), a person* who takes part in a public assembly and ~~knowingly~~ fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

*(5A) A person is guilty of an offence under subsection (4) or (5) only if—*

*(a) in the case of a public assembly in England and Wales, at the time the person fails to comply with the condition the person knows or ought to know that the condition has been imposed;*

*(b) in the case of a public assembly in Scotland, the person knowingly fails to comply with the condition.*

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) [Repealed]

~~(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.~~

~~(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.~~

~~(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.~~

*(8) A person guilty of an offence under subsection (4) is liable on summary conviction—*

*(a) in the case of a public assembly in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 4 on the standard scale or both;*

*(b) in the case of a public assembly in Scotland, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.*

*(9) A person guilty of an offence under subsection (5) is liable on summary conviction—*

*(a) in the case of a public assembly in England and Wales, to a fine not exceeding level 4 on the standard scale;*

*(b) in the case of a public assembly in Scotland, to a fine not exceeding level 3 on the standard scale.*

*(10) A person guilty of an offence under subsection (6) is liable on summary conviction—*

*(a) in the case of a public assembly in England and Wales, to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 4 on the standard scale or both;*

*(b) in the case of a public assembly in Scotland, to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.*

*(10A) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the references in subsections (8)(a) and to (10)(a) to 51 weeks are to be read as references to 6 months.*

*(11) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of—*



*(a) serious disruption to the activities of an organisation which are carried on in the vicinity of a public assembly, or*

*(b) serious disruption to the life of the community.*

*(12) Regulations under subsection (11) may, in particular—*

*(a) define any aspect of an expression mentioned in subsection (11) (a) or (b) for the purposes of this section;*

*(b) give examples of cases in which a public assembly is or is not to be treated as resulting in—*

*(i) serious disruption to the activities of an organisation which are carried on in the vicinity of the assembly, or*

*(ii) serious disruption to the life of the community.*

*(13) Regulations under subsection (11)—*

*(a) are to be made by statutory instrument;*

*(b) may apply only in relation to public assemblies in England and Wales;*

*(c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.*

*(14) A statutory instrument containing regulations under subsection (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.*

## Road Traffic Act 1988 – Sections 2A and 3ZA

### SECTION 2A OF THE ROAD TRAFFIC ACT 1988 AS AMENDED BY CLAUSE 4 OF THE BILL

#### 2A: Meaning of dangerous driving

(1) For the purposes of sections 1, 1A and 2 above a person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if)—

- (a) the way he drives falls far below what would be expected of a competent and careful driver, and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

*But this subsection does not apply where subsection (1B) applies.*

*(1A) Subsection (1B) applies where a designated person—*

- (a) is driving for police purposes (subject to subsections (1E) and (1F)), and*
- (b) has undertaken prescribed training.*

*(1B) For the purposes of sections 1, 1A and 2 above, the designated person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if)—*

- (a) the way the person drives falls far below what would be expected of a competent and careful constable who has undertaken the same prescribed training, and*
- (b) it would be obvious to such a competent and careful constable that driving in that way would be dangerous.*

*(1C) In subsections (1A) and (1B) “designated person” means—*

- (a) a constable,*
- (b) a member of staff appointed by the chief officer of police of a police force in England and Wales, (c) a member of staff appointed by a local policing body and employed to assist a police force in England and Wales,*
- (d) a member of staff appointed by the Scottish Police Authority under section 26(1) of the Police and Fire Reform (Scotland) Act 2012 (asp 8),*
- (e) an employee of the British Transport Police Authority appointed under section 27 of the Railways and Transport Safety Act 2003,*
- (f) a person employed or engaged by—*
  - (i) a chief officer of police,*
  - (ii) the British Transport Police Authority,*
  - (iii) the Civil Nuclear Police Authority,*
  - (iv) the chief constable for the Ministry of Defence Police, or*
  - (v) the Scottish Police Authority,*

*to train a person within any of paragraphs (a) to (e) to drive for police purposes,*

*(g) a person employed or engaged by a person within paragraph (f)(i) to (v) to train another person to carry out training of the kind mentioned in that paragraph,*

*(h) a National Crime Agency officer, or*

*(i) a person engaged by the National Crime Agency—*

- (i) to train a National Crime Agency officer to drive for law enforcement purposes, or*
- (ii) to train another person to carry out training of the kind mentioned in sub-paragraph (i).*

*(1D) In subsection (1C)(a) “constable” does not include a port constable within the meaning of section 7 of the Marine Navigation Act 2013 or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964.*

*(1E) In the case of a National Crime Agency officer, the reference in subsection (1A)(a) to driving for police purposes is to be read as a reference to driving for law enforcement purposes.*

*(1F) In the case of a person within paragraph (i) of subsection (1C), the reference in subsection (1A)(a) to driving for police purposes is to be read as a reference to driving for the purpose of the training mentioned in that paragraph.*

(2) A person is also to be regarded as driving dangerously for the purposes of sections 1, 1A and 2 above if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

(3) In subsections (1), (1B), and (2) above “dangerous” refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those subsections what would be expected of, or obvious to, a competent and careful driver *or constable (as the case may be)* in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(4) In determining for the purposes of subsection (2) above the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.

## SECTION 3ZA OF THE ROAD TRAFFIC ACT 1988 AS AMENDED BY CLAUSE 5 OF THE BILL

### 3ZA: Meaning of careless, or inconsiderate, driving

(1) This section has effect for the purposes of sections 2B and 3 above and section 3A below.

(2) A person is to be regarded as driving without due care and attention if (and only if) the way he drives falls below what would be expected of a competent and careful driver. *But this subsection does not apply where subsection (2B) applies.*

(2A) *Subsection (2B) applies where a designated person—*

- (a) is driving for police purposes (subject to subsections (2E) and (2F)), and*
- (b) has undertaken prescribed training.*

(2B) *The designated person is to be regarded as driving without due care and attention if (and only if) the way the person drives falls below what would be expected of a competent and careful constable who has undertaken the same prescribed training.*

(2C) *In subsections (2A) and (2B) “designated person” means—*

- (a) a constable,*
- (b) a member of staff appointed by the chief officer of police of a police force in England and Wales,*
- (c) a member of staff appointed by a local policing body and employed to assist a police force in England and Wales,*
- (d) a member of staff appointed by the Scottish Police Authority under section 26(1) of the Police and Fire Reform (Scotland) Act 2012 (asp 8),*
- (e) an employee of the British Transport Police Authority appointed under section 27 of the Railways and Transport Safety Act 2003,*
- (f) a person employed or engaged by—*
  - (i) a chief officer of police,*
  - (ii) the British Transport Police Authority,*
  - (iii) the Civil Nuclear Police Authority,*
  - (iv) the chief constable for the Ministry of Defence Police, or*
  - (v) the Scottish Police Authority,**to train a person within any of paragraphs (a) to (e) to drive for police purposes,*
- (g) a person employed or engaged by a person within paragraph (f)(i) to (v) to train another person to carry out training of the kind mentioned in that paragraph,*
- (h) a National Crime Agency officer, or*
- (i) a person engaged by the National Crime Agency—*
  - (i) to train a National Crime Agency officer to drive for law enforcement purposes, or*
  - (ii) to train another person to carry out training of the kind mentioned in sub-paragraph (i).*

(2D) *In subsection (2C)(a) “constable” does not include a port constable within the meaning of section 7 of the Marine Navigation Act 2013 or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964.*

*(2E) In the case of a National Crime Agency officer, the reference in subsection (2A)(a) to driving for police purposes is to be read as a reference to driving for law enforcement purposes.*

*(2F) In the case of a person within paragraph (i) of subsection (2C), the reference in subsection (2A)(a) to driving for police purposes is to be read as a reference to driving for the purpose of the training mentioned in that paragraph.*

(3) In determining for the purposes of subsection (2) or (2B) above what would be expected of a careful and competent driver *or constable (as the case may be)* in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been the knowledge of the accused.

(4) A person is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by his driving.

## Criminal Justice and Public Order Act 1994 – Section 61, 62, 62B and 68

### SECTION 61 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 AS AMENDED BY CLAUSE 63(3)-(7)

#### 61: Power to remove trespassers on land.

(1) If the senior police officer present at the scene reasonably believes that two or more persons are trespassing on land and are present there with the common purpose of residing there for any period, that reasonable steps have been taken by or on behalf of the occupier to ask them to leave and—

(a) that any of those persons

*(i) in the case of persons trespassing on land in England and Wales, has caused damage, disruption or distress (see subsection (10));*

*(ii) in the case of persons trespassing on land in Scotland, ”, and*

has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his, or

(b) *in either case*, that those persons have between them six or more vehicles on the land,

he may direct those persons, or any of them, to leave the land and to remove any vehicles or other property they have with them on the land.

