

The Creation of an English Criminal Code: 6 Acts

First Act - Sex Crimes Act

Graham McBain

Correspondence: Graham McBain.

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1. Introduction

The state of English criminal law is exceedingly poor. There is too much of it. Further, a large amount of older *statutory* criminal law is *manifestly obsolete*. Yet, it has not been repealed. The same applies to obsolete *common law* crimes. Although no one - including, astonishingly, the Law Commission and the Ministry of Justice ('**MOJ**') - appears to have worked out the actual position, the author suggests that it comprises the following:

- There are at least c. 305 Acts, dating from 1275 dealing with *general crimes* (see *Appendix 1*).¹ Yet, at least, 60 Acts (many with only with one, or a handful, of sections) are manifestly obsolete.² All 305 Acts dealing with crimes could be consolidated into 6 Acts. Then, into one Criminal Code, with 3 parts (see *below*);
- Within these c. 305 Acts, there are parts of c. 130 Acts which also deal with *criminal procedure* (*ibid*).³ Again, much is obsolete. And, all could be consolidated into just one Civil Procedure Act ('**CPA**');
- Within these c. 305 Acts, there are parts of c. 30 Acts which deal with *criminal justice* (*ibid*).⁴ Less of this is obsolete. And, all could be consolidated into just one Civil Justice Act ('**CJA**').

The consolidation - and modernization - of the criminal law would, manifestly, help all criminal lawyers (barristers and solicitors), judges, criminal legal text writers and the legal system. Further, it would not be difficult. *What is the cost to the taxpayer; British companies etc. in having failed to do this to date? I calculate, at least, 400-500 million pounds a year on a conservative estimate.* Further, it means that a large amount of criminal law is badly out of date, with antiquated drafting, endless cross-references and many legal problems that would not otherwise arise (giving rise to unnecessary court cases and - in some cases - miscarriages of justice). In short, all this is shameful. The above refers to criminal *legislation*. However, from ancient times, crimes could also be created by the courts (i.e. common law crimes) and this still applies.

- As to how many common law crimes still exist, this is unclear. However, see *Appendix 3*;
- Much of this is manifestly obsolete and such crimes should have been abolished long ago;
- As for those common law crimes still of use,⁵ these could (easily) be put into legislation.⁶

Further, the legal power of judges to create new common law crimes should be abolished. This is no longer necessary - or appropriate - in modern times since this is, now, the role of Parliament.

¹ See *Appendix 1*, (*Obsolete Criminal Legislation*, 60 Acts). I say '*general crimes*' because there is, at least, the same number of pieces of legislation dealing with *specific subjects* (railways, aviation, energy *etc*) which mention crimes. These crimes should be left there since they are specific. For some of this legislation (mentioned in Archbold (2024), in their Index of legislation) see *Appendix 4* (total no of Acts referred to are 324).

² See n 1. These 60 obsolete Acts from 1297-1951 contain only c 100 ss. Thus, in 1951, all criminal legislation could have been easily consolidated into 1 Criminal Code (3 pts), 1 CPA and 1 CJA. The same could still have happened, with no difficulty, in 1984 (when much criminal procedure was consolidated into the PACE 1984). Two golden opportunities missed when the MOJ (and, after 1965, the Law Commission) had their eye completely off the ball. The cost to the taxpayer in not so doing since has been colossal. As it is, these 60 Acts have been analysed in detailed articles by the author, see *Appendix 2*.

³ See *Appendix 1*, listing the legislation under '**CPA**'.

⁴ *Ibid*, listing the legislation under '**CJA**'.

⁵ See *Appendix 3*.

⁶ Criminal law has none of the complexity of modern areas of law such as tax law, conflict of laws *etc*. It was developed from Anglo-Saxon times on the basis of simple pre-requisites. Yet, this has been forgotten.

The above poor state of affairs has occurred despite the Law Commission having laboured away on English criminal law for nearly 60 years (it was established in 1965) and using up large amounts of taxpayer's money (see also 6). However, if the obsolete material were to be dealt with - which would take less than a year using experts - then, *mirabile dictu* (wonderful to relate) it would be possible to consolidate all general English criminal legislation into just 6 Acts,⁷ viz. the following:

- Sex Crimes Act;
- Property & Finance Crimes Act
- Public Order Crimes Act
- Weapons Act
- State Crimes Act
- Crimes against the Person Act.

These 6 Acts could then, easily, be reduced to one Criminal Code, divided into 3 Parts viz.

- (a) Crimes against the Person (inc. Sex Crimes legislation)
- (b) Public Order Crimes (inc. Weapons and State Crimes legislation)
- (c) Property and Finance Crimes.

As well as this, all criminal legislation relating to *procedure* could be consolidated into one *Criminal Procedure Act*. And, all criminal justice legislation into one *Criminal Justice Act*. In short, c. 305 pieces of legislation into a Code and 2 Acts.⁸ This would save vast amounts of time and public money.

Why has this not been discovered by the Law Commission? A simple answer is the lack of law commissioners with knowledge of the older criminal law and/or the ability to know what criminal law books to read.⁹ I much suspect this is the truth - although the Law Commission and its head (always a well-thought of judge, even though he might have no knowledge of law reform) - might be reluctant to acknowledge this. However, there is some excuse. In Victorian times, there were attempts to create a Criminal Code promoted by people such as Sir Leslie Stephen - a legal draftsman (he helped draft the Indian Criminal Code) and judge.¹⁰ *Why* it failed was that there was too much criminal law to 'push' into one piece of legislation. Further, many Victorian judges tended to be conservative in their views. They were reluctant to concede to more modern legal developments; as well as to abdicate power. These two (rather reactionary) attitudes long prevailed. Indeed, long into the 20th century. This hindered much law reform. After the establishment of the Law Commission in 1965, there was a further attempt to create, *ab initio*, a Criminal Code¹¹ and it was helpful that a leading criminal textbook writer was involved.¹² The problem was that, again, there was too much criminal law - both legislation and common law. Also, importantly, the Law Commission *failed* to repeal obsolete criminal law first.¹³ Thus, a good overview was impossible. **Bearing these problems in mind, any consolidation of English law today should be predicated on 4 essential things:**

- The *first* is to repeal all *obsolete criminal law* (both statutory and common law). Also, to enact in legislation the relatively few common law crimes remaining. Such is not difficult;

⁷ Previously, I proposed 4 Acts. However, on reflection (and considering the text of the present legislation in detail) it is better to have a separate Weapons Act - and State Crimes Act - to help take out obsolete material and not make a Public Order Crimes Act too bulky at the outset.

⁸ This would leave the following Acts dealing with criminal legislation: (a) Sentencing Act 2020 (415ss); (b) Proceeds of Crime Act 2002 (450ss); (c) Extradition Act (225ss). These, being very lengthy, could be left as they are or incorporated into a Criminal Procedure Act in the case of the first two and a Criminal Justice Act in the case of the Extradition Act. Also, the huge size of a Sentencing Act could be much reduced if there is a Criminal Code ('CC'), CPA and CJA, with the CC tabling the sentences.

⁹ There are fewer criminal texts that might be thought, although many editions of some. However, to date, it appears that no criminal legal text has bothered to list them. For a list, see *Appendix 7*.

¹⁰ See JF Stephen, *A General View of the Criminal Law* (1st ed, 1880, 2nd ed, 1889). Also, JF Stephen, *A History of the Criminal Law* (3 vols, 1883).

¹¹ See *Codification of the Criminal Law - A Report to the Law Commission* (HC 270) and *Criminal Law - A Criminal Code* (1989, HC 299, no 177).

¹² This was JC Smith whose work with Brian Hogan (Smith & Hogan, *Criminal Law* (1965) was groundbreaking. Unlike the standard texts of that time, CS Kenny (*Outlines of Criminal Law*, 1st ed 1902, last ed (19th) 1966, ed JWC Turner) and WO Russell, *A Treatise on Crimes and Misdemeanors* (1st ed, last ed, 1964) this work questioned the adequacy of various crimes and their formulation.

¹³ The Law Commission started off very well (*Proposal to Abolish certain Ancient Criminal Offences*, Law Com no 3) and it is notable that a House of Lords judge (Lord Dilhorne) was involved. However, the Law Commission failed to capitalize on this. By means of 2-3 short reports it could easily have: (a) taken out swathes of obsolete criminal legislation 1267-1925 and common law material; (b) recommended the consolidation of criminal legislation in a short report. It was another missed opportunity.

- The *second* is to *consolidate English criminal law* into 6 Acts with the material assembled under generic headings (see above) into which all general criminal law can fit.¹⁴ After that, to consolidate these into a Criminal Code of 3 parts, reflecting practitioner specialisms in this area;¹⁵
- The *third* is that these Acts should employ *simple nomenclature*.¹⁶ And, to give each *crime a distinct description*.¹⁷ Also, to indicate in an *Appendix* to the Act, the *charge* for the crime.¹⁸ Finally, to put in a Table at the back of each Act, the *sentence* for each crime;¹⁹
- The *fourth* is that - once these 6 Acts have been enacted - on a further revision when the same is further consolidated into a Criminal Code (of 3 Parts) - all crimes should be reduced to specifying their *pre-requisites*. Then, any *defence*. Then, any *exception*. All other material should be placed in an Appendix. This is perfectly possible²⁰ and it was the basis on which the criminal law originally developed from Anglo-Saxon times.

As it is, there is no doubt that all English law crimes can be, aptly, set out in the 6 Crime Acts referred to above. As to who should undertake the above tasks, the answers are, also, simple. In the case of the first - removing obsolete criminal law - this should not be left to *current* law commissioners. This is due to the fact that, often, current law commissioners do not have the knowledge base - or experience - of dealing with older criminal law. Also, law commissioners, invariably, have their hands full dealing with problematic *modern* criminal legislation and they do not have the time to prepare reports (albeit, short ones) identifying obsolete criminal law and clarifying why it should be repealed. Instead, the Lord Chief Justice should appoint judges (whether sitting or retired) - or retired law commissioners or legal academics or criminal legal text writers *with the knowledge and experience* - to undertake the same. Only 3-4 reports would be needed in the case of *obsolete* criminal legislation and common law material.²¹ These reports could, all, be written within 6 months.²²

As for consolidating non-obsolete criminal material into the 6 Acts referred to above, the Ministry of Justice (MOJ) should deal with the drafting of 3 and the Home Office with 3.²³ It is possible to undertake this at the same time as experts writing reports on obsolete crimes. Everything could (should) easily be done in 3 years. So too, the drafting of a CPA (*Criminal Procedure Act*) and a CJA (*Criminal Justice Act*).

The purpose of this article is to discuss the format of these 6 consolidating Acts starting - in this article - with the simplest consolidation. That of sex crimes. Such an Act should be founded on the Sexual Offences Act 2003, which comprised c. 174 sections. It is a good base. A Sex Crimes Act should, also, include crimes relating to indecency and obscenity. However, prior to discussing this, brief reference to obsolete crimes - both statutory and common law - should be made.

2. Obsolete Crimes

The earliest *statutory crime* still on the books is from 1275. It is contained in the Statute of Westminster 1275. It concerns seeking to influence elections. After that, there is a motley collection of extant crimes running from 1313-

¹⁴ In the case of crimes relating to specific topics such as shipping, railways, aviation, vehicles, they are best left there, being more easy to locate, see n 1.

¹⁵ Criminal law is now very specialized with some practitioners concentrating on sex crimes while others deal with fraud *etc*.

¹⁶ At present, too many Acts in the criminal field have voluminous titles (such as '*Criminal Justice and Public Order Act 1994*' or the '*Legal Aid, Sentencing and Punishment of Offenders Act 2012*'). This results in lengthy citation in court (and) legal texts - which helps neither practitioners nor judges. Further, preambles in older criminal legislation are, often, lengthy, but unnecessary or out of date. Finally, the words '*crime*' and '*offence*' are, often, used interchangeably. The latter used to refer to lesser crimes. However, there is no need for a distinction now (see the Criminal Law 1967 which abolished the old distinctions (categories) between: (a) treasons; (b) crimes; and (c) misdemeanors). Further, '*offence*' is sometimes employed, quixotically, in more serious crimes (such as sex crimes). The word '*crime*' is short and simple and should be used.

¹⁷ For example, a distinct crime should be to '*Own or Manage a Brothel*'.

¹⁸ There should be a simple standard form of wording for every charge (i.e. '*The accused is charged with the following crime(s): 1. Owning or Managing a Brothel contrary to the CC, s [] etc*'). Removal of this obsolete matter would not be contentious. Indeed, most practitioners have no (or little) knowledge of it.

¹⁹ All sentences should be in legislation (some older common law crimes have an indeterminate sentence - this is not appropriate in modern times). Further, the sentence should be in a Table, located in an *Appendix*. Frequent changes to the sentence have utterly mangled the text of older - and more recent - criminal legislation.

²⁰ A modern example is the Crossbows Act 1979 which (almost) achieves this and is very simple.

²¹ This obsolete material is listed in *Appendix 1* and *Appendix 3*.

²² Writing articles on all the obsolete criminal legislation referred to in *Appendix 1* took me only a year or so in total - analysing the legal history in most cases from Anglo-Saxon times. Often, caselaw or legal text material is very scant in respect of each individual piece of legislation (there being 1-2 or no cases, and little textual reference).

²³ One ministry should deal with the Public Order Crimes Act, Weapons Act and State Crimes Act, since they are closely related. Obviously, the draftsmen at the Home Office and MOJ should work closely together, to dovetail the approach and drafting.

1951 all of which should have been repealed long ago.²⁴ Not least, since many of them have no - or very little - caselaw. Or, they are palpably unnecessary or superceded. Such obsolete material has been considered in great detail in previous articles by the author. For a list of these *obsolete* statutory crimes and the articles dealing with them, see *Appendices 1 and 2*. Then, there are *obsolete common law crimes*. Some of them risibly obsolete.

For example, when last did 10 free male citizens (i.e. freemen - not slaves or villeins (serfs)) aged over 12 gather to fulfil the common law obligation to give a mutual pledge (that is, an oath or promise, also, called a 'frankpledge') of good behaviour that they would not breach the peace (being a reference to the criminal law)? I am not sure that such has occurred for, at least, 300 years. Further, such a tithing (the gathering of 10) - with a punishment for failing to meet and give such a pledge - cannot now occur.²⁵

And, when was a person last criminally prosecuted for refusing to execute (i.e. serve in) a public office? Probably, 200 years ago.

And, when was a person last prosecuted for the generic crime of 'contempt of the sovereign' (answer c. 1702)?

Or, for another generic crime, a 'high crime or misdemeanour' (answer c. 200 or more years ago)?

Or, for certain classes of extant high treason - such as killing a (sitting) queen's bench judge (answer, never)?

Other obsolete common law crimes include: (a) failing to participate in a hue and cry; (b) effecting (committing) a public mischief; and (d) corrupting public morals; (e) outraging public decency; (f) keeping a disorderly house (see **5 & 6**). The latter 4 will be considered in this article.

As previously noted, 3-4 (short) reports by a couple of experts - ordered by the LCJ or under the aegis of the Law Commission - dealing with obsolete criminal legislation and common law material would take 6 months or less to issue; and abolition/repeal would be uncontroversial. In the case of sex crimes all of the following common law crimes of:

- *effecting a public mischief (including conspiring);*
- *corrupting public morals (including conspiring);*
- *outraging public decency (including conspiring);*
- *keeping a disorderly house (a polite word for a brothel in olden times),*

should be abolished, being obsolete (see also 4 & 5).

Turning now, to a Sex Crimes Act.

3. Sex Crimes Act - Consolidate Older Sex Crimes Legislation

The drafting of a Crime Act dealing with sex crimes would be based around the Sexual Offences Act 2003 (the '**2003 Act**'). It would involve the consolidation of the following pieces (snippets) of older sex crimes legislation into the 2003 Act.²⁶ The same should have occurred when the 2003 Act was drafted. It was a regrettable oversight.

<u>Act</u>		<u>No of Sections (total 205 ss)</u>
• [Children and Young Persons Act 1933	(s 3, <i>children under 16 in brothels</i>)	1] ²⁷
• Sexual Offences Act 1956	(ss 33-7, <i>brothels</i>)	6 ²⁸
• Street Offences Act 1959	(ss 1, 1A, 4, <i>loitering or soliciting</i>)	3 ²⁹
• Sexual Offences Act 1967	(s 6, <i>brothels for homosexual purposes</i>)	1 ³⁰
• Sexual Offences (Amendment) Act 1992	(ss 1-7, <i>anonymity</i>)	7 ³¹
• Sexual Offences Act 1993	(s 1, <i>sex presumption re boy under 14, spent</i>)	0 ³²

²⁴ See n 1.

²⁵ These were given in the sheriff's court or a court leet (i.e. a manorial court dealing with criminal matters). The first has been abolished, the latter are obsolete (and they can no longer sit).

²⁶ The criminal law is such a mess that I think that the only sex legislation still extant prior to the 2003 Act is that cited in **3 & 4**. However, Archbold (2024) and the legislation websites - government, Westlaw and Lexis Nexis (see *Appendix 1*) are not fully in accord.

²⁷ Westlaw refers to s 3 as extant. However, Archbold (2024) appears not to refer to it.

²⁸ See also Archbold (2024), 20-219.

²⁹ Ibid, 20-226.

³⁰ Ibid, 20-219.

³¹ Ibid, 20-8. It may be noted that this Act is not well drawn and is very prolix. Thus, crimes referred to in s 2 could easily have been referred to in a Table, with separate Tables for NI and historical crimes. Consolidation would enable a re-think of this Act.

³² This abolished the presumption of sexual incapacity of a boy under 14 (*doli incapax*, i.e. incapable of the crime)

- Sex Offences (Conspiracy & Incitement) Act 1996 (s 2-3, *incitement*) 2³³
- [Sexual Offences (Protected Material) Act 1997 (*not yet in force*)] 8³⁴
- Criminal Justice and Police Act 2001 (ss 46-7, *advertis re prostitution*) 2
- Sexual Offences Act 2003 (ss 174, *main Act relating to sex acts*) c. 174
- Violent Crime Reduction Act 2006 (s 55, *continuity of sex crimes law*) 1³⁵

For the present text of this material (save for the 2003 Act which is too lengthy), see *Appendix 5*. As may be seen, the above involves putting into the 2003 Act a few older pieces of legislation dealing with brothels, prostitution and incitement. Nothing difficult here. At the same time, much redundant text could be excised as a result of the consolidation. However, it is important when effecting consolidation that - while the *crime* is put in the text of the Act - *administrative material* is placed in an *Appendix*. This is to make Act more user friendly since the administrative material will not be relevant in many cases. Thus, example, the 2003 Act has the following parts:

- Part 1 - Sexual Offences (ss 1-79)
- Part 2 - Notification & Orders (ss 80-136R)

Part 2 is *administrative* and should be placed in *Appendices* to a Sex Crimes Act (also, much is unduly complicated administratively and should be simplified). Further, Part 1 should be divided into 3 Parts in a Sex Crimes Act: *viz.* the:

- 1st Part dealing with sex acts involving adults (i.e. 2003 Act, ss 1-4)
- 2nd Part with the same involving children (ss 5-29, 47-51, 64-5)
- 3rd Part involving sex with persons with a mental disorder (ss 30-44).

This is since the 2nd and 3rd parts may not apply. Further prostitution, brothels, trafficking and other sex crimes should be placed in separate Parts for the same reason.

In conclusion, all the above legislation extant on sex crimes - together with the 2003 Act - should be consolidated into a Sex Crimes Act, one which is drafted and set out in a more user friendly manner.

4. Sex Crimes Act - Consolidate Legislation on Indecency/Obscenity

As indicated in 3, the 2003 Act should have incorporated the older material on brothels into the same. It should, also, have included the following material on indecency and obscenity:

<u>Act</u>	<u>No of Sections (total 56 ss)</u>
• Customs Consolidation Act 1876 (s 42, <i>prohibits import of indecent or obscene prints</i>)	1 ³⁶
• [Children and Young Persons (Harmful Publications) Act 1955 (ss 1-4)]	4 ³⁷
• Obscene Publications Act 1959	4 ³⁸
• Obscene Publications Act 1964	2 ³⁹
• Theatres Act 1968 (ss 2-18, <i>obscene plays</i>)	16 ⁴⁰
• Protection of Children Act 1978 (ss 1-7) (<i>indecent photos, under 18</i>)	7 ⁴¹
• Indecent Displays (Control) Act 1981	4
• Local Government (Miscellaneous Provisions) Act 1982 (<i>Control of Sex Establishments, s 2 & Sch 3</i>)	1

³³ Archbold (2024) 20-287/8, 292.

³⁴ Ibid, 12-128 states that this Act made provision for regulating access by defendants (and others) to certain categories of material disclosed by the prosecution (or the Criminal Cases Review Commission) in connection with proceedings relating to certain sexual and other offences, a list of which is contained in the schedule to the Act. Archbold also noted that: 'After 12 years on the statute book with no commencement order having been made, it appeared that there was no current intention to bring it [this Act] into force'. Thus, they excluded discussion on it post their 2010 ed. One would agree that this Act is redundant and it should be repealed. I have not set it out in *Appendix 6* therefore.

³⁵ See also Archbold, 20-5.

³⁶ Ibid, 31-137.

³⁷ This Act does not deal with sexual matters as such. See *Appendix 6*. Thus, it should not be inserted in a Crime Act dealing with sex crimes. Rather - if still needed - it should be placed in a Crimes against the Person Act (a part dealing with children).

³⁸ See Archbold (2024), 31.

³⁹ Ibid.

⁴⁰ Many ss should go in an *Appendix*. See also Archbold, 31-99.

⁴¹ Ibid, 31-107.

- Criminal Justice Act 1988 (ss 160, 160A, *indecent photos*) 2⁴²
- Broadcasting Act 1990 (sch 15, *TV programmes, obscene material*) 1⁴³
- *Criminal Justice and Public Order Act 1994 (ss 84-91) (amends only)*
- Postal Services Act 2000 (s 85 ((3), (4), *sending obscene articles by post*) 1⁴⁴
- Criminal Justice and Immigration Act 2008 (ss 63-8) (*extreme pornographic images*) 6⁴⁵
- Coroners and Justice Act 2009 (ss 62-8, *prohibited images of children*) 7
- Serious Crime Act 2015 (s 69, *paedophile manual*) 1⁴⁶
- *Criminal Justice and Courts Act 2015 (ss 33-5, disclosing sex photos and films, spent)* 4⁷
- *Voyeurism (Offences) Act 2019 (amends only)*

See *Appendix 6* for this material.

In conclusion, this older material on obscenity should, also, be incorporated into a Sex Crimes Act.

5. Sex Crimes Act - Common Law Crime: Outraging Public Decency

Further, into a Sex Crimes Act there should be inserted a modern formulation of the common law crime of *Outraging Public Decency*.⁴⁸

- The Law Commission recommended some time ago that this crime should become statutory.⁴⁹ There is, also, a common law crime of *conspiring* to outrage public decency. Such will be unnecessary when the former is made statutory (if required) - since statutory provisions on conspiracy will, then, cover the same. *Is a statutory crime of outraging public decency needed?* The answer is no - for the reasons given below;
- This offence of outraging public decency has been considered in detail by the author in an article listing the principal caselaw since 1663 (case of *Sedley*).⁵⁰ The problem with the Law Commission formulation is that it employs opaque wording such as '*obscene or disgusting*' with the latter expression being particularly obscure since this word has no clear general - or legal - meaning and it is very subjective.

Thus, it is asserted that this common law crime should be abolished and that sexual acts thought to be still required which formerly fell within its ambit now be covered by the term '*obscene*' - a word which has a provenance and history in legislation, one which covers *sexual* acts. Such should dovetail with the 2003 Act to prevent mis-match and overlap. The Law Commission noted that the offence of outraging public decency should include sexual acts committed in public, *viz.*

- | | |
|--|---|
| 1. Exposing the genitals | (now covered by the 2003 Act, s 66 which deals with exposure) |
| 2. Masturbation | |
| 3. Real (or simulated) sex | |
| 4. Making intimate videos without consent | (including up-skirting, see 2003 Act) |
| 5. Intimate filming of women without consent | (it should include men as well) |
| 6. Indecent pay-view exhibitions | (see Indecent Displays Act 1981) |
| 7. Nude bathing in inhabited areas | (cf. where permitted). ⁵¹ |

As to these, 1, 4-5 and 7 are now covered (it is asserted) by the 2003 Act. And 6, by the Indecent Displays Act 1981.

⁴² Ibid, 31-115.

⁴³ Ibid, 31-93.

⁴⁴ Ibid, 25-378.

⁴⁵ Ibid, 31-120.

⁴⁶ Ibid, 20-231.

⁴⁷ See now Online Safety Act 2023. See also Archbold 20-227.

⁴⁸ See also Archbold, 20-235 'In general, all open lewdness, grossly scandalous behaviour, and whatever openly outrages decency or is offensive or disgusting, or is injurious to public morals by tending to corrupt the mind and destroy the love of decency, morality and good order, is an offence indictable at common law'. This formulation, following Russell (1964), see n 12. However, it is (far) too wide and not borne out by the caselaw, see GS McBain, *Abolishing the Crime of Public Nuisance and Modernising that of Public Indecency* (2017) International Law Research, vol 6, no 1, pp 1-108, especially *App D* (pp 104-108) which lists - in chronological order - the caselaw from 1671.

⁴⁹ See Law Commission (2010), *Public Nuisance and Outraging Public Decency no 193*.

⁵⁰ See McBain, n 48.

⁵¹ For other matters covered in the history of outraging public decency see McBain, n 46, p 91.

As for 2-3, they should be covered by a separate crime dealing with ‘*Sex Acts in Public*’. That is, to masturbate or have sex (real or simulated) *in public* should be held to be crime, without the need to use the word ‘*obscene*’ as such.⁵² So too, ‘*extreme pornographic images*’ (see Criminal Justice and Immigration Act 2008). They should be treated as ‘*obscene*’ and not comprise (as at present) a separate category. In conclusion:

- *Brothel/Prostitution*. The Sexual Offences Acts 1956 and 1967, the Children and Young Persons Act 1933 (*child under 16 in a brothel*), the Street Offences Act 1959 (*loitering/soliciting/earnings*) and the Criminal Justice and Police Act 2001 (*ads re prostitution*) should be consolidated with the 2003 Act. Further, the relevant age should be 18 for the purposes of the Children and Young Persons Act 1933, s 3 (if not spent/repealed - at present, it refers to 16);
- *Obscenity*. The Acts of 1959 and 1964 Obscenity Acts should be consolidated with the 2003 Act. There should be a separate crime dealing with sex acts in public. The common law offence of outraging public decency should be abolished.⁵³ Further, at present, there is the:
 - Protection of Children Act 1978, s 1-1A. It deals with *taking, publishing etc indecent photos of children*;⁵⁴
 - Criminal Justice Act 1988, s 160-160. It deals with *possessing prohibited photos of children*;⁵⁵
 - Criminal Justice & Immigration Act 2008, ss 63-8. It deals with possessing ‘*extreme pornographic images*’;⁵⁶
 - Sexual Offences Act 2003 (i.e. the 2003 Act), ss 33-5. It deals with *disclosing private sex photos or films*;⁵⁷
 - Ibid, s 69. It deals with a *paedophile manual*.

This is all a jumble and very confusing. As to these:

The 1978 and 1988 sections should be combined in a consolidation. And, the reference in each case should be to an ‘*image*’ (i.e. a photo should be treated as an image). Further, ‘*obscenity*’ should cover these⁵⁸ - as well as the sections in the 2008 Act - the epithets ‘*indecent*’, ‘*prohibited*’ and ‘*extreme pornographic image*’ being dropped as confusing, inappropriate and unnecessary. These all (truly) fit within the term ‘*obscene*’ which, presently, covers ‘*articles*’ (which term should expressly include all ‘*images*’) for the purpose of plays, TV, customs imports and distribution by post.

In short, all the above (save for sex photos) should fall within the term ‘*obscene articles*’ and this can be simply achieved. Finally, the present formulation of ‘*obscene*’ (i.e. the tendency to deprave and corrupt) should be discarded. This formulation is, now, 160 years old and it means little, or nothing, today. It should be replaced by a modern term for ‘*obscene*’ which (like the definition of extreme pornographic images) should be explicit.⁵⁹ For example,

‘(1) An article, play, exhibition or TV programme is *obscene* if it portrays (in an explicit and realistic way) a sex act involving:

- (a) threat to a person’s life - including death or violent injury (murder, manslaughter, rape, gbh, torture *etc*)
- (b) violent injury to a person’s anus, breasts or genitals
- (c) severe physical degradation (or humiliation) of a person - including urination (or defecation) on the same or
- (d) sexual interference with a corpse or an animal (dead or alive).

- *Indecency*. See the Indecent Displays Act 1981. The word should only refer to displays which are *regulated*, but not ‘*obscene*’. Further, the word ‘*indecent*’ should no longer be used since it is too opaque in meaning;
- *Grossly Offensive/Disgusting*. Consideration should be given to discarding this term, with it being covered (at present) by terms such as ‘*obscene*’ or ‘*indecent*’ in the sexual context.⁶⁰ So too, the term ‘*disgusting*’. In the common law offence of outraging public decency ‘*grossly offensive*’ and ‘*disgusting*’ did not cover sex acts. Rather, matters such as exposing sores, inappropriate treatment of the dead *etc*.⁶¹

⁵² i.e. ‘It is a crime if a person (A); (a) engages in a sex act; (b) in a public place. ‘*sex act*’ means (i) sexual intercourse; (b) masturbation.

⁵³ Male masturbation is, possibly, covered by the Sexual Offences Act 2003, s 66, but not female masturbation (nor public sexual intercourse).

⁵⁴ See also Archbold (2024), 31-107.

⁵⁵ Ibid, 31-115.

⁵⁶ Ibid, 31-120.

⁵⁷ For all these pieces of legislation, the word ‘*image*’ should be used.

⁵⁸ Archbold (2024) lists indecent and prohibited child photos under obscenity (see p 3579, index). However, it may be better to avoid any term.

⁵⁹ The 2003 Act, sensibly, used words such as penis, vagina, vulva *etc*. This would have been impossible in 1876 in Victorian society when Cockburn CJ enunciated the concept of ‘*deprave and corrupt*’. Things have moved on.

⁶⁰ The common law offence of outraging public decency covered this, as does the Coroners and Justice Act 2009, s 62(c). However, this term (like the term ‘*disgusting*’) has no core meaning (referent) in general, or legal, language. It is not clear whether it is necessary. Both should be avoided in the sexual context. See also fn 37 referring to the Children and Young Persons (Harmful Publications) Act 1955.

⁶¹ See McBain, n 48 reviewing the caselaw. Inappropriate treatment of the dead should be dealt with in burial acts.

