

Criminal Justice and Immigration Act 2008

1. The Criminal Justice and Immigration Act received Royal Assent on 8th May 2008. A summary of the content is drafted below:
2. Provisions already commenced:
 - a) Restrictions on imposing community sentences to leave it open to the Court to impose a fine also sets out where liberty can be restricted under a community order.
 - b) Provides restrictions on the power to make a community order to ensure that limited probation resources are directed to where it is thought that they can be the most effective.
3. Provisions commencing July 2008:
 - a) Amended definition to pre-sentence reports. A pre-sentence report for an under 18 must be made in writing where the Court is considering custody.
 - b) Package of reforms to public protection sentencing for both adults and juveniles. Imposes a seriousness threshold, the removal of the rebuttable presumption of risk allowing the Court greater discretion. Also provides a change to the structure so that offenders will be automatically released through the custodial part of the sentence rather than being at the discretion of the parole board.
 - c) Clarity on the position of consecutive terms of imprisonment.
 - d) This section relates to prisoners liable to be removed from the UK. For offenders whose offences were committed after April 2005 the parole board will be able to consider their case for early release.
 - e) Fine defaulters released on compassionate grounds will be released unconditionally and not placed on licence.
 - f) New recall provisions for determinate sentences introduced.
 - g) Minimum period of unpaid work that can be imposed is reduced from 40 to 20 hours.
 - h) The Court is given the power to commit a fine defaulter under 25 years of age to unpaid work.
 - i) Amendments are made to the appeals process.
 - j) Restrictions to the grounds on which a person can be refused bail for an imprisonable summary offence are made, except for drug users in certain areas. Does not affect decisions made by the Police under PACE 1994.

- k) For the purposes of bail the Court must consider the value of an offence of criminal damage this is altered to include those of 17 years and above.
- l) A rebuttal presumption can be made by the Magistrates Court if a defendant fails to attend for a trial without good cause the court shall proceed in their absence and can now impose a custodial sentence without first adjourning.
- m) A non lawyer designated by the DPP known as an Associate Prosecutor (formally designated case worker) is enabled to conduct certain trials. Will not be fully implemented until May 2011.
- n) Grooming. An offence will be committed if an adult has arranged a meeting with a child and the child travels to meet the offender.
- o) A statutory framework is introduced for determining what is 'reasonable force'
- p) New guidance on when disclosure should take place for MAPPA responsible authorities.
- q) The Police are enabled to apply for a Sexual Offences Prevention Order in a wider set of circumstances. The frequency of when offenders are required to notify their details to the police is amended for those without a sole of main residence in the UK.
- r) Some offences under Public Order acts are added to the Football Spectators Act as trigger offences.
- s) The definition of an indecent photograph of a child is extended to cover tracings or other forms of data.
- t) An offence is created when an adoptive parent has consensual sex with their adopted child when they are 18 or over.

4. Remaining sections where the enactment date has not been announced:

- a) Youth Rehabilitation Orders are to be introduced as a new generic community sentence for children and young people.
- b) The adult conditional caution scheme is to be extended to young offenders. The Act provides for the publication of a Code of Practice for youth conditional cautions.
- c) The existing powers of Serious Fraud Officers are to be extended to the vetting stage in any case involving bribery or corruption of overseas officials.
- d) Sanctions will be set out for failure to provide information on the factual matters on which the defence will rely.
- e) The scheme for awarding compensation for miscarriages of justice is to be altered.
- f) There will be a review of international cooperation in relation to criminal justice matters.
- g) Violent Offender Orders are to be introduced for a range of serious violent crimes. The orders can be made by the Court

following a request by the Chief Police Officer to the Magistrates Court to protect the public from harm for anyone sentenced to at least 12 months custodial or given a hospital order.

- h) The Anti Social Behaviour Act is to be extended to introduce the power to use a Closure Order for persistent nuisance and disorder.
- i) A new offence is proposed of causing a nuisance on NHS premises.
- j) An annual review will be required for all ASBOs made against a child or young person under 17 and the Court will be required to consider making an individual support order for all cases where an ASBO is made in respect of a child or young person.
- k) A range of procedure and processes are proposed for dealing with conduct and performance of police officers and special constables including providing financial assistance to organisations that promote efficiency or effectiveness of the police. Also the HMIC will be able to inspect the full range of police authority functions.
- l) Special immigration status is proposed for designated foreign nationals who have committed terrorism or other serious criminal offences.
- m) The statutory prohibition on the inducement of industrial actions for prison officers is reintroduced.
- n) Magistrates are to be enabled to impose restricted premises orders or sales orders on those who have persistently sold tobacco to under 18s.
- o) A framework is to be introduced for the Information Commissioner to serve a monetary penalty notice on a data controller for serious breach of the DPA.
- p) The Secretary of State will have discretion on whether to deport a person automatically under action against trafficking in human beings.

5. The above is a summary of the Act, which runs to 336 pages in total. A full copy of the act can be viewed on www.opsi.gov.uk/acts

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