(2) Where the persons in question are reasonably believed by the senior police officer to be persons who were not originally trespassers but have become trespassers on the land, the officer must reasonably believe that the other conditions specified in subsection (1) are satisfied after those persons became trespassers before he can exercise the power conferred by that subsection.

(3) A direction under subsection (1) above, if not communicated to the persons referred to in subsection (1) by the police officer giving the direction, may be communicated to them by any constable at the scene.

(4) If a person knowing that a direction under subsection (1) above has been given which applies to him—

(a) fails to leave the land as soon as reasonably practicable, or

(b) having left again enters the land as a trespasser within the *prohibited period* ~~period of three months beginning with the day on which the direction was given,~~

he commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(4ZA) *The prohibited period is—*

*(a) in the case of a person trespassing on land in England and Wales, the period of twelve months beginning with the day on which the direction was given;*

*(b) in the case of a person trespassing on land in Scotland, the period of three months beginning with the day on which the direction was given.*

(4A) Where, as respects Scotland, the reason why these persons have become trespassers is that they have ceased to be entitled to exercise access rights by virtue of—

(a) their having formed the common purpose mentioned in subsection (1) above; or

(b) one or more of the conditions specified in paragraphs (a) and (b) of that subsection having been satisfied,

the circumstances constituting that reason shall be treated, for the purposes of subsection (4) above, as having also occurred after these persons became trespassers.

(4B) In subsection (4A) above “access rights” has the meaning given by the Land Reform (Scotland) Act 2003 (asp 2).

(6) In proceedings for an offence under this section it is a defence for the accused to show—

(a) that he was not trespassing on the land, or

(b) that he had a reasonable excuse for failing to leave the land as soon as reasonably practicable or, as the case may be, for again entering the land as a trespasser.

(7) In its application in England and Wales to common land this section has effect as if in the preceding subsections of it—

(a) references to trespassing or trespassers were references to acts and persons doing acts which constitute either a trespass as against the occupier or an infringement of the commoners' rights; and

(b) references to “the occupier” included the commoners or any of them or, in the case of common land to which the public has access, the local authority as well as any commoner.

(8) Subsection (7) above does not—

(a) require action by more than one occupier; or

(b) constitute persons trespassers as against any commoner or the local authority if they are permitted to be there by the other occupier.

(9) In this section—

“common land” means—

(a) land registered as common land in a register of common land kept under Part 1 of the Commons Act 2006; and

(b) land to which Part 1 of that Act does not apply and which is subject to rights of common as defined in that Act;

“commoner” means a person with rights of common as so defined;

“land” does not include—

(a) buildings other than—

(i) agricultural buildings within the meaning of, in England and Wales, paragraphs 3 to 8 of Schedule 5 to the Local Government

Finance Act 1988 or, in Scotland, section 7(2) of the Valuation and Rating (Scotland) Act 1956, or

(ii) scheduled monuments within the meaning of the Ancient Monuments and Archaeological Areas Act 1979;

(b) land *in Scotland* forming part of—

~~(i) a highway unless it is a footpath, bridleway or byway open to all traffic within the meaning of Part III of the Wildlife and Countryside Act 1981, is a restricted byway within the meaning of Part II of the Countryside and Rights of Way Act 2000 or is a cycle track under the Highways Act 1980 or the Cycle Tracks Act 1984; or~~

(ii) a road within the meaning of the Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2)(a)(ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the Countryside (Scotland) Act 1967;

“the local authority”, in relation to common land, means any local authority which has powers in relation to the land under section 45 of the Commons Act 2006;

“occupier” (and in subsection (8) “the other occupier” ) means—

(a) in England and Wales, the person entitled to possession of the land by virtue of an estate or interest held by him; and

(b) in Scotland, the person lawfully entitled to natural possession of the land;

“property” , in relation to damage to property on land, means—

(a) in England and Wales, property within the meaning of section 10(1) of the Criminal Damage Act 1971; and

(b) in Scotland, either—

(i) heritable property other than land; or

(ii) corporeal movable property,

and

“damage” includes the deposit of any substance capable of polluting the land;

“trespass” means, in the application of this section—

(a) in England and Wales, subject to the extensions effected by subsection (7) above, trespass as against the occupier of the land;

(b) in Scotland, entering, or as the case may be remaining on, land without lawful authority and without the occupier's consent; and

“trespassing” and “trespasser” shall be construed accordingly;

“vehicle” includes—

(a) any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and

(b) a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960;

and a person may be regarded for the purposes of this section as having a purpose of residing in a place notwithstanding that he has a home elsewhere.

(10) *For the purposes of subsection (1)(a)(i)— “damage” includes—*

*(a) damage to the land;*

*(b) damage to any property on the land not belonging to the persons trespassing;*



*(c) damage to the environment (including excessive noise, smells, litter or deposits of waste);*

*“disruption” includes an interference with—*

*(a) a person’s ability to access any services or facilities located on the land or otherwise make lawful use of the land, or*

*(b) a supply of water, energy or fuel;*

*“distress” means distress caused by—*

*(a) the use of threatening, abusive or insulting words or behaviour, or disorderly behaviour, or*

*(b) the display of any writing, sign, or other visible representation that is threatening, abusive or insulting.*

**SECTION 62 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 AS AMENDED BY CLAUSE 63(8)**

**62: Supplementary powers of seizure.**

(1) If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse—

(a) failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or

(b) entered the land as a trespasser with a vehicle within the *prohibited period* ~~period of three months beginning with the day on which the direction was given,~~

the constable may seize and remove that vehicle.

(1A) *The prohibited period is—*

*(a) in the case of a person trespassing on land in England and Wales, the period of twelve months beginning with the day on which the direction was given;*

*(a) in the case of a person trespassing on land in Scotland, the period of three months beginning with the day on which the direction was given.*

(2) In this section “trespasser” and “vehicle” have the same meaning as in section 61.

**SECTION 62B OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 AS AMENDED BY CLAUSE 63(9)**

**62B: Failure to comply with direction under section 62A: offences**

- (1) A person commits an offence if he knows that a direction under section 62A(1) has been given which applies to him and—
- (a) he fails to leave the relevant land as soon as reasonably practicable, or
  - (b) he enters any land in the area of the relevant local authority as a trespasser before the end of the relevant period with the intention of residing there.
- (2) The relevant period is the period of ~~3~~ *twelve* months starting with the day on which the direction is given.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding level 4 on the standard scale or both.
- (5) In proceedings for an offence under this section it is a defence for the accused to show—
- (a) that he was not trespassing on the land in respect of which he is alleged to have committed the offence, or
  - (b) that he had a reasonable excuse—
    - (i) for failing to leave the relevant land as soon as reasonably practicable, or
    - (ii) for entering land in the area of the relevant local authority as a trespasser with the intention of residing there, or
  - (c) that, at the time the direction was given, he was under the age of 18 years and was residing with his parent or guardian.

## **SECTION 68 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 AS AMENDED BY CLAUSE 63(11)**

### **68: Offence of aggravated trespass.**

(1) A person commits the offence of aggravated trespass if he trespasses on land and, in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does there anything which is intended by him to have the effect—

- (a) of intimidating those persons or any of them so as to deter them or any of them from engaging in that activity,
- (b) of obstructing that activity, or
- (c) of disrupting that activity.

(1A) The reference in subsection (1) above to trespassing includes, in Scotland, the exercise of access rights (within the meaning of the Land Reform (Scotland) Act 2003 (asp 2)) up to the point when they cease to be exercisable by virtue of the commission of the offence under that subsection.

(2) Activity on any occasion on the part of a person or persons on land is “lawful” for the purposes of this section if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.

(3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale, or both.