Finally, as well as the common law crime of outraging public decency being abolished as obsolete, so too should the common law crimes of:

- *effecting a public mischief* (including conspiring);⁶² and
- *corrupting public morals* (including conspiring).⁶³

A review of the caselaw in respect of the above indicates that these matters are, now, covered by other crimes or they are drawn too widely, given societal change.⁶⁴

In conclusion, the common law crimes of outraging public decency, effecting a public mischief and corrupting public morals should be abolished. ‘Obscene’ articles should cover all matters presently covered by the Obscene Publications Acts 1959 & 1964 as well as present legislation dealing with: obscene plays, TV programmes, imported (and posted) articles. This would leave the Indecent Displays Act 1981 (the term ‘indecent’ should be dropped and replaced with the term ‘sex’ and should cover public sex exhibitions) and the 2003 Act, ss 33-5 (private sex images) which should remain as distinct crimes.

6. Sex Crimes Act - Common Law Crime: Keeping a Disorderly House

This is a very old common law crime which has been much misunderstood in modern times.⁶⁵ It is obsolete and should have been repealed in 1956 when the Sexual Offences Act 1956 dealt with brothels.

- In olden times ‘*disorderly house*’ was a polite word for a brothel. It was only in the 16th century that the Italian word ‘*bordello*’ and the French ‘*brothel*’ came into more common use.⁶⁶ Thus, in olden times, a brothel was called a ‘*disorderly house*’ (also, the synonym, bawdy house was used). By the 18th century, the term ‘*disorderly house*’ was (inappropriately) extended to cover gaming houses, theatres and other matters.⁶⁷ However, the latter have (long) been covered by other legislation. Thus, this common law crime should be abolished since the term ‘*disorderly house*’ was limited to brothels by 1839;
- It could (should) actually have been abolished in 1839 or 1847 (by general legislation) when the Metropolitan Police 1839 and the Town Police Clauses Act 1847 sought to deal with prostitution. However, these Acts were local - the 1839 Act covered the Metropolitan Police District (MPD) of London only and the 1847 Act did not cover all towns and cities. Thus, this common law crime lingered on - but only applied to a brothel.

It should, then, have been abolished in 1956 when the Sexual Offences Act 1956 was enacted dealing with brothels. However, likely, no one at the time (including the draftsman) knew the legal history of the common law crime. As a result, various cases relating to male stripping in clubs/bars, were incorrectly brought under this common law crime, when such was wholly inappropriate.⁶⁸ In a recent case - *Court v Gu* (2012) - on appeal, Judge CJ crisply (and correctly) summed up the position. This case was a case of prostitution. It should have been brought under the 1956 Act, s 33A but it was brought out of time. Thus, the prosecution sought to invoke this ancient common law crime. However, Judge CJ observed:

‘The criminality which should have been alleged was that the appellants allowed the premises of which they were tenants to be used for prostitution. That however cannot be an appropriate basis for upholding the use of the common law charge...’⁶⁹

Thus, the common law offence should be abolished. Further, the sections in 1956 Act on brothels (ss 33-7) should be modernized.

⁶² Archbold (2024), 28-198 suggests that no such crime exists. However, there were, certainly, cases, see McBain, n 48, pp 86-8 and McBain, n 65 below (*disorderly house*), p 42 per Avory J in the case of *Berg* (1927) ‘It is a well ascertained principle of the common law that acts involving public mischief are indictable misdemeanours.’

⁶³ See McBain, n 48, p 92 and 97-100. See also *dicta* on ‘*contra bonos mores*’ in McBain, n 48.

⁶⁴ *Ibid*, which reviews the caselaw.

⁶⁵ For the (long) history of brothels see GS McBain, *Abolishing the Common Law Offence of Keeping a Disorderly House* (2015) *Journal of Public Law*, vol 8, no 2.

⁶⁶ As noted by Lord Coke, see n 65.

⁶⁷ *Ibid*.

⁶⁸ Male (and female) stripping is not the same as prostitution (offering sexual services).

⁶⁹ McBain, n 65, p 47. Lord Judge CJ, also, noted that ‘an ancient common law offence should not normally be expanded beyond well established parameters by judicial decision...on the evidence available in this case the conviction of the appellants represented a significant widening of the ambit of this offence’. Here, as in *Berg* (1927) (n 65, pp 40-1) there was, in fact, insufficient evidence provided to indicate prostitution (i.e. sex for money (*lucre*)).

- The reason why is that the legal target for any criminal sanction in the case of a ‘*disorderly house*’ (later, called a bawdy house or a brothel) in olden times was the pimp/procurer (previously, called the ‘*bawd*’ or ‘*harlot*’).⁷⁰ That is, the person (male or female) who *owned* the premises and lived off the earnings of the prostitutes. Further, prostitution was conducted in early England (as in Rome) in bathing houses (public baths) also called ‘*stews*’ (*estui*, the French translation of the latin *balneum*);
- Thus, the *purpose* of the common law offence was to suppress the owners of public baths who allowed prostitutes to use them. However, from 1166 (in London), 18 brothels in Southwark, outside London, were permitted to operate on land owned by the Bishop of Winchester. All those in the City of London (i.e. within the walls) were periodically suppressed (although there was laxity).⁷¹ Finally, in 1546, by proclamation,⁷² Henry VIII (suppressed) all brothels (then, called bawdy houses) - that is a house (it could be a private one) owned - or run (managed, controlled) by a pimp (also, called a ‘*bawd*’ or ‘*harlot*’ - a ‘*harbourer*’ or ‘*receiver*’ of prostitutes). Brothels (bawdy houses) re-emerged in the reign of Elizabeth I (1558-1603). However, they, likely, were wholly suppressed during the Cromwellian period (1649-60) through Puritan influence, to re-emerge after the Restoration (1660) – likely, assisted by the louche Charles II (1660-85);
- Thus, Coke stated the criminal position in his *Institutes of the Laws of England* (pub. 1641) ‘*the keeper... is punishable by indictment at the common law by fine and imprisonment...the keeping of a house of bawdry or stews, or brothel house, being as it were a common nuisance*’.⁷³ This makes it (very clear) that the common law crime of ‘*Keeping a Disorderly House*’, referred only to keeping a ‘*brothel*’ (bawdy house) - a brothel being premises (usually a house or bathhouse) which prostitutes visited or occupied - one which was open to any member of the public who received sexual services in return for the payment of money (*lucre*).⁷⁴
 - In the case where a women went to a private house to provide sexual services to a specific person (the lover(s)) for payment - such as a mistress - the house was not ‘*open to the public*’. Hence, it was not a brothel (since a mistress was not acting as a ‘*common prostitute*’);⁷⁵
 - Also, even if not a mistress, when a woman invited different men to her house from time to time for sex without payment - while this was *fornication* by both (or *adultery* by him, when one was married) - it was not prostitution since there was no payment for sexual services (nor was it a crime, although morally reprehensible);⁷⁶
 - The key thing, therefore, was that - for a brothel to exist - under the common law, there had to be:
 - (a) premises;⁷⁷
 - (b) open to the public for the purpose of prostitution;⁷⁸
 - (c) a prostitute (s) offering sexual services at any one time;⁷⁹

⁷⁰ The nomenclature has changed over time, since these terms were later applied to the prostitute (see McBain, n 65, p 25, n 94) who in early times was called a whore (from the Anglo- Saxon ‘*hore*’) as well as other synonyms such as ‘*common woman*’, ‘*courtesan*’, ‘*prostitute*’, ‘*lewd woman*’, ‘*woman of lewd life*’. The epithet ‘*common*’ meant they held themselves out as available to the general public (the commune, community) for money. They were not mistresses.

⁷¹ McBain, n 65, pp 23-5. From 1531, prostitutes had to wear a rayed (striped) hood, so that they could be distinguished from respectable women (fn 65).

⁷² Ibid, p 25.

⁷³ Ibid. Note that Coke says ‘*being as it were a common nuisance*’. That is, a brothel is treated, *per se*, as a nuisance (annoyance) to the general public, but this does not have to be proved.

⁷⁴ This is no different to the situation in ancient Roman save that - in Roman times - prostitution was taxed, as it was in various continental countries in Coke’s time.

⁷⁵ This was a rather crucial (moral) difference for kings, clergymen and the powerful who had one (or more) mistresses. The latter, like a prostitute, was providing a sexual service for money. However, the mistress was not offering her sexual services to the general public, but only to one or a few men, being more select. Therefore, by law, the mistress was not a prostitute.

⁷⁶ McBain, n 65 (caselaw).

⁷⁷ ‘*Premises*’ (a building) was essential for the crime since it was also a crime for a prostitute to solicit custom in a street (i.e. to offer to provide (or provide) sexual services for money).

⁷⁸ In *Brady and Ram* ((1963), Parker CJ stated ‘The case [*Berg* (1927)] provides clear authority that (a) there must be some element of keeping open house albeit the premises need not be open to the public *at large*’. This is correct. In medieval times, the house could be private and, thus, did not have to be open to the public at large for all purposes. However, like an inn (hotel) or tavern, it had to be open to the public at large for a specific purpose (here, for prostitution) just as a tavern (pub) is open for the public to provide a specific service (alcoholic refreshment) as is a hotel (for board and lodging).

⁷⁹ Only one prostitute was necessary at any one time.

(d) in return for money (*lucre*).⁸⁰

- The great fire of London (1665) destroyed most of the City of London. When rebuilt, many houses were leased out. Thus, the issue of the bawd (pimp) being not the owner but a *tenant* of premises came more to the fore. However, even before then, this fact would not have changed things for the purpose of holding whether a brothel existed, since the key issue was whether prostitution was conducted from '*premises*' - as opposed to the street - not whether such premises were rented or not.
 - Nor would it have relevant for a crime to be committed if the pimp was, also, the prostitute (i.e. it was a case of a woman/man using their own house to provide sexual services to the general public for money);
 - Nor was it relevant that the '*house*' in question comprised a room (s) in a house (or a flat);
 - Nor what precise sexual services were provided;⁸¹
 - Nor whether the brothel advertised its nature exteriorly;⁸²
 - Nor, whether there was only one prostitute.⁸³

The great problem of keeping old common law crimes is that lawyers, legal text writers and judges, then, completely forget what it meant. So too, legal texts such as Archbold (2024). However, there is no doubt that '*Keeping a Disorderly House*' has meant (since medieval times) '*Keeping a Brothel*.' This common law crime should have been abolished in 1956, when legislation dealt with keeping a brothel. However, by oversight it was preserved. Thus, this ancient common law crime should be abolished, being covered by the SOA 1956.⁸⁴ More importantly, the sections on a brothel in the SOA 1956 should be modernized. In particular:

- (a) A brothel is *not* the same as a '*swinger's club*' where people engage in sex without there being prostitution (i.e. sexual services in return for financial gain).⁸⁵ Thus, the latter should be made illegal (if required) under specific legislation;
- (b) A brothel is *not* the same as a male (or female) stripping, since the stripper is not offering sex for money. A brothel is, also, not the same as a pay view sex exhibition, open to the public. It, also, is not offering sex for money;
- (c) Legislation on brothels should incorporate the caselaw in Archbold (2024) relating to a brothel (as modernized) to prevent unnecessary future confusion.

In conclusion, the common law crime of keeping a disorderly house should be abolished, since it replicates the SOA 1956, ss 33-7 (on brothels). And, the latter should be modernized.

7. Sexual Offences Act 2003 - Conclusion

The 2003 Act was a useful consolidation. However, it suffers from the following defects, which should be remedied on consolidation:

- **Failed to incorporate older Sex Legislation.** It should have consolidated older legislation on brothels, obscenity and indecency. In not doing so, it has left the legal situation confused;
- **Failed to abolish Common Law Sex Crimes.** It should have abolished the common law crimes of: (a) outraging public decency; (b) keeping a disorderly house, (c) effecting public mischief; (d) corrupting public morals;

⁸⁰ In the case where a person invited others to come to his/her house to fornicate with other invitees (to '*swing*' in modern parlance) but not for money, this was not keeping a bawdy house, see *Pierson* (1706). This is why the case in *Berg* (1927) was wrongly decided (no evidence of prostitution for money or that members of the public were invited).

⁸¹ The legal text Gabbett (in 1843) (see McBain, n 65) noted this '*An indictment for keeping a common bawdy house...may...be general, without charging any particular fact of disorderly conduct in it...*'. The indictments all show this. They never recount the specific sexual services offered/provided.

⁸² In the City of London (i.e. within the walls of the city), in medieval times, any brothel (obviously) would not have done so, since only the brothels in Southwick were licensed. See also Stephen (in 1883) '*A common bawdy house is a house or room, or set of rooms, in any house kept for the purposes of prostitution. And it is immaterial whether indecent or disorderly conduct is or is not perceptible from the outside.*' See McBain, n 65, p 39. Also, Archbold 20-222 (citing *Rice and Wilton* (1866) LR 1 CCR 21 and *J'Anson v Stuart* (1787) 1 TR 748).

⁸³ This point was made in *Tan* (1963), see McBain, n 65, p 45. The specimen indictments also show this. They never assert the number of prostitutes; this is irrelevant. However, there must be one at least, for a brothel to exist.

⁸⁴ Archbold (2024) states 20-242 '*A disorderly house is one which is not regulated by the restraints of morality and which is conducted as to violate law and good order*'. This is meaningless and incorrect. It should state '*A disorderly house is the old word used to refer a brothel, the law on which is now contained in the SAO 1956, ss 33-7.*'

⁸⁵ '*Swinging*' (see n 80) was, certainly, not covered by the crime of keeping a disorderly house (see Archbold, 20-242) and it is not covered by the definition of a brothel in the SAO 1956.

- **Failed to deal with Historic Sex Crimes.** The 2003 Act repealed older sex legislation. However, the draftsman seems to have been oblivious as to the potential for prosecution under them (i.e. prosecution for historic crimes). Thus, the Act should have, in an *Appendix* to the 2003 Act, re-stated (a) the content of those sex crimes in respect of which prosecution should be sustained,⁸⁶ but (b) provided for *current* criminal procedure - and sentences⁸⁷ - to apply (since such, invariably, are more just to both the complainant and the defendant). Also, it should have (c) imported a time limitation. For example, 20/30 years, after which a prosecution should only have been capable of being sustained if a judge determined - as a preliminary issue - that there is a realistic prospect of success;⁸⁸
- **Improving the Drafting.** The 2003 Act is more than 20 years old. Today, it can be made much more user friendly - such as putting the *crime* in the text (along with any defence and exception(s)) leaving all *administrative material* to be put in an Appendix.⁸⁹ Also, using short forms and acronyms. Further, specifying the pre-requisites of each sex crime in short form;
- **Created Too Many Crimes.** The 2003 Act created too many crimes. For example, it created 3 basic crimes:
 - (a) Rape; (s 1, penetration with penis)
 - (b) Sexual Assault (s 2, penetration other than penis)
 - (c) Sexual Activity (i.e. sex act) without consent (s 3).

However, it then created quite separate crimes of (a), (b) and (c), in the case of a *child* under 13 as well as in respect of a child under 18 or a vulnerable person. This simply creates confusion, since these additional crimes are unnecessary and all have the same pre-requisites, save for that of consent and an increased sentence. Thus, for example, the 2003 Act, s 1, at present, states that it is a crime (*rape*) if:

(1) A person (A) commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, (b) B does not consent to the penetration, and (c) A does not reasonably believe that B consents.

And s 5 (*rape of a child under 13*) states:⁹⁰

(1) A person commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person with his penis, and (b) the other person is under 13.

Thus, the *actus reus* (act) is the same (i.e. (a) is the same, see underlining). A modern, simple statement for both - one which is more intelligible and which states the 5 legal requisites would be:

‘(1) Rape. It is a crime if a person (A):⁹¹

- (a) intentionally
- (b) with his penis⁹²
- (c) penetrates the vagina, anus or mouth of another person (B)
- (d) without B’s consent⁹³ and
- (e) A does not reasonably believe B consents.

(2) Where B is under the age of 13, requirements (d) and (e) do not apply.’

Further, in some cases in the 2003 Act, the formulation needs to be considered whether it is correct. For example, the 2003 Act, s 4 (*causing sexual activity without consent*) states:

⁸⁶ For example, given the great age to which people live, it is a good use of taxpayer money to prosecute (say) a 110 year old man for sending an obscene print through the post (customs) 90 years ago? Or, for being employed in running a brothel (i.e. the common law offence of keeping a disorderly house) 90 years ago *etc.*? Normally, when crimes are repealed/abolished, there is no further prosecution.

⁸⁷ Older criminal legislation (e.g. in 1956) provides for more draconian sentences than the equivalent under more modern legislation. This would seem inappropriate.

⁸⁸ To put it another way, there is huge cost to the taxpayer in dealing with historic cases and, normally, this is only limited to unsolved murder cases. While this should apply to certain crimes (including genocide, sex crimes *etc.*) - to reduce huge costs and unsuccessful prosecutions due to an absence of witnesses *etc.* - there should be some additional requirement (such as a judge considering the matter at a preliminary stage).

⁸⁹ A lot of current *criminal administrative material* is far too prolix, something arising from, 1970 onwards. It could (easily) be cut down.

⁹⁰ The title ‘*rape of a child under 13*’, reflects clear belief of the draftsman (which is correct) that the basic component of the crime is the same for both (non consensual sex).

⁹¹ The 2003 Act refers to an ‘*offence*’. However, see n 16. Also, ‘*It is a crime if a person*’ is simpler for laymen (including non English speakers) than ‘*A person commits an offence*’.

⁹² In the 2003 Act, the wording separates ‘*penetrates...with his penis*’. However, the latter should be immediately after the former for greater intelligibility (i.e. it must be penetration by a penis to be rape and not penetration by anything else).

⁹³ The 2003 Act continues ‘*to the penetration*’. However, this wording is implicit and, thus, superfluous (or ‘*without B’s consent*’ is simpler and reads better).

A person (A) commits an offence if (a) he intentionally *causes* another person (B) to engage in an activity, (b) the activity is sexual, (c) B does not consent to engaging in the activity, and (d) A does not reasonably believe that B consents.

In the case of a child under 13, this is extrapolated to ‘*causes or incites*’. *Why the difference? In any case, is this latter relevant?*⁹⁴ The real pre-requisites of the crime would seem to be:

(1) *Sex Act without Consent*. It is a crime if a person (A):

- (a) intentionally
- (b) engages in a [sex act]⁹⁵
- (c) with another person (B)
- (d) without B’s consent⁹⁶ and
- (e) A does not reasonably believe B consents.

(2) If B is under 13, requirements (d) and (e) do not apply.’

All the above defects can be remedied on consolidation. One other important matter when considering consolidation:

- **Table.** Sentences in respect of sex crimes are ‘*all over the shop*.’ They should be harmonized and set out in a Table at the back of the Act (if in the Act, the same is macerated by constant change);
- **Jumbling Up Sections which should be in a CPA or CJA.** Victorian draftsmen were careful to place criminal (and civil) *procedural* matter in separate legislation (see *Appendix 1*). So too, *criminal justice* matters (*re* the operation of the courts *etc*). It was only in the 1980s that draftsmen developed gargantuan criminal legislation (with long winded titles) that jumbled up *crimes* with *criminal procedure* and *criminal justice* (possibly, to get things enacted - given little Parliamentary time - or, possibly, to slip certain crimes past MPs without their knowing). Suffice to say that such has converted criminal legislation into a ‘*dog’s dinner*’. Thus, general material on criminal procedure and criminal justice should be separated out in any consolidation and placed in separate Acts to assist intelligibility, see *Appendix 1*.

A new Sex Crimes Act consolidating sex crimes law would comprise c. 200 sections (excluding all obsolete legislation and common law material). Including all the above material in one Act would not be difficult. Such an Act could be drafted (easily) within 1 year by the MOJ.

8. Form of the Sex Crimes Act

While this material is consolidated into a Sex Crimes Act, the form of the same could be made much more user-friendly than past legislation, *viz.*

- **Acronyms.** At present, criminal legislation is full of verbiage due to endless repetition. Acronyms are useful, to reduce prolixity (they are frequently used in modern civil legislation and in criminal legal texts such as Archbold). Thus, reference should be to:⁹⁷
 - ‘DPP’ for ‘Director of Public Prosecutions’
 - ‘CCRC’ for ‘Criminal Cases Review Commission’
 - ‘A-G’ for ‘Attorney General’
 - ‘JP’ for ‘Justice of the Peace’ or to a ‘Magistrates Court’
 - ‘UK’ for ‘United Kingdom’
 - ‘SS’ for ‘Secretary of State’⁹⁸
 - ‘HM’ for ‘His [Her] Majesty’
 - ‘SI’ for ‘Statutory Instrument’⁹⁹
 - ‘E&W’ for ‘England and Wales’
 - ‘NI’ for ‘Northern Ireland’
 - ‘MOD’ for ‘Ministry of Defence’

⁹⁴ Even if the child initiates the sex act (or participates with evident consent) this is irrelevant.

⁹⁵ The word ‘*sexual*’ is foreshortened in other legislation; and ‘*activity*’ to act.

⁹⁶ The 2003 Act ‘*to the penetration*’. However, this wording is implicit and thus may be superfluous (or ‘without B’s consent may be simpler and read better).

⁹⁷ Doubtless, there are others which consolidation can elicit.

⁹⁸ In any case, it would seem better to refer to ‘*Minister*’ (and the relevant minister).

⁹⁹ The older expression ‘*order in council*’ should be dropped, SI is shorter and more intelligible.

- ‘CPO’ for ‘Chief Officer of Police’¹⁰⁰
 - ‘SPO’ for ‘Senior Officer of Police’
 - ‘PO’ for ‘Police Officer’¹⁰¹
 - ‘BTP’ for ‘British Transport Police’
 - ‘NCA’ for ‘National Crime Agency’
 - ‘CNC’ for ‘Civil Nuclear Constabulary’
 - ‘MPD’ for ‘Metropolitan Police District’¹⁰²
 - ‘CC’ for ‘Chief Constable’
 - ‘EU’ for ‘European Union’
 - ‘OFCOM’ for ‘Office of Communications’
 - ‘CGHQ’ for ‘Central Government Headquarters’
 - ‘SFO’ for ‘Serious Fraud Office’
 - ‘NCA’ for ‘National Crime Agency’
 - ‘TV’ for ‘television’
 - ‘sex’ for, ‘sexual’ and ‘sexual intercourse’¹⁰³
 - ‘sex acts’ for ‘sexual activities’
 - ‘photo’ for ‘photograph’
 - ‘advert’ for ‘advertisement’
- **Reference to a Section or Sub-Section.** In older legislation this is very convoluted with reference being in words - e.g. ‘see section [or sub-section] three above’. More recent criminal legislation drafting - more helpfully- refers to a number instead, e.g. ‘section 3 [or s 3(2) where there is a sub-section]’. However, to save endless repetition, reference should be ‘s 3 [or s 3(2)]’. Also, ‘paragraph’ should be ‘para’ and ‘sub-paragraph’, ‘sub-para’ etc.;
 - **Form of Charge.** This should be in standard form for all crimes after consolidation of the same i.e. ‘The accused is charged with the following crime(s): (e.g.) 1. Sex Assault pursuant to the Criminal Code, s 2. Thus, all crimes should be given a distinct name and title;
 - **Index.** A Sex Crimes Crime Act should have all the crimes set out in the text. Any administration material should be set out in Appendices, since, often, the same does not apply to the relevant case.

It is perfectly possible to do this for all the crimes mentioned in this article. 4 other important points should be noted, which apply to all criminal legislation in fact.

- **Bail/Powers of Arrest/Search/Asset Seizure/Forfeiture/Consent of the A-G/DPP etc.**¹⁰⁴ All this material should be in a *Criminal Procedure Act* since it is not specifying a crime as such. At present, such material is laboriously repeated in distinct criminal legislation with slips and variants in the wording (see for example those in *Appendices 5-6*). Having to repeat this time after time (with variations and anomalies) in criminal legislation is ludicrous and it ‘clogs’ up the text. The wording for these matters should be common to all crimes (and can be by making cross-reference to the same). *I have marked this with an * to identify it with regard to the legislation set out in the Appendices;*
- **Administrative Material.** There is, also, a large amount of administrative material at present in the text which should be in an *Appendix*, since it may not apply. For example, the orders which the police might secure. Such avoids clogging up the text and enables there to be easy comparison between police orders (again, here, there are variations, anomalies and unnecessary repetitions). Another example is a section specifying the power of the Secretary of State to make regulations/orders by a SI. This is (endlessly) repeated.¹⁰⁵ There needs to be only 1 section in a *Criminal Procedure Act*. *I have marked this with a ** to identify it with regard to the legislation set out in the Appendices;*

¹⁰⁰ This is used extensively in firearms legislation. Further, reference is, often made to a CPO when a SPO would, probably, be of sufficiently high rank to deal with the matter.

¹⁰¹ The older word for a police officer was a ‘constable’ or a ‘police constable’. PO takes out large amounts of repetition and is more understandable.

¹⁰² This reference should become obsolete, since it deals only with local legislation. However, all crimes today of any import should not be local.

¹⁰³ The term ‘sex’ for ‘sexual’ is presently used in criminal legislation. Thus, there is precedent.

¹⁰⁴ There are anomalies in that the consent of the A-G is required in the case of some criminal matters but that of the DPP in others. It would better for the DPP only to be involved.

¹⁰⁵ For example, common wording (oft repeated in criminal legislation) is ‘Any regulations under [ss] (3) shall be made by [SI] subject to annulment in pursuance of a resolution of either House of Parliament.’ See also ‘(4) The power to make an order under this [s] is exercisable by [SI]. (5) No order may be made under this [s] unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.’

- **Companies.** These can be involved in crimes. As with powers of arrest *etc* above, often, the same wording is (endlessly) repeated (but with older variants) for distinct crimes. Such repetition is unnecessary). *I have marked this with a *** to identify it with regard to the legislation set out in the Appendices;*
- **'Public Place'** There are older definitions of 'public place' in the criminal legislation. They are not useful (for example, the Street Offences Act 1959, s 1) refers to a 'street or public place'. However, the latter, as a matter of course, should include the former and it should be the same throughout all criminal legislation. This applies to other definitions. The more modern definition of 'public place' is better (and, oddly enough, it accords with the original Anglo-Saxon view that everything outside the ambits of a person's house and curtilage (fence) was in the public domain.

9. Conclusion

Our criminal law is greatly out of date and with copious amounts of obsolete material. The result is enormous cost to the taxpayer, confusion, too many court cases, mis-carriages of justice *etc*. The solution is to consolidate it. Also, to repeal/abolish obsolete statutory and common law matter. This would save huge sums for the taxpayer. Further, consolidation of all criminal legislation will lose half of all the text! It is so bulky at present because of all the cross references, needless repetition *etc*. In conclusion:

1. Consolidation into 6 Crime Acts should be effected by the MOJ and the Home Office (3 each);
2. Obsolete material should be excised by legal experts in 3-4 short reports. The LCJ should order this;
3. There should be a strict timescale laid down. 3 years for 1 and 2 is perfectly adequate.

It is also possible for the Home Office and the MOJ to draft a *Criminal Procedure Act* and a *Criminal Justice Act* at the same time as the above 6 Crime Acts. This would not be difficult since it simply involves consolidating all other criminal legislation, not otherwise placed in the 6 Acts. As for the contents of Sex Crimes Act, it is suggested that it should be as follows, based on the SOA 2003 but with improvements since the latter is:

- not comprehensive;¹⁰⁶
- has too long titles and lacks acronyms;¹⁰⁷
- often, puts the 'cart before the horse';¹⁰⁸
- creates too many unnecessary sex crimes;¹⁰⁹
- fails to specify sentences in a Table at the back.¹¹⁰

Thus, all can be simplified *viz*.

Draft Sex Crimes Act

Contents

Part 1 - Rape

1. Rape¹¹¹ (i.e. penetration with penis)
2. Interpretation¹¹²

Part 2 - No Consent Sex Acts

¹⁰⁶ It was very unhelpful the 2003 Act did not include sex crimes relating to: (a) brothels; (b) obscenity; (c) indecency; (d) other snippets of older sex crime legislation. A major mistake since they could, easily, have been inserted in after 'prostitution'. The result, is that there is real mis-match between, for example, defined terms on 'prostitution' and 'brothels'. Further, the latter needs to be clarified.

¹⁰⁷ The titles of crimes in the 2003 Act are, often, absurdly long (e.g. s 35. 'causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception'). This is very unhelpful for lawyers, judges, legal text writers *etc*. It could easily be cut down. Further, 'Position of Trust' should be 'PoT' *etc*. This is simply to cut down the voluminous text. Other general acronyms should be used (e.g. 'PO' for police officer).

¹⁰⁸ In crimes involving sexual gratification (e.g. voyeurism) the absolute key pre-requisite is the person (A) doing something (secretly viewing). Thus, this should be the *initial* pre-requisite since - if absent - no crime is committed. However, putting it as the first pre-requisite is missing in some of the crimes. Further, often, the order of pre-requisites is not well stated, since they should follow in logical order.

¹⁰⁹ This is the single biggest mistake in the 2003 Act. For example, it creates 4 basic assaults (ss 1-4). It, then, repeats, these in the case of a child under 13. However, for hundreds of years, rape of a child under 13 was treated as rape, but with a higher sentence. Therefore, there was (is) no need for ss 5-9. All that is needed is to indicate (in ss 1-4) that - in the case of a child under 13 - two of the pre-requisites do not apply. The same applies in respect of sex acts involving children. There is no need to repeat them when: (a) a PoT is involved; or (b) a family member is involved. These aggravated acts can be set out within the same section, but as a sub-section.

¹¹⁰ This is the biggest mistake with regard to all criminal legislation. All sentences should be in a Table at the back, for easy reference (it would also show what a mess they are). In civil law, making things user-friendly has long occurred. Criminal law is rather in the dark ages.

¹¹¹ i.e. 2003 Act, s 1 but including s 5 (*rape of child under 13*).

¹¹² This should include ss 74-8 (*consent, sexual* and other definitions in s 78).

3. Penetration¹¹³ (i.e. other than with penis)

4. Touching¹¹⁴

5. Causing (or inciting) sex act¹¹⁵

6. Interpretation

Part 3 - Crimes with Children

7. Sex act with child¹¹⁶

8. Causing (or inciting) child sex act¹¹⁷

9. Sex act in child's presence¹¹⁸

10. Causing child to watch sex act¹¹⁹

11. Sex crime committed by child (CSC)¹²⁰

12. Arranging (or facilitating) CSC¹²¹

13. Meeting child after sex grooming¹²²

14. Sex communication with child¹²³

15. Exceptions¹²⁴

16. *Scotland*¹²⁵

17. Interpretation¹²⁶

Part 4 - Crimes with Adult Relative [Incest]

18. Penetration

19. Consent

Part 5 - Crimes with Vulnerable Person (VP)¹²⁷

20. Sex act with VP

21. Causing (or inciting) VP sex act

22. Sex act in VP's presence

23. Causing VP to watch sex act

24. Care worker involvement¹²⁸

25. Inducement, threat or deception¹²⁹

Part 6 - Intimate Images¹³⁰

26. Sending without consent

¹¹³ Ibid, s 2 but including s 6 (*child under 13*)

¹¹⁴ Ibid, s 3 but including s 7 (*child under 13*).