(4) [Repealed]

(5) In this section “land” does not include—

~~(a) the highways and roads excluded from the application of section 61 by paragraph (b) of the definition of land in subsection (9) of that section;~~  
or

*(a) a highway unless it is a footpath, bridleway or byway open to all traffic within the meaning of Part 3 of the Wildlife and Countryside Act 1981, is a restricted byway within the meaning of Part 2 of the Countryside and Rights of Way Act 2000 or is a cycle track under the Highways Act 1980 or the Cycle Tracks Act 1984;*

*(aa) a road within the meaning of the Roads (Scotland) Act 1984 unless it falls within the definitions in section 151(2)(a)(ii) or (b) (footpaths and cycle tracks) of that Act or is a bridleway within the meaning of section 47 of the Countryside (Scotland) Act 1967; or*

*(b) a road within the meaning of the Roads (Northern Ireland) Order 1993.*

## SECTION 59 OF THE POLICE ACT 1996 AS AMENDED BY CLAUSE 3(4)-(7) OF THE BILL

### 59: Police Federations

~~(1) There shall continue to be a Police Federation for England and Wales and a Police Federation for Scotland for the purpose of representing members of the police forces in those countries respectively in all matters affecting their welfare and efficiency, except for—~~

- ~~(a) questions of promotion affecting individuals, and~~
- ~~(b) (subject to subsection (2)) questions of discipline affecting individuals.~~

*(1) There shall continue to be a Police Federation for England and Wales for the purpose of representing members of the police forces in England and Wales, and special constables appointed for a police area in England and Wales, in all matters affecting their welfare and efficiency, except for—*

- (a) questions of promotion affecting individuals, and*
- (b) (subject to subsection (2)) questions of discipline affecting individuals.*

(1A) In fulfilling that purpose, the Police Federation for England and Wales must—

- (a) protect the public interest,
- (b) maintain high standards of conduct, and
- (c) maintain high standards of transparency.

*(1B) There shall continue to be a Police Federation for Scotland for the purpose of representing constables of the Police Service of Scotland in all matters affecting their welfare and efficiency, except for—*

- (a) questions of promotion affecting individuals, and*
- (b) (subject to subsection (2A)) questions of discipline affecting individuals.*

~~(2) A Police Federation may represent a member of a police force at any proceedings brought under regulations made in accordance with section 50(3) above or under section 48 of the Police and Fire Reform (Scotland) Act 2012 in so far as relating to the matters described in section 52 of that Act, or on an appeal from any such proceedings.~~

*(2) The Police Federation for England and Wales may—*

- (a) represent a member of a police force at any proceedings brought under regulations made in accordance with section 50(3) above, or on an appeal from any such proceedings;*
- (b) represent a special constable at any proceedings brought under regulations made in accordance with section 51(2A) above, or on an appeal from any such proceedings.*

*(2A) The Police Federation for Scotland may represent a constable of the Police Service of Scotland at any proceedings brought under regulations made in accordance with section 48 of the Police and Fire Reform (Scotland) Act 2012 (asp 8) in so far as relating to the matters described in section 52 of that Act, or on an appeal from any such proceedings.*

~~(3) Except on an appeal to a police appeals tribunal or as provided in regulations made in accordance with section 84, a member of a police force may only be represented under subsection (2) by another member of a police force.~~

*(3) Except on an appeal to a police appeals tribunal or as provided in regulations made in accordance with section 84—*

*(a) a member of a police force in England and Wales may only be represented under subsection (2)(a) by another member of a police force or a special constable;*

*(b) a special constable appointed for a police area in England and Wales may only be represented under subsection (2)(b) by another special constable or a member of a police force*

*(c) a constable of the Police Service of Scotland may only be represented under subsection (2A) by another constable of the Police Service of Scotland.*

(4) The Police Federations shall act through local and central representative bodies.

(5) The Police Federations and every branch of a Federation shall be entirely independent of, and subject to subsection (6) unassociated with, any body or person outside the Police service, but may employ persons outside the police service in an administrative or advisory capacity.

(6) The Secretary of State—

(a) may authorise a Police Federation or a branch of a Federation to be associated with a person or body outside the police service in such cases and manner, and subject to such conditions and restrictions, as he may specify, and

(b) may vary or withdraw an authorisation previously given;

and anything for the time being so authorised shall not be precluded by subsection (5).

(7) This section applies to police cadets as it applies to members of police forces, and references to the police service shall be construed accordingly.

## SECTION 60 OF THE POLICE ACT 1996 AS AMENDED BY CLAUSE 3(8) OF THE BILL

### 60: Regulations for Police Federations

- (1) The Secretary of State may by regulations—
  - (a) prescribe the constitution and proceedings of the Police Federations, or
  - (b) authorise the Federations to make rules concerning such matters relating to their constitution and proceedings as may be specified in the regulations.
  
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision—
  - (a) with respect to the membership of the Federations;
  - (b) with respect to the raising of funds by the Federations by voluntary subscription and the use and management of funds derived from such subscriptions;
  - (c) with respect to the manner in which representations may be made by committees or bodies of the Federations to local policing bodies, the Scottish Police Authority, chief officers of police and the Secretary of State;
  - (d) for the payment by the Secretary of State of expenses incurred in connection with the Federations and for the use by the Federations of premises provided by local policing bodies or the Scottish Police Authority for police purposes; and
  - (e) ~~for modifying any regulations under the Police Pensions Act 1976, section 50 above or section 48 of the Police and Fire Reform (Scotland) Act 2012 in relation to any member of a police force who is the secretary or an officer of a Police Federation and for requiring~~ *about the pay, pension or allowances and other conditions of service for any member of a police force or special constable who is the secretary or officer of a Police Federation (including provision which applies existing regulations with modifications), and may require* the appropriate Federation to make contributions in respect of the pay, pension or allowances payable to or in respect of any such person.
  
- (3) Regulations under this section may contain such supplementary and transitional provisions as appear to the Secretary of State to be appropriate, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federations.
  
- (4) Before making any regulations under this section the Secretary of State shall consult—
  - (a) for regulations extending to England and Wales, the national board of the Police Federation for England and Wales, and
  - (b) for regulations extending to Scotland, the three Central Committees of the Police Federation for Scotland, sitting together as a Joint Committee.
  
- (5) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
  
- (6) This section applies to police cadets as it applies to members of police forces.

**Sexual Offences Act 2003 – Sections 14, 87, 103A, 103C, 103E, 103F, 103I, 103J, 122A, 122B, 122D, 122E, 122H and 122I**

**SECTION 14 OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY CLAUSE 44 OF THE BILL**

**14: Arranging or facilitating commission of a child sex offence**

- (1) A person commits an offence if–
- (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and
  - (b) doing it will involve the commission of an offence under any of sections 9 to 13.
- (2) A person does not commit an offence under this section if–
- (a) he arranges or facilitates something that he believes another person will do, but that he does not intend to do or intend another person to do, and
  - (b) any offence within subsection (1)(b) would be an offence against a child for whose protection he acts.
- (3) For the purposes of subsection (2), a person acts for the protection of a child if he acts for the purpose of–
- (a) protecting the child from sexually transmitted infection,
  - (b) protecting the physical safety of the child,
  - (c) preventing the child from becoming pregnant, or
  - (d) promoting the child's emotional well-being by the giving of advice,
- and not for the purpose of obtaining sexual gratification or for the purpose of causing or encouraging the activity constituting the offence within subsection (1)(b) or the child's participation in it.
- (4) A person guilty of an offence under this section is liable *to the penalty to which the person would be liable on conviction of the offence within subsection (1)(b)*
- ~~(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;~~
  - ~~(b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.~~



## SECTION 87 OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY CLAUSE 142 OF THE BILL

### 87: Method of notification and related matters

- (1) A person gives a notification under section 83(1), 84(1) or 85(1) by—
- ~~(a) attending at such police station in his local police area as the Secretary of State may by regulations prescribe or, if there is more than one, at any of them, and~~
  - (a) attending at the police station in the person's local police area that is for the time being specified in a document published for that local police area under this section or, if there is more than one such police station, at any one of them, and*
  - (b) giving an oral notification to any police officer, or to any person authorised for the purpose by the officer in charge of the station.

- (2) A person giving a notification under section 84(1)—
- (a) in relation to a prospective change of home address, or
  - (b) in relation to premises referred to in subsection (1)(c) of that section,
- may give the notification at a police station that would fall within subsection (1) above if the change in home address had already occurred or (as the case may be) if the address of those premises were his home address.

*(2A) The chief officer of police for each police area must publish, in such manner as the chief officer thinks fit, a document containing the name and address of each police station in that area at which a person may give a notification under section 83(1), 84(1) or 85(1).*

*(2B) A chief officer of police must keep under review a document published by the chief officer under this section and may from time to time publish a revised version of the document in such manner as the chief officer thinks fit.*

- (3) Any notification under this section must be acknowledged; and an acknowledgment under this subsection must be in writing, and in such form as the Secretary of State may direct.

- (4) Where a notification is given under section 83(1), 84(1) or 85(1), the relevant offender must, if requested to do so by the police officer or person referred to in subsection (1)(b), allow the officer or person to—
- (a) take his fingerprints,
  - (b) photograph any part of him, or
  - (c) do both these things.

- (5) The power in subsection (4) is exercisable for the purpose of verifying the identity of the relevant offender.

**SECTION 103A OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 145(3)-(6), 147(4) and 148(2) OF THE BILL**

**103A: Sexual harm prevention orders: applications and grounds**

(1) A court may make an order under this section (a “sexual harm prevention order”) in respect of a person (“the defendant”) where subsection (2) or (3) applies to the defendant.

(2) This subsection applies to the defendant where—

(a) the court deals with the defendant in respect of—

(ii) a finding that the defendant is not guilty of an offence listed in Schedule 3 or 5 by reason of insanity, or

(iii) a finding that the defendant is under a disability and has done the act charged against the defendant in respect of an offence listed in Schedule 3 or 5,

and

(b) the court is satisfied that it is necessary to make a sexual harm prevention order, for the purpose of—

(i) protecting the public or any particular members of the public from sexual harm from the defendant, or

(ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.

(3) This subsection applies to the defendant where—

(a) an application under subsection (4) has been made in respect of the defendant and it is proved on the application that the defendant is a qualifying offender, and

~~(b) the court is satisfied that the defendant's behaviour since the appropriate date makes it necessary to make a sexual harm prevention order, for the purpose of—~~

~~(i) protecting the public or any particular members of the public from sexual harm from the defendant, or~~

~~(ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.~~

*(b) the court is satisfied on the balance of probabilities that since the appropriate date the defendant has acted in one or more of the ways alleged by the person making the application, and*

*(c) the court is satisfied that the defendant having acted in such a way makes it necessary to make a sexual harm prevention order, for the purpose of—*

*(i) protecting the public or any particular members of the public from sexual harm from the defendant, or*

*(ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.*

*(3A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse*

*or sexual exploitation) and has not been withdrawn, the court must have regard to the list in considering—*

- (a) whether a sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether a prohibition on foreign travel (see section 103D) is necessary for that purpose.*

~~(4) A chief officer of police or the Director General of the National Crime Agency (“the Director General”) may by complaint to a magistrates’ court apply for a sexual harm prevention order in respect of a person if it appears to the chief officer or the Director General that— A person mentioned in subsection (4A) (“the applicant”) may by complaint to a magistrates’ court apply for a sexual harm prevention order in respect of a person if it appears to the applicant that—~~

- ~~(a) the person is a qualifying offender, and~~
- ~~(b) the person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.~~

*(4A) Those persons are—*

- (a) a chief officer of police;*
- (b) the Director General of the National Crime Agency (“the Director General”);*
- (c) the chief constable of the British Transport Police Force;*
- (d) the chief constable of the Ministry of Defence Police.*

*(4B) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, a person mentioned in subsection (4A) must have regard to the list in considering—*

- (a) whether a person has since the appropriate date acted in such a way as to give reasonable cause to believe that it is necessary for a sexual harm prevention order to be made for the purpose of protecting children generally, or any particular children, from sexual harm from that person outside the United Kingdom, and*
- (b) whether to apply for a prohibition on foreign travel (see section 103D) to be included in any such order for that purpose.*

*(5) A chief officer of police may make an application under subsection (4) only in respect of a person—*

- (a) who resides in the chief officer’s police area, or*
- (b) who the chief officer believes is in that area or is intending to come to it.*

*(6) An application under subsection (4) may be made to any magistrates’ court acting for a local justice area that includes—*

- (a) any part of a relevant police area, or*
- (b) any place where it is alleged that the person acted in a way mentioned in subsection (4)(b).*

~~(7) The Director General must as soon as practicable notify the chief officer of police for a relevant police area of any application that the Director has made under subsection (4).~~

*(7) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (4), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.*

(8) Where the defendant is a child, a reference in this section to a magistrates' court is to be taken as referring to a youth court (subject to any rules of court made under section 103K(1)).

(9) In this section "relevant police area" means—

- (a) where the applicant is a chief officer of police, the officer's police area;
- (b) where the applicant is the Director General, *the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police* —
  - (i) the police area where the person in question resides, or
  - (ii) a police area which the ~~Director General~~ *applicant* believes the person is in or is intending to come to.

**SECTION 103C OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 149(9) and 152(7) OF THE BILL**

**103C: SHPOs: effect**

~~(1) A sexual harm prevention order prohibits the defendant from doing anything described in the order.~~

(1) A sexual harm prevention order may—

- (a) prohibit the defendant from doing anything described in the order;
- (b) require the defendant to do anything described in the order.

(2) Subject to section ~~103D(4)~~ sections 103D(1) and 103FA(8), a prohibition or requirement contained in a sexual harm prevention order has effect—

- (a) for a fixed period, specified in the order, of at least 5 years, or
- (b) until further order.

(3) A sexual harm prevention order—

- (a) may specify that some of its prohibitions or requirements have effect until further order and some for a fixed period;
- (b) may specify different periods for different prohibitions or requirements.

(4) The only prohibitions or requirements that may be included in a sexual harm prevention order are those necessary for the purpose of—

- (a) protecting the public or any particular members of the public from sexual harm from the defendant, or
- (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.

(4A) The prohibitions or requirements which are imposed on the defendant by a sexual harm prevention order must, so far as practicable, be such as to avoid—

- (a) any conflict with the defendant's religious beliefs,
- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and
- (c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (6)).

(4B) A sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).

(5) In subsection (4) "the public", "sexual harm", "child" and "vulnerable adult" each has the meaning given in section 103B(1).

(6) Where a court makes a sexual harm prevention order in relation to a person who is already subject to such an order (whether made by that court or another), or an order under Chapter 2 of Part 11 of the Sentencing Code (sexual harm prevention orders on conviction), the earlier order ceases to have effect.

**SECTION 103E OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 147(5), 149(11) and 152(8) OF THE BILL**

**103E: SHPOs: variations, renewals and discharges**

(1) A person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging a sexual harm prevention order.

(2) The persons are—

- (a) the defendant;
- (b) the chief officer of police for the area in which the defendant resides;
- (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
- (d) where the order was made on an application by a chief officer of police under section 103A(4), that officer.

*(2A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (2)(b) to (d) must have regard to the list in considering—*

- (a) whether to apply for an order varying or renewing a sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.*

(3) An application under subsection (1) may be made—

- (a) where the appropriate court is the Crown Court, in accordance with rules of court;
- (b) in any other case, by complaint.

(4) Subject to subsections (5) and (7), on the application the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (2), may make any order, varying, renewing or discharging the sexual harm prevention order, that the court considers appropriate.

(5) An order may be renewed, or varied so as to impose additional prohibitions *or requirements* on the defendant, only if it is necessary to do so for the purpose of—

- (a) protecting the public or any particular members of the public from sexual harm from the defendant, or
- (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.

Any renewed or varied order may contain only such prohibitions *or requirements* as are necessary for this purpose.

*(5A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—*

- (a) any conflict with the defendant's religious beliefs,*

- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and*
- (c) any conflict with any other court order or injunction to which the defendant may be subject.*

*(5B) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, the court must have regard to the list in considering—*

- (a) whether any order varying or renewing the sexual harm prevention order is necessary for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.*

*(5C) Section 103FA (electronic monitoring requirements) applies in relation to—*

- (a) the variation of an order to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order, or*
- (b) the renewal of an order to continue such a requirement, as it applies in relation to the making of a sexual harm prevention order, subject to subsection (5D).*

*(5D) In its application to the variation or renewal of an order, section 103FA(4)(b) has effect as if—*

- (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and*
- (b) the reference to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated.*

*(6) In ~~subsection (5)~~ subsections (2A), (5) and (5B) “the public”, “sexual harm”, “child” and “vulnerable adult” each has the meaning given in section 103B(1).*

*(7) The court must not discharge an order before the end of 5 years beginning with the day on which the order was made, without the consent of the defendant and—*

- (a) where the application is made by a chief officer of police, that chief officer, or*
- (b) in any other case, the chief officer of police for the area in which the defendant resides.*

*(8) Subsection (7) does not apply to an order containing a prohibition on foreign travel and no other prohibitions or requirements.*

*(9) In this section “the appropriate court” means—*

- (a) where the Crown Court or the Court of Appeal made the sexual harm prevention order, the Crown Court;*

(b) where an adult magistrates' court made the order, that court, an adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area;

(c) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant resides or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer's police area;

(d) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates' court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

In this subsection "adult magistrates' court" means a magistrates' court that is not a youth court.