¹¹⁵ Ibid s 4 but including s 8 (*child under 13*).

¹¹⁶ Ibid, s 9 but including s 16 (position of trust, PoT). Also, s 25 (*sex act with child family member*).

¹¹⁷ Ibid, s 10 but including s 17 (PoT). Also, s 26 (*inciting child family member to engage in sex act*).

¹¹⁸ Ibid, s 11 but including s 18 (PoT).

¹¹⁹ Ibid, s 12 but including s 19 (PoT)

¹²⁰ Ibid, s 13

¹²¹ Ibid, s 14

¹²² Ibid, s 15

¹²³ Ibid, s 15A.

¹²⁴ Re PoT, see Ibid, ss 23-4. Also, ss 28-9 (*exceptions*).

¹²⁵ Re PoT, see Ibid, s 20. This should not be necessary on consolidation.

¹²⁶ Re PoT, see Ibid, ss 21-22A. Also, s 27 (*family relationships*). The list of PoT should be placed in an Appendix.

¹²⁷ These will include all of ss 30-44. The 2003 Act refers to '*mental disorder impeding choice*' (MDIC). It may be better to refer to a VP, since this expression is used elsewhere in criminal legislation.

¹²⁸ 2003 Act, ss 38-44.

¹²⁹ Ibid, ss 34-7.

¹³⁰ Ibid, ss 45-6. Also, ss 66A-D. See also Protection of Children Act 1978 ss 1-7 (*indecent photos*), CJA 1988 ss 160-160A (*indecent photos*), Coroners and Justice Act 2009, ss 62-8 (*prohibited images*). It could be possible to treat prohibited images of a child as obscene.

27. Sharing without consent
 28. Prohibited child image
 29. Interpretation
- Part 7 - Other Sex Crimes
30. Exposure ¹³¹
 31. Voyeurism ¹³²
 32. Sex act with animal ¹³³
 33. Sex act with corpse ¹³⁴
 34. Sex act in public lavatory [public place]¹³⁵
 35. Paedophile manual¹³⁶
 36. Preparatory acts to sex crimes¹³⁷
 37. Interpretation
- Part 8 - Obscenity
38. Importing obscene article (OA) into UK¹³⁸
 39. Having (or publishing) OA¹³⁹
 40. Posting OA¹⁴⁰
 41. Obscene writing on postal packet¹⁴¹
 42. Performing obscene play¹⁴²
 43. Broadcasting obscene TV programme¹⁴³
 44. Application
 45. Interpretation
- Part 9 - Prostitution¹⁴⁴
46. Loitering (or soliciting) to offer (or provide) prostitution ¹⁴⁵
 47. Soliciting for prostitution ¹⁴⁶
 48. Causing (or inciting) prostitution ¹⁴⁷
 49. Controlling prostitution ¹⁴⁸

¹³¹ Ibid, s 66.

¹³² Ibid, ss 67-8.

¹³³ Ibid, s 69.

¹³⁴ Ibid, s 70.

¹³⁵ Ibid, s 71. There should, also, be a crime of having sex/masturbating in a public place.

¹³⁶ Serious Crime Act 2015, s 69.

¹³⁷ i.e. 2003 Act, s 61 (*administering substance with intent*), 62 (*committing crime with intent to commit sex crime*), 63 (*trespass with intent to commit a crime*).

¹³⁸ Customs Consolidation Act 1876, s 42. A modern re-statement would be: '(1) It is a crime for a person to: (a) import into the UK; (b) an obscene article.'

¹³⁹ OPA 1959 and 1964. A modern re-statement would be: '(1) It is a crime for a person to: (a) have or publish (b) an obscene article.'

¹⁴⁰ Postal Services Act 2000, s 85. A modern re-statement would be: '(1) It is a crime for a person to: (a) post a postal packet; (b) containing an obscene article.'

¹⁴¹ Ibid. A modern re-statement would be: '(1) It is a crime for a person to: (a) send by post (b) a postal packet (c) with any obscene words, marks or designs (d) on the cover.'

¹⁴² Theatres Act 1968, ss 2-18. A modern re-statement would be: '(1) It is a crime for a person to: (a) give a performance (public or private) of (b) an obscene play.'

¹⁴³ Broadcasting Act 1990, s 15. A modern re-statement would be: '(1) It is a crime for a person to: (a) broadcast (b) an obscene TV programme.'

¹⁴⁴ i.e. ss 51A-54 as well as ss 47-51 (*children*) and ss 57-60C (*trafficking*). Ss 60A-B should be in a CPA.

¹⁴⁵ Street Offences Act 1959, s 1, 1A, 4.

¹⁴⁶ 2003 Act, s 51A

¹⁴⁷ Ibid, s 52.

¹⁴⁸ Ibid, s 53.

50. Coerced prostitution¹⁴⁹
51. Adverts on prostitution¹⁵⁰
52. Child prostitution¹⁵¹
53. Trafficking¹⁵²
54. Application
55. Interpretation¹⁵³
- Part 10 - Brothel¹⁵⁴
 56. Owning (or maintaining) brothel¹⁵⁵
 57. Letting brothel¹⁵⁶
 58. Tenant *etc* permitting premises to be used as brothel
 59. *Child in brothel*¹⁵⁷
 60. Frequenting brothel¹⁵⁸
- Part 11 - Sex Establishments *etc.*
 61. Sex Establishments¹⁵⁹
 62. Sex Displays and Exhibitions (inc. Pay View)¹⁶⁰
- Part 12 - General
 63. Historic Sex Crimes¹⁶¹
 64. Sex Crimes outside UK¹⁶²
 65. Conspiracy and Incitement¹⁶³
 66. Anonymity¹⁶⁴
 67. Exceptions to Aiding, Abetting & Counselling¹⁶⁵
 68. Presumptions
 69. Service Courts
 70. Orders and Regulations
 71. Minor and Consequential Amendments
 72. Repeals and Revocations
 73. Abolishing various common law crimes¹⁶⁶

¹⁴⁹ Ibid, s 53A.

¹⁵⁰ Criminal Justice and Police Act 2001, ss 46-7.

¹⁵¹ 2003 Act, ss 47-51. They need to be included with prostitution generally (i.e. ss 51-4).

¹⁵² Ibid, 57-60.

¹⁵³ Includes Sexual Offences Act 1967, s 6.

¹⁵⁴ Street Offences Act 1956, ss 33-7.

¹⁵⁵ A modern re-statement would be '(1) It is a crime for a person (A) to: (a) own; (b) manage or (c) assist in the management of (d) a brothel.'

¹⁵⁶ Ibid, '(1) It is a crime for: (a) the lessor or landlord of any premises (or its agent) (A): (a) to let the whole (or part) as a brothel (b) A knowing it is to be used as such; or (c) that such use is continuing.'

¹⁵⁷ CYPA 1933, s 3 (*child in brothel*) if still extant.

¹⁵⁸ This does not appear to be a crime at present. However, consideration might be given to making it one.

¹⁵⁹ Local Government (Misc Provs) Act 1982, s 2 & sch 3 (*control of sex establishments*).

¹⁶⁰ Indecent Displays (Control) Act 1981.

¹⁶¹ Violent Crime Reduction Act 2006, s 55.

¹⁶² 2003 Act, s 72.

¹⁶³ Sex Offences (Conspiracy and Incitement) Act 1996, ss 2-3.

¹⁶⁴ Sexual Offences (Amendment) Act 1992, ss 1-7.

¹⁶⁵ 2003 Act, s 73.

¹⁶⁶ See (a) outraging public decency (including conspiring); (b) effecting a public mischief (including conspiring); (c) corrupting public morals (including conspiring); (d) keeping a disorderly house.

Note: The 2003 Act, ss 80-138 deals with administrative matters, all of which can be contained in the following Appendices:¹⁶⁷

- App 1 - Position of Trust - List
- App 2 - Notification Requirements¹⁶⁸
- App 3 - Information¹⁶⁹
- App 4 - Sex Crimes outside UK¹⁷⁰
- App 5 - Home Address (Entry) and Access to Other Premises¹⁷¹
- App 6 - Notification Orders¹⁷²
- App 7 - Sex Harm Prevention Orders¹⁷³
- App 8 - Foreign Travel Orders¹⁷⁴
- App 9 - Sex Risk Orders (E&W) and Sex Harm Orders (NI)¹⁷⁵
- App 10 - Variation Orders¹⁷⁶
- App 11 - Disqualification Orders¹⁷⁷
- App 12 - Closure Notices and Orders¹⁷⁸
- App 13 - Operation of Sex Establishments¹⁷⁹
- App 14 - Historic Sex Crimes¹⁸⁰

Appendix 1 - TABLE OF ALL EXTANT CRIMINAL LEGISLATION

The material here considered is assembled from:

- Halsbury, *Statutes* (vols on criminal law)
- Archbold (2024 ed)
- Government legislation website (www.legislation.gov)
- Thomson Reuters legal website (Westlaw)
- Butterworths legal website (LexisNexis).

Thus, it is unlikely that material is missing. That said - because of the antiquity and convoluted nature of criminal legislation, even the legal websites at times are getting things wrong.¹⁸¹ **All criminal legislation can be inserted into the following Acts:**

Criminal Code (CC). The 6 Acts referred to at the beginning of this article as consolidated into a CC with 3 parts (Pt 1 - Crimes against the Person, Pt 2 - Crimes against Public Order, Pt 3 - Property and Finance Crimes). As to which Acts in this Table will go into the 6 Acts, see letter(s) after the word *Consolidate*:

- | | |
|-----------------------------|---|
| ▪ Sex Crimes | A |
| ▪ Property & Finance Crimes | B |
| ▪ State Crimes | C |

¹⁶⁷ At present, there are too many types of order and the law is too prolix. This could be improved.

¹⁶⁸ *Ibid*, ss 80-93.

¹⁶⁹ *Ibid*, ss 94-5.

¹⁷⁰ *Ibid*, ss 72, 96A & AA. See, also, Sexual Offences (Conspiracy and Incitement) Act 2009, ss 2 & 3 (*incitement outside UK*). It might be useful to consolidate some of the orders.

¹⁷¹ *Ibid*, s 96A & 96B.

¹⁷² *Ibid*, ss 97-103.

¹⁷³ *Ibid*, 103A-113.

¹⁷⁴ *Ibid*, ss 114-22.

¹⁷⁵ *Ibid*, ss 122A-122K (E&W) and 123-9 (NI).

¹⁷⁶ *Ibid*, ss 136ZA-ZJ.

¹⁷⁷ See Criminal Justice and Court Services Act 2000, ss 26-38 & 42.

¹⁷⁸ 2003 Act, s 136A-R.

¹⁷⁹ See Local Government (Miscellaneous Provisions) Act 1982, s 2 & sch 3 (*Control of Sex Establishments*)

¹⁸⁰ This should include the former legislation.

¹⁸¹ For example, the Forgery Act 1913 has been repealed. Yet, neither the government nor the Thomson Reuters websites reflect this. Also, from a review of all legal websites and Halsbury, it is unclear which sections of the Children & YP's Act 1933 are still extant.

- Public Order Crimes D
- Weapon Crimes E
- Crimes against the Person F

In the case of material in the Acts below which, in fact, should be in a (a) **Prison Act**; (b) **Courts and Tribunals Act**; (c) **Police Act**, (d) **Highways Act**; (e) **Railways Act**, (f) **Children Act**, this is in bold.

Criminal Procedure Act (CPA). At present, this is spread over many Acts. It should be consolidated into 1 CPA.¹⁸²

Criminal Justice Act (CJA). Any criminal legislation not in the CC or the CPA should be consolidated into 1 CJA.¹⁸³

Legislation which is obsolete and which should be repealed is marked *Obs*. Legislation which should be placed in a CPA, I have marked with +. The rest is spent, should be repealed or should have been placed in other legislation.

Criminal Legislation	CC	CPA	CJA
A. Obsolete Criminal Legislation ¹⁸⁴ [60 Acts]			
Statute of Westminster 1275	Obs, s 1 ¹⁸⁵		
Bearing of Armour Act 1313	Obs, s 1 ¹⁸⁶		
Law Presentment Act 1351-2	Obs	s 4 ¹⁸⁷	
Treason Act 1351			
Liberty of the Subject Act 1354		1 ¹⁸⁸	
Justices of the Peace Act 1361		1 ¹⁸⁹	
Observance of Due Process of Law Act 1368		1 ¹⁹⁰	
Treason Act 1495	Obs		
Simony Act 1588	Obs		
Simony Act 1688	Obs		
Treason Act 1695	Obs		
Treason Act 1702	Obs		
Constables Protection Act 1750		6 ¹⁹¹	
Oaths Act 1775		1 ¹⁹²	
Offences at Sea Act 1799		1 ¹⁹³ +	
Criminal Jurisdiction Act 1802		1 ¹⁹⁴ +	

¹⁸² Note - material on **Proceeds** - see Proceeds of Crime Act 2002 - is lengthy (ss 450). It should be a Pt 2 to the CPA. It could be substantially reduced if legislation is consolidated.

¹⁸³ Material on **Sentencing** - see Sentencing Act 2020 - is lengthy (ss 415). It should be a Pt 2 to the CPA. It could be substantially reduced if legislation is consolidated. Material on Extradition - see Extradition Act 2020 (ss 225 ss) - is best left in this Act.

¹⁸⁴ All this legislation has been considered in detailed articles published by the author, tracing the legal history, see *Appendix 2*.

¹⁸⁵ s 1 ('and because election ought to be free the king commandeth upon great forfeiture that [no man] by force of arms, nor by malice, or menacing [i.e. threats, intimidation], shall disturb any to make free election'). This provision is much more limited than might appear from the general wording and must be viewed in its historical context of 1275.

¹⁸⁶ s 1 (riding armed to Parliament).

¹⁸⁷ s 4 (none shall be taken upon suggestion without lawful presentment, nor disenfranchised, but by course of law). This is replicated in Magna Carta 1297 (which is treated as an Act of Parliament), ch 29 (imprisonment etc contrary to law, administration of justice).

¹⁸⁸ s 1 (none shall be condemned without due process of law).

¹⁸⁹ s 1 (who shall be JPs, their jurisdiction over offenders etc).

¹⁹⁰ s 1 (none shall be put to answer without due process of law). See n 187 (replicated in Magna Carta).

¹⁹¹ s 6 (no action against constable until demand made of copy of warrant etc). This should be modernized and placed in a **Police Act**. See also article by author.

¹⁹² This section provides for a JP to be able to administer the same. If still required, it should be in a **Courts and Tribunals Act**. However, it is asserted it is obsolete. There should be no need for an *oath* in the case of levying a penalty or effecting distress. GS McBain, *Modernising the Law on Oaths and Affirmations* [2020] International Law Research, vol 9, no 1, pp 1-55, argues that any legal obligation to give an oath should be abolished. Oaths were meant to only apply to Christians with no legal punishment for breach (breach being the religious offence of sacrilege).

¹⁹³ s 1 (crimes on high seas liable to same punishment as if committed on land). This should be modernized and placed in a CPA.

¹⁹⁴ s 1 (crimes by ambassadors treated as if committed in England).

Writ of Subpoena Act 1805		3,4 ¹⁹⁵⁺
Witnesses Act 1806		1 ¹⁹⁶⁺
Treason Act 1814	Obs	
Slave Trade Act 1824	Obs	
Universities Act 1825	Obs, s 1-2 ¹⁹⁷	
Juries Act 1825		29 ¹⁹⁸⁺
Criminal Law Act 1826		28, 29 (obs) ¹⁹⁹
Metropolitan Police Act 1829		1,4-5,10-12,22 (obs) ²⁰⁰
Roman Catholic Relief Act 1829	Obs	
Statutory Declarations Act 1835		13 (obs) ²⁰¹
Highway Act 1835	Obs, ss 72, 78 ²⁰²	
Piracy Act 1837	Obs, s 2-4 ²⁰³	
Metropolitan Police Courts Act 1839		27-8 (obs) ²⁰⁴
Metropolitan Police Act 1839	Obs, ss 38-40 ²⁰⁵	
City of London Police 1839		27-8 (obs) ²⁰⁶
Railway Regulation Act 1840	Obs, s 16 ²⁰⁷	
Metropolitan Police Courts Act 1840		13 (obs) ²⁰⁸
Slave Trade Act 1843	Obs	
Companies Clauses Consolidation Act 1845	s 161 ²⁰⁹	
Land Clauses Consolidation Act 1845	s 151 ²¹⁰	
Commissioners Clauses Consolidation Act 1847	Obs, s 111 ²¹¹	
Town Police Clauses Act 1847	Obs, ss ²¹²	
Town Improvement Clauses Act 1847	Obs, s 215 ²¹³	
Treason Felony Act 1848	Obs	

¹⁹⁵ s 3 (*service of sub poena (witness summons) in any part of UK, valid as to appearance in any other*), s 4 (*expenses*).

¹⁹⁶ s 1 (*deals with a witness refusing to answer*).

¹⁹⁷ Appointment of constables (bulldogs) by the chancellors of Oxford and Cambridge universities, having the power of a police constable. Oxford university no longer has such and Cambridge university's bulldogs do not act as police constables.

¹⁹⁸ s 29 (*king shall only challenge for cause*). This needs to be modernized and placed in a CPA.

¹⁹⁹ s 28 (*court may order compensation to persons who assist in apprehending certain offenders*), s 29 (*compensation paid by high sheriff*). These sections relate back to the time of common informers (various actions of the same were abolished by the Common Informers Act 1951). It should be repealed as obsolete (s 29 is obsolete in any case).

²⁰⁰ All ss are, probably, obsolete (and limited to the MPD). If still valid it should be put in a **Police Act**.

²⁰¹ s 13 (*JPs not to administer oaths if no jurisdiction*). Obsolete.

²⁰² s **72** (*nuisance by riding on public footpath*), **78** (*carters of wagons and carts*). These should be placed in a **Highway Act** if not obsolete.

²⁰³ s 2 (*punishment of piracy when murder attempted*).

²⁰⁴ s 27 (*power of a court to order the return of stolen and fraudulently obtained good held by pawnbrokers and other dealers in 2nd hand goods in the MPD*), s 28 (*removing of doubts re ordering restoration of property unlawfully pawned*). Obsolete. This can now be dealt with civilly (wrongful interference with goods).

²⁰⁵ ss 38-40 deal with fairs in the MPD. It is obsolete. Other ss are also obsolete (or should be placed in a **Police Act**).

²⁰⁶ See fn 200.

²⁰⁷ s 16 (*wilful obstruction*). It should be placed in a **Railways Act**.

²⁰⁸ s 13 (*possession of deserted premises re Distress for Rent Act 1737 (relevant ss are now rep), Deserted Tenements Act 1817 (rep)*). Obsolete.

²⁰⁹ s 161 (*commissioners failing to deposit a special copy of the Act*). Obsolete.

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² Deals with MPD crimes. Obsolete. See also fn 200.

²¹³ See fn 210. Obsolete.

Admiralty Offences (Colonial) Act 1849		1,3,5 (obs) ²¹⁴
Piracy Act 1850		5, 6 (obs) ²¹⁵
Penal Servitude Act 1857		2,6 (obs) ²¹⁶
Jews Relief Act 1858	Obs	
Remission of Penalties Act 1859	Obs, s 1 ²¹⁷	
Metropolitan Streets Act 1867	Obs, ss 6,7,9,22 ²¹⁸	
Metropolitan Streets Act Amendment Act 1867 (<i>amends</i>)		
Metropolitan Fairs Act 1868	Obs, ss 2-5 ²¹⁹	
Regulation of Railways Act 1868	s 23 ²²⁰	
Foreign Enlistment Act 1870		
Parks Regulation Act 1872	Obs, s 6 ²²¹	
Slave Trade Act 1873	Obs	
Public Stores Act 1875	Obs	
Convention (Repeal) Ireland Act 1879	Obs	
Town Police Clauses Act 1889	Obs, ss 2-6 ²²²	
Penal Servitude Act 1891		1 (obs) ²²³
Libraries Offences Act 1898	Obs, s 2 ²²⁴	
Aliens Restriction (Amendment) Act 1919	Obs	
Incitement to Disaffection Act 1934	<i>Amend</i>	
Common Informers Act 1951		1 (obs) ²²⁵
<u>Other Criminal Legislation 1297-1925 [38 Acts]</u>		
Treason Act 1842	Consolidate - E, s 2 ²²⁶	
Indictable Offences Act 1848		13 ²²⁷ +
Evidence Act 1851	Consolidate - B, s 15 ²²⁸	2, 3,13 ²²⁹ +
Criminal Justice Administration Act 1851		18 ²³⁰ +
Evidence Amendment Act 1853		1-3 ²³¹ +

²¹⁴ s 1 (*persons charged in a colony with offences on the high seas*), 3 (*trials for murder or manslaughter in a colony or high seas*). These ss are likely spent since there are, now, no colonies - and overseas territories are not the same. s 5 (*Van Diemens Land*) is spent in any case.

²¹⁵ s 5 (*restitution of property of British subjects taken by pirates, on payment of 1/8th of value*), s 6 (*false declaration is perjury*). Obsolete.

²¹⁶ s 2, 6 (*abolishes transportation, substituting penal servitude*). Obsolete.

²¹⁷ s 1 (*penalties by offences may be remitted by the Crown although payable to parties other than the Crown*).

²¹⁸ Same as fn 119.

²¹⁹ ss 2-5 (*deals with MPD fairs*). Obsolete, see also fn 205.

²²⁰ s 23 (*penalty for trespassing on railway*). This should be placed in a **Railways Act**.

²²¹ s 6 (*park wardens have same powers as the police*). Not necessary. If still needed, should be in a **Parks Act**.

²²² Construed with the 1847 Act, see fn 212.

²²³ s 1 (*sentence of penal servitude*). Obsolete.

²²⁴ s 2 (*making a disturbance in a library*). Probably obsolete. Should be in **Library Act**, if not.

²²⁵ s 1 (*abolishes common informer actions*). Obsolete. The legal concept of a 'common informer' should be abolished as well. See also fn 199.

²²⁶ 'Treason Act' is a misnomer since s 2 deals with assault (*punishment for discharging or aiming firearms or throwing or using any offensive matter or weapon, with intent to injure or alarm HM*).

²²⁷ s 13 (*English warrants may be backed in the Channel Isles warrants and vice versa*)

²²⁸ s 15 (*certifying a false document is a misdemeanour*).

²²⁹ s 2 (*parties to be admissible to witness*), 3 (*nothing to compel person charged with crime to give evidence tending to incriminate himself*),

s 13 (*where necessary to provide evidence of conviction/acquittal not necessary to provide record, may be certified by the clerk of court*),

²³⁰ s 18 (*by whom warrants to be backed in the Channel Isles*).

²³¹ s 1 (*husbands and wives of parties to be admissible witnesses*), 2 (*exception*) 3 (*husbands, wives not compellable to disclose communications*).

<i>Criminal Procedure Act 1853</i>		9 ²³² +
<i>Attendance of Witnesses Act 1854</i>		1-6 ²³³ +
Accessories and Abettors Act 1861	Consolidate - F, s 8 ²³⁴	
Offences against the Person Act 1861	Consolidate - E	
Malicious Damage Act 1861	Consolidate - B	
Forgery Act 1861	Consolidate - B	
<i>Criminal Procedure Act 1865</i>		1-10 ²³⁵ +
Criminal Law Amendment Act 1867		6,7,10 ²³⁶ +
<i>Indictable Offences Amendment Act 1868</i>		4 ²³⁷
Documentary Evidence Act 1868	Consolidate - B, s 4 ²³⁸	
Debtors Act 1869	Consolidate - B ss 5, 13	6, 8 ²³⁹ +
<i>Colonial Prisoners Removal Act 1869</i>		2,4-7 ²⁴⁰
<i>Forfeiture Act 1870</i>	Consolidate - C, s 2 ²⁴¹	
Licensing Act 1872	Consolidate - D	
Explosives Act 1875	Consolidate - E	
Territorial Waters Jurisdiction Act 1878		1-7 ²⁴² +
<i>Debtors Act 1878</i>	Consolidate - B, ss 1-2 ²⁴³	
Summary Jurisdiction (Process) Act 1881		4-5 ²⁴⁴ +
Documentary Evidence Act 1882	Consolidate - B 2-3 ²⁴⁵	
Explosives Substances Act 1883	Consolidate - E	
Trial of Lunatics Act 1883		2 ²⁴⁶ +
Commissioners for Oaths Act 1889	Consolidate - B, s 8 ²⁴⁷	9-11 ²⁴⁸ +
Forged Transfers Act 1891	Consolidate - B	

²³² s 9 (*secretary of state may issue a warrant for bringing up a prisoner*).

²³³ ss 1-6 (*courts of law in England, Ireland and Scotland may issue process to compel the attendance of witnesses although not within their jurisdiction*), 2 (*statement to be made at foot of writ that it is used by special order*), 3 (*witnesses making default to be punished by the courts of the country in which the process served*), 4 (*persons not to be punished if it shall appear that sufficient money has not been tendered to pay expenses*), 5 (*Act not to prevent the issuing of a commission to examine witnesses*), 6 (*not to affect the admissibility of evidence where no recoverable*).

²³⁴ s 8 (*abettors in misdemeanours*).

²³⁵ s 1 (*provisions of s 2 to apply to trials after 1 July 1865*), 2 (*summing up of evidence in cases of felony and misdemeanour*), 3 (*how far witnesses may be discredited by the party producing*), 4 (*as to proof of contradictory statements of adverse witness*), 5 (*cross examinations of previous statements in writing*), 6 (*proof of previous conviction of witness may be given*), 7 (*as to proof by attesting witness*), 8 (*as to comparison of disputed writing*), 9 (*counsel*).

²³⁶ s 10 (*governor of prison to bring up body, without writ of habeus corpus under court order*).

²³⁷ s 4 (*warrants issued in Scotland and Ireland how to be backed in the Channel Isles and vice versa*).

²³⁸ Deals with forgery.

²³⁹ s 5 (*saving power of committal for small debts*), 6 (*power under certain circumstances to arrest defendant about to quit England*), 8 (*saving for sequestration against property*) 13 (*fraudulently obtaining credit*). The Debtors Act 1869 should be repealed, save for s 13.

²⁴⁰ s 2 (*definition of colony*), 4 (*prisoners may be removed from the colony to another for the purposes of punishment*), 5 (*removal of prisoners to be by warrant*), 6 (*prisoner in legal custody during removal*), 7 (*liability of prisoner in colony to which he is removed*). These ss, if still applicable, should now be in a **Prison Act**.

²⁴¹ s 2 (*conviction for treason or felony to be a disqualification for public office*).

²⁴² s 2 (*amendment of law as to jurisdiction of the admiral*), 3 (*restriction on institution of proceedings for punishment of offence*), 4 (*provisions as to procedure*), 5 (*savings as to jurisdiction*), 6 (*saving as to piracy*), 7 (*definitions*).

²⁴³ Amends Debtors Act 1869.

²⁴⁴ s 4 (*service of process of English court in Scotland and of Scotch court in England*), 5 (*provisions as to execution of process*).

²⁴⁵ s 2 (*documents printed under superintendence of the stationary office receivable in evidence*), 3 (*penalty of forgery*).

²⁴⁶ s 2 (*special verdict where accused found guilty but insane*).

²⁴⁷ s 8 (*forgery*).

²⁴⁸ ss 9 (*trial of offences*), 10 (*impounding of documents*), 11 (*definitions*).

Forgery and Counterfeiting Act 1891	Consolidate - B		
Documentary Evidence Act 1895		1-2 ²⁴⁹ +	
Inebriates Act 1898	Consolidate - D		
Criminal Evidence Act 1898		1-4, 6 ²⁵⁰ +	
Licensing Act 1902	Consolidate - D		
Evidence (Colonial Statutes) Act 1907		1 (obs) ²⁵¹	
Police Property Act 1897		1-2A ²⁵² +	
Perjury Act 1911	Put in Courts Act ²⁵³		
Criminal Justice Administration Act 1914		19, 24 ²⁵⁴ +	
Indictments Act 1915		1-5,7-8 +	
<u>Other Criminal Legislation 1925-59</u> [21 Acts]			
Honours (Prevention of Abuses) Act 1925	Consolidate - D		
Criminal Justice Act 1925		33, 41 ²⁵⁵ +	
Infant Life (Preservation) Act 1929	Consolidate - F		
Admin. of Justice (Misc Provisions) Act 1933		2, 7, 9 ²⁵⁶ +	
Sexual Offences Act 1933	Consolidate - A		
Children & Young Persons Act 1933	Consolidate – A/F, ss 1-5,7,11-2 ²⁵⁷	14, 31,34 ²⁵⁸ +	
	18, 20-1, 23-4, 23-6, 79-81 ²⁵⁹		
Offences against the Person Act 1933	Consolidate - F		
Public Order Act 1936	Consolidate - D		
Infanticide Act 1938	Consolidate - F		
Evidence Act 1938		4 ²⁶⁰ +	
Criminal Justice Act 1948	Consolidate - B, ss 36-37 ²⁶¹	1 (obs), 31, 37, 41-2, 66 +	27, 49 (obs) ²⁶²
Public Meeting Act 1948	Consolidate - D		

²⁴⁹ s 1 (*applies Documentary Evidence Acts 1868 and 1882 to Board of Agriculture*).

²⁵⁰ s 1 (*competency of witnesses in a criminal case*), s 2 (*evidence of person charged*), 3 (*right of reply*), 4 (*calling of wife or husband to act as a witness in certain cases*), 6 (*provisions as to previous Acts*).

²⁵¹ s 1 (*proof of statutes of British possessions*). Obsolete, there are no British possessions now.

²⁵² s 1 (*power to make orders re property in possession of police*), 2 (*regulations re unclaimed property in police possession*), 2A (*application to NCA*).

²⁵³ ss 1-7 make crimes various perjuries, s 8 (*venue*), 12 (*form of indictment*), 14 (*proof of certain proceedings in which perjury is assigned*), 15 (*interpretation*).

²⁵⁴ s 19 (*continuous bail*), 24 (*declaration of law as to mode of entering into recognizance*).

²⁵⁵ s 33 (*procedure on charge against a corporation*), 41 (*prohibition on taking a photo in court*). s 41 should be placed in a **Courts and Tribunals Act**.

²⁵⁶ s 2 (*procedure for indictment of offenders*), 7 (*civil proceedings*), 9 (*saving for HM in private capacity*). Ss 7 and 9 relate to civil matters.