**SECTION 103F OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 145(7), 147(6), 149(12) and 152(9) OF THE BILL**

**103F: Interim SHPOs**

(1) This section applies where an application under section 103A(4) (“the main application”) has not been determined.

(2) An application for an order under this section (“an interim sexual harm prevention order”)—

- (a) may be made by the complaint by which the main application is made, or
- (b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

*(2A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person who has made, or is considering making, an application under section 103A(4) must have regard to the list in considering—*

- (a) whether to apply for an interim sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether to apply for a prohibition on foreign travel to be included in any such order for that purpose.*

(3) The court may, if it considers it just to do so, make an interim sexual harm prevention order, ~~prohibiting the defendant from doing anything described in the order.~~—

- (a) prohibiting the defendant from doing anything described in the order;*
- (b) requiring the defendant to do anything described in the order.*

*(3A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, the court must have regard to the list in considering—*

- (a) whether to make an interim sexual harm prevention order for the purpose of protecting children generally, or any particular children, from sexual harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether to include in any such order a prohibition on foreign travel for that purpose.*

*(3B) An interim sexual harm prevention order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 103FA for further provision about such a requirement).*

(4) ~~Such an order~~ *An interim sexual harm prevention order —*

- (a) has effect only for a fixed period, specified in the order;*
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.*

(5) The applicant or the defendant may by complaint apply to the court that made the interim sexual harm prevention order for the order to be varied, renewed or discharged.

*(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual harm prevention order as they apply in relation to an application for such an order.*

*(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.*

*(8) In subsection (7), “relevant police area” has the same meaning as in section 103A (sexual harm prevention orders: applications and grounds) (see section 103A(9)).*

**SECTION 103I OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 149(13) and 154(2) OF THE BILL**

**103I: Offence: breach of SHPO or interim SHPO etc**

*(A1) A person who, without reasonable excuse—*

*(a) does anything that the person is prohibited from doing by a sexual harm prevention order or an interim sexual harm prevention order, or*

*(b) fails to do something that the person is required to do by a sexual harm prevention order or an interim sexual harm prevention order,*

*commits an offence.*

(1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by—

~~(a) a sexual harm prevention order,~~

~~(b) an interim sexual harm prevention order,~~

(c) a sexual offences prevention order,

(d) an interim sexual offences prevention order, or

(e) a foreign travel order,

commits an offence.

*(1A) A person who, without reasonable excuse, fails to do something that the person is required to do by a sexual offences prevention order or an interim sexual offences prevention order commits an offence.*

*(1B) A person who, without reasonable excuse—*

*(a) does anything that the person is prohibited from doing by a relevant Scottish order, or*

*(b) fails to do something that the person is required to do by a relevant Scottish order,*

*commits an offence.*

*(1C) In subsection (1B) “relevant Scottish order” means—*

*(a) a sexual harm prevention order made under section 11 or 12 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or*

*(b) an interim sexual harm prevention order made under section 21 of that Act.*

~~(2) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under section 103D(4).~~

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

(4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.

**SECTION 103J OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 145(8) OF THE BILL**

**103J: SHPOs and interim SHPOs: guidance**

(1) The Secretary of State must issue guidance to ~~chief officers of police and to the Director General of the National Crime Agency~~ *chief officers of police, the Director General of the National Crime Agency, the chief constable of the British Transport Police Force and the chief constable of the Ministry of Defence Police* in relation to the exercise by them of their powers with regard to sexual harm prevention orders and interim sexual harm prevention orders.

(2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).

(3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.

**SECTION 122A OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY CLAUSES 145(10)-(11), 147(7), 148(3), 150(2) AND 152(11) OF THE BILL**

**122A: Sexual risk orders: applications, grounds and effect**

~~(1) A chief officer of police or the Director General of the National Crime Agency (“the Director General”) may by complaint to a magistrates’ court apply for an order under this section (a “sexual risk order”) in respect of a person (“the defendant”) if it appears to the chief officer or the Director General that the following condition is met.~~

*(1) A person mentioned in subsection (1A) (“the applicant”) may by complaint to a magistrates’ court apply for an order under this section (a “sexual risk order”) in respect of a person (“the defendant”) if it appears to the applicant that the condition in subsection (2) is met.*

*(1A) Those persons are—*

- (a) a chief officer of police;*
- (b) the Director General of the National Crime Agency (“the Director General”);*
- (c) the chief constable of the British Transport Police Force;*
- (d) the chief constable of the Ministry of Defence Police.*

(2) The condition is that the defendant has, whether before or after the commencement of this Part, done an act of a sexual nature as a result of which there is reasonable cause to believe that it is necessary for a sexual risk order to be made.

*(2A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (1A) must have regard to the list in considering—*

- (a) whether as a result of the act mentioned in subsection (2) there is reasonable cause to believe that it is necessary for a sexual risk order to be made for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and*
- (b) whether to apply for a prohibition on foreign travel (see section 122C) to be included in any such order for that purpose.*

(3) A chief officer of police may make an application under subsection (1) only in respect of a person—

- (a) who resides in the chief officer's police area, or
- (b) who the chief officer believes is in that area or is intending to come to it.

(4) An application under subsection (1) may be made to any magistrates’ court acting for a local justice area that includes—

- (a) any part of a relevant police area, or
- (b) any place where it is alleged that the person acted in a way mentioned in subsection (2).

~~(5) The Director General must as soon as practicable notify the chief officer of police for a relevant police area of any application that the Director has made under subsection (1).~~

*(5) If the Director General, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under subsection (1), that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.*

~~(6) On an application under subsection (1), the court may make a sexual risk order if it is satisfied that the defendant has, whether before or after the commencement of this Part, done an act of a sexual nature as a result of which it is necessary to make such an order for the purpose of—~~

~~(a) protecting the public or any particular members of the public from harm from the defendant, or~~

~~(b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.~~

*(6) On an application under subsection (1), the court may make a sexual risk order if—*

*(a) the court is satisfied on the balance of probabilities that the defendant has, whether before or after the commencement of this Part, done one or more of the acts of a sexual nature alleged by the person making the application, and*

*(b) the court is satisfied that as a result of the defendant acting in such a way it is necessary to make such an order for the purpose of—*

*(i) protecting the public or any particular members of the public from harm from the defendant, or*

*(ii) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.*

*(6A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, the court must have regard to the list in considering—*

*(a) whether a sexual risk order is necessary for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and*

*(b) in particular, whether a prohibition on foreign travel (see section 122C) is necessary for that purpose.*

~~(7) Such an order—~~

~~(a) prohibits the defendant from doing anything described in the order;~~

~~(b) has effect for a fixed period (not less than 2 years) specified in the order or until further order.~~

*(7) A sexual risk order may—*

*(a) prohibit the defendant from doing anything described in the order;*

*(b) require the defendant to do anything described in the order*

- (8) A sexual risk order ~~may specify different periods for different prohibitions.~~ —  
(a) has effect for a fixed period (not less than 2 years) specified in the *order* or *until further order*, and  
(b) *may specify different periods for different prohibitions or requirements.*

*(8A) Subsection (8) is subject to section 122C(1) (duration of prohibitions on foreign travel) and section 122EA(8) (duration of electronic monitoring requirements).*

- (9) The only prohibitions *or requirements* that may be imposed are those necessary for the purpose of—  
(a) protecting the public or any particular members of the public from harm from the defendant, or  
(b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.

*(9A) The prohibitions or requirements which are imposed on the defendant by a sexual risk order must, so far as practicable, be such as to avoid—  
(a) any conflict with the defendant's religious beliefs,  
(b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and  
(c) any conflict with any other court order or injunction to which the defendant may be subject (but see subsection (10)).*

*(9B) A sexual risk order may require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).*

- (10) Where a court makes a sexual risk order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order ceases to have effect.

**SECTION 122B OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 145(12) OF THE BILL**

**122B: Section 122A: interpretation**

(1) In section 122A—

“child” means a person under 18;

“harm” from the defendant means physical or psychological harm caused by the defendant doing an act of a sexual nature;

“the public” means the public in the United Kingdom;

“vulnerable adult” *means* a person aged 18 or over whose ability to protect himself or herself from physical or psychological harm is significantly impaired through physical or mental disability or illness, through old age or otherwise.

(2) Where the defendant is a child, a reference in that section to a magistrates’ court is to be taken as referring to a youth court (subject to any rules of court made under section 122K(1)).