²⁵⁷ s 1 (*cruelty to persons under 16*), 3 (*children in brothels*), 4 (*begging*), 5 (*intoxicating liquor to child under 5*), 7 (*sale of tobacco to children under 18*), 11 (*exposing children under 7 to risk of burning*), 12 (*failing to provide for safety of children at entertainments*), 18 & 21 (*restrictions on employment of children under 14/5*), s 20 (*children street trading*), 23 (*children taking part in performances endangering life or limb*), 24 (*child under 12, performances of a dangerous nature*), 25 & 26 (*restriction on young person going abroad to perform for profit*). Ss 12A (*sales of tobacco to persons under 18, permitted premises*), 12A (*restricted premises order*), 12B (*restricted sales order*), 12C (*enforcement*), 12D (*interpretation*) should be placed in an *Appendix*.

²⁵⁸ 14 (*mode of charging children*), s 31 (*separation of children and YP from adults in police stations*), 34 (*attendance at court of parent or child*).

²⁵⁹ s 77 (*remand homes*), **79-81** (*approved schools*). Ss 77, 79-81 appear to be spent since *remand homes* and *approved schools* were re-designated as community homes in 1969 and have been abolished, see SI 1973/637 and C&YP Act 1969, s 46.

²⁶⁰ s 4 (*presumptions as to documents 20 years old*). This also applies to civil documents. S 4 should be re-stated in a CPA.

²⁶¹ s 36 (*forgery of passport*), 37 (*unlawful possession of pension documents*).

²⁶² s 1 (*abolishes penal servitude, obs*), 31 (*jurisdiction and procedure re certain indictable offences committed in foreign countries*), 37 (*bail on appeal or application for certiorari*), 41 (*evidence by certificate*), 42 (*order of speeches i.e. right to reply*), 66 (*legal custody i.e. detention*). Ss 27 & 49 deal with *remand homes*, but they are almost certainly spent, see fn 259.

Prevention of Crime Act 1953	Consolidate - D		
Children & YP (Harmful Pubs) Act 1955	Consolidate - A		
Sexual Offences Act 1956	Consolidate - A		
Magistrates Courts (Appeal from Binding Orders) Act 1956		s 1 ²⁶³ +	
Homicide Act 1957	Consolidate - F		
Prevention of Fraud (Investments) Act 1958	Consolidate - B		
Sexual Offences Act 1959	Consolidate - A		
Obscene Publications Act 1959	Consolidate - A		
Restriction of Offensive Weapons Act 1959	Consolidate - E		
Other Criminal Legislation 1960-1980 [39 Acts]			
Administration of Justice Act 1960		1-2, 4- 5A, 9 ²⁶⁴	
Restriction of Offensive Weapons Act 1961	<i>Amends</i>		
Suicide Act 1961	Consolidate - F		
Criminal Justice Act 1961		22-4 , 35-6, 37-8 ²⁶⁵	18-9 (<i>obs</i>) ²⁶⁶
Penalties for Drunkenness Act 1962	Consolidate - D		
Public Order Act 1963	<i>Amends</i>		
Children and Young Persons Act 1963	Consolidate - F, ss 37, 39-42, 44, 63 ²⁶⁷	18,26,28-9, 57 ²⁶⁸ +	
Criminal Procedure (Right of Rely) Act 1964		1 ²⁶⁹ +	
Criminal Procedure (Insanity) Act 1964		1 (<i>obs</i>),4-6 ²⁷⁰ +	
Obscene Publications Act 1964	Consolidate - A		
Murder (Abolition of Death Penalty) Act 1965	<i>Spent</i>		
Law Commissions Act 1965			1-6
CP (Attendance of Witnesses Act) 1965		ss 2-4 ²⁷¹ +	
Criminal Law Act 1967	Consolidate - D, ss 4, 5 ²⁷²	1-4, 6, 9 ²⁷³ +	
Criminal Justice Act 1967	Consolidate - D s 91 ²⁷⁴	8-10, 17,20,22, 25, 36, 70-1 ,89,92-3 100 ²⁷⁵ +	

²⁶³ s 1 (*appeal to Crown Court re binding over under Justice of the Peace Act 1361*).

²⁶⁴ ss 1-2 (*appeal to HL in criminal cases*), 4 (*admission of appellant to bail*), 5 (*power to order detention or admission to bail of defendants*), 5A (*power to order continuation of community treatment*), 9 (*procedure*).

²⁶⁵ s 35 (*legal custody*), 36 (*orders*). S 35 should have been replaced by PACE 1984 re detention. **ss 22-4, 37-8 to prisons** should be placed in a **Prison Act**, if still required.

²⁶⁶ ss 18-9 relate to approved schools and are almost certainly spent, see fn 259.

²⁶⁷ ss 37-42,44, (*restrictions on children taking part in public performances and offences*), 63 (*interpretation*). See also fn 257. 12A (*sales of tobacco to persons under 18*), 12A (*restricted premises order*), 12B (*restricted sales order*), 12C (*enforcement*), 12D (*interpretation*). Ss 12A,B,D should be placed in an *Appendix*.

²⁶⁸ s 18 (*jurisdiction of magistrates' court in certain cases involving children and YP*), 26 (*medical evidence by certificate*), 28 (*form of oath in juvenile courts and by children and young persons in other courts*), 29 (*provisions as to person who reaches 18 during criminal proceedings*), 57 (*newspaper and broadcast reports in proceedings involving children*).

²⁶⁹ s 1 (*right of reply at trials on indictment*).

²⁷⁰ s 4 (*unfitness to plead*), 4A (*finding the accused did the act or made the omission charged against him*), 5 (*powers to deal with person not guilty by reason of insanity or unfit to plead etc*), 5A (*orders made under or by virtue of s 5*), 6 (*evidence by prosecution of insanity or diminished responsibility*).

²⁷¹ s 2 (*issue of witness summons on application to the Crown Court*), 2A (*power to require advance production*), 2B (*summons no longer required*), 2C (*application to make summons ineffective*), 2D (*issue of summons on Crown Court's own motion*), 2E (*application to make summons ineffective*), 3 (*punishment for disobedience to witness order or witness summons*), 4 (*further process to secure attendance of witness*).

²⁷² s 4 (*penalty for assisting offenders*), 5 (*penalty for concealing offences or giving false information*).

²⁷³ s 1 (*abolition of distinction between felony and misdemeanour; obs*), 2 (*arrest without warrant*), 3 (*use of force in making arrest etc*), 6 (*trial of offences - not guilty plea*), 9 (*pardon*).

²⁷⁴ s 91 (*drunkenness in a public place*).

²⁷⁵ s 8 (*proof of criminal intent*), 9 (*proof by written statement*), 10 (*proof by formal admission*), 17 (*entry of verdict of not guilty by order of a judge*), 22 (*extension of power of high court to grant or vary bail conditions*), 25 (*restriction on issue of search warrants under Obscene Publications Act 1959*), 33 (*use of finger prints and palm prints*), 36 (*interpretation*), **70** (*prisoner transfer*), **71** (*prisoner release*), 72 (*power of magistrates to issue*

Abortion Act 1967	Consolidate - F		
Sexual Offences Act 1967	Consolidate - A		
Theft Act 1968	Consolidate - B		
Firearms Act 1968	Consolidate - D		
Theatres Act 1928	Consolidate - A & D, ss 2-18 ²⁷⁶		
Criminal Appeal Act 1968		1-32,45-51 ²⁷⁷	
Justices of the Peace Act 1968		1 ²⁷⁸	
Children & Young Persons Act 1969		5,7,9, 23B, 26, 29 +	30, 32, 46 (<i>obs</i>) ²⁷⁹
Tattooing of Minors Act 1969	Consolidate - F		
Administration of Justice Act 1970	Consolidate - F, s 40 ²⁸⁰	1, 10, 11, 28, 41, 31-9, 44, 44A ²⁸¹ +	
Criminal Damage Act 1971	Consolidate - B		
Misuse of Drugs Act 1971	Consolidate - D		
Criminal Justice Act 1972	Consolidate - D, s 34 ²⁸²	36, 46, 51 ²⁸³ +	
Costs in Criminal Cases 1973			
Prevention of Terrorism (Temp Provs) Act 1974	Consolidate - C		
Rehabilitation of Offenders Act 1974			1-11
Juries Act 1974		1-21 +	
Criminal Jurisdiction Act 1975		1-6,9,11-2,13 ²⁸⁴	
Bail Act 1976		1-6 ²⁸⁵ +	
Explosives (Age of Purchase) Act 1976	<i>Amends</i>		
Criminal Law Act 1977	Consolidate - F, B & D, ss 1-5,6-12, 51 ²⁸⁶	15, 28, 30-2 , 38A, 38B, 39, 40,48, 63, 64 ²⁸⁷	

warrants for arrest of escaped prisoners and mental patients), 89 (*false statements tendered in evidence*), 92-3 (*finest*), 100 (*regulations, rules*). Ss **70-1** should be in a **Prison Act**, if still required.

²⁷⁶ s 2 (*obscene plays*) should be in A. Also, s 3 (*plays inducing a breach of the peace*) and other ss which should be in an *Appendix*.

²⁷⁷ ss 1-32 (*appeal to CA in criminal cases*), 45-51 (*appeal to Supreme Court*).

²⁷⁸ s 1 (*appointment of JPs*).

²⁷⁹ s 5 (*restrictions on criminal proceedings for offences by YP*), 7 (*alterations in treatment of young offenders*), 9 (*investigation by local authorities*), 23B (*refusal by local authorities in certain cases where person remanded on bail*), 267 (*transfer between E&W and the Channel Isles or Isle of Man*), 29 (*recognizance on release of arrested child or YP*), **30** (*detention of young offenders in community homes*), **32** (*detention of absentees*), **46** (*discontinuance of approved schools, spent, see fn 259*). S 30-32 should be in a CJA (under the title Youth Justice).

²⁸⁰ s 40 (*crime of unlawful harassment of debtors*).

²⁸¹ S 1 (*redistribution of business among divisions of the High Court*), 10 (*temporary additional judges*), 11 (*restriction on power to commit under Debtors Act 1869, see also interpretation in s 28, see fn 239*), 41 (*recovery of costs and compensation awarded by magistrates*). ss **1** and **10** (*temporary additional judges*) should be in a **Courts and Tribunals Act** if still required, ss **31-9, 44, 44A** deal with **civil matters**.

²⁸² s 34 (*power of constable to take drunken offender to a treatment centre*).

²⁸³ s 36 (*reference to the Court of Appeal on point of law following acquittal on indictment*), s 46 (*admissibility of written statements made outside E&W*), 51 (*execution of process between E&W and Scotland*).

²⁸⁴ ss 1-6 (*extra territorial offences*), 9 (*admissibility of written statements made in Rep of Ireland*), 11-2 (*prosecutions*), 13 (*interpretation*).

²⁸⁵ s 1 (*meaning of bail in criminal proceedings*), 2 (*other definitions*), 3AA (*conditions for the imposition of electronic monitoring requirements; children and YP released on bail other than in extradition proceedings*); 3AAA (*ibid: children and YP released on bail in extradition proceedings*); 3AB (*ibid: other persons*), 3AC: (*electronic monitoring: general provisions*); 3A: (*conditions of bail in case of police bail*); 4 (*general right of bail of accused persons and others*); 5 (*supplemental provisions about decisions on bail*), 5A (*supplemental provisions about decisions on bail*), 5B (*reconsideration of decisions granting bail*), 6 (*offence of absconding by person released on bail*), 7 (*liability of arrest for absconding or breaking conditions of bail*), 8 (*bail with sureties*), 9A (*bail decisions relating to child or YP accused of offences mentioned in sch 2 to the Magistrates Courts Act 1980*).

²⁸⁶ ss 1-5 (*conspiracy*) 6-12 (*entering and remaining on property*), s 51 (*bomb hoaxes*). Ss 6-12 should be in B, s 51 in E.

²⁸⁷ s 15 (*offences which are to become triable summarily*), **28** (*penalties for summary conviction for offences triable either way*), **30** (*penalties and mode of trial for offences made triable only summarily*), **31** (*increase in fines*), **32** (*other provisions re maximum fines*), 38A (*execution in different parts of the UK of warrants for non-payment of fine, by PO arresting*), 38B (*execution of warrant to commit (imprison) for non-payment by PO arresting*), 39 (*service of summonses etc throughout the UK*), 40 (*transfer of fine orders*), 48 (*power to make rules as to furnishing information by the prosecution in criminal proceedings*), 63 (*powers apply to Scotland*), 64 (*interpretation*). Ss **28, 30-2** are, likely, *spent* (see also Courts Act 2003, s 92 (*fees*)).

Protection from Eviction Act 1977	Consolidate B - ss 1-5 ²⁸⁸		
Protection of Children Act 1978	Consolidate - A, ss 1-7 ²⁸⁹		
Theft Act 1978	Consolidate - B		
Suppression of Terrorism Act 1978	Consolidate - D		
Other Criminal Legislation 1980-90 [32 Acts]			
Indecent Displays (Control) Act 1981	Consolidate - A		
Criminal Attempts Act 1981	Consolidate ²⁹⁰		
Forgery and Counterfeiting Act 1981	Consolidate - B		
Senior Courts Act 1981		80-1 ²⁹¹ +	
Firearms Act 1982	Consolidate - E		
Forfeiture Act 1982		1-5 ²⁹² +	
Taking of Hostages Act 1982	Consolidate - D, ss 1-2 ²⁹³		
Criminal Justice Act 1982		32, 35-6, 38-40, 46, 47 ²⁹⁴	
Local Government (Misc Provisions) 1992	Consolidate - A, s 2 ²⁹⁵		
Representation of the People Act 1983	Consolidate, s 97 ²⁹⁶		
Drug Trafficking Act 1984	Consolidate - D		
Child Abduction Act 1984	Consolidate - F		
Police & Criminal Evidence Act 1984 (PACE)		1-105, 107, 113-8 ²⁹⁷ +	
Intoxicating Substances (Supply) Act 1985	Consolidate - D		
Surrogacy Arrangements Act 1985	Consolidate - F		
Sporting Events (Control of Alcohol <i>etc</i>) Act 1985	Consolidate - D		
Prohibition of Female Circumcision Act 1985	Consolidate - F		
Child Abduction & Custody Act 1985	Consolidate - F		
Prosecution of Offences Act 1985		16-26 ²⁹⁸	1-15 ²⁹⁹
Controlled Drugs (Penalties) Act 1985	Consolidate - D		
Public Order Act 1986	Consolidate - D		
Drug Trafficking Offences Act 1986	Consolidate - D		
Crossbows Act 1987	Consolidate - E		

²⁸⁸ ss 1-5 (*unlawful eviction and harassment*), 5 (*notice to quit*), 6-11 (*supplemental*).

²⁸⁹ ss 1-7 (*indecent photos, children*)

²⁹⁰ The law on conspiracy, incitement and attempts only applies to certain crimes. Thus, each of the 6 Acts should have a section dealing with the same.

²⁹¹ s 80 (*process to compel appearance*), 81 (*bail*).

²⁹² s 1 (*forfeiture rule*), 2 (*power to modify rule*), 3 (*application for financial provision not affected by rule*), 4 (*upper tribunal to decide on application to social security benefits*), 5 (*exclusion of murderers*).

²⁹³ ss 1 (*hostage taking*), 2 (*prosecution*).

²⁹⁴ s **32** (*early release of prisoners*), **35-6** (*abolition of enhanced penalties, obs*), **38-40** (*increase in fines*), **46** (*conversion of references to amounts to levels on scale*), **47** (*supplementary*). s **32** should be in a **Prison Act**, if required. Other ss are likely spent.

²⁹⁵ s 2 (*control of sex establishments*). See also App 13 to the same.

²⁹⁶ s 97 (*disturbing an election meeting*).

²⁹⁷ The individual ss are too lengthy to state. However, ss 1-7 (*power to stop and search*), 8-23 (*powers of entry, search and seizure*), 24-33 (*arrest*), 34-51 (*detention*), 53-65B (*questioning & treatment of persons by police*), 66-7 (*codes of practice*), 69-72 (*documentary evidence*), 73-82 (*evidence in criminal proceedings*), **107** (*police officer performing duty of higher rank*), 113-8 (*application to other officers, Revenue and Customs etc*). s **107** should be in a *Police Act*. All CPA material prior to 1984 should have been put in this Act.

proceedings), **107** (*police officer performing duty of higher rank*), 113-8 (*application to other officers, Revenue and Customs etc*).

²⁹⁸ s 16 (*defence, prosecution and 3rd party costs*), 22 (*power of secretary of state to set time limits re preliminary stages of criminal proceedings*), 22A (*additional time limits for persons under 18*), s 22B-D (*re-institution of proceedings, discontinuance*) 25 (*consents to prosecutions*), 26 (*consents to be admissible in evidence*).

²⁹⁹ ss 1-15 (*Crown Prosecution Service*).

Criminal Justice Act 1987	Consolidate - B ss 7-10,11, 11A, 12 ³⁰⁰	1-3 ³⁰¹
Criminal Justice Act 1988	Consolidate - F, E, & A, ss 134-5, 139-42,160-1 ³⁰²	23-8,30-2,35-6,39-40, 59, 67,96-7,122, 133, 138, 151-2,159,167 ³⁰³
Firearms (Amendment Act) 1988	Consolidate - E	
Malicious Communications Act 1988	Consolidate - D	
Coroners Act 1988		13 ³⁰⁴
Football Spectators Act 1989	Consolidate - D	
Official Secrets Act 1989	Consolidate - C	
Computer Misuse Act 1990	Consolidate - B	
Criminal Justice (Int. Cooperation) Act 1990	Consolidate - D, ss12-3,15,18-21 23A, 24 ³⁰⁶	5-6, 9,10 ³⁰⁵

Other Criminal Legislation 1990-2000 [38 Acts]

Football Offences Act 1991	Consolidate - D	
Criminal Justice Act 1991		20A,24,53,68, 80-92 , 95 ³⁰⁷
Criminal Procedure (Insanity & Unfitness to Plead) Act 1991		1 ³⁰⁸
Firearms (Amendment) Act 1992	<i>Amends</i>	
Aggravated Vehicle Taking Act 1992	<i>Amends</i>	
Sexual Offences (Amendment) Act 1992	Consolidate A, ss 1-7 ³⁰⁹	
Criminal Justice Act 1993	ss 52-64,71 ³¹⁰	1-4, 6, 71,73, 77 ³¹¹ +
Bail (Amendment) Act 1993		1 ³¹² +
Criminal Justice & Public Order Act 1994	s 51,60C-79, 166,167 ³¹³	25,34-9A,6, 93-128A , 136-40,137,157,163,170 ³¹⁴ +

³⁰⁰ ss 7-10 (*preparatory hearings*) 11 (*reporting restrictions*), 11A (*offences in connection with reporting fraud cases*), 12 (*conspiracy to defraud*). ss 7-11 should be in an *Appendix*.

³⁰¹ ss 1-3 (*Serious Fraud Office*)

³⁰² ss 134-5 (*torture*), 139-42 (*article with a blade or point in a public place*), 160-1 (*indecent photos of children*). Ss 134-5 should be in F, ss 139-42 should be in E and ss 160-1 should be in A.

³⁰³ ss 23-8 (*documentary evidence*), 30-2 (*other provs about evidence*), 35-6 (*scope & reviews*), 39-40 (*common assault and battery to be summary offences*), 51-9 & 27 (*finer*), 96 (*enforcement of other external orders*), 97 (*external confiscation orders*), 122 (*autre fois & autre acquit*), 133 (*compensation for miscarriages of justice*), 138 (*Channel Isles*), 138 (*Customs & Excise power of arrest*), 151 (*customs and excise power of arrest*), 152 (*remand of suspected drug offenders to detention*), 159 (*Crown Ct proceedings*), **167** (*easements under Prison Act*) should be in a **Prison Act**.

³⁰⁴ s 13 (*order to hold investigation*).

³⁰⁵ s 5 (*transfer of UK prisoner to give evidence or assist investigations overseas*), 6 (*ibid, to assist investigations in the UK*), 9 (*enforcement of overseas forfeiture orders*), 10 (*rules of court*).

³⁰⁶ These ss deal with drug trafficking.

³⁰⁷ s 20A (*false statements as to financial circumstances*), 24 (*recovery of fines by deductions from universal credit and income support*), 53 (*notices of transfer in certain cases involving children*), 68 (*persons aged 17 to be treated as YP for certain purposes*) 95 (*information for financial and other purposes*). Ss **80-92** relate to prisoner escorts and other matter on prisons. They should be in a **Prison Act**.

³⁰⁸ s 1 (*acquittals on grounds of insanity*).

³⁰⁹ s 1 (*anonymity of victims of certain offences*), 2 (*offences (offences to which Act applies)*), 3 (*power to displace s 1*), 3A (*disapplication of s 1 after victim's death*), 3B (*rules of court*), 4 (*special rules for cases on incest/buggery*), 5 (*offences*), 6 (*interpretation*), 7 (*courts martial*).

³¹⁰ ss 52-64 (*insider dealing*), 71 (*offences in connection with taxation in the UK*).

³¹¹ s 1 (*offences to which this Part applies*), 2 (*jurisdiction in respect of Group A offences*), 3 (*questions immaterial to jurisdiction in the case of certain offences*), 4 (*rules for determining certain jurisdictional questions relating to the location of events*), 5 (*conspiracy, attempt and incitement*), 6 (*relevance of external law*), 73 (*power of SS to make grants in relation to combatting drug use*), 77 (*power to extend certain offences to Crown servants and to exempt regulators*).

³¹² s 1 (*prosecution right of appeal*).

³¹³ s 51 (*intimidation of witnesses*), 60C-79 (*public order offences*) 166 (*ticket touts*), 167 (*taxi touts*).

³¹⁴ s 25 (*bail*), 34-9A (*inferences from accused's silence*), 60 (*power to stop and search*), **93-128A** (*prison service*), 136-40 (*warrants*), 157 (*increase in penalties*), 163 (*CCTV by local authorities*), 170 (*party conference costs*). Ss **93-128A** should be in a **Prison Act**.

Drug Trafficking Act 1994	Consolidate - D		
Criminal Appeal 1995			8-25 ³¹⁵
Criminal Injuries (Compensation) Act 1995			1-10
Theft Act (Amendment) Act 1996	Consolidate - B		
Police Act 1996		91 ³¹⁶	
Offensive Weapons Act 1996	<i>Amends</i>		
Criminal Procedure & Investigations Act 1996		1-21A, 22-7, 28-38, 39-43, 44-7, 54-6 54-6, 58-61, 75-6, 78 ³¹⁷ +	
Sex Offences (Conspiracy and Incitement) Act 1996			
Sexual Offences (Protected Material) Act 1997	Consolidate - A		
Protection from Harassment Act 1997	Consolidate - D		
Confiscation of Alcohol (YP) Act 1997	Consolidate - D		
Firearms (Amendment) Act 1997	Consolidate - E		
Firearms (Amendment)(No 2) Act 1997	Consolidate - E		
Knives Act 1997	Consolidate - E		
Law Officers Act 1997			1-2 ³¹⁸
Crimes (Sentences) Act 1997		27A-34, 35, 40, 41-2 ³¹⁹	
Criminal Evidence (Amendment Act) 1997		1-2 ³²⁰ +	
Crime and Disorder Act 1998	ss 28-33 ³²¹		5-18, 37-52, 114-5 ³²²
Criminal Justice (Terrorism & Conspiracy) Act 1998	<i>Amends</i>		
Criminal Cases Review (Insanity) Act 1999		1-3 ³²³ +	
Access to Justice Act 1999		44, 46, 54-7, 68-9 ³²⁴	
Football (Offences & Disorder) Act 1999	<i>Amends</i>		
Youth Justice & Criminal Evidence Act 1999		16-33C, 34-40, 41-3, 44-52, 53-63 ³²⁵ +	
Sexual Offences (Amendment) Act 2000	Consolidate - A		
Football (Disorder) Act 2000	<i>Amends</i>		
Terrorism Act 2000	Consolidate - D		
Powers of Criminal Court (Sentencing) Act 2000		11, 36B, 60-1, 108, 139-40, 142, 164 ³²⁶	

³¹⁵ ss 8-16 (*Criminal Cases Review Commission*).

³¹⁶ s 91 (*causing disaffection in the police*). This should be in a **Police Act**.

³¹⁷ s 1-21A (*disclosure*), 22-7 (*investigations*), 28-38 (*preparatory hearings*), 39-43 (*rulings*), 44-7 (*committal, transfer etc*), 54-6, 58-61 (*acquittals attained by intimidation etc*), 75-6, 78 (*general*).

³¹⁸ s 1 (*the AG and SG*), 2 (*AG for NI and the SG*).

³¹⁹ s 35 (*community sentence*), 35 & 40 (*fine defaulters*), **41-2** (*transfer and repatriation of prisoners*). Ss 41-2 should be in a **Prison Act**.

³²⁰ ss 1-2 (*extension of power to take non-intimate bodily samples without consent*).

³²¹ ss 28-33 (*racially and religiously aggravated offences*). These should be placed in the 6 Acts dealing. Thus, ss 29 (*assaults*) and 32 (*harassment*) should be placed in F, s 30 (*criminal damage*) in B, s 31 (*public order*) in D.

³²² ss 5-18 (*crime and disorder*), 37-52 (*youth justice*), 114 (*orders and regulations*), 115 (*disclosure of information*).

³²³ s 1 (*reference of final verdict of guilty but insane*), 2 (*reference treated as an appeal, E & W*), 3 (NI).

³²⁴ s 44 (*barristers employed by solicitors*), 46 (*Bar practicing certs*), 54-7 (*appeals*), 68-9 (*judges*). These ss should be in a **Courts and Tribunals Act**.

³²⁵ ss 16-33C (*vulnerable & intimidated witnesses*), 34-40 (*protection of witnesses from cross-examination by accused*), 41-3 (*protection of complainant in proceedings for serious offences*), 44-52 (*reporting restrictions*), 53-63 (*competence of witnesses and capacity to be sworn*), 65 (*criminal procedure rules, and age*).

³²⁶ 11 (*medical exam*), 36B (*electronic monitoring*), 60-1 (*attendance centre orders*), 108 (*detention of persons aged at least 18 but under 21 for default or contempt*), 139-40 (*powers and data of Crown Court in relation to forfeited recognizances*), 142 (*power of Crown Ct to order search of persons before it*), 164 (*interpretation*).

Criminal Justice & Court Service Act 2000		5A-7,11-7,18-25, 26- 38,42,43-5,62-5 ³²⁷ +
Crown Prosecution Service Inspectorate Act 2000		1-2 ³²⁸
Other Criminal Legislation 2000-5 [17 Acts]		
Vehicle (Crime) Act 2001	<i>Amends</i>	
Int. Criminal Court Act 2001		1-81 ³²⁹
Anti-Terrorism, Crime & Security Act 2001	Consolidate- D/A, ss 47-57, 113-5 ³³⁰	1,4-15,17-20, 58-75 , 77-81, 82, 100-1 , 113 ³³¹ +
Criminal Justice & Police Act 2001	Consolidate - A, ss 46-7 ³³²	1-11,19-28,33-7,39-44, 50-68, 97-101 ³³³
Proceeds of Crime Act 2002		s 1-455 ³³⁴
Sexual Offences Act 2003	Consolidate - A	
Crime (Int. Co-operation) Act 2003	s 84 ³³⁵	1-28,29-31,32-46, 47-8,49-51,54-79 ³³⁶ +
Licensing Act 2003	Consolidate - D	
Female Genital Mutilation Act 2003	Consolidate - F	
Courts Act 2003		92 ³³⁷
Fireworks Act 2003	Consolidate - E	
Anti-Social Behaviour Act 2003	Consolidate - D/F 43-5,54, 65 ³³⁸	19-29 ³³⁹ +
Criminal Justice Act 2003		22-7,28-30,43-9,51-6,57-74,75-97,98-113,114-35,137-41, 221,237-68, 274,281,283, 300, 307, 326-7, 329 ³⁴⁰
Domestic Violence, Crime & Victims Act 2004	Consolidate - F, s 5 ³⁴¹	6-9,17-21 ³⁴² 32-56 ³⁴³

³²⁷ ss **5A-7** (*national probation service*), **11-17** (*children and family court advisory and support service*), 18-25 (*property of staff*), 26-38,42 (*protection of children, disqualification order*), 43-5 (*community sentences*), **62-5** (*release of prisoners on licence*). Ss **62-5** should be in a **Prison Act**. Ss 18-25 are, likely, spent. Ss **5A-7** and **11-7** should be in a CJA.

³²⁸ s 1 (*inspectorate*), 2 (*function*).

³²⁹ ss **1-81** (*provides for the international criminal court*).

³³⁰ ss 47-57 (*use of nuclear weapons*), 113, 113A & B (*use of noxious substances or things to harm and intimidate*), 114-5 (*hoaxes involving noxious substances*).

³³¹ s 1 (*forfeiture of terrorist property*), 4-15 (*freezing orders*), 17-20 (*disclosure of information*), **58-75** (*security of pathogens and toxins*), **77-81** (*regulation of security of civil nuclear industry*), s 82 (*civil security*), **100** (*jurisdiction of transport police*), **101** (*further provision about transport police and MOD police*). Ss **58-75**, **77-81** should be placed in civil legislation dealing with the same. S **82** should be placed in a **Civil Aviation Act**, ss **100-1** should be placed in a **Transport Act** and a **Defence Act**.

³³² ss 46-7 (*advertises relating to prostitution*).

³³³ ss 1-11 (*on the spot penalties*), 19-28 (*closure orders, unlicensed premises*), 33-7 (*travel restrictions - drug offenders*), 50-68 (*additional powers of seizure*), **97-101** (*regulation of police forces*). Ss **97-101** should be in a **Police Act**.

³³⁴ Main Act dealing with proceeds of crime.

³³⁵ s 84 (*assaults on foreign officers*).

³³⁶ ss 1-28 (*mutual assistance in criminal matters and evidence*), 29-31 (*hearing evidence through TV links or by phone*), 32-46 (*information about banking transactions*), **47-8** (*transfer of prisoners*) 49-51 (*supplementary*), **54-79** (*road traffic*). Ss 47-8 should be in a **Prison Act**, ss 54-79 should be in a **Highways Act**.

³³⁷ s 92 (*fees*).

³³⁸ ss 43-4 (*graffiti*), 54 (*sale of aerosol to children*), 65-84 (*high hedges*). As to these ss 43-4 should be in D, s 54 in F.

³³⁹ ss 19-29 (*parenting orders*).

³⁴⁰ ss 22-7 (*conditional cautions*), 28-30 (*charging*), 43-9 (*trials on indictment without a jury*), 51-6 (*live links*), 57-74 (*prosecution appeals*), 75-97 (*retrial for serious offences*), 98-113 (*evidence of bad character*), 114-35 (*hearsay evidence*), 137-41 (*video evidence*), 221 (*provision of attendance centres*), 237-68 (*release, licences etc*), 274, 281, 283 (*life sentences*), 300 (*fine defaulters*), 307 (*endangered species*), 326-7 (*review of arrangement*), **329** (*civil proceedings for trespass for offenders*). S **329** should be in civil legislation.

³⁴¹ s 5 (*offence of domestic violence*)

³⁴² ss 6-9 (*evidence and procedure, reviews*), 17-21 (*counts with or without jury*).

³⁴³ ss 32-45, 55-7 (*victims code etc*), 49-53 (*Parliamentary C-er*).

Serious Organised Crime & Police Act 2005		9-19 ³⁴⁴ +	
Prevention of Terrorism Act 2005	Consolidate - D		
Drugs Act 2005	Consolidate - D		
Other Criminal Legislation 2006-10 [18 Acts]			
Police and Justice Act 2006		6,13, 19,20,27 ³⁴⁵	
Terrorism Act 2006	Consolidate - D		
Racial & Religious Hatred Act 2006	<i>Amends</i>		
Violent Crime Reduction Act 2006	Consolidate - D & A, ss 28-9, 32, 35, 39, 47, 55-6. ³⁴⁶		
Fraud Act 2006	Consolidate - B		
Serious Crime Act 2007	Consolidate - B, ss 44-58,64-7, 68-73 ³⁴⁷	1-42, 85,88 ³⁴⁸ +	
Offender Management Act 2007		28-30 ³⁴⁹	1-15 ³⁵⁰
Corporate Manslaughter & Corporate Homicide 2007	Consolidate - A		
Forensic Science Regulator 2007			1-12
Offender Management Act 2007			1-15, 16-26 , 28-35 ³⁵¹
Criminal Justice & Immigration Act 2008	Con A, F - ss 63-8,76,119-21 ³⁵²	39, 98-117, 130-7 ³⁵³	
Counter Terrorism Act 2008		1-9,18,21,22-7,28-32, 40-61, 63-73, 85-90 ,92-5,96-7 ³⁵⁴	
Criminal Evidence (Witness Anonymity) Act 2008		11 ³⁵⁵ +	
Coroners and Justice Act 2009	Consolidate - F & A, ss 55-6,62-8 ³⁵⁶	74-85,86-97,115,155-72 ³⁵⁷ +	1-48, 118-36 ³⁵⁸
Policing and Crime Act 2009	Consolidate - D, ss 105-7 ³⁵⁹	34-49 ³⁶⁰ +	
Bribery Act 2010	Consolidate - B		
Terrorism and Anti-Freezing <i>etc</i> Act 2010	<i>Spent</i>		
Crime and Security Act 2010		22,24-9,30-1, 32, 33,47-54 ³⁶¹	
Other Criminal Legislation 2010-5 [13 Acts]			
Terrorism Prevention & Investigation			

³⁴⁴ ss 9-19 (*assessment of misuse of drugs*)

³⁴⁵ s 6, 13 (*police*), **19, 20, 27** (*local authority*). Ss **6 & 13** should be consolidated in a **Police Act** and the rest in a **Local Authorities Act**.

³⁴⁶ ss 28-9, 32,35,39,47 (*dangerous weapons*), 55 (*continuity of sex crimes*), 56 (*application to Scotland and NI*). Dangerous weapons should be consolidated in D, sex crimes (i.e. s 55) in A.

³⁴⁷ ss 44-58,68-73 (*prevention of fraud, proceeds of fraud*)

³⁴⁸ ss 1-42 (*serious crime prevention orders*), 85 (*disclosure of information by Revenue & Customs (R&C)*), 88 (*investigatory powers of R&C*).

³⁴⁹ ss 28-30 (*polygraph*).

³⁵⁰ ss 1-15 (*probation services*).

³⁵¹ ss 1-15 (*new arrangement - probation services*), 16-26 (*prisons*), 28-35 (*other provs. re management of offenders*). Ss **16-26** should be in a **Prison Act**.

³⁵² ss 63-8 (*extreme pornographic images*), 76 (*self defence reasonable force*), 119-21 (*crime - causing nuisance or disturbances in NHS premises*). Ss 63-8 should be in A, s 76 in F, s 119 in D.

³⁵³ s 39 (*youth default orders*), 98-117 (*violent offenders orders*), 130-7 (*special immigration status*).

³⁵⁴ s 1-9,18,21 (*powers to gather information*),22-7 (*post charge questioning of terrorist suspect*), 28-32 (*prosecution and punishment of terrorist crimes*), 40-61 (*notification requirements*), 63-73 (*financial restrictions proceedings*), 85-90 (*policing costs at gas facilities*), 92-5 (*definitions*), 96-7 (*orders and regulations*). Ss **85-90** should be in a **Police Act**.

³⁵⁵ s 11 (*pre-commencement anonymity orders, appeals*).

³⁵⁶ ss 55-6 (*partial defences to murder*), 62-8 (*prohibited images of children*). Ss 55-6 should be in F, ss 62-8 in A.

³⁵⁷ ss 74-85 (*evidence*), 86-97 (*anonymity of witnesses*), 115 (*bail decisions*), 155-72 (*criminal memoirs etc*).

³⁵⁸ ss 1-48 (*coroners*), 118-36 (*sentencing*). Ss **118-36** should be in the Sentencing Act 2020, if these ss are still applicable.

³⁵⁹ ss 105-7 (*football*)

³⁶⁰ ss 34-49 (*injunction to prevent gang related violence*)

³⁶¹ ss 22 (*destruction of fingerprints*), 24-9 (*domestic violence protection notice*), 30-31 (*remand*), **32** (*MOD police*), 33 (*pilot schemes*), 47-54 (*compensation of overseas terror victims*). S 32 should be in an **Armed Forces Act**.

Measures 2011	Consolidate - D, s 23 ³⁶²	2-30 ³⁶³	
Police (Detention and Bail) Act 2011			
Protection of Freedoms Act 2012	Consolidate - B, ss 40-53 ³⁶⁴	29-36 ³⁶⁵	20-1,22, 25-8, 87-8 ³⁶⁶
Legal Aid, Sentencing & Punishment of Offenders Act 2012	Consolidate - D, s 144 ³⁶⁷	85-6 ³⁶⁸	1-43,55-62,91 ³⁶⁹
Crime and Courts Act 2013		47,58 ³⁷⁰	1-14,17-32,34-42 ³⁷¹
Prevention of Social Fraud 2013	Consolidate - B ³⁷²		
Justice and Security Act 2013		6-15,17-8 ³⁷³	
Anti-Social Behaviour, Crime & Policing Act 2014	Consolidate - A - ss 116-8, 121-2 ³⁷⁴	1-20, 22-32,34-41,43-57 59-74,76-91,94-100,101-5, 116-8, ` 143, 180 ³⁷⁵	
Serious Crime Act 2015	Consolidate - D, s 45 ³⁷⁶	52-60,61-5 ³⁷⁷	
Counter Terrorism & Border Security Act 2015		1-14,22-5,26-41,44-7 ³⁷⁸	
Specialist Printing Equipment & Materials (Offences) Act 2015	Consolidate		
Modern Slavery Act 2015	Consolidate - D, ss 1-4 ³⁷⁹		40-4 ³⁸⁰
Criminal Justice & Courts Act 2015	Consolidate - F & D, ss 20-5, 26 ³⁸¹		57-61 ³⁸²

Other Criminal Legislation 2015-20 [14 Acts]

³⁶² s 23 (*contravention of TPIM notice*).

³⁶³ ss 2-30 (*terrorism prevention orders*).

³⁶⁴ ss 40-53 (*powers of entry on land*), 54-6 (*vehicles left on land*).

³⁶⁵ ss 29-36 (*regulation of CCTV*).

³⁶⁶ ss 20-1 (*com-r for the retention and use of biometric material*), 22,25,26-8 (*biometric provisions*), 87-8 (*formation of disclosure and barring service*).

³⁶⁷ s 144 (*squatting in a residential building*).

³⁶⁸ ss 85-6 (*finer, removal of limit and power to increase*).

³⁶⁹ ss 1-43 (*legal aid*), 55-62 (*litigation funds*), 91 (*remand of children otherwise than on bail*).

³⁷⁰ ss 47 (*proceeds of crime*), 58 (*orders and regulations*).

³⁷¹ ss 1-14 (*National Crime Agency*), **17-32** (*courts and justice*), 34-42 (*news related material, damages and costs*). Ss **17-32** should be put in a **Courts and Tribunals Act**.

³⁷² ss 1-13.

³⁷³ ss 6-15,17-8 (*disclosure of sensitive material*). Material on intelligence and security activities (ss 1-5) should be put in an Act dealing with the security services.

³⁷⁴ ss 116-8 (*information about guests and hotels believed to be used for child sexual exploitation*), **121-2** (*forced marriage*). Forced marriage would be better in a **Marriage Act**.

³⁷⁵ ss 1-20 (*injunctions*), 22-32 (*criminal behaviour orders*), 34-41 (*dispersal powers*), 42-57 (*community protection orders*), 59-74 (*public spaces protection orders and expedited orders*), 76-91 (*closure of premises, nuisance & disorder*), 94-100 (*recovery of possession of dwelling houses*), 101-5 (*local involvement & accountability*), **143** (*local policing*), **180** (*court & tribunal fees*). S 143 should be in a **Police Act**, s **180** in a **Courts and Tribunals Act**.

³⁷⁶ s 45 (*crime of participating in activities of an organized crime group*).

³⁷⁷ ss 52-60 (*application for search and seizure warrants*), 61-5 (*forfeiture*).

³⁷⁸ s 1 (*seizure of passport*), 2-14 (*temporary exclusion from UK*), 22-5 (*aviation, shipping & rail*), 26-41 (*risk of being drawn into terrorism*), 44-7 (*reviews etc*).

³⁷⁹ ss 1-4 contain crimes. Other material should be placed in an *Appendix*.

³⁸⁰ ss 40-4 (*Independent Anti-slavery C-er*).

³⁸¹ ss 20-5 (*crimes involving ill treatment or wilful neglect*), **26** (*corrupt and improper exercise of police powers*). S 33 (*sex photos*) was repealed by the Online Safety Act 2013, ss 187-8, which inserted intimate photo material into the 2003 Act). See also Archbold (2024), 20-227. S 26 should be placed in a **Police Act**.

³⁸² Ss **57-61** (*civil, personal injury claims*). These should be put in civil legislation.

Psychoactive Substances Act 2016	Consolidate - D, ss 4-11 ³⁸³	12-54 ³⁸⁴ +	
Riot Compensation Act 2016		1-9 ³⁸⁵ +	
Investigatory Powers Act 2016	Consolidate - D, ss 3-11 ³⁸⁶	1-2, 4-268 ³⁸⁷ +	
Criminal Finances Act 2017	Consolidate - B, ss 44-50 ³⁸⁸		
Policing and Crimes Act 2017		1-51,52-69, 84-115 ³⁸⁹ +	
Preventing Violence...against Women Act 2017			1-2 ³⁹⁰
Laser Misuse (Vehicles) Act 2018	ss 1,2 ³⁹¹		
Sanctions and Money Laundering Act 2018		1-61 ³⁹² +	
Assaults on Emergency Workers (Offences) Act 2018	Consolidate - F, ss 1, 3 ³⁹³		
Voyeurism (Offences) Act 2019	<i>Amends</i>		
Offensive Weapons Act 2019	Consolidate - D, ss 1-7,11, 33-9, 42, 53 ³⁹⁴	14-33,57-60, 64, 66 ³⁹⁵ +	
Stalking Protection Act 2019		1-14 ³⁹⁶	
Crime (Overseas Production Orders) Act 2019		1-18 ³⁹⁷	
Counter Terrorism & Border Security Act 2019	<i>Amends</i>		
Other Criminal Legislation 2020 - [15 Acts]			
Terrorist Offenders (Restriction of Early Release) Act 2020	<i>Amends</i>		
Counter Terrorism & Border Security Act 2019	<i>Amends</i>		
Extradition Act 2020		1-225 (leave in Act) ³⁹⁸	
Sentencing Act 2020		1-415 (Ibid) ³⁹⁹	
Sentencing (Pre-Consolidation Amendments) Act 2020		1-4 ⁴⁰⁰	
Counter Terrorism and Sentencing Act 2021			
Domestic Abuse Act 2021	Consolidate - F, s 71 ⁴⁰¹	72-3 ⁴⁰²	4-21, 22-61 63-4, 75-84 ⁴⁰³
Covert Human Intelligence Sources (Criminal Conduct) 2021	<i>Amends</i>		

³⁸³ ss 4-11 (*crimes re psychoactive substances*).

³⁸⁴ ss 12-54 (*powers re entry, stop and search, seizure, retention, forfeiture*).

³⁸⁵ These ss should be place in an *Appendix* to the CPA.

³⁸⁶ ss 3-11 (*crimes re unlawful interception*). Some of this material should be placed in an *Appendix*.

³⁸⁷ ss 1-2, 4-268 (*interception warrants*).

³⁸⁸ ss 44-50 (*corporate crime of failure to prevent facilitation of tax evasion*).

³⁸⁹ ss 1-51 (*policing*), 52-69 (*pre-charge bail*), 84-115 (*maritime enforcement*). Ss 1-51 & 84-115 should be in a **Police Act**.

³⁹⁰ Istanbul Convention.

³⁹¹ s 1 (*shining or directing a laser beam towards a vehicle*), 2 (*offences relating to air traffic services*). S 1 should be placed in a **Road Traffic Act** and s 2 should be in a **Civil Aviation Act**.

³⁹² ss 1-61 (*sanctions regulations*).

³⁹³ ss 1 (*common assault*), 3 (*meaning of emergency worker*).

³⁹⁴ ss 1-7,11 (*corrosive substances crimes*), 33-39,42 (*delivery of bladed products*).

³⁹⁵ ss 14-33 (*knife crime prevention orders*), 57-60 (*firearms*), 64 (*enforcement of offences relating to surrendered weapons*), 66 (*guidance on offences relating to offensive weapons*).

³⁹⁶ ss 1-14 (*stalking orders*)

³⁹⁷ ss 1-18 (*overseas production orders*).

³⁹⁸ Extradition should not be put in to a CPA since it is not procedural as such. It is best left in this Act.

³⁹⁹ This should be left in a Sentencing Act.

⁴⁰⁰ This, if still required, should be placed in the Sentencing Act 2020.

⁴⁰¹ s 71 (*consent of serious harm for sexual gratification not a defence*).

⁴⁰² ss 72-3 (*crimes committed outside UK*).

⁴⁰³ ss 4-21 (*Domestic Abuse C-er*), 22-56 (*powers for dealing with domestic abuse*),57-61 (*local authority support*) 63-4 (*special measures in family and civil proceedings*), 75-84 (*misc*).

Judicial Review and Courts Act 2022		19-33, 49 ⁴⁰⁴	
Police, Crime, Sentencing and Courts Act 2022 Consolidate - D, s 78 ⁴⁰⁵		1,37-44, 98-121 ⁴⁰⁶	8-36,163-4 ⁴⁰⁷
Economic Crime & Corporate Transparency Act 2023			Companies Act ⁴⁰⁸
National Security Act 2023	Consolidate - C, ss 1-38, 65-83 ⁴⁰⁹		39-93 ⁴¹⁰
Public Order Act 2023	Consolidate - D, F - ss 1-2,3-5,9, ⁴¹¹	17, 20-34 ^{412 +}	
Victims and Prisons Act 2024			1-47, 48-57,67 ⁴¹³
Investigatory Powers (Amendment) Act 2024 <i>Amends</i>			

TOTAL NO OF ACTS FROM 1297 (EXCLUDING ACTS THAT AMEND ONLY) - 303

HOW MANY SHOULD THERE BE?

1 CRIMINAL CODE (IN 3 PARTS), 1 CPA, 1 CJA = 3 ACTS PLUS

(A) EXTRADITION ACT

(B) PROCEEDS ACT - PUT AS PT 2 OF CPA

(C) SENTENCING ACT - PUT AS PT 3 OF CPA

Appendix 2 - Articles on Criminal Law

(a) Removing Obsolete Crimes

1. Our Criminal Law should only be 200 Years out of Date. (2014) Review of European Studies, vol 6, no 2.
2. Abolishing the Crime of Treason. (2007) 81 ALJ 94-134.
3. High Treason: Killing the Sovereign or Her Judges. (2009) 20 KLJ 457-88.
4. High Treason: Violating the Sovereign's Wife. (2009) Legal Studies vol 29(2) 264-80.
5. Abolishing the Crime of Treason Felony. (2007) 81 ALJ 812-38.
6. Abolishing High Crimes and Misdemeanours *etc.* (2011) 85 ALJ 810-79.
7. Abolishing some Obsolete Common Law Crimes. (2009) 20 KLJ 89-114.
8. Abolishing Obsolete Legislation on Crimes & Criminal Procedure. (2010) Legal Studies, vol 30, no 3.
9. Abolishing Obsolete Legislation on Bribery. (2011) Coventry LJ ('CovLJ'), vol 16, no 2.
10. Modernising English Criminal Law. (2010) Cov LJ, vol 15, no 2.
11. Modernising Various Crimes against the State. (2014) Journal of Politics & Law ('JPL'), vol 7, no 2.
12. Modernising the Law on the Unlawful Treatment of Dead Bodies. (2014) JPL, vol 7, no 3.
13. Modernising the Slave Trade Acts 1824, 1843 & 1873. (2015) International Law Research ('ILR'), vol 4, no 1.
14. Modernising the Law on Escape, Prison Breach and Rescue. (2014) Rev European Studies, vol 6, no 4.
15. False Imprisonment and Refusing to Assist a Police Officer. (2015) JPL, vol 8, no 3.
16. Modernising the Common Law offence of Misconduct in a Public or Judicial Office (2014) JPL, vol 7, no 4.
17. Modernising the Common Law offence of Cheating the Public Revenue. (2015) JPL, vol 8, no 1.
18. Abolishing the Common Law offence of Keeping a Disorderly House. (2015) JPL, vol 8, no 2.
19. Modernising the Law: Breaches of the Peace and Justices of the Peace. (2015) JPL, vol 8, no 3.
20. Modernising the Common Law offences of Assault and Battery. (2015) ILR, vol 4, no 1.

⁴⁰⁴ ss 19-33, 49 (online procedure for courts and tribunals). This should be in a **Courts and Tribunals Act**.

⁴⁰⁵ s 78 (*crime of public nuisance*)

⁴⁰⁶ ss 37-44 (*extraction of material from electronic devices*), 98-121 (*cautions*).

⁴⁰⁷ ss 8-36 (*prevention of crime, weapons reviews*), 163-4 (*secure children's home*).

⁴⁰⁸ This relates in most part to companies and is lengthy (ss 221, albeit with amendments). Certain ss could be put in a CPA. However, the Act generally should be left as it is or placed in a **Companies Act**.

⁴⁰⁹ ss 1-38 (*espionage, sabotage and persons acting for foreign powers*)

⁴¹⁰ ss 39-64 (*prevention and investigation measures*), 65-83 (*foreign activities and foreign influence scheme*), 84-91 (*terrorism*), 93 (*intelligence and security c-ee memo of understanding*). This material should be in an Appendix or a CJA.

⁴¹¹ ss 1-2 (*crime of locking on*), 3-5 (*ibid, tunnelling*), 9 (*interfering with abortion services*). Ss 1-2, 3-5 should be in D, s 9 in F.

⁴¹² s 17 (*exercising police powers re journalists*), 20-34 (*serious disruption prevention orders*). **S 17** should be in a **Police Act**.

⁴¹³ ss 1-47 (*victims*), 48-57 (*infected blood compensation authority*), 67 (*annual report, imprisonment or detention for public protection*).

21. Modernising the Law of Murder and Manslaughter. (2015) JPL, vol 8, no 4.
22. Abolishing the Crime of Public Nuisance and Modernising that of Public Indecency (2017) ILR, vol 6, no 1
23. Modernising the Law on Minor Public Order Offences (not published).
24. Modernising the Public Order Act 1986 (not published).

Appendix 3 - Common Law Crimes

The following appear to be common law crimes still extant (references to Archbold are to the 2024 version):

- Kidnapping ⁴¹⁴ [Archbold 19-417]
- Conspiring (conspiracy) to defraud [Archbold 33-37]
- Perverting the course of public justice ⁴¹⁵ [Archbold 28-1]
- Personating a juror ⁴¹⁶ [Archbold 22-71]
- Contempt of court ⁴¹⁷ [Archbold 28-32]
- Murder ⁴¹⁸ [Archbold 19-1]
- Manslaughter ⁴¹⁹ [Archbold 19-110]
- False imprisonment (see also Kidnapping, above) [Archbold 19-417]
- Cheating the public revenue [Archbold 30-134]
- Misconduct in a public - or judicial - office [Archbold 25-385]
- Unlawful treatment of dead bodies [Archbold 31-54]
- Escape, prison breach and rescue [Archbold 28-166]
- Refusing to assist a police constable [Archbold 19-336]
- Common assault & battery [Archbold 19-221]

All the above should be statutory. The following common law crimes should be abolished, being obsolete (all of these have been considered in various legal articles by me):

- *Outraging public decency* ⁴²⁰ [Archbold 20-235]
- *Keeping (maintaining) a disorderly house (brothel)* ⁴²¹ [Archbold 20-242]
- *A common innkeeper (hotelkeeper) refusing to provide board and lodging to the public*
- *Contempt of the sovereign*
- *Refusing to serve in (i.e. execute) a public office*
- *High crimes and misdemeanours*
- *Contempt (apart from contempt of Parliament and of court)*
- *Frankpledge (a legal obligation with a criminal penalty for non-observance)* ⁴²²
- *Hue and Cry (ibid)*
- *Public nuisance (inc. conspiring (conspiracy) to commit a public nuisance)* ⁴²³ [Archbold 31-40]
- *Conspiring (conspiracy) to outrage public decency* ⁴²⁴ [Archbold 20-235]

⁴¹⁴ See also the crime of *False Imprisonment* which is allied to this.

⁴¹⁵ See (2013) *Juror Misconduct and Internet Publications*. Also, (2013) *Court Reporting*.

⁴¹⁶ Ibid.

⁴¹⁷ Ibid.

⁴¹⁸ See *Murder, Manslaughter and Infanticide* (2006) HC 30, no 304. Also, (2004) *Partial Defences to Murder* (Cm 6301, no 290).

⁴¹⁹ Ibid.

⁴²⁰ This should be abolished. See also *Conspiring to Outrage Public Decency*, a common law crime which should, also, be abolished.

⁴²¹ In older times '*disorderly house*' was a polite reference to a '*brothel*' (*bordello*), the latter word not coming into use in England until the 16th century. Modern legislation deals with brothels.

⁴²² J Ritson, *The Jurisdiction of the Court Leet* (2nd ed, 1809), pp vi-ii, frankpledge had sunk into 'total disuse, there not having been any freepledges in the kingdom for two or three centuries.'

⁴²³ See (2010) *Public Nuisance and Outraging Public Decency* (no 193).

⁴²⁴ Ibid.

- *Effecting a public mischief (inc. conspiring to effect a public mischief)*⁴²⁵
- *Corrupting public morals (contra bonos mores)(inc. conspiring (conspiracy) to corrupt public morals)*⁴²⁶ [Archbold 33-42]
- *Breach of the Peace*⁴²⁷

Appendix 4 - Acts referred to in Archbold - Why they should be left as they Are⁴²⁸

Administration of Justice Act 1920	9-14 (<i>enforcing civil judgments in other countries</i>) put in a Courts and Tribunals Act.
Administration of Justice Act 1973	6 & 8 (<i>civil matters</i>), 9-10,12,14, 16 put in a Courts and Tribunals Act.
Administration of Justice Act 1977	2 (<i>determination of expenses</i>), 7 (<i>extent of powers of receivers and managers in respect of companies</i>), 23 put in a Courts and Tribunals Act.
Administration of Justice Act 1982	1-5, 6-13, 68 (<i>personal injury damages, civil</i>), 28 (<i>wills</i>), 37,38-48A put in a Courts and Tribunals Act.
Administration of Justice Act 1985	9-10A (<i>solicitors</i>), 11-39 (<i>licensed conveyancing</i>), 40-4 (<i>legal aid</i>), 47-50, 53-6 put in a Courts and Tribunals Act , 64 (<i>NI</i>)
Habeus Corpus Acts 1679-1862	These should be placed in a CPA, only when reviewed and modernized.
<u>Children Legislation</u>	Adoption and Children Act 2002, Apprenticeship, Skills, Children and Learning Act 2009, Child Abduction Act 1984, Child Support Act 1991, Child Support, Pensions and Social Security Act 2000, Children Acts 1975, 1989 & 2004, Children and Families Act 2014, Children and YP Act 2008
<u>Armed Forces Legislation</u>	Armed Forces (Flexible Working) Act 2018, Armed Forces Acts 1976, 1981,1996, 2001, 2006, 2011, 2016, 2021, Reserve Forces Act 1996, Visiting Forces Act 1952, Ministry of Defence Police Act 1987, Overseas Operations (Service Personnel and Veterans) Act 2021, War Crimes Act 1991
<u>Tax Legislation</u>	Alcoholic Liquor Duties Act 1979, Betting and Gaming Duties Act 1981, Betting and Gaming Duties Act 1981, Corporation Tax Act 2010, Tax Credits Act 2002, Taxation (Cross Border Trade) Act 2018, Taxation (International and Other Provisions) Act 2010, Tobacco Product Duty Act 1979, VAT Act 1983, Customs Consolidation Act 1876, Commissioners for Customs and Revenue Act 2005
<u>Animals Legislation</u>	Animal Welfare Act 2006, Dangerous Dogs (Amendment) Act 1997, Dangerous Dogs Act 1991, Deer Act 1991, Veterinary Surgeons Act 1966
<u>Asylum & Immigration Legislation</u>	Asylum and Immigration (Treatment of Claimants <i>etc</i>) Act 2004, Asylum and Immigration Act 1996, Borders, Citizenship Immigration Act 2009, British Nationality Acts 1948 & 1981, Immigration Acts 1971, 1988, 2014, 2016, Immigration and Asylum Act 1999, Immigration, Asylum and Nationality Act 2006, Nationality and Borders Act 2022, Nationality, Immigration and Asylum 2002, UK Borders Act 2007
<u>Energy & Water Legislation</u>	Atomic Energy Authority Act 1954, Atomic Energy Authority Act 1971, Electricity Act 1989, Nuclear Installations Act 1965, Nuclear Safeguards Act 2000, Offshore Safety Act 1992, Oil and Gas (Enterprise) Act 1982, Petroleum Acts 1987 & 1998, Water Resources Act 1991
<u>Aviation Legislation</u>	Aviation and Maritime Security Act 1990, Aviation Security Act 1982,

⁴²⁵ The House of Lords in *DPP v Withers* [1975] AC 842 held there was no offence of conspiring to effect a public mischief. However, a number of prior cases were decided on the opposite basis (indeed, *public mischief* seems to have been little more than a re-naming of the crime of '*cheat*', itself, 16th Roman cant for the medieval crime of '*deceite*'). Thus, for the avoidance of doubt, it would seem wise to formally abolish public mischief (which will also abolish any conspiring (conspiracy) in respect of the same). See, also, Archbold 28-198.

⁴²⁶ A number of cases adopted this description and it is uncertain the extent to which the crime of '*Outraging Public Decency*' has superseded it. Thus - for the avoidance of doubt - it would seem wise to formally abolish it.

⁴²⁷ Not a crime as such. It should be replaced by a reference to a '*breach of the criminal law*' which is what it means today (albeit, the legislative context indicates which crimes are involved).

⁴²⁸ This is from a review of The Table of Statutes in Archbold.

	Civil Aviation (Amendment) Act 1996, Civil Aviation Acts 1982 & 2012
<u>Banking Legislation</u>	Bank of England and Financial Services Act 2016, Bankers Book Evidence Act 1879, Banking Acts 1979, 1987, 2009
<u>Telecom Legislation</u>	Broadcasting Acts 1990 & 1996, Communications Act 2003, Cable and Broadcasting Act 1984, Submarine Telegraph Act 1885
<u>Births & Deaths Legislation</u>	Births and Deaths Registration Acts 1953, Registration of Births, Deaths and Marriages (Army) Act 1879, Registration of Births, Deaths and Marriages (Special Provisions) Act 1957
<u>Civil Evidence Legislation</u>	Civil Evidence Acts 1968 & 1995.
<u>Companies Legislation</u>	Companies Acts 1948, 1980, 1985, 1989, 2006, Company Directors Disqualification Act 1986, Company Securities (Insider Dealing) Act 1985
<u>Credit Societies Legislation</u>	Cooperative and Community Benefit Societies Act 2014, Co-operative and Community Benefit Societies and Credit Unions Act 2010, Friendly Societies Act 1992, State Immunity Act 1978, Trustee Savings Banks Act 1981
<u>Copyright Legislation</u>	Copyright Act 1956, Copyright, Designs and Patents Act 1988
<u>Constitutional Legislation</u>	Bill of Rights 1688, Constitutional Reform Act 2005, Consular Relations Act 1968, Commonwealth Secretariat Act 1966, Int. Headquarters and Defence Organisations Act 1964, International Organisations Act 1968, Internationally Protected Persons Act 1978
<u>Charity Legislation</u>	Charities Act 2011
<u>Courts Legislation</u>	Courts Act 1971, Courts and Legal Services Act 1990, County Courts (Penalties for Contempt) Act 1983, County Courts Act 1984, Courts and Tribunals (Judiciary and Functions of Staff) Act 2018, Contempt of Court Act 1981, British Law Ascertainment Act 1859 ⁴²⁹ , Judgments Act 1838, Tribunals, Courts and Enforcement Act 2007
<u>Bankruptcy & Insolvency Legislation</u>	Bankruptcy Act 1914, Insolvency Acts 1986 & 2000
<u>Education Legislation</u>	Education Acts 1996 & 2011, Education and Inspections Act 2006, Education and Skills Act 2008, Education Reform Act 1988, Further and Higher Education Act 1992
<u>Treasury Legislation</u>	Finance (No 2) Act 1992, Finance (No 3) Act 2010, Finance Acts 1982, 1984, 1985, 1988, 1989, 1992, 1994, 1997, 2000, 2001, 2007, 2008, 2009, 2013, 2014, 2016, 2018, Financial Guidance and Claims Act 2018, Financial Services Act 2012, Financial Services and Markets Act 2000, Financial Services and Markets Act 2000 & 2023, Coinage Offences Act 1936, Financial Services and Markets Act 2000 & 2023, Stamp Act 1891, National Debt Act 1972, Budget Responsibility and National Audit Act 2011
<u>Energy Legislation</u>	Energy Acts 2004, 2008, 2013, Energy Prices Act 2022
<u>Health Legislation</u>	Health Act 2006, Health and Care Act 2022, Health and Safety at Work <i>etc.</i> , Act 1974, Health and Social Care (Community and Health Standards) Act 2003, Health and Social Care 2012, Health Authorities Act 1995, Health Services Act 1980, Health Act 2006
<u>Local Government Legislation</u>	Local Democracy, Economic Development and Construction Act 2009, Local Government (Misc Provs) Act 1982, Local Government (Wales) Act 1994, Local Government Act 1972, Local Government Act 1985, Local Transport Act 2008
<u>Family & Marriage Legislation</u>	Family Law Acts 1986 & 1996, Family Law Reform Acts 1969 & 1987, Civil Partnership Act 2004, Marriage (Prohibited Degrees of Relationship) Act

⁴²⁹ s 1 (*courts in one part of HM's dominions may remit a case for an opinion in law of a court in another part*).