(3) In that section “relevant police area” means—

(a) where the applicant is a chief officer of police, the officer's police area;

(b) where the applicant is the Director General of the National Crime Agency, *the chief constable of the British Transport Police Force or the chief constable for the Ministry of Defence Police—*

(i) the police area where the person in question resides, or

(ii) a police area which the ~~Director General~~ *applicant* believes the person is in or is intending to come to.



**SECTION 122D OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY CLAUSES 147(8), 150(4) AND 152(12) OF THE BILL**

**122D: Sexual risk order: variations, renewals and discharges**

(1) A person within subsection (2) may by complaint to the appropriate court apply for an order varying, renewing or discharging a sexual risk order.

(2) The persons are—

- (a) the defendant;
- (b) the chief officer of police for the area in which the defendant resides;
- (c) a chief officer of police who believes that the defendant is in, or is intending to come to, that officer's police area;
- (d) where the order was made on an application by a chief officer of police, that officer.

*(2A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person mentioned in subsection (2)(b) to (d) must have regard to the list in considering—*

- (a) whether to apply for an order varying or renewing a sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether to apply for an order imposing, varying or renewing a prohibition on foreign travel for that purpose.*

(3) Subject to subsections (4) and (5), ~~on the application~~ *an application made under this section* the court, after hearing the person making the application and (if they wish to be heard) the other persons mentioned in subsection (2), may make any order, varying, renewing or discharging the sexual risk order, that the court considers appropriate.

(4) An order may be renewed, or varied so as to impose additional prohibitions *or requirements* on the defendant, only if it is necessary to do so for the purpose of—

- (a) protecting the public or any particular members of the public from harm from the defendant, or
- (b) protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from harm from the defendant outside the United Kingdom.

Any renewed or varied order may contain only such prohibitions *or requirements* as are necessary for this purpose.

*(4A) Any additional prohibitions or requirements that are imposed on the defendant must, so far as practicable, be such as to avoid—*

- (a) any conflict with the defendant's religious beliefs,*
- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment, and*
- (c) any conflict with any other court order or injunction to which the defendant may be subject.*

*(4B) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, the court must have regard to the list in considering—*

- (a) whether any order varying or renewing the sexual risk order is necessary for the purposes of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether an order imposing, varying or renewing a prohibition on foreign travel is necessary for that purpose.*

*(4C) Section 122EA (electronic monitoring requirements) applies in relation to—*

- (a) the variation of an order to require the defendant to submit to electronic monitoring of the defendant's compliance with the prohibitions and requirements imposed by the order, or*
- (b) the renewal of an order to continue such a requirement, as it applies in relation to the making of a sexual risk order, subject to subsection (4D).*

*(4D) In its application to the variation or renewal of an order, section 122EA(4)(b) has effect as if—*

- (a) the reference to a case where it is proposed to include in the order a requirement or provision mentioned in sub-paragraph (i) or (ii) included a case where the order already includes such a requirement or provision, and*
- (b) the reference to the local justice area in which the place or area proposed to be specified is situated included the local justice area in which the place or area already specified is situated.*

(5) The court must not discharge an order before the end of 2 years beginning with the day on which the order was made, without the consent of the defendant and—

- (a) where the application is made by a chief officer of police, that chief officer, or
- (b) in any other case, the chief officer of police for the area in which the defendant resides.

(6) Section 122B(1) applies for the purposes of this section.

(7) In this section “the appropriate court” means—

- (a) where an adult magistrates’ court made the sexual risk order, that court, any adult magistrates’ court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer's police area;
- (b) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant resides or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer's police area;
- (c) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates’ court for the area in which the defendant resides or, where the application is made by a chief officer of police, any adult

magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

In this subsection "adult magistrates' court" means a magistrates' court that is not a youth court.

**SECTION 122E OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY CLAUSES 145(13), 147(9), 150(5) AND 152(13) OF THE BILL**

**122E: Interim sexual risk orders**

(1) This section applies where an application for a sexual risk order (“the main application”) has not been determined.

(2) An application for an order under this section (“an interim sexual risk order”)—  
(a) may be made by the complaint by which the main application is made, or  
(b) if the main application has been made, may be made by the person who has made that application, by complaint to the court to which that application has been made.

*(2A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 (list of countries where children are at high risk of sexual abuse or sexual exploitation) and has not been withdrawn, a person who has made, or is considering making, an application for a sexual risk order must have regard to the list in considering—*

- (a) whether to apply for an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom, and*
- (b) in particular, whether to apply for a prohibition on foreign travel to be included in any such order for that purpose.*

(3) The court may, if it considers it just to do so, make an interim sexual risk order, ~~prohibiting the defendant from doing anything described in the order. -~~

- (a) prohibiting the defendant from doing anything described in the order;*
- (b) requiring the defendant to do anything described in the order.*

*(3A) If a list has been published under section 145 of the Police, Crime, Sentencing and Courts Act 2021 and has not been withdrawn, the court must have regard to the list in considering—*

- (a) whether to make an interim sexual risk order for the purpose of protecting children generally, or any particular children, from harm from the defendant outside the United Kingdom and*
- (b) in particular, whether to include a prohibition on foreign travel in any such order for that purpose.*

*(3B) An interim sexual risk order may require the defendant to submit to electronic monitoring of the defendant’s compliance with the prohibitions and requirements imposed by the order (see section 122EA for further provision about such a requirement).*

(4) ~~Such an order.~~ *An interim sexual risk order —*

- (a) has effect only for a fixed period, specified in the order;*
- (b) ceases to have effect, if it has not already done so, on the determination of the main application.*

(5) The applicant or the defendant may by complaint apply to the court that made the interim sexual risk order for the order to be varied, renewed or discharged.

*(6) Subsections (2A) and (3A) apply in relation to an application for the variation or renewal of an interim sexual risk order as they apply in relation to an application for such an order.*

*(7) If the Director General of the National Crime Agency, the chief constable of the British Transport Police Force or the chief constable of the Ministry of Defence Police makes an application under this section, that person must as soon as practicable notify the chief officer of police for a relevant police area of that application.*

*(8) In subsection (7), “relevant police area” has the same meaning as in section 122A (sexual risk orders: applications, grounds and effect) (see section 122B(3)).*

**SECTION 122H OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSES 150(6) AND 154(5) OF THE BILL**

**122H: Offence: breach of sexual risk order or interim sexual risk order etc**

*(A1) A person who, without reasonable excuse—*

*(a) does anything that the person is prohibited from doing by a sexual risk order or an interim sexual risk order, or*

*(b) fails to do something that the person is required to do by a sexual risk order or an interim sexual risk order,*

*commits an offence.*

(1) A person who, without reasonable excuse, does anything that the person is prohibited from doing by—

~~(a) a sexual risk order,~~

~~(b) an interim sexual risk order,~~

(c) a risk of sexual harm order,

(d) an interim risk of sexual harm order,

~~(e) an order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (risk of sexual harm orders in Scotland),~~

~~or~~

~~(f) an order under section 5 of that Act (interim risk of sexual harm orders in Scotland),~~

commits an offence.

*(1A) A person who, without reasonable excuse, does anything that the person is required to do by a risk of sexual harm order that has been renewed or varied as mentioned in section 136ZJ(7) commits an offence.*

*(1B) A person who, without reasonable excuse—*

*(a) does anything that the person is prohibited from doing by a relevant Scottish order, or*

*(b) fails to do something that the person is required to do by a relevant Scottish order, commits an offence.*

*(1C) In subsection (1B) “relevant Scottish order” means—*

*(a) a sexual risk order made under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22), or*

*(b) an interim sexual risk order made under section 31 of that Act.*

~~(2) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed under section 122C(4).~~

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

(4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.