	1986, Marriage (Same Sex Couples) Act 2013, Marriage and Civil Partnership (Minimum Age) Act 2022, Matrimonial Causes Act 1973, Nullity of Marriage Act 1971
<u>Drugs Legislation</u>	Dangerous Drugs Acts 1965 & 1967, Drugs (Prevention of Misuse) Act 1996, Drugs Act 2005
<u>EU Legislation</u>	EU Communities Act 1972, EU (Withdrawal) Agreements 2018 & 2020, Retained EU Law (Revocation and Reform) Act 2023
<u>Shipping Legislation</u>	Merchant Shipping Act 1995, Merchant Shipping and Maritime Security Act 1997, Merchant Shipping and Maritime Security Act 1997
<u>Prison Legislation</u>	Prison Security Act 1992, Prisoners (Disclosure of Information about Victims) Act 2020, Prisoners (Return to Custody) Act 1995, Repatriation of Prisoners Act 1984
<u>Police Legislation</u>	Police (Detention and Bail) Act 2011, Police Acts 1964, 1966, 1997, Police Reform Act 2002, Police Reform and Social Responsibility Act 2011
<u>Railway Legislation</u>	Railways and Transport Safety Act 2003, Railways Clauses Consolidation Act 1845
<u>Road Transport Legislation</u>	Road Safety Acts 1967 & 2006, Road Traffic (Consequential Provisions) Act 1988, Road Traffic (Driver Licensing and Information Systems) Act 1989, Road Traffic (Driving Instruction by Disabled Persons) Act 1993, Road Traffic (New Drivers) Act 1995, Road Traffic Acts 1960, 1972, 1974, 1988 & 1991, Road Traffic Offenders Act 1988, Goods Vehicles (Licensing of Operators) Act 1995, Public Passenger Vehicles Act 1981, Transport Act 1968 & 2000, Vehicles (Crime) Act 2001, Traffic Management Act 2004, Motor Vehicles (Compulsory Insurance) Act 2022, Automated and Electric Vehicles Act 2018
<u>Social Security Legislation</u>	Social Security (Additional Payments) Act 2022, Social Security Administration Act 1992
<u>Postal Services Legislation</u>	Postal Services Act 2000 & 2011, Post Office (Protection) Act 1884, Postal Services Act 2000 & 2011
<u>Housing Legislation</u>	Housing (Consequential Provisions) Act 1985, Housing Act 1988
<u>Mental Health Legislation</u>	Mental Capacity Act 2005, Mental Health (Amendment) Act 1982, Mental Health (Discrimination) Act 2013, Mental Health (Patients in the Community) Act 1995, Mental Health Act 1959, 1983, 2007
<u>Gaming Legislation</u>	Gambling Act 2005, Gaming Act 1845 & 1968
<u>Pension Legislation</u>	Pensions Act 1995
<u>Election Legislation</u>	Representation of the People Act 1985, Electoral Administration Act 2006
<u>Welfare Legislation</u>	Welfare Reform Act 2009, Welfare Reform and Pensions Act 1999,
<u>Unions Legislation</u>	Trade Union and Labour Relations (Consolidation) Act 1992
<u>NHS Legislation</u>	National Health Service (Consequential Provisions) Act 2006, NHS and Community Care Act 1990, NHS Reform and Health Care etc Act 2002, Professions Act 2002
<u>Employment Legislation</u>	Employment Agencies Act 1973, National Minimum Wage Act 1998
<u>Data & Records Legislation</u>	Data Protection Act 1984 & 2018, Non-parochial Registers Act 1840, Public Records Act 1958
<u>Environment Legislation</u>	Coast Protection Act 1949, Marine and Coastal Access Act 2009, Wildlife and Countryside Act 1981
<u>Medics and related Professions</u>	Medical Act 1983, Medicines Act 1968, Opticians Act 1989, Osteopaths Act 1993, Opticians Act 1989, Osteopaths Act 1993
<u>Care Legislation</u>	Care Standards Act 2000, Chronically Sick and Disabled Persons Act 1970
<u>Highways Legislation</u>	Highways Act 1980

Conventions

Biological Weapons Act 1974, Chemical Weapons Act 1996, Geneva Conventions Act 1957

Civil Evidence Legislation (Civil)

Evidence (Foreign, Dominion and Colonial Documents) Act 1933, Oaths and Evidence (Overseas Authorities and Countries) Act 1963, Evidence (Proceedings in Other Jurisdictions) Act 1975, Evidence Act 1845, Oaths Act 1978, Commissioners for Oaths Act 1889

Other Legislation referred to by Archbold

Building Services Act 1986	Channel Tunnel Act 1987
Cinemas Act 1985	Competition Act 1998
Consumer Rights Act 2015	Continental Shelf Act 1964
Enterprise Act 2002	Enterprise and Regulatory Reform Act 2013
Equality Act 2010	Fatal Accidents Act 1976
Fire Precautions Act 1971	Government of Wales Acts 1998 & 2006
Greater London Authority Act 1999	G LC (General Powers) 1968
Freedom of Information Act 2000	Infrastructure Act 2015
Inquiries Act 2005	Intelligence Services Act 1994
Interpretation Act 1978	Law Reform (Year and a Day) Rule 1996
Legal Aid Act 1974	Legal Aid Act 1988
Legal Services Act 2007	Licensed Premises (Exc. of Certain Persons) Act 1980
Lotteries & Amusements Act 1976	National Assistance Act 1948
National Lottery etc Act 1993	New Roads and Street Works Act 1991
NI Act 1998	Offender Rehabilitation Act 2014
Race Relations Act 1976	Rating...Dissolved Companies) Act 2021
Presumption of Death Act 2013	Private International Law (Misc. Provs) Act 1995
Security Service Act 1989	Small Business, Enterprise & Employment Act 2015
Space Industry Act 2018	Statutory Instruments Act 1946
Trade Marks Act 1994	Treasure Act 1996
Town and Country Planning Act 1990	Welsh Language Act 1993
Trusts of Land & Appointment of Trustees Act 1996	Gangmasters (Licensing) Act 2004

Appendix 5: Sex Crime Legislation

Note: This Appendix sets out the current amended text of the legislation on sex crimes (save for the 2003 Act). However, it sets out these Acts without all intermediate amendments. Also, it places these Acts in juxtaposition to show the huge amount of text reduction and clarity that consolidation will achieve. Also, I have used acronyms etc. (for example, ‘SC’ for ‘Summary Conviction’, ‘photo’ for ‘photograph’ etc), to save space. Further, the words ‘on the standard scale’ have been deleted with regard to the level of fine (they would not be required in a Table anyway). Sentences have been underlined since they would be replaced by a Table.

Children and Young Persons Act 1933

S 3: ‘If any person having responsibility for a child or young person who has attained the age of [4] years and is under the age of [16] years,⁴³⁰ allows that child or young person to reside in or to frequent a brothel, he shall be liable on [SC] to a fine not exceeding level [], or alternatively or in addition thereto, to imprisonment for any term not exceeding [6] months.’ See also s 109 (*Extent*).

Sexual Offences Act 1956 (see also 1967 Act, s 6 below)

S 33. **Keeping a Brothel.** ‘It is an offence for a person to keep a brothel, or to manage, or act or assist in the management of, a brothel.’⁴³¹

S 33A (1). **Keeping a Brothel used for Prostitution.** ‘It is an offence for a person to keep, or to manage, or act or assist in the management of, a brothel to which people resort for practices involving prostitution (whether or not also for other practices). (2) In this [s] ‘prostitution’ has the meaning given by [s 51(2), SOA 2003].’

⁴³⁰ This should, probably, be amended to 18. It should, also, be a crime for a person to frequent a brothel.

⁴³¹ Ss 33 and 33(A) should be merged. ‘Keep’ is an old word for ‘own’, which should be used today.

S 34. **Lessor or Landlord Letting Premises for Use as a Brothel.** ‘It is an offence for the lessor or landlord of any premises or his agent to let the whole or part of the premises with the knowledge that it is to be used, in whole or in part, as a brothel, or, where the whole or part of the premises is used as a brothel, to be wilfully a party to that use continuing.’

S 35(1). **Tenant Permitting Premises to be used as a brothel.** ‘It is an offence for the tenant or occupier, or person in charge, of any premises to permit the whole or part of the premises to be used as a brothel. (2) Where the tenant or occupier of any premises is convicted of knowingly permitting the whole or part of the premises to be used as a brothel, [Sch 1] to this Act shall apply to enlarge the rights of the lessor or landlord with respect to the assignment or determination of the lease or other contract under which the premises are held by the person convicted. (3) Where the tenant or occupier of any premises is so convicted, and either (a) the lessor or landlord, after having the conviction brought to his notice, fails or failed to exercise his statutory rights in relation to the lease or contract under which the premises are or were held by the person convicted; or (b) the lessor or landlord, after exercising his statutory rights so as to determine that lease or contract, grants or granted a new lease or enters or entered into a new contract of tenancy of the premises to, with or for the benefit of the same person, without having all reasonable provisions to prevent the recurrence of the offence inserted in the new lease or contract; then, if subsequently an offence under this [s] is committed in respect of the premises during the subsistence of the lease or contract referred to in [para] (a) of this [ss] or (where [para] (b) applies) during the subsistence of the new lease or contract, the lessor or landlord shall be deemed to be a party to that offence unless he shows that he took all reasonable steps to prevent the recurrence of the offence. References in this [ss] to the statutory rights of a lessor or landlord refer to his rights under [Sch 1] to this Act.’

S 36. **Tenant permitting Premises to be Used for Prostitution.** ‘It is an offence for the tenant or occupier of any premises knowingly to permit the whole or part of the premises to be used for the purposes of *habitual*⁴³² prostitution (*whether any prostitute involved is male or female*).⁴³³

S 37. **Punishment and Prosecution of Offences.** ((1) [Sch 2] to this Act shall have effect, subject to and in accordance with the following provisions of this [s], with respect to the prosecution and punishment of the offences listed in [col 1] of the [Sch], being the offences under this Act and attempts to commit certain of those offences. (2) The [2nd col] in the [Sch] shows, for any offence, if it may be prosecuted on indictment or summarily, or either, and what special restrictions (if any) there are on the commencement of a prosecution. (3) [Col 3] in the [Sch] shows, for any offence, the punishments which may be imposed on conviction on indictment or on [SC], a reference to a period giving the maximum term of imprisonment and a reference to a sum of money the maximum fine. (4) [Col 4] in the [Sch] contains provisions which are either supplementary to those in the 2nd or 3rd col or enable a person charged on indictment with the offence specified in the [Col 1] to be found guilty of another offence if the jury are not satisfied that he is guilty of the offence charged or of an attempt to commit it, but are satisfied that he is guilty of the other offence. (5) A provision in [Col 4] of the [Sch] enabling the jury to find the accused guilty of an offence specified in that provision authorises them, if not satisfied that he is guilty of the offence so specified, to find him guilty of any other offence of which they could find him guilty if he had been indicted for the offence so specified. (6) Where in the [Sch] there is used a phrase descriptive of an offence or group of offences followed by a reference to a [s] by its number only, the reference is to a [s] of this Act, and the phrase shall be taken as referring to any offence under the [s] mentioned. (7) Nothing in this [s] or in [Sch 2] to this Act shall exclude the application to any of the offences referred to in [Col 1] of the [Sch] (a) of [s] 24 of the Magistrates’ Courts Act 1980 (which relates to the summary trial of young offenders for indictable offences); or (b) of [ss] (5) of [s] 121 of the Magistrates’ Courts Act 1980 (*which limits the punishment which may be imposed by a magistrates’ court sitting in an occasional courthouse*); or (c) of any enactment or rule of law restricting a court’s power to imprison; or (d) of any enactment or rule of law authorising an offender to be dealt with in a way not authorised by the enactments specially relating to his offence; or (e) of any enactment or rule of law authorising a jury to find a person guilty of an offence other than that with which he is charged.’ See also ss 50 (NI) and 54 (Extent).⁴³⁴

Sexual Offences Act 1967 (see also 1967 Act, s 6 below)

S 6. **Premises resorted to for Homosexual Practices:** ‘Premises shall be treated for purposes of [ss 33-35 of the 1956 Act] as a brothel if people resort to it for the purpose of *lewd* homosexual practices in circumstances in which resort thereto for *lewd* heterosexual practices would have led to its being treated as a brothel for the purposes of those [ss].⁴³⁵ See also s 54 (Extent).

Street Offences Act 1959

S 1. **Loitering or soliciting for purposes of prostitution.** (1) It shall be an offence for a person aged 18 or over (whether male or female) persistently⁴³⁶ to loiter or solicit in a street⁴³⁷ or public place for the purpose of prostitution. (2) A person guilty of an offence under this [s] shall be liable on [SC] to a fine of an amount not exceeding level 2 [], or, for an offence committed after a previous conviction, to a fine of an amount not exceeding level 3 []. (2A) The court may deal with a person convicted of an offence under this [s] by making an order requiring the offender to attend [3] meetings with the person for the time being specified in the order (“*the supervisor*”) or with such other person as the supervisor may direct. (2B) The purpose of an order under [ss] (2A) is to assist the offender, through attendance at those meetings, to (a) address the causes of the conduct constituting the offence, and (b) find ways to cease engaging in such conduct in the future. (2C) Where the court is dealing with an offender who is already subject to an order under [ss] (2A), the court may not make a further order under that [ss] unless it first revokes the existing order. (2D) If the court makes an order under [ss](2A) it may not impose any other penalty in respect of the offence (4) For the purposes of this [s]

⁴³² This word is otiose.

⁴³³ The words in brackets are otiose, see 1967 Act.

⁴³⁴ All this should be in a Table at the back of the Crime Act.

⁴³⁵ The word ‘*lewd*’ adds nothing. Cf s 33A which correctly refers to prostitution.

⁴³⁶ This word is otiose.

⁴³⁷ ‘*Public place*’ includes a street. Thus, reference to the same is otiose.

(a) conduct is persistent if it takes place on [2] or more occasions in any period of [3] months; (b) any reference to a person loitering or soliciting for the purposes of prostitution is a reference to a person loitering or soliciting for the purposes of offering services as a prostitute; (c) “*street*” includes any bridge, road, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and the doorways and entrances of premises abutting on a street (as hereinbefore defined), and any ground adjoining and open to a street, shall be treated as forming part of the street. **⁴³⁸

S 1A. **Orders under [s] 1(2A): Supplementary** (1) This [s] applies to an order under [s] 1(2A). (2) The order may not be made unless a suitable person has agreed to act as supervisor in relation to the offender. (3) In [ss] (2) “*suitable person*” means a person appearing to the court to have appropriate qualifications or experience for helping the offender to make the best use of the meetings for the purpose mentioned in [s] 1(2B). (4) The order must specify (a) a date (not more than [6] months after the date of the order) by which the meetings required by the order must take place; (b) the *local justice area* [obs] in which the offender resides or will reside while the order is in force. (5) The supervisor must determine (a) the times of the meetings required by the order and their duration, and (b) the places at which they are held. (6) The supervisor must (a) make any arrangements that are necessary to enable the meetings required by the order to take place; and (b) once the order has been complied with, notify the court which made the order of that fact. (7) The court making the order must provide copies of it to the offender and the supervisor. (8) [Ss] (9) applies where (a) the order is made by the Crown Court, or (b) the order is made by a magistrates' court but specifies a *local justice area* [obs] for which the court making the order does not act. (9) The court must provide to a magistrates' court acting for the *local justice area* [obs] specified in the order (a) a copy of the order, and (b) any documents and information relating to the case that it considers likely to be of assistance to that court in the exercise of any functions in relation to the order. (10) The order ceases to be in force (unless revoked earlier under [s] 1(2C) or under the [sch] to this Act) (a) at the end of the day on which the supervisor notifies the court that the order has been complied with, or (b) at the end of the day specified in the order under [ss] (4)(a), whichever first occurs. (11) The [sch] to this Act (*which relates to failure to comply with orders under [s] 1(2A) and to the revocation or amendment of such orders*) has effect. ** s 4. **Punishment for living on earnings of prostitution** (*spent*).

Sexual Offences (Amendment) Act 1992

S 1. **Anonymity of victims of certain offences.** (1) Where an allegation has been made that an offence to which this Act applies has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the person against whom the offence is alleged to have been committed. (2) Where a person is accused of an offence to which this Act applies, no matter likely to lead members of the public to identify a person as the person against whom the offence is alleged to have been committed (“*the complainant*”) shall during the complainant's lifetime be included in any publication. (3) This [s] (a) does not apply in relation to a person by virtue of [ss] (1) at any time after a person has been accused of the offence, and (b) in its application in relation to a person by virtue of [ss] (2), has effect subject to any direction given under [s] 3. (3A) The matters relating to a person in relation to which the restrictions imposed by [ss] (1) or (2) apply (if their inclusion in any publication is likely to have the result mentioned in that [ss]) include in particular (a) the person's name, (b) the person's address, (c) the identity of any school or other educational establishment attended by the person, (d) the identity of any place of work, and (e) any still or moving picture of the person. (4) Nothing in this [s] prohibits the inclusion in a publication of matter consisting only of a report of criminal proceedings other than proceedings at, or intended to lead to, or on an appeal arising out of, a trial at which the accused is charged with the offence.⁴³⁹

2. Offences to which this Act applies. (1) This Act applies to the following offences against the law of [E&W] (aa) rape; (ab) burglary with intent to rape; (a) any offence under any of the provisions of the Sexual Offences Act 1956 mentioned in [ss] (2); (b) any offence under [s] 128 of the Mental Health Act 1959 (*intercourse with mentally handicapped person by hospital staff etc.*); (c) any offence under [s] 1 of the Indecency with Children Act 1960 (*indecent conduct towards young child*); (d) any offence under [s] 54 of the Criminal Law Act 1977 (*incitement by man of his grand-daughter, daughter or sister under the age of 16 to commit incest with him*); (da) any offence under any of the provisions of Part 1 of the Sexual Offences Act 2003 except [s] 64, 65, 69 or 71; (db) any offence under [s] 2 of the Modern Slavery Act 2015 (*human trafficking*); (e) any attempt to commit any of the offences mentioned in [paras] (aa) to (db); (f) any conspiracy to commit any of those offences; (g) any incitement of another to commit any of those offences. (h) aiding, abetting, counselling or procuring the commission of any of the offences mentioned in [paras] (aa) to (e) and (g); (2) The provisions of the Act of 1956 are (a) [s] 2 (*procurement of a woman by threats*);

(b) [s] 3 (*procurement of a woman by false pretences*); (c) [s] 4 (*administering drugs to obtain intercourse with a woman*); (d) [s] 5 (*intercourse with a girl under the age of 13*); (e) [s] 6 (*intercourse with a girl between the ages of 13 and 16*); (f) [s] 7 (*intercourse with a mentally handicapped person*); (g) [s] 9 (*procurement of a mentally handicapped person*); (h) [s] 10 (*incest by a man*); (i) [s] 11 (*incest by a woman*); (j) [s] 12 (*buggery*); (k) [s] 14 (*indecent assault on a woman*); (l) [s] 15 (*indecent assault on a man*); (m) [s] 16 (*assault with intent to commit buggery*) (n) [s] 17 (*abduction of woman by force*). (3) This Act applies to the following offences against the law of [NI] (a) rape; (b) burglary with intent to rape; (c) any offence under any of the following provisions of the Offences against the Person Act 1861 (i) [s] 52 (*indecent assault on a female*); (ii) [s] 53 so far as it relates to abduction of a woman against her will; (iii) [s] 61 (*buggery*); (iv) [s] 62 (*attempt to commit buggery, assault with intent to commit buggery or indecent assault on a male*); (d) any offence under any of the following provisions of the Criminal Law Amendment Act 1885 (i) [s] 3 (*procuring unlawful carnal knowledge of woman by threats, false pretences or administering drugs*); (ii) [s] 4 (*unlawful carnal knowledge, or attempted unlawful carnal knowledge, of a girl under 14*); (iii) [s] 5 (*unlawful carnal knowledge of a girl under 17*); (e) any offence under any of the following provisions of the Punishment of Incest Act 1908 (i) [s] 1 (*incest, attempted incest by males*); (ii) [s] 2 (*incest by females over 16*); (f) any offence under [s] 22 of the Children and Young Persons Act ([NI]) 1968 (*indecent conduct towards child*); (g) any offence under [art] 9 of

⁴³⁸ This is administrative and should be in an *Appendix* (i.e. s 11(2A)-2(d) and s 1(A)). It should, also, be modernised.

⁴³⁹ There is also a version for NI.

the Criminal Justice (NI) Order 1980 (*inciting girl under 16 to have incestuous sexual intercourse*); (h) any offence under any of the following provisions of the Mental Health (NI) Order 1986 (i) [art] 122(1)(a) (*unlawful sexual intercourse with a woman suffering from severe mental handicap*); (ii) [art] 122(1)(b) (*procuring a woman suffering from severe mental handicap to have unlawful sexual intercourse*); (iii) [art] 123 (*unlawful sexual intercourse by hospital staff, etc. with a person receiving treatment for mental disorder*); (hh) any offence under any of the following provisions of the Criminal Justice (NI) Order 2003 (i) [art] 19 (*buggery*); (ii) [art] 20 (*assault with intent to commit buggery*); (iii) [art] 21 (*indecent assault on a male*); (ha) any offence under any of sections 15 to 21, 47 to 53, 66, 67, 70 and 72 of the Sexual Offences Act 2003. (hb) any offence under (i) any provision of Part 2, 3 or 4, or (ii) [art] 65, 66, 67, 70, 71, 71A, 71B, 72A or 74, of the Sexual Offences (NI) Order 2008; (hc) any offence under [s] 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015; (i) any attempt to commit any of the offences mentioned in [paras] (a) to (hc); (j) any conspiracy to commit any of those offences; (k) any incitement of another to commit any of those offences; (l) aiding, abetting, counselling or procuring the commission of any of the offences mentioned in [paras] (a) to (i) and (k). (4) This Act applies to an offence under [s] 42 of the Armed Forces Act 2006 if the corresponding offence under the law of [E&W] (within the meaning given by that [s]) is an offence within a [para] of [ss] (1) above.⁴⁴⁰

S 3. Power to displace [s] 1. (1) If, before the commencement of a trial at which a person is charged with an offence to which this Act applies, he or another person against whom the complainant may be expected to give evidence at the trial, applies to the judge for a direction under this subsection and satisfies the judge (a) that the direction is required for the purpose of inducing persons who are likely to be needed as witnesses at the trial to come forward; and (b) that the conduct of the applicant's defence at the trial is likely to be substantially prejudiced if the direction is not given, the judge shall direct that [s] 1 shall not, by virtue of the accusation alleging the offence in question, apply in relation to the complainant. (2) If at a trial the judge is satisfied (a) that the effect of [s] 1 is to impose a substantial and unreasonable restriction upon the reporting of proceedings at the trial, and (b) that it is in the public interest to remove or relax the restriction, he shall direct that that [s] shall not apply to such matter as is specified in the direction. (3) A direction shall not be given under [ss] (2) by reason only of the outcome of the trial. (4) If a person who has been convicted of an offence and has given notice of appeal against the conviction, or notice of an application for leave so to appeal, applies to the appellate court for a direction under this [ss] and satisfies the court (a) that the direction is required for the purpose of obtaining evidence in support of the appeal; and (b) that the applicant is likely to suffer substantial injustice if the direction is not given, the court shall direct that [s] 1 shall not, by virtue of an accusation which alleges an offence to which this Act applies and is specified in the direction, apply in relation to a complainant so specified. (5) A direction given under any provision of this [s] does not affect the operation of [s] 1 at any time before the direction is given. (6) In [ss] (1) and (2), "judge" means (a) in the case of an offence which is to be tried summarily or for which the mode of trial has not been determined, any [JP]; and (b) in any other case, any judge of the Crown Court in [E&W]. (6A) In its application to [NI], this [s] has effect as if (a) in [ss] (1) and (2) for any reference to the judge there were substituted a reference to the court; and (b) [ss] (6) were omitted. (6B) Where a person is charged with an offence to which this Act applies by virtue of [s] 2(4), this [s] applies as if (a) in [ss] (1) and (2) for any reference to the judge there were substituted a reference to the court; and (b) [ss] (6) and (6A) were omitted. (7) If, after the commencement of a trial at which a person is charged with an offence to which this Act applies, a new trial of the person for that offence is ordered, the commencement of any previous trial shall be disregarded for the purposes of [ss] (1).

S 3A. Disapplication of [s] 1 after victim's death. (1) [ss] (2) applies where matters relating to a person ("A") are prohibited from publication by virtue of [s] 1(1) or (2). (2) An interested party may after A's death apply to a magistrates' court for an order (a) disapplying, or (b) modifying the application of, [s] 1(1) or (2) in relation to A. (3) For the avoidance of doubt, the modifications that may be made under [ss] (2)(b) include increasing or decreasing the period mentioned in [s] 1(1)(b) or (2)(b) (the period during which publication is prohibited). (4) In this [s], "interested party" means (a) a person who was a family member of A at the time of A's death; (b) a personal representative of A; (c) a person interested in publishing matters relating to A which are prohibited from publication by virtue of [s] 1(1) or (2). (5) On an application under [ss] (2), the court must make an order under that [ss] if the court is satisfied that it would be (a) in the interests of justice, or (b) otherwise in the public interest, to make such an order. (6) An order made under [ss] (2) may be varied or revoked by order of a magistrates' court on the application of an interested party where the court is satisfied that it would be (a) in the interests of justice, or (b) otherwise in the public interest, to make such a variation or revocation. (7) An order made under this [s] does not affect the operation of [s] 1 at any time before the order was made. (8) In this [s], "a family member of A" means (a) a person who at the time of A's death was (i) married to A; (ii) in a civil partnership with A; (iii) living with A as if a spouse; (b) a relative of A. (9) For the purposes of this [s] (a) "relative" means parent, child, grandparent, great-grandparent, grandchild, great-grandchild, brother, sister, uncle, great-uncle, aunt, great-aunt, nephew, great-nephew, niece or great-niece; (b) a relationship of the half-blood or by affinity is to be treated as a relationship of the whole blood; (c) the stepchild of a person is to be treated as that person's child. (10) In this [s], "a person interested in publishing matters" means a person who (a) wishes the matters to be included in a publication, and (b) in relation to the publication, is a person mentioned in [s] 5(1) (persons by whom an offence relating to publishing may be committed). (11) In [ss] (1) and (4)(c), a reference to matters being prohibited from publication includes matters being partially prohibited from publication following the making of an order under this [s] modifying the application of [s] 1(1) or (2) in relation to A.

S 4. Rules of Court (1) Rules of Court may make such provision relating to orders under [s] 3A as appears to the authority making them to be necessary or expedient for the purposes of that [s]. (2) Rules of Court may, in particular, make provision (a) for notice of applications to be given to such persons as may be prescribed by the rules; (b) for applications to be heard in private; (c) as to the matters to be taken into consideration by

⁴⁴⁰ This material would be more intelligible if in a Table (with a separate one for NI and historic crimes separated from those governed by current legislation).

a court in determining whether it is in the interests of justice, or the public interest, to make, vary or revoke an order under [s] 3A. (3) Nothing in [ss] (1) and (2) is to be taken to affect the generality of any [ss] prejudices any general provision of them.

S 4A. **Special rules for cases of incest or buggery.** (1) In this [s] “[s] 10 offence” means an offence under [s] 10 of the Sexual Offences Act 1956 (*incest by a man*) or an attempt to commit that offence; “[s] 11 offence” means an offence under [s] 11 of that Act (*incest by a woman*) or an attempt to commit that offence; “[s] 12 offence” means an offence under [s] 12 of that Act (*buggery*) or an attempt to commit that offence. (2) [s] 1 does not apply to a woman against whom a [s]10 offence is alleged to have been committed if she is accused of having committed a [s] 11 offence against the man who is alleged to have committed the [s] 10 offence against her. (3) [s] 1 does not apply to a man against whom a [s] 11 offence is alleged to have been committed if he is accused of having committed a [s] 10 offence against the woman who is alleged to have committed the [s] 11 offence against him. (4) [s] 1 does not apply to a person against whom a [s] 12 offence is alleged to have been committed if that person is accused of having committed a [s] 12 offence against the person who is alleged to have committed the [s] 12 offence against him. (5) [ss] (2) does not affect the operation of this Act in relation to anything done at any time before the woman is accused. (6) [ss] (3) does not affect the operation of this Act in relation to anything done at any time before the man is accused. (7) [ss] (4) does not affect the operation of this Act in relation to anything done at any time before the person mentioned first in that [ss] is accused. (8) In its application to [NI], this [s] has effect as if (a) [ss] (1) were omitted; (b) for references to a [s] 10 offence there were substituted references to an offence under [s] 1 of the Punishment of Incest Act 1908 (*incest by a man*) or an attempt to commit that offence; (c) for references to a [s] 11 offence there were substituted references to an offence under [s] 2 of that Act (*incest by a woman*) or an attempt to commit that offence; and (d) for references to a [s] 12 offence there were substituted references to an offence under [art] 19 of the Criminal Justice (NI) [+ + +

S 5. **Offences.** (1) If any matter is included in a publication in contravention of [s] 1, the following persons shall be guilty of an offence and liable on [SC] to a fine not exceeding level 5 [] (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical; (b) where the publication is a relevant programme (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper; (c) in the case of any other publication, any person publishing it. (1A) A person guilty of an offence under this [s] is liable on [SC] to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 [], or to both. (2) Where a person is charged with an offence under this[s] in respect of the inclusion of any matter in a publication, it shall be a defence, subject to [ss] (3), to prove that the publication in which the matter appeared was one in respect of which the person against whom the offence mentioned in [s] 1 is alleged to have been committed had given written consent to the appearance of matter of that description. (3) Written consent is not a defence if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it, or that person was under the age of 16 at the time when it was given. (4) *Proceedings for an offence under this[s] shall not be instituted except by or with the consent of the [A-G] if the offence is alleged to have been committed in [E&W] or of the [A-G] for [NI] if the offence is alleged to have been committed in [NI].* (5) Where a person is charged with an offence under this [s] it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the publication included the matter in question. (5A) Where (a) a person is charged with an offence under this [s], and (b) the offence relates to the inclusion of any matter in a publication in contravention of [s] 1(1), it shall be a defence to prove that at the time of the alleged offence he was not aware, and neither suspected nor had reason to suspect, that the allegation in question had been made. (6) *Where an offence under this [s] committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of (a) a director, manager, secretary or other similar officer of the body corporate, or (b) a person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.* (7) *In relation to a body corporate whose affairs are managed by its members “director”, in [ss] (6), means a member of the body corporate.* (8) *Where an offence under this [s] is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, he as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.* (9) *The [sch] contains special rules relating to providers of information society services.* ^{**441}

S 6. **Interpretation etc.** (1) In this Act “complainant” has the meaning given in [s] 1(2); “picture” includes a likeness however produced; “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public (and for this purpose every relevant programme shall be taken to be so addressed), but does not include an indictment or other document prepared for use in particular legal proceedings; “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990; and (1A) [s] 48 of the Armed Forces Act 2006 (*attempts, conspiracy, encouragement and assistance and aiding and abetting outside [E&W]*) applies for the purposes of this Act as if the reference in [ss] (3)(b) of that [s] to any of the following provisions of that Act were a reference to any provision of this Act. (2) For the purposes of this Act (a) where it is alleged that an offence to which this Act applies has been committed, the fact that any person has consented to an act which, on any prosecution for that offence, would fall to be proved by the prosecution, does not prevent that person from being regarded as a person against whom the alleged offence was committed; and (b) where a person is accused of an offence of incest or buggery, the other party to the act in question shall be taken to be a person against whom the offence was committed even though he consented to that act. (2A) For the purposes of this Act, where it is alleged or there is an accusation (a) that an offence of conspiracy or incitement of another to commit an offence mentioned in [s] 2(1)(aa) to (d) or (3)(a) to (h) (hh)] has been committed, or (b) that an offence of aiding, abetting, counselling or procuring the commission of an offence of incitement of another to commit an offence mentioned in [s] 2(1)(aa) to (d) or (3)(a) to (h) hh)] has been committed, the person against whom the substantive offence is alleged to have been intended to be committed shall be regarded as the person against whom the conspiracy or incitement is alleged to have been committed. In

⁴⁴¹ S 5 (6)-(9) should be standard wording for all corporate crimes.

this [ss], “*the substantive offence*” means the offence to which the alleged conspiracy or incitement related. (2B) For the purposes of this Act, where it is alleged or there is an accusation that an offence under [s] 66B(4) of the Sexual Offences Act 2003 (*threatening to share intimate photo[] or film*) has been committed, the person against whom the offence is alleged to have been committed is to be regarded as (a) the person to whom the threat mentioned in that [ss] is alleged to have been made, and (b) (if different) the person shown, or who appears to be shown, in an intimate state in the photo[] or film that is the subject of the threat. (3) For the purposes of this Act, a person is accused of an offence, other than an offence under [s] 42 of the Armed Forces Act 2006, if (a) an information is laid, or (in [NI]) a complaint is made, alleging that he has committed the offence, (b) he appears before a court charged with the offence, (c) a court before which he is appearing commits him sends him to the Crown Court for trial on a new charge alleging the offence, or (d) a bill of indictment charging him with the offence is preferred before a court in which he may lawfully be indicted for the offence, and references in [ss] (2A) and in [s] 3 to an accusation alleging an offence shall be construed accordingly. (3A) For the purposes of this Act, a person is accused of an offence under [s] 42 of the Armed Forces Act 2006 if he is charged (under Part 5 of that Act) with the offence], and references in [s] 3 to an accusation alleging an offence shall be construed accordingly. (4) Nothing in this Act affects any prohibition or restriction imposed by virtue of any other enactment upon a publication or upon matter included in a relevant programme.

Sexual Offences (Conspiracy and Incitement) Act 1996

S 2. **Incitement to commit certain sexual acts outside the [UK]**. (1) This [s] applies where (a) any act done by a person in [E&W] would amount to the offence of incitement to commit a listed sexual offence but for the fact that what he had in view would not be an offence triable in [E&W] (b) the whole or part of what he had in view was intended to take place in a country or territory outside the [UK], and (c) what he had in view would involve the commission of an offence under the law in force in that country or territory. (2) Where this [s] applies (a) what he had in view is to be treated as that listed sexual offence for the purposes of any charge of incitement brought in respect of that act, and (b) any such charge is accordingly triable in [E&W]. (3) Any act done by means of a message (however communicated) is to be treated as done in [E&W] if the message is sent or received in [E&W]. *⁴⁴²

S 3. **Sections 1 and 2: supplementary**. (1) Conduct punishable under the law in force in any country or territory is an offence under that law for the purposes of [s] 2, however it is described in that law. (2) Subject to [s] (3), a condition in [s] 2(1)(c) is to be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice (a) stating that, on the facts as alleged with respect to what the accused had in view, the condition is not in their opinion satisfied, (b) showing their grounds for that opinion, and (c) requiring the prosecution to show that it is satisfied. (4) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without the prior service of a notice under [ss] (2). (5) In the Crown Court the question whether the condition is satisfied is to be decided by the judge alone. (6) In any proceedings in respect of any offence triable by virtue of [s] 2, it is immaterial to guilt whether or not the accused was a British citizen at the time of any act or other event proof of which is required for conviction of the offence. (8) References to an offence of incitement to commit a listed sexual offence include an offence triable in [E&W] as such an incitement by virtue of [s] 2 (without prejudice to [ss] (2) of that [s]). (9) [Ss] (8) applies to references in any enactment, instrument or document (except those in [s] 2 of this Act and in Part I of the Criminal Law Act 1977). ** S 4. **[NI]**. In the application of the preceding provisions to [NI] (a) any reference to [E&W] is to [NI]. See also ss 5 (*Scotland*) and 6 (*Interpretation*).

Sexual Offences (Protected Material) Act 1997⁴⁴³

Criminal Justice and Police Act 2001

S 46. **Placing of advert[] relating to prostitution** (1) A person commits an offence if (a) he places on, or in the immediate vicinity of, a public telephone an advert[] relating to prostitution, and (b) he does so with the intention that the advert[] should come to the attention of any other person or persons. (2) For the purposes of this [s], an advert[] is an advert[] relating to prostitution if it (a) is for the services of a prostitute, whether male or female; or (b) indicates that premises are premises at which such services are offered. (3) In any proceedings for an offence under this [s], any advert [] which a reasonable person would consider to be an advert [] relating to prostitution shall be presumed to be such an advert[] unless it is shown not to be. (4) **A person guilty of an offence under this [s] is liable on [SC] to imprisonment for a term not exceeding [6] months or to a fine not exceeding level 5 [], or both.** (5) In this [s] “*public telephone*” means (a) any telephone which is located in a public place and made available for use by the public, or a [s] of the public, and (b) where such a telephone is located in or on, or attached to, a kiosk, booth, acoustic hood, shelter or other structure, that structure; and “*public place*” means any place to which the public have or are permitted to have access, whether on payment or otherwise, other than (a) any place to which children under the age of 16 years are not permitted to have access, whether by law or otherwise, and (b) any premises which are wholly or mainly used for residential purposes.

S 47. **Application of [s] 46 by order to public structures**. (1) The [SS] may, by order, provide for [s] 46 to apply in relation to any public structure of a description specified in the order as it applies in relation to a public telephone. (2) In this [s] “*public structure*” means any structure that (a) is provided as an amenity for the use of the public or a section of the public, and (b) is located in a public place; and “*public place*” and “*public telephone*” have the same meaning as in [s] 46. (4) The power to make an order under this [s] is exercisable by [SI]. (5) No order may be made under this [s] unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

⁴⁴² This should be in a *Criminal Procedure Act* (or in an *Appendix*, since it will not generally apply).

⁴⁴³ This Act, if still required, should be in a *Criminal Procedure Act* (or at the back of the Act as an *Appendix*, being administrative). However, it is not published here, not having been in force for the last 20 years. It should be repealed.

Appendix 6: Obscenity Legislation

Customs Consolidation Act 1876

S 42. **Prohibitions and restrictions.** The goods enumerated and described in the following table of prohibitions and restrictions inwards are hereby prohibited to be imported or brought into the [UK]. *Table of prohibitions and restrictions.* Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent or obscene articles.

Children and Young Persons (Harmful Publications) Act 1955

S 1. **Works to which this Act applies.** This Act applies to any book, magazine or other like work which is of a kind likely to fall into the hands of children or young persons and consists wholly or mainly of stories told in pictures (with or without the addition of written matter), being stories portraying (a) the commission of crimes; or (b) acts of violence or cruelty; or (c) incidents of a repulsive or horrible nature; in such a way that the work as a whole would tend to corrupt a child or young person into whose hands it might fall.

S 2. **Penalty for printing, publishing, selling, &c., works to which this Act applies.** (1) A person who prints, publishes, sells or lets on hire a work to which this Act applies, or has any such work in his possession for the purpose of selling it or letting it on hire, shall be guilty of an offence and liable, on [SC], to imprisonment for a term not exceeding [4] months or to a fine not exceeding level 3 [] or to both: provided that, in any proceedings taken under this[ss] against a person in respect of selling or letting on hire a work or of having it in his possession for the purpose of selling it or letting it on hire, it shall be a defence for him to prove that he had not examined the contents of the work and had no reasonable cause to suspect that it was one to which this Act applies. (2) A prosecution for an offence under this [s] shall not, in [E & W], be instituted except by, or with the consent of, the [A-G]. ** (re A-G)

S 3. **Power to search for, and dispose of, works to which this Act applies and articles for printing them.** (1) Where, upon an information being laid before a [JP] that a person has, or is suspected of having, committed an offence under the last foregoing [s] with respect to a work (hereafter in this [ss] referred to as "the relevant work"), the [JP] issues a summons directed to that person requiring him to answer to the information or issues a warrant to arrest that person, that or any other [JP], if satisfied by written information substantiated on oath that there is reasonable ground for suspecting that the said person has in his possession or under his control (a) any copies of the relevant work or any other work to which this Act applies; or (b) any plate prepared for the purpose of printing copies of the relevant work or any other work to which this Act applies or any photographic film⁴⁴⁴ prepared for that purpose; may grant a search warrant authorising any constable named therein to enter (if necessary by force) any premises specified in the warrant and any vehicle or stall used by the said person for the purposes of trade or business and to search the premises, vehicle or stall and seize any of the following things which the constable finds therein or thereon, that is to say: (i) any copies of the relevant work and any copies of any other work which the constable has reasonable cause to believe to be one to which this Act applies; and (ii) any plate which the constable has reasonable cause to believe to have been prepared for the purpose of printing copies of any such work as is mentioned in [para] (i) of this [ss] and any photographic film which he has reasonable cause to believe to have been prepared for that purpose. (2) The court by or before which a person is convicted of an offence under the last foregoing [s] with respect to a work may order any copies of that work and any plate prepared for the purpose of printing copies of that work or photographic film prepared for that purpose, being copies which have, or a plate or film which has, been found in his possession or under his control, to be forfeited: provided that an order made under this[s] by a magistrate's court or, on appeal from a magistrate's court, by the Crown Court shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be lodged (whether by giving notice of appeal or applying for a case to be stated for the opinion of the High Court) or, where such an appeal is duly lodged, until the appeal is finally decided or abandoned. (3) In the application of this [s] to Scotland there shall be substituted in [ss] (1) for the words from the beginning of the [ss] to "any other justice" the words "Where proceedings have been instituted against a person in respect of an offence under the last foregoing [s] with respect to a work (hereafter in this [ss] referred to as 'the relevant work'), the sheriff"; and for the proviso to [ss] (2) there shall be substituted the following proviso: "Provided that an order made under this [ss] shall not take effect until the expiration of the time within which an appeal under [s] 442 of the Criminal Procedure (Scotland) Act 1975, may be taken in respect of the proceedings in which the order was made or, where such an appeal is taken, until the appeal is finally disposed of or abandoned." (spent) ⁴⁴⁵

S 4. **Prohibition of importation of works to which this Act applies and articles for printing them.** The importation of (a) any work to which this Act applies; and (b) any plate prepared for the purpose of printing copies of any such work and any photographic film prepared for that purpose; is hereby prohibited. See also s 5 (Extent).

Obscene Publications Act 1959

S 1. **Test of Obscenity.** (1) For the purposes of this Act an article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it. (2) In this Act "article" means any description of article containing or embodying matter to be read or looked at or both, any sound record, and any film or other record of a picture or pictures. (3) For the purposes of this Act a person publishes an article who (a) distributes, circulates, sells, lets on hire, gives, or lends it, or who offers it for sale or for letting on hire; or (b) in the case of an article containing or embodying matter to be looked at or a record, shows, plays or projects it, or, where the matter is data stored electronically, transmits that data: (4) For the purposes of this Act a person also publishes an article to the extent that any matter recorded on it is included by him in a programme included in a programme service. (5) Where the inclusion of any matter in a

⁴⁴⁴ In other legislation 'photographic film' is termed 'film'.

⁴⁴⁵ The PACE Act 1984 should now apply.

programme so included would, if that matter were recorded matter, constitute the publication of an obscene article for the purposes of this Act by virtue of [ss] (4) above, this Act shall have effect in relation to the inclusion of that matter in that programme as if it were recorded matter. (6) In this [s] “programme” and “programme service” have the same meaning as in the Broadcasting Act 1990.

S 2. Prohibition of Publication of Obscene Matter. (1) Subject as hereinafter provided, any person who, whether for gain or not, publishes an obscene article or who has an obscene article for publication for gain (whether gain to himself or gain to another) shall be liable (a) on [SC] to a fine not exceeding [Pounds 1000] or to imprisonment for a term not exceeding [6] months; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding [5] years or both. (3) A prosecution for an offence against this [s] shall not be commenced more than [2] years after the commission of the offence. (3A) Proceedings for an offence under this [s] shall not be instituted except by or with the consent of the [DPP] in any case where the article in question is a moving picture film of a width of not less than [16] millimetres and the relevant publication or the only other publication which followed or could reasonably have been expected to follow from the relevant publication took place or (as the case may be) was to take place in the course of an exhibition of a film; and in this [ss] “the relevant publication” means (a) in the case of any proceedings under this [s] for publishing an obscene article, the publication in respect of which the defendant would be charged if the proceedings were brought; and (b) in the case of any proceedings under this [s] for having an obscene article for publication for gain, the publication which, if the proceedings were brought, the defendant would be alleged to have had in contemplation. (4) *A person publishing an article shall not be proceeded against for an offence at common law consisting of the publication of any matter contained or embodied in the article where it is of the essence of the offence that the matter is obscene.* (4A) *Without prejudice to [ss] (4) above, a person shall not be proceeded against for an offence at common law (a) in respect of an exhibition of a film or anything said or done in the course of an exhibition of a film, where it is of the essence of the common law offence that the exhibition or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or (b) in respect of an agreement to give an exhibition of a film or to cause anything to be said or done in the course of such an exhibition where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.*⁴⁴⁶ (5) A person shall not be convicted of an offence against this [s] if he proves that he had not examined the article in respect of which he is charged and had no reasonable cause to suspect that it was such that his publication of it would make him liable to be convicted of an offence against this [s]. (5A) A person shall not be convicted of an offence against this [s] of the publication of an obscene article if the person proves that (a) at the time of the offence charged, the person was a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of [s] 235 of the Online Safety Act 2023), and (b) the person published the article for the purposes of OFCOM’s exercise of any of those functions. (6) In any proceedings against a person under this [s] the question whether an article is obscene shall be determined without regard to any publication by another person unless it could reasonably have been expected that the publication by the other person would follow from publication by the person charged. (7) In this [s] (a) “exhibition of a film” has the meaning given in [para] 15 of [Sch] 1 to the Licensing Act 2003 (b) “OFCOM” means the Office of Communications. * (re DPP’s consent, s 2 (3) above)

S 3. Powers of search and seizure. (1) *If a [JP] is satisfied by information on oath that there is reasonable ground for suspecting that, in any premises or on any stall or vehicle, being premises or a stall or vehicle specified in the information, obscene articles are, or are from time to time, kept for publication for gain, the [JP] may issue a warrant under his hand empowering any constable to enter (if need be by force) and search the premises, or to search the stall or vehicle and to seize and remove any articles found therein or thereon which the constable has reason to believe to be obscene articles and to be kept for publication for gain.* (2) *A warrant under the foregoing [ss] shall, if any obscene articles are seized under the warrant, also empower the seizure and removal of any documents found in the premises or, as the case may be, on the stall or vehicle which relate to a trade or business carried on at the premises or from the stall or vehicle.* (3) *Subject to [ss] (3A) of this [s] any articles seized under [ss] (1) of this [s] shall be brought before a [JP] acting in the local justice area [obs] in which the articles were seized, who may thereupon issue a summons to the occupier of the premises or, as the case may be, the user of the stall or vehicle to appear on a day specified in the summons before a magistrates’ court acting in that local justice area (obs) to show cause why the articles or any of them should be forfeited; and if the court is satisfied, as respects any of the articles, that at the time when they were seized they were obscene articles kept for publication for gain, the court shall order those articles to be forfeited: provided that if the person summoned does not appear, the court shall not make an order unless service of the summons is proved. provided also that this [ss] does not apply in relation to any article seized under [ss] (1) of this [s] which is returned to the occupier of the premises or, as the case may be, to the user of the stall or vehicle in or on which it was found.* (3A) *Without prejudice to the duty of a court to make an order for the forfeiture of an article where [s] 1(4) of the Obscene Publications Act 1964 applies (orders made on conviction), in a case where by virtue of [ss] (3A) of [s] 2 of this Act proceedings under the said [s] 2 for having an article for publication for gain could not be instituted except by or with the consent of the [DPP], no order for the forfeiture of the article shall be made under this [s] unless the warrant under which the article was seized was issued on an information laid by or on behalf of the [DPP].* (4) *In addition to the person summoned, any other person being the owner, author or maker of any of the articles brought before the court, or any other person through whose hands they had passed before being seized, shall be entitled to appear before the court on the day specified in the summons to show cause why they should not be forfeited.* (5) *Where an order is made under this [s] for the forfeiture of any articles, any person who appeared, or was entitled to appear, to show cause against the making of the order may appeal to the Crown Court; and no such order shall take effect until the expiration of the period within which notice of appeal to the Crown Court may be given against the order, or, if before the expiration thereof notice of appeal is duly given or application is made for the statement of a case for the opinion of the High Court, until the final determination or abandonment of the proceedings on the appeal or case.* (6) *If as respects any articles brought before it the court does not order forfeiture, the court may if it thinks fit order the person on whose information the warrant for the seizure of the articles was issued to pay such costs as the court thinks reasonable to any person who has appeared before the court to show cause why those articles should not be forfeited; and costs ordered to be paid under this [ss] shall be*

⁴⁴⁶ This is unnecessary if common law crimes are abolished. Ss 2(5) and 2(5)(A) should be placed in one section.

*enforceable as a civil debt. (7) For the purposes of this [s] the question whether an article is obscene shall be determined on the assumption that copies of it would be published in any manner likely having regard to the circumstances in which it was found, but in no other manner. (8) The Obscene Publications Act, 1857, is hereby repealed, without prejudice, however, to the execution of any warrant issued thereunder before the commencement of this Act or to the taking of any proceedings in pursuance of a warrant so issued. (spent) *⁴⁴⁷*

4. Defence of Public Good. (1) Subject to [ss] (1A) of this [s] a person shall not be convicted of an offence against [s 2] of this Act, and an order for forfeiture shall not be made under the foregoing [s], if it is proved that publication of the article in question is justified as being for the public good on the ground that it is in the interests of science, literature, art or learning, or of other objects of general concern. (1A) [ss](1) of this [s] shall not apply where the article in question is a moving picture film or soundtrack, but (a) a person shall not be convicted of an offence against [s] 2 of this Act in relation to any such film or soundtrack, and (b) an order for forfeiture of any such film or soundtrack shall not be made under [s] 3 of this Act, if it is proved that publication of the film or soundtrack is justified as being for the public good on the ground that it is in the interests of drama, opera, ballet or any other art, or of literature or learning. (2) It is hereby declared that the opinion of experts as to the literary, artistic, scientific or other merits of an article may be admitted in any proceedings under this Act either to establish or to negative the said ground. (3) In this [s] “*moving picture soundtrack*” means any sound record designed for playing with a moving picture film, whether incorporated with the film or not. See also s 5 (*Extent*).

Obscene Publications Act 1964

S 1. **Obscene articles intended for publication for gain.** (1) (*spent*) (2) For the purpose of any proceedings for an offence against the said [s] 2 a person shall be deemed to have an article for publication for gain if with a view to such publication he has the article in his ownership, possession or control. (3) In proceedings brought against a person under the said [s] 2 for having an obscene article for publication for gain the following provisions shall apply in place of [ss] (5) and (6) of that [s], that is to say, (a) he shall not be convicted of that offence if he proves that he had not examined the article and had no reasonable cause to suspect that it was such that his having it would make him liable to be convicted of an offence against that [s]; and (b) the question whether the article is obscene shall be determined by reference to such publication for gain of the article as in the circumstances it may reasonably be inferred he had in contemplation and to any further publication that could reasonably be expected to follow from it, but not to any other publication. (4) *Where articles are seized under [s] 3 of the [OPA 59] (which provides for the seizure and forfeiture of obscene articles kept for publication for gain), and a person is convicted under [s] 2 of that Act of having them for publication for gain, the court on his conviction shall order the forfeiture of those articles: provided that an order made by virtue of this [ss] (including an order so made on appeal) shall not take effect until the expiration of the ordinary time within which an appeal in the matter of the proceedings in which the order was made may be instituted or, where such an appeal is duly instituted, until the appeal is finally decided or abandoned; and for this purpose (a) an application for a case to be stated or for leave to appeal shall be treated as the institution of an appeal; and (b) where a decision on appeal is subject to a further appeal, the appeal shall not be deemed to be finally decided until the expiration of the ordinary time within which a further appeal may be instituted or, where a further appeal is duly instituted, until the further appeal is finally decided or abandoned.*⁴⁴⁸ (5) References in [s] 3 of the [OPA 59] and this [s] to publication for gain shall apply to any publication with a view to gain, whether the gain is to accrue by way of consideration for the publication or in any other way. * (*re forfeiture*)

S 2. **Negatives, etc. for production of obscene articles.** (1) The [OPA 59] (as amended by this Act) shall apply in relation to anything which is intended to be used, either alone or as one of a set, for the reproduction or manufacture therefrom of articles containing or embodying matter to be read, looked at or listened to, as if it were an article containing or embodying that matter so far as that matter is to be derived from it or from the set. (2) For the purposes of the [OPA 59] (as so amended) an article shall be deemed to be had or kept for publication if it is had or kept for the reproduction or manufacture therefrom of articles for publication; and the question whether an article so had or kept is obscene shall (a) for purposes of [s] 2 of the Act be determined in accordance with [s] 1(3)(b) above as if any reference there to publication of the article were a reference to publication of articles reproduced or manufactured from it; and (b) for purposes of [s] 3 of the Act be determined on the assumption that articles reproduced or manufactured from it would be published in any manner likely having regard to the circumstances in which it was found, but in no other manner. See also s 3 (*Extent*).

Theatres Act 1968

S 2. **Prohibition of presentation of obscene performances of plays.** (1) For the purposes of this [s] a performance of a play shall be deemed to be obscene if, taken as a whole, its effect was such as to tend to deprave and corrupt persons who were likely, having regard to all relevant circumstances, to attend it. (2) Subject to sections 3 and 7 of this Act, if an obscene performance of a play is given, whether in public or private, any person who (whether for gain or not) presented or directed that performance shall be liable (a) on [SC], to a fine not exceeding £400 or to imprisonment for a term not exceeding [6] months; (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding [3] years, or both. (3) A prosecution on indictment for an offence under this [s] shall not be commenced more than [2] years after the commission of the offence. (4) *No person shall be proceeded against in respect of a performance of a play or anything said or done in the course of such a performance (a) for an offence at common law where it is of the essence of the offence that the performance or, as the case may be, what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or and no person shall be proceeded against for an offence at common law of*

⁴⁴⁷ This should now be covered by the PACE Act 1984 which is more modern.

⁴⁴⁸ Ibid.

*conspiring to corrupt public morals, or to do any act contrary to public morals or decency, in respect of an agreement to present or give a performance of a play, or to cause anything to be said or done in the course of such a performance.*⁴⁴⁹

S 3. **Defence of public good.** (1) A person shall not be convicted of an offence under [s] 2 of this Act if it is proved that the giving of the performance in question was justified as being for the public good on the ground that it was in the interests of drama, opera, ballet or any other art, or of literature or learning. (2) It is hereby declared that the opinion of experts as to the artistic, literary or other merits of a performance of a play may be admitted in any proceedings for an offence under [s] 2 of this Act either to establish or negative the said ground.

S 4. **Amendment of law of defamation.** (1) For the purposes of the law of libel and slander the publication of words in the course of a performance of a play shall, subject to [s] 7 of this Act, be treated as publication in permanent form. (2) The foregoing [ss] shall apply for the purposes of [s] 3 (*slander of title, etc.*) of the Defamation Act 1952 as it applies for the purposes of the law of libel and slander. (3) In this [s] “words” includes pictures, visual images, gestures and other methods of signifying meaning. (4) This [s] shall not apply to Scotland.

S 6. **Provocation of breach of peace by means of public performance of a play.** (1) Subject to [s] 7 of this Act, if there is given a public performance of a play involving the use of threatening, abusive or insulting words or behaviour, any person who (whether for gain or not) presented or directed that performance shall be guilty of an offence under this [s] if (a) he did so with intent to provoke a breach of the peace; or (b) the performance, taken as a whole, was likely to occasion a breach of the peace. (2) A person guilty of an offence under this [s] shall be liable on [SC] to a fine not exceeding level 5 [] or to imprisonment for a term not exceeding [6] months or to both.⁴⁵⁰

S 7. **Exceptions for performances given in certain circumstances.** (1) Nothing in sections 2 to 4 of this Act shall apply in relation to a performance of a play given on a domestic occasion in a private dwelling. (2) Nothing in sections 2 to 6 of this Act shall apply in relation to a performance of a play given solely or primarily for one or more of the following purposes, that is to say (a) rehearsal; or (b) to enable (i) a record or cinematograph film to be made from or by means of the performance; or (ii) the performance to be broadcast; or (iii) the performance to be included in a programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service; but in any proceedings for an offence under [s] 2, 5 or 6 of this Act alleged to have been committed in respect of a performance of a play, if it is proved that the performance was attended by persons other than persons directly connected with the giving of the performance or the doing in relation thereto of any of the things mentioned in [para] (b) above, the performance shall be taken not to have been given solely or primarily for one or more of the said purposes unless the contrary is shown. (3) In this [s] “broadcast” means broadcast by wireless telegraphy (within the meaning of the Wireless Telegraphy Act 2006), whether by way of sound broadcasting or television; “cinematograph film” means any print, negative, tape or other article on which a performance of a play or any part of such a performance is recorded for the purposes of visual reproduction; “record” means any record or similar contrivance for reproducing sound, including the sound-track of a cinematograph film;

S 8. **Restriction on institution of proceedings.** Proceedings for an offence under [s] 2, 5 or 6 of this Act shall not be instituted in [E&W] except by or with the consent of the [A-G]. *

S 9. **Script as evidence of what was performed.** (1) Where a performance of a play was based on a script, then, in any proceedings for an offence under [s] 2, 5 or 6 of this Act alleged to have been committed in respect of that performance (a) an actual script on which that performance was based shall be admissible as evidence of what was performed and of the manner in which the performance or any part of it was given; and (b) if such a script is given in evidence on behalf of any party to the proceedings then, except in so far as the contrary is shown, whether by evidence given on behalf of the same or any other party, the performance shall be taken to have been given in accordance with that script. (2) In this Act “script”, in relation to a performance of a play, means the text of the play (whether expressed in words or in musical or other notation) together with any stage or other directions for its performance, whether contained in a single document or not.

S 10. **Power to make copies of scripts.** (1) If a [PO] of or above the rank of superintendent has reasonable grounds for suspecting (a) that an offence under [s] 2, 5 or 6 of this Act has been committed by any person in respect of a performance of a play; or (b) that a performance of a play is to be given and that an offence under the said [s] 2, 5 or 6 is likely to be committed by any person in respect of that performance, he may make an order in writing under this section relating to that person and that performance. (2) Every order made under this [s] shall be signed by the police officer by whom it is made, shall name the person to whom it relates, and shall describe the performance to which it relates in a manner sufficient to enable that performance to be identified. (3) Where an order under this [s] has been made, any police officer, on production if so required of the order (a) may require the person named in the order to produce, if such a thing exists, an actual script on which the performance was or, as the case may be, will be based; and (b) if such a script is produced to him, may require the person so named to afford him an opportunity of causing a copy thereof to be made. (4) Any person who without reasonable excuse fails to comply with a requirement under [ss] (3) above shall be liable on [SC] to a fine not exceeding level 3 [] (5) Where, in the case of a performance of a play based on a script, a copy of an actual script on which that performance was based has been made by or on behalf of a [PO] by virtue of an order under this [s] relating to that performance, [s] 9(1) of this Act shall apply in relation to that copy as it applies in relation to an actual script on which the performance was based.

S 11. **Delivery of scripts of new plays to British Museum.** (1) Where here after the coming into force of this [s] there is given in Great Britain a public performance of a new play, being a performance based on a script, a copy of the actual script on which that performance was based shall be delivered to the Trustees of the British Museum free of charge within the period of [1] month beginning with the date of the performance; and the Trustees shall give a written receipt for every script delivered to them pursuant to this [s]. (2) If the requirements of [ss] (1) above are not complied with in the case of any performance to which that [ss] applies, any person who presented that performance shall be liable on [SC] to a fine not

⁴⁴⁹ Not needed if the common law crimes are repealed.

⁴⁵⁰ This should be placed among public order crimes, not sex crimes.

exceeding level 1 [] (3) In this [s] “*public performance of a new play*” means a public performance of a play of which no previous public performance has ever been given in Great Britain, but does not include a public performance of a play which (a) is based on a script substantially the same as that on which a previous performance of a play given there was based; or (b) is based substantially on a text of the play which has been published in the United Kingdom. (4) For the purposes of this [s] a performance of a play given solely or primarily for one or more of the purposes mentioned in [s] 7(2)(a) and (b) of this Act shall be disregarded.

S 12. **Licensing of premises for public performance of plays.** (1) Subject to the following provisions of this Act, no premises, whether or not licensed for the sale of intoxicating or exciseable liquor, shall be used for the public performance of any play except under and in accordance with the terms of a licence granted under this Act by the licensing authority. (2) A licence shall not be required for any premises under any enactment other than this Act by reason only of the public performance at those premises of a play. (3) For the purposes of [ss] (2) above any music played at any premises by way of introduction to, in any interval between parts of, or by way of conclusion of a performance of a play or in the interval between two such performances shall be treated as forming part of the performance or performances, as the case may be, if the total time taken by music so played on any day amounts to less than one quarter of the time taken by the performance or performances of the play or plays given at the premises on that day. (3A) Where Part 3 of the Fire (Scotland) Act 2005 (asp 5) applies in relation to premises, no term which relates to any matter in relation to which requirements or prohibitions are or could be imposed by virtue of that Part shall be included in a licence granted under this Act in respect of those premises. (4) [sch] 1 to this Act shall have effect with respect to licences under this Act.