**SECTION 122I OF THE SEXUAL OFFENCES ACT 2003 AS AMENDED BY  
CLAUSE 155(1) OF THE BILL**

**122I: Effect of conviction etc of an offence under section 122H etc**

- (1) This section applies to a person (“the defendant”) who—
- (a) is convicted of an offence mentioned in subsection (2);
  - (b) is found not guilty of such an offence by reason of insanity;
  - (c) is found to be under a disability and to have done the act charged against him in respect of such an offence; or
  - (d) is cautioned in respect of such an offence.
- (2) Those offences are—
- (a) an offence under section 122H or 128 of this Act;
  - ~~(b) an offence under section 7 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (contravention of risk of sexual harm order or interim risk of sexual harm order in Scotland).~~
- (2A) This section also applies to a person (“the defendant”) who—*
- (a) is convicted of an offence mentioned in subsection (2B);*
  - (b) is acquitted of such an offence by reason of the special defence set out in section 51A of the Criminal Procedure (Scotland) Act 1995, or*
  - (c) is found, in respect of such an offence, to be unfit for trial under section 53F of that Act in a case where the court determines that the defendant has done the act constituting the offence.*
- (2B) Those offences are—*
- (a) an offence under section 34 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22) (breach of sexual risk order or interim sexual risk order in Scotland);*
  - (b) an offence under section 37 of that Act (breach of equivalent orders) in respect of a breach of an order made under section 122A, 122E, 123 or 126 of this Act.*
- (3) Where—
- (a) a defendant was a relevant offender immediately before this section applied to the defendant, and
  - (b) the defendant would (apart from this subsection) cease to be subject to the notification requirements of this Part while the relevant order (as renewed from time to time) has effect,
- the defendant remains subject to the notification requirements.
- (4) Where the defendant was not a relevant offender immediately before this section applied to the defendant—
- (a) this section causes the defendant to become subject to the notification requirements of this Part from the time the section first applies to the defendant until the relevant order (as renewed from time to time) ceases to have effect, and
  - (b) this Part applies to the defendant, subject to the modification set out in subsection (5).



(5) The “relevant date” *is* the date on which this section first applies to the defendant.

(6) In this section “relevant order” *means*—

(a) where the conviction, finding, ~~or caution~~ *caution or acquittal* within subsection (1) *or* (2A) is in respect of a breach of a sexual risk order or a risk of sexual harm order, that order;

(b) where the conviction, finding, ~~or caution~~ *caution or acquittal* within subsection (1) *or* (2A) is in respect of a breach of an interim sexual risk order or an interim risk of sexual harm order, any sexual risk order or risk of sexual harm order made on the hearing of the application to which the interim order relates or, if no such order is made, the interim order.

*(6A) In subsection (6) “sexual risk order” and “interim sexual risk order” include orders under section 27 and 31 (respectively) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.*

~~(7) In subsection (6) “risk of sexual harm order” and “interim risk of sexual harm order” include orders under sections 2 and 5 (respectively) of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005.~~

## Police Reform and Social Responsibility Act 2011 – Sections 142A and 143

### SECTION 142A OF THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011 AS AMENDED BY CLAUSE 58(2) OF THE BILL

#### 142A: Other controlled areas in vicinity of the Palace of Westminster

(1) For the purposes of this Part, the “Palace of Westminster controlled area” means the area of land in the City of Westminster that is comprised in—

- (a) the highways in the postal district SW1 known as—
  - (i) Bridge Street,
  - (ia) Canon Row,
  - (ib) Parliament Street,
  - (ic) Derby Gate,
  - (id) Parliament Square,
  - (ii) St Margaret's Street, and
  - (iii) Abingdon Street,
- (aa) so much of the highway in the postal district SW1 known as Victoria Embankment as lies between the highway in that district known as Bridge Street and the highway in that district known as Richmond Terrace,
- (b) so much of the highway in the postal district SW1 known as Great College Street as immediately adjoins Abingdon Street Garden,
- (c) Old Palace Yard,
- (d) Abingdon Street Garden (and its pathways), and
- (e) Victoria Tower Gardens.

*(1A) A reference to a highway in subsection (1)(a) or (aa) includes any land immediately adjoining that highway and to which the public have or are permitted access.*

(2) In subsection (1)—

“Abingdon Street Garden” means the garden constructed on the sites of properties formerly known as 18 to 28 (both inclusive) Abingdon Street, London, SW1, together with the garden surrounding the adjoining Jewel Tower and the lawn surrounding the King George V Memorial;

“highway” has the same meaning as in the Highways Act 1980 (see section 328 of that Act);

“Old Palace Yard” includes the King George V Memorial.

**SECTION 143 OF THE POLICE REFORM AND SOCIAL RESPONSIBILITY ACT  
2011 AS AMENDED BY CLAUSE 58(3) OF THE BILL**

**143: Prohibited activities in controlled area of Parliament Square or in Palace of Westminster controlled area**

- (1) A constable or authorised officer who has reasonable grounds for believing that a person is doing, or is about to do, a prohibited activity may direct the person—
- (a) to cease doing that activity, or
  - (b) (as the case may be) not to start doing that activity.
- (2) For the purposes of this Part, a “prohibited activity” is any of the following—
- (a) operating any amplified noise equipment in the controlled area of Parliament Square or in the Palace of Westminster controlled area;
  - (b) erecting or keeping erected in the controlled area of Parliament Square—
    - (i) any tent, or
    - (ii) any other structure that is designed, or adapted, (solely or mainly) for the purpose of facilitating sleeping or staying in a place for any period;
  - (c) using any tent or other such structure in the controlled area of Parliament Square for the purpose of sleeping or staying in that area;
  - (d) placing or keeping in place in the controlled area of Parliament Square any sleeping equipment with a view to its use (whether or not by the person placing it or keeping it in place) for the purpose of sleeping overnight in that area;
  - (e) using any sleeping equipment in the controlled area of Parliament Square for the purpose of sleeping overnight in that area.
  - (f) *obstructing, by the use of any item or otherwise, the passage of a vehicle of any description into or out of an entrance into or exit from the Parliamentary Estate, where that entrance or exit is within, or adjoins, the Palace of Westminster controlled area.*
- (3) But an activity is not to be treated as a “prohibited activity” within subsection (2) if it is done—
- (a) for police, fire and rescue authority or ambulance purposes,
  - (b) by or on behalf of a ~~relevant authority~~ *relevant person*, or
  - (c) by a person so far as authorised under section 147 to do it (authorisation for operation of amplified noise equipment).
- (4) In subsection (2)(a) “amplified noise equipment” means any device that is designed or adapted for amplifying sound, including (but not limited to)—
- (a) loudspeakers, and
  - (b) loudhailers.
- (4A) In subsection (2)(f) the reference to obstructing the passage of a vehicle includes making the passage of a vehicle more difficult.*
- (5) In subsection (3)(b) ~~“relevant authority”~~ *“relevant person”* means any of the following—
- (a) a Minister of the Crown or a government department,

- (b) the Greater London Authority, or
- (c) Westminster City Council.
- (d) *a relevant member of the House of Lords staff, or*
- (e) *a relevant member of the House of Commons staff*

(5A) *In subsection (5)—*

*“relevant member of the House of Lords staff” has the meaning given by section 194(6) of the Employment Rights Act 1996;*

*“relevant member of the House of Commons staff” has the meaning given by section 195(5) of that Act.*

(6) It is immaterial for the purposes of a prohibited activity—

(a) in the case of an activity within subsection (2)(b) or (c) of keeping a tent or similar structure erected or using a tent or similar structure, whether the tent or structure was first erected before or after the coming into force of this section;

(b) in the case of an activity within subsection (2)(d) or (e) of keeping in place any sleeping equipment or using any such equipment, whether the sleeping equipment was first placed before or after the coming into force of this section.

(7) In this section “sleeping equipment” means any sleeping bag, mattress or other similar item designed, or adapted, (solely or mainly) for the purpose of facilitating sleeping in a place.

(8) A person who fails without reasonable excuse to comply with a direction under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## Crime (Overseas Production Orders) Act 2019 – Sections 3, 5, 9, 14 and 15

### SECTION 3 OF THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019 AS AMENDED BY PARAGRAPH 2 OF SCHEDULE 5 TO THE BILL

#### 3: Meaning of "electronic data" and "excepted electronic data"

- (1) This section applies for the purposes of this Act.
- (2) "Electronic data" means data stored electronically.
- (3) "Excepted electronic data" means electronic data that is—
  - (a) an item subject to legal privilege, or
  - (b) a personal record which is a confidential personal record.
- (4) Where the person against whom an overseas production order is sought is a telecommunications operator, this Act applies as if references to excepted electronic data included electronic data that is communications data, *other than communications data to which subsection (4A) applies*.

*(4A) This subsection applies to communications data which is comprised in, included as part of, attached to or logically associated with electronic data which, apart from this subsection, may be specified or described in the application for the overseas production order.*

- (5) Where an application for an overseas production order is made for the purposes of a terrorist investigation other than a terrorist financing investigation, this Act applies as if references to excepted electronic data did not include electronic data that is a personal record which is a confidential personal record.

- (6) "Item subject to legal privilege" —
  - (a) in relation to England and Wales, has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
  - (b) in relation to Scotland, has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);
  - (c) in relation to Northern Ireland, has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 12 of that Order).

- (7) "Personal record" means a record concerning an individual ("P") (whether living or dead) who can be identified from the record and relating to—
  - (a) P's physical or mental health,
  - (b) spiritual counselling or assistance given, or to be given, to P, or
  - (c) counselling or assistance given, or to be given, to P for the purposes of P's personal welfare by—
    - (i) any voluntary organisation,
    - (ii) any individual who by reason of an office or occupation has responsibilities for P's personal welfare, or

(iii) any individual who by reason of an order of a court has responsibilities for P's supervision.

- (8) A personal record is a "confidential personal record" if—
- (a) it was created in circumstances giving rise to an obligation of confidence owed to P and the obligation continues to be owed, or
  - (b) it is held subject to a restriction on disclosure, or an obligation of secrecy, contained in an enactment (whenever passed or made).

- (9) In this section—
- "communications data" and "telecommunications operator" have the same meaning as in the Investigatory Powers Act 2016 (see section 261 of that Act);
- "terrorist financing investigation" has the same meaning as in Part 1 of Schedule 5A to the Terrorism Act 2000 (see paragraph 4 of that Schedule);
- "terrorist investigation" has the same meaning as in the Terrorism Act 2000 (see section 32 of that Act).

**SECTION 5 OF THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019 AS AMENDED BY PARAGRAPH 3 OF SCHEDULE 5 TO THE BILL**

**5: Contents of order**

- (1) The electronic data specified or described in an overseas production order may be all or part of the electronic data specified or described in the application for the order (subject to subsections (2) and (3)).
- (2) The judge must not specify or describe in the order electronic data that the judge has reasonable grounds for believing consists of or includes excepted electronic data.
- (3) If the requirement in section ~~4(5) or (7)~~ 4(5), (6) or (7) is fulfilled by reference to part only of the electronic data specified or described in the application for the order, the judge must not specify or describe in the order electronic data by reference to which the requirement is not fulfilled.
- (4) An overseas production order must specify—
  - (a) the person, or the description of person, to whom the electronic data specified or described in the order must be produced or, as the case may be, to whom access to the electronic data specified or described in the order must be given, and
  - (b) the period by the end of which the electronic data specified or described in the order must be produced or, as the case may be, access to the electronic data specified or described in the order must be given.
- (5) The period specified by virtue of subsection (4)(b) must be a period of seven days beginning with the day on which the order is served, unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances.

**SECTION 9 OF THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019 AS AMENDED BY PARAGRAPH 4 OF SCHEDULE 5 TO THE BILL**

**9: Restrictions on service of order**

(1) An overseas production order that is not served within the period of 3 months beginning with the day on which the order is made is to be treated as if it had been quashed immediately after the end of that period.

(2) An overseas production order made in England and Wales or Northern Ireland may be served only by the Secretary of State *or a prescribed person*.

(3) An overseas production order made in Scotland may be served only by the Lord Advocate *or a prescribed person*.

(4) ~~The Secretary of State or, as the case may be, the Lord Advocate~~ A person may serve an overseas production order only if ~~the Secretary of State or the Lord Advocate~~ *that person* considers that to do so would be in accordance with a designated international co-operation arrangement.

(5) *In this section “prescribed person”—*

*(a) in relation to an overseas production order made in England and Wales or Northern Ireland, means a person prescribed by regulations made by the Secretary of State;*

*(b) in relation to an overseas production order made in Scotland, means a person prescribed by regulations made by the Lord Advocate.*



**SECTION 14 OF THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019 AS AMENDED BY PARAGRAPH 5 OF SCHEDULE 5 TO THE BILL**

**14: Means of service**

- (1) This section applies in relation to—
- (a) the service of an overseas production order,
  - (b) the service of notice of an application for an overseas production order, and
  - (c) the service of any other order or document issued or made in, or for the purposes of, proceedings relating to an overseas production order by a court (including a single judge) in England and Wales, Scotland or Northern Ireland.
- (2) The order, notice or other document may be served on a person (whether the person is in the United Kingdom or outside it) by such means, including electronic means, as rules of court permit.
- (3) In addition, the order, notice or other document may be served on a person outside the United Kingdom in any of the following ways—
- (a) by delivering it to the person's principal office within the United Kingdom or, if the person has no such office in the United Kingdom, to any place in the United Kingdom where the person carries on business or conducts activities;
  - (b) if the person has specified an address in the United Kingdom as one at which the person, or someone on the person's behalf, will accept service of documents of the same description as the order, notice or other document, by delivering it to that address;
  - (c) by making it available for inspection (whether to the person or to someone acting on the person's behalf) at a place in the United Kingdom (but this is subject to subsection (4));
  - (d) in accordance with arrangements made—
    - (i) where the order, notice or other document is made or issued in England and Wales or Northern Ireland, by the Secretary of State *or a prescribed person*;
    - (ii) where the order, notice or other document is made or issued in Scotland, by the Lord Advocate *or a prescribed person*.
- (4) The order, notice or other document may be served on a person outside the United Kingdom in the way mentioned in subsection (3)(c) only if—
- (a) it is not reasonably practicable for it to be served by any other means (whether as mentioned in subsection (3)(a), (b) or (d) or as permitted by rules of court), and
  - (b) the person serving the order, notice or other document takes such steps as that person considers appropriate for the purpose of bringing its contents, and the availability of it for inspection, to the attention of the person on whom it is being served.
- (5) The steps mentioned in subsection (4)(b) must be taken as soon as reasonably practicable after the order, notice or other document is made available for inspection.
- (6) *In this section “prescribed person”—*

*(a) in relation to an order, notice or other document made or issued in England and Wales or Northern Ireland, means a person prescribed by regulations made by the Secretary of State;*

*(b) in relation to an order, notice or other document made or issued in Scotland, means a person prescribed by regulations made by the Lord Advocate.*

## SECTION 15 OF THE CRIME (OVERSEAS PRODUCTION ORDERS) ACT 2019 AS AMENDED BY PARAGRAPH 6 OF SCHEDULE 5 TO THE BILL

### 15: Application of Act to service police

(1) A judge advocate may, on an application by a member of a service police force, make an overseas production order against a person in respect of electronic data if each of the requirements for the making of the order is fulfilled (see section 4).

(2) This Act applies in relation to an application under subsection (1) and an overseas production order made under that subsection as it applies in relation to an application made to a judge by an appropriate officer under section 1(1) and an overseas production order made under that section.

(3) For the purposes of subsection (2) (and unless the context otherwise requires)—

(a) references to a judge are to be read as references to a judge advocate;

(b) references to an appropriate officer are to be read as references to a member of a service police force;

(c) references to an equivalent appropriate officer are to be read as references to a member of the same service police force as the person who applied for the order or, as the case may be, made the application;

(d) in section 3, "item subject to legal privilege" is to have the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);

(e) the reference in sections 4(3)(a) and 12(4)(a) to an indictable offence is to be read as a reference to an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales is an indictable offence;

(f) section 7(2) is to be read as if paragraphs (c) and (d) were replaced with a new paragraph (c) referring to the Secretary of State;

(g) section 9 is to be read as if—

(i) the reference in subsection (2) to an overseas production order made in England and Wales or Northern Ireland were a reference to an overseas production order made by a judge advocate, and

(ii) subsection (3) were omitted, and

(iii) subsection (5) defined "prescribed person" as a person prescribed by regulations made by the Secretary of State;

~~(h) the reference in section 14(1)(c) to a court in England and Wales, Scotland or Northern Ireland is to be read as if it included the Court Martial.~~

~~(h) section 14 is to be read as if—~~

~~(i) the reference in subsection (1)(c) to a court in England and Wales, Scotland or Northern Ireland included the Court Martial,~~

~~(ii) subsection (3)(d) referred only to arrangements made by the Secretary of State or a prescribed person, and~~

~~(iii) subsection (6) defined "prescribed person" as a person prescribed by regulations made by the Secretary of State.~~

(4) If a person (whether the person is in the United Kingdom or outside it) fails to comply with an order made under this Act by a judge advocate, the Court Martial may certify the failure to the High Court in England and Wales.

(5) The High Court—

(a) may inquire into the matter, and

(b) must hear—

(i) any witness who may be produced against or on behalf of the person alleged to have failed to comply with the order, and

(ii) any statement that may be offered in defence.

(6) Having acted in accordance with subsection (5), the High Court may deal with the person in any way in which it could deal with the person if the failure had been a failure to comply with an order of that court.

(7) In this section—

"judge advocate" has the same meaning as in the Armed Forces Act 2006 (see section 362 of that Act);

"service police force" means—

(a) the Royal Navy Police,

(b) the Royal Military Police, or

(c) the Royal Air Force Police.