S 13. **Enforcement of s. 12.** (1) If a public performance of a play is given at any premises in respect of which a licence under this Act is not in force (a) any person concerned in the organisation or management of that performance; and (b) any other person who, knowing or having reasonable cause to suspect that such a performance would be given at those premises without such a licence being in force in respect thereof (i) allowed the premises to be used for the giving of that performance; or (ii) let the premises, or otherwise made the premises available, to any person by whom the premises were used for the giving of that performance, shall be guilty of an offence. (2) If, while a licence under this Act is in force in respect of any premises, any of the terms, conditions or restrictions on or subject to which the licence is held is contravened or not complied with (a) the holder of the licence; and (b) any other person who, knowing or having reasonable cause to suspect that the premises would be used otherwise than in accordance with those terms, conditions and restrictions (i) allowed the premises to be so used; or (ii) let the premises, or otherwise made the premises available, to any person by whom the premises were so used, shall be guilty of an offence: provided that, where the holder of the licence is charged with an offence under this [ss], it shall be a defence to prove that the contravention took place without his consent or connivance and that he exercised all due diligence to prevent it. (3) A person guilty of an offence under [ss] (1) or (2) above shall be liable on [SC] to a fine not exceeding level 4 [] or to imprisonment for a term not exceeding [3] months, or both. (4) A licensing authority in [E&W] may institute proceedings for an offence under [ss] (1) or (2) above committed in their area. (5) If the holder of a licence under this Act is convicted of an offence under [ss] (2) above, then, subject to [s] 14 of this Act, the licensing authority may revoke the licence: provided that a licence shall not be revoked under this [ss] by virtue of the holder’s conviction as aforesaid unless either (a) the time for bringing an appeal against the conviction has expired without such an appeal having been brought; or (b) such an appeal has been brought and abandoned or finally determined otherwise than by the quashing of the conviction. (6) In relation to Scotland, [ss] (5) above shall have effect as if the following were substituted for [para] (a), that is to say “(a) a period of [14] days from the date of the conviction has expired without an appeal against it having been brought; or” and in [para] (b), after “*abandoned*” there were inserted the words “*or deemed to be abandoned*”.

S 14. **Appeals in respect of licences.** (1) Any of the following persons, that is to say (a) an applicant for the grant, renewal or transfer of a licence under this Act in respect of any premises whose application is refused; (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused; or (c) a holder of any such licence whose licence is revoked by the licensing authority under [s] 13(5) of this Act or who is aggrieved by any term, condition or restriction on or subject to which the licence is held, may at any time before the expiration of the period of [21] days beginning with the relevant date appeal to a magistrates’ court acting for the petty sessions area within which, or in Scotland to the sheriff within whose jurisdiction, the premises are situated; and the court or sheriff may make such order as it or he thinks fit and, subject to [ss] (2) below, that order shall be binding on the licensing authority. In this [ss] “*the relevant date*” means the date on which the person in question is notified of the refusal of his application, the revocation of his licence or the imposition of the term, condition or restriction by which he is aggrieved, as the case may be. (2) Any person aggrieved by the order of a magistrates’ court on an appeal under the foregoing [ss] may appeal therefrom to the Crown Court. (3) Where a licence under this Act is revoked under [s] 13(5) of this Act or an application for the renewal of such a licence is refused, the licence shall be deemed to remain in force (a) during any period within which an appeal under this [s] may be brought and, if such an appeal is brought within the period for doing so, until the determination or abandonment of the appeal; and (b) where an appeal under this [s] relating to such a refusal as aforesaid is successful and no further such appeal lies, until the licence is renewed by the licensing authority. (4) In the case of an appeal in relation to an application of which, in accordance with [para] 2(1) of [sch] 1 to this Act, notice was required to be given to a [CPO], notice of the appeal shall be given to that [CPO] as well as to any other person to whom it is required to be given apart from this [ss].

S 15. **Powers of entry and inspection.** (1) *If a [JP] is satisfied by information on oath that there are reasonable grounds for suspecting, as regards any premises specified in the information (a) that a performance of a play is to be given at those premises, and that an offence under [s] 2, 5 or 6 of this Act is likely to be committed in respect of that performance; or (b) that an offence under [s] 13(1) of this Act is being or will be committed in respect of those premises, the [JP] may issue a warrant under his hand empowering any police officer or, in a case falling within [para] (b) above, any police officer or authorised officer of the licensing authority at any time within [14] days one month from the date of the warrant to enter the premises and (i) in a case falling within [para] (a) above, to attend any performance of a play which may be given there; (ii) in a case falling within [para] (b) above, to inspect the premises. In the application of this [ss] to Scotland, the references to a justice of the peace shall be*

construed as including references to the sheriff. (2) Any authorised officer of the licensing authority may, on production if so required of his authority, at all reasonable times enter any premises in respect of which a licence under this Act is in force at which he has reason to believe that a performance of a play is being or is about to be given and inspect them with a view to seeing whether the terms, conditions or restrictions on or subject to which the licence is held are complied with. (3) The power conferred by [ss] (2) above on an authorised officer of the licensing authority shall be exercisable also by a [PO] who shall not, if wearing uniform, be required to produce any authority. (4) In relation to premises situated in the area of a fire relevant authority that is not the same body as the licensing authority, [ss] (2) above shall have effect as if the references to an authorised officer of the licensing authority included references to an authorised officer employee of that fire relevant authority. (5) Any person who wilfully obstructs an authorised officer of a licensing authority acting in the execution of a warrant under [ss] (1) above or an authorised officer of a licensing authority or fire authorised employee of a relevant authority acting in the exercise of his powers under [ss] (2) above shall be liable on [SC] to a fine not exceeding level 1 [1]. (7) In this [s], “relevant authority” has the meaning given by [s] 6 of the Fire (Scotland) Act 2005 (asp 5). ^{*451}

S 16. Offences by bodies corporate. Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly. ***

S 18. Interpretation. In this Act “licensing authority” means (c) in relation to Scotland, a council constituted under [s] 2 of the Local Government etc. (Scotland) Act 1994; “play” means (a) any dramatic piece, whether involving improvisation or not, which is given wholly or in part by one or more persons actually present and performing and in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role; and (b) any ballet given wholly or in part by one or more persons actually present and performing, whether or not it falls within [para] (a) of this definition; “[PO]” means a member, or in Scotland a constable, of a police force; police officer means a constable of the Police Service of Scotland; “premises” includes any place; “public performance” includes any performance in a public place within the meaning of the Public Order Act 1936 any performance which is not open for the public but which is promoted for private gain and any performance which the public or any section thereof are permitted to attend, whether on payment or otherwise; “script” has the meaning assigned by [s] 9(2) of this Act. (2) For the purposes of this Act (a) a person shall not be treated as presenting a performance of a play by reason only of his taking part therein as a performer; (b) a person taking part as a performer in a performance of a play directed by another person shall be treated as a person who directed the performance if without reasonable excuse he performs otherwise than in accordance with that person’s direction; and (c) a person shall be taken to have directed a performance of a play given under his direction notwithstanding that he was not present during the performance; and a person shall not be treated as aiding or abetting the commission of an offence under [s] 2, 5 or 6 of this Act in respect of a performance of a play by reason only of his taking part in that performance as a performer.

S 19. Meaning of promotion for private gain. (1) For the purposes of this Act a performance is promoted for private gain if, and only if (a) any proceeds from the performance, that is to say, any sum paid for admission to the performance; or (b) any other sums (whenever paid) which, having regard to all the circumstances, can reasonably be regarded as paid wholly or partly for admission to the performance; or (c) where the performance is advertised (whether to the public or otherwise), any sums not falling within [para] (b) above which are paid for facilities or services provided for persons admitted to the performance; are applied wholly or partly for purposes of private gain. (2) If in proceedings for an offence under [s] 13 (1) above any question arises whether a performance was promoted for private gain and it is proved (a) that any sums were paid for admission to the performance or to the premises at which it was given and that the performance was advertised to the public; or (b) that any sums were paid for facilities or services provided for persons admitted to the performance and that the performance was advertised (whether to the public or otherwise); or (c) that the amount of any payment falling to be made in connection with the promotion of the performance was determined wholly or partly by reference to the proceeds of the performance or any facilities or services provided for persons admitted to it; the performance shall be deemed to have been promoted for private gain unless the contrary is shown. (3) Where a performance is promoted by a society which is established and conducted wholly for purposes other than purposes of any commercial undertaking and sums falling within [ss] (1) above are applied for any purpose calculated to benefit the society as a whole, the performance shall not be held to be promoted for private gain by reason only that the application of those sums for that purpose results in benefit to any person as an individual. (4) In [ss] (3) above “society” includes any club, institution, organisation or association of persons, by whatever name called.

Protection of Children Act 1978

S 1. Indecent photo[s] of children. Subject to [ss] 1A and 1B, it is an offence for a person (a) to take, or permit to be taken or to make, any indecent photo[] or pseudo-photo[] of a child; or (b) to distribute or show such indecent photo[] or pseudo-photo[]; or (c) to have in his possession such indecent photo[] or pseudo-photo[], with a view to their being distributed or shown by himself or others; or (d) to publish or cause to be published any advert[] likely to be understood as conveying that the advertiser distributes or shows such indecent photo[] or pseudo-photo[], or intends to do so. (2) For purposes of this Act, a person is to be regarded as distributing an indecent photo[] or pseudo-photo[] if he parts with possession of it to, or exposes or offers it for acquisition by, another person. (3) Proceedings for an offence under this Act shall not be instituted except by or with the consent of the [DPP]. (4) Where a person is charged with an offence under [ss] (1)(b) or (c), it shall be a defence for him to prove (a) that he had a legitimate reason for distributing or showing the photo[] or pseudo-photo[] or (as the case may be) having them in his possession; or (b) that he had not himself seen the photo[] or pseudo-photo[] and did not know, nor had any cause to suspect, them to be indecent. (5) References in the Children

⁴⁵¹ This should have been replaced by the more modern sections of PACE 1984.

and Young Persons Act 1933 (except in [ss] 15 and 99) to the offences mentioned in [sch] 1 to that Act shall include an offence under [ss] (1)(a) above. (6), (7) (*amends*). * (*re DPP's consent*)

S 1A. Marriage and other relationships (1) This [s] applies where, in proceedings for an offence under [s] 1(1)(a) of taking or making an indecent photo[] or pseudo-photo[] of a child, or for an offence under [s] 1(1)(b) or (c) relating to an indecent photo[] or pseudo-photo[] of a child, the defendant proves that the photo[] or pseudo-photo[] was of the child aged 16 or over, and that at the time of the offence charged the child and he (a) were married or civil partners of each other, or (b) lived together as partners in an enduring family relationship. (2) [Ss] (5) and (6) also apply where, in proceedings for an offence under [s] 1(1)(b) or (c) relating to an indecent photo[] or pseudo-photo[] of a child, the defendant proves that the photo[] or pseudo-photo[] was of the child aged 16 or over, and that at the time when he obtained it the child and he (a) were married or civil partners of each other, or (b) lived together as partners in an enduring family relationship. (3) This [s] applies whether the photo[] or pseudo-photo[] showed the child alone or with the defendant, but not if it showed any other person. (4) In the case of an offence under [s] 1(1)(a), if sufficient evidence is adduced to raise an issue as to whether the child consented to the photo[] or pseudo-photo[] being taken or made, or as to whether the defendant reasonably believed that the child so consented, the defendant is not guilty of the offence unless it is proved that the child did not so consent and that the defendant did not reasonably believe that the child so consented. (5) In the case of an offence under [s] 1(1)(b), the defendant is not guilty of the offence unless it is proved that the showing or distributing was to a person other than the child. (6) In the case of an offence under [s] 1(1)(c), if sufficient evidence is adduced to raise an issue both (a) as to whether the child consented to the photo[] or pseudo-photo[] being in the defendant's possession, or as to whether the defendant reasonably believed that the child so consented, and (b) as to whether the defendant had the photo[] or pseudo-photo[] in his possession with a view to its being distributed or shown to anyone other than the child, the defendant is not guilty of the offence unless it is proved either that the child did not so consent and that the defendant did not reasonably believe that the child so consented, or that the defendant had the photo[] or pseudo-photo[] in his possession with a view to its being distributed or shown to a person other than the child.

S 1B. Exception for criminal proceedings, investigations Etc. (1) In proceedings for an offence under [s] 1(1)(a) of making an indecent photo[] or pseudo-photo[] of a child, the defendant is not guilty of the offence if the defendant proves that (a) it was necessary for the defendant to make the photo[] or pseudo-photo[] for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings, in any part of the world, (b) at the time of the offence charged the defendant was a member of the Security Service or the Secret Intelligence Service, and it was necessary for the defendant to make the photo[] or pseudo-photo[] for the exercise of any of the functions of that Service, (c) at the time of the offence charged the defendant was a member of GCHQ, and it was necessary for the defendant to make the photo[] or pseudo-photo[] for the exercise of any of the functions of GCHQ (d) the defendant (i) was at the time of the offence charged a member of OFCOM, employed or engaged by OFCOM, or assisting OFCOM in the exercise of any of their online safety functions (within the meaning of [s] 235 of the Online Safety Act 2023), and (ii) made the photo[] or pseudo-photo[] for the purposes of OFCOM's exercise of any of those functions. (2) In this [s] "*GCHQ*" has the same meaning as in the Intelligence Services Act 1994. (3) In this [s] "*OFCOM*" means the Office of Communications.

S 2. Evidence (3) In proceedings under this Act relating to indecent photos[] of children a person is to be taken as having been a child at any material time if it appears from the evidence as a whole that he was then under the age of 18.

S 3. Offences by Corporations. (1) *Where a body corporate is guilty of an offence under this Act and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.* (2) *Where the affairs of a body corporate are managed by its members, [ss] (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.*

S 4. Entry, search and seizure. (1) *The following applies where a [JP] is satisfied by information on oath, laid by or on behalf of the [DPP] or by a constable, that there is reasonable ground for suspecting that, in any premises, there is an indecent photo[] or pseudo-photo[] of a child.* (2) *The [JP] may issue a warrant under his hand authorising any constable to enter (if need be by force) and search the premises, and to seize. In this [s] "premises" has the same meaning and remove any articles which he believes (with reasonable cause) to be or include indecent photog[] or pseudo-photo[] of children.* (4) *as in the Police and Criminal Evidence Act 1984 (see [s] 23 of that Act).* *⁴⁵²

S 5. Forfeiture. *The [Sch] to this Act makes provision about the forfeiture of indecent photo[] and pseudo-photo[].* *⁴⁵³

S 6. Punishments. (1) Offences under this Act shall be punishable either on conviction on indictment or on summary conviction. (2) A person convicted on indictment of any offence under this Act shall be liable to imprisonment for a term of not more than [10] years, or to a fine or to both. (3) A person convicted summarily of any offence under this Act shall be liable (a) to imprisonment for a term not exceeding [6] months; or (b) to a fine not exceeding the prescribed sum for the purposes of [s] 32 of the Magistrates' Courts Act 1980 (punishment on [SC] of offences triable either way: £1,000 or other sum substituted by order under that Act), or to both.

S 7. Interpretation. (1) The following [ss] apply for the interpretation of this Act. (2) References to an indecent photo[] include an indecent film, a copy of an indecent photo[] or film, and an indecent photo[] comprised in a film. (3) Photos[] (including those comprised in a film) shall, if they show children and are indecent, be treated for all purposes of this Act as indecent photo[] of children and so as respects pseudo-photo[s] (4) References to a photo[] include (a) the negative as well as the positive version; and (b) data stored on a computer disc or by other electronic means

⁴⁵² The wording should be amended so that the PACE Act 1984 applies.

⁴⁵³ Ibid.

which is capable of conversion into a photo[. (4A) References to a photo[also include (a) a tracing or other image, whether made by electronic or other means (of whatever nature) (i) which is not itself a photo[or pseudo-photo[, but (ii) which is derived from the whole or part of a photo[or pseudo-photo[(or a combination of either or both); and (b) data stored on a computer disc or by other electronic means which is capable of conversion into an image within [para] (a); and [ss] (8) applies in relation to such an image as it applies in relation to a pseudo-photo[.(5) “*Film*” includes any form of video-recording. (6) “*Child*”, subject to [ss] (8), means a person under the age of 18. (7) “*Pseudo-photo[*” means an image, whether made by computer-graphics or otherwise howsoever, which appears to be a photo[.(8) If the impression conveyed by a pseudo-photo[is that the person shown is a child, the pseudo-photo[shall be treated for all purposes of this Act as showing a child and so shall a pseudo-photo[where the predominant impression conveyed is that the person shown is a child notwithstanding that some of the physical characteristics shown are those of an adult. (9) References to an indecent pseudo-photo [include (a) a copy of an indecent pseudo-photo[; and (b) data stored on a computer disc or by other electronic means which is capable of conversion into an indecent pseudo-photo[.

S 8. **Similar provision for [NI]**. An Order in Council under [para] 1(1)(b) of [Sch] 1 to the [NI] Act 1974 (*legislation for [NI] in the interim period*) which contains a statement that it operates only so as to make for [NI] provision corresponding to this Act (a) shall not be subject to [para] 1(4) and (5) of that [Sch] (*affirmative resolution of both Houses of Parliament*); but (b) shall be subject to annulment by a resolution of either House. See also s 9 (*Extent*).

Indecent Displays (Control) Act 1981

S 1. **Indecent Displays.** (1) If any indecent matter is publicly displayed the person making the display and any person causing or permitting the display to be made shall be guilty of an offence. (2) Any matter which is displayed in or so as to be visible from any public place shall, for the purposes of this [s], be deemed to be publicly displayed. (3) In [ss] (2) above, “*public place*”, in relation to the display of any matter, means any place to which the public have or are permitted to have access (whether on payment or otherwise) while that matter is displayed except (a) a place to which the public are permitted to have access only on payment which is or includes payment for that display; or (b) a shop or any part of a shop to which the public can only gain access by passing beyond an adequate warning notice; but the exclusions contained in [paras] (a) and (b) above shall only apply where persons under the age of 18 years are not permitted to enter while the display in question is continuing. (4) Nothing in this [s] applies in relation to any matter (a) included by any person in a [TV] broadcasting service or other [TV] programme service (within the meaning of Part I of the Broadcasting Act 1990); (b) included in the display of an art gallery or museum and visible only from within the gallery or museum; or (c) displayed by or with the authority of, and visible only from within a building occupied by, the Crown or any local authority; or (d) included in a performance of a play (within the meaning of [para] 14(1) of [Sch] 1 to the Licensing Act 2003) in [E&W] or of a play (within the meaning of the Theatres Act 1968) in Scotland; (e) included in an exhibition of a film, within the meaning of [para] 15 of [Sch] 1 to the Licensing Act 2003, in [E&W], or a film exhibition, as defined in the Cinemas Act 1985, in Scotland (i) given in a place which as regards that exhibition is required to be licensed under [s] 1 of that Act or by virtue only of [s] 5, 7 or 8 of that Act is not required to be so licensed; or (ii) which is an exhibition to which [s] 6 of that Act applies given by an exempted organisation as defined in [ss] (6) of that [s]. (5) In this [s] “*matter*” includes anything capable of being displayed, except that it does not include an actual human body or any part thereof; and in determining for the purpose of this [s] whether any displayed matter is indecent (a) there shall be disregarded any part of that matter which is not exposed to view; and (b) account may be taken of the effect of juxtaposing one thing with another. (6) A warning notice shall not be adequate for the purposes of this [s] unless it complies with the following requirements (a) The warning notice must contain the following words, and no others “*WARNING Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age.*” (b) The word “*WARNING*” must appear as a heading. (c) No pictures or other matter shall appear on the notice. (d) The notice must be so situated that no one could reasonably gain access to the shop or part of the shop in question without being aware of the notice and it must be easily legible by any person gaining such access. **

S 2. **Powers of Arrest, Seizure and Entry.** (2) A constable may seize any article which he has reasonable grounds for believing to be or to contain indecent matter and to have been used in the commission of an offence under this Act. (3) In [E&W], a [JP] if satisfied on information on oath that there are reasonable grounds for suspecting that an offence under this Act has been or is being committed on any premises and, in Scotland, a sheriff or [JP] on being so satisfied on evidence on oath, may issue a warrant authorising any constable to enter the premises specified in the information or, as the case may be, evidence (if need be by force) within [14] days from the date of issue of the warrant to seize any article which the constable has reasonable grounds for believing to be or to contain indecent matter and to have been used in the commission of an offence under this Act. *⁴⁵⁴

S 3. **Offences by Corporations.** (1) Where a body corporate is guilty of an offence under this Act and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. (2) Where the affairs of a body corporate are managed by its members, [ss] (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate. ***

S 4. **Penalties.** (1) In [E&W], any person guilty of an offence under this Act shall be liable (a) on [SC], to a fine not exceeding the statutory maximum; or (b) on conviction on indictment, to imprisonment for a term not exceeding [2] years or a fine or both. (2) In Scotland, any person guilty of an offence under this Act shall be liable (a) on [SC] (i) in the district court, to a fine not exceeding £200; (ii) in the sheriff court, to a fine

⁴⁵⁴ Ibid.

not exceeding the statutory maximum; or (b) on conviction on indictment, to imprisonment for a term not exceeding [2] years or a fine or both. See also s 5 (Extent).

Local Government (Miscellaneous Provisions) Act 1982 (Control of Sex Establishments)

S 2. **Control of Sex Establishments.** (1) A local authority may resolve that [Sch] 3 to this Act is to apply to their area; and if a local authority do so resolve, that [sch] shall come into force in their area on the day specified in that behalf in the resolution (which must not be before the expiration of the period of [1] month beginning with the day on which the resolution is passed). (2) A local authority shall publish notice that they have passed a resolution under this [s] in [2] consecutive weeks in a local newspaper circulating in their area. (3) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of [Sch] 3 to this Act in the local authority's area. (4) The notice shall state the general effect of that [sch]. (5) In this Part of this Act "local authority" means (a) the council of a district; (b) the council of a London borough; and (c) the Common Council of the City of London. See also Sch 3 (*details law on sex establishments*) and s 49 (*Extent*). **⁴⁵⁵

Criminal Justice Act 1988

S 160. **Possession of indecent photo[] of child.** (1) Subject to [s] 160A, it is an offence for a person to have any indecent photo[] or pseudo-photo[] of a child in his possession. (2) Where a person is charged with an offence under [ss] (1) above, it shall be a defence for him to prove (a) that he had a legitimate reason for having the photo[] or pseudo-photo[] in his possession; or (b) that he had not himself seen the photo[] or pseudo-photo[] and did not know, nor had any cause to suspect, it to be indecent; or (c) that the photo[] or pseudo-photo[] was sent to him without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time. (2A) A person shall be liable on conviction on indictment of an offence under this [s] to imprisonment for a term not exceeding [5] years or a fine, or both. (3) A person shall be liable on [SC] of an offence under this [s] to imprisonment for a term not exceeding [6] months or a fine not exceeding level 5 [], or both. (4) [Ss] 1(3), 2(3), 3 and 7 of the Protection of Children Act 1978 shall have effect as if any reference in them to that Act included a reference to this [s].

S 160A. **Marriage and other relationships** (1) This [s] applies where, in proceedings for an offence under [s] 160 relating to an indecent photo[] or pseudo-photo[] of a child, the defendant proves that the photo[] was of the child aged 16 or over, and that at the time of the offence charged the child and he (a) were married or civil partners of each other, or (b) lived together as partners in an enduring family relationship. (2) This [s] also applies where, in proceedings for an offence under [s] 160 relating to an indecent photo[] or pseudo-photo[] of a child, the defendant proves that the photo[] was of the child aged 16 or over, and that at the time when he obtained it the child and he (a) were married or civil partners of each other, or (b) lived together as partners in an enduring family relationship. (3) This [s] applies whether the photo[] or pseudo-photo[] showed the child alone or with the defendant, but not if it showed any other person. (4) If sufficient evidence is adduced to raise an issue as to whether the child consented to the photo[] or pseudo-photo[] being in the defendant's possession, or as to whether the defendant reasonably believed that the child so consented, the defendant is not guilty of the offence unless it is proved that the child did not so consent and that the defendant did not reasonably believe that the child so consented. See also s 172 (*Extent*).

Broadcasting Act 1990

S 162. **Obscenity in programme services: [E&W].** (1) [Amends Obscene Publications Act 1959]. (2) [sch] 15 to this Act shall have effect for the purpose of supplementing [ss] (1) above. **Sch 15 (Application of 1959 Act [ie Obscenity Act 1959] to Television and Sound Programmes).** *In this [sch] "the 1959 Act" means the [OPA 1959] "relevant programme" means a programme included in a programme service; and other expressions used in this[sch] which are also used in the 1959 Act have the same meaning as in that Act. 1. (Liability of person providing live programme material). 2 Where (a) any matter is included by any person in a relevant programme in circumstances falling within [s] 1(5) of the 1959 Act, and (b) that matter has been provided, for inclusion in that programme, by some other person, the 1959 Act shall have effect as if that matter had been included in that programme by that other person (as well as by the person referred to in [sub-para] (a)). 2.(Obscene articles kept for inclusion in programmes); 3. It is hereby declared that where a person has an obscene article in his ownership, possession or control with a view to the matter recorded on it being included in a relevant programme, the article shall be taken for the purposes of the 1959 Act to be an obscene article had or kept by that person for publication for gain. 4. (Requirement for consent of [DPP]. 4(1) Proceedings for an offence under [s] 2 of the 1959 Act for publishing an obscene article shall not be instituted except by or with the consent of the [DPP] in any case where (a) the relevant publication, or (b) the only other publication which followed from the relevant publication, took place in the course of the inclusion of a programme in a programme service; and in this [sub-para] "the relevant publication" means the publication in respect of which the defendant would be charged if the proceedings were brought. (2) Proceedings for an offence under [s] 2 of the 1959 Act for having an obscene article for publication for gain shall not be instituted except by or with the consent of the [DPP] in any case where (a) the relevant publication, or (b) the only other publication which could reasonably have been expected to follow from the relevant publication, was to take place in the course of the inclusion of a programme in a programme service; and in this [sub-para] "the relevant publication" means the publication which, if the proceedings were brought, the defendant would be alleged to have had in contemplation. (3) Without prejudice to the duty of a court to make an order for the forfeiture of an article under [s] 1(4) of the Obscene Publications Act 1964 (orders on conviction), in a case where by virtue of [ss] (2) above proceedings under [s] 2 of the 1959 Act for having an article for publication for gain could not be instituted except by or with the consent of the [DPP], no order for the forfeiture of the article shall be made under [s] 3 of the 1959 Act (power of search and seizure) unless the warrant under which the article was seized was issued on an information laid by or on behalf of the [DPP]. 5 (Defences). 5(1) A person shall not be convicted of an offence under [s] 2 of the 1959 Act in respect of the inclusion of any matter in a relevant programme if he proves that he did not know and had no reason to suspect that the programme would include matter rendering him liable to be convicted of such an offence. (2) Where the publication in issue in*

⁴⁵⁵ Sch 3 should be in an Appendix.

any proceedings under that Act consists of the inclusion of any matter in a relevant programme, [s] 4(1) of that Act (general defence of public good) shall not apply; but (a) a person shall not be convicted of an offence under [s] 2 of that Act, and (b) an order for forfeiture shall not be made under [s] 3 of that Act, if it is proved that the inclusion of the matter in question in a relevant programme is justified as being for the public good on the ground that it is in the interests of (i) drama, opera, ballet or any other art, (ii) science, literature or learning, or (iii) any other objects of general concern. (3) [s] 4(2) of that Act (admissibility of opinions of experts) shall apply for the purposes of [sub-para] (2) above as it applies for the purposes of [s] 4(1) and (1A) of that Act.⁴⁵⁶ [Exclusion of proceedings under common law 6 Without prejudice to [s] 2(4) of the 1959 Act, a person shall not be proceeded against for an offence at common law (a) in respect of a relevant programme or anything said or done in the course of such a programme, where it is of the essence of the common law offence that the programme or (as the case may be) what was said or done was obscene, indecent, offensive, disgusting or injurious to morality; or (b) in respect of an agreement to cause a programme to be included in a programme service or to cause anything to be said or done in the course of a programme which is to be so included, where the common law offence consists of conspiring to corrupt public morals or to do any act contrary to public morals or decency.⁴⁵⁷

Postal Services Act 2000

S 85. **Prohibition on sending certain articles by post.** (3) A person commits an offence if he sends by post a postal packet which encloses (a) any indecent or obscene print, painting, photograph, lithograph, engraving, cinematograph film or other record of a picture or pictures, book, card or written communication, or (b) any other indecent or obscene article (whether or not of a similar kind to those mentioned in paragraph (a)).

(4) A person commits an offence if he sends by post a postal packet which has on the packet, or on the cover of the packet, any words, marks or designs which are of an indecent or obscene character. (5) A person who commits an offence under this [s] shall be liable (a) on [SC], to a fine not exceeding the statutory maximum, (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding [12] months or to both

Criminal Justice and Immigration Act 2008

S 63. **Possession of extreme pornographic images** (1) It is an offence for a person to be in possession of an extreme pornographic image. (2) An “extreme pornographic image” is an image which is both (a) pornographic, and (b) an extreme image. (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal. (4) Where (as found in the person's possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in [ss](3) is to be determined by reference to (a) the image itself, and (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images. (5) So, for example, where (a) an image forms an integral part of a narrative constituted by a series of images, and (b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal, the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself. (5A) In relation to possession of an image in [E&W], an “extreme image” is an image which (a) falls within [ss] (7) or (7A), and (b) is grossly offensive, disgusting or otherwise of an obscene character. (6) In relation to possession of an image in [NI], an “extreme image” is an image which (a) falls within [ss] (7) or (7A), and (b) is grossly offensive, disgusting or otherwise of an obscene character.⁴⁵⁸ (7) An image falls within this [ss] if it portrays, in an explicit and realistic way, any of the following (a) an act which threatens a person's life, (b) an act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals, (c) an act which involves sexual interference with a human corpse, or (d) a person performing an act of intercourse or oral sex with an animal (whether dead or alive), and a reasonable person looking at the image would think that any such person or animal was real. (7A) An image falls within this [ss] if it portrays, in an explicit and realistic way, either of the following (a) an act which involves the non-consensual penetration of a person's vagina, anus or mouth by another with the other person's penis, or (b) an act which involves the non-consensual sexual penetration of a person's vagina or anus by another with a part of the other person's body or anything else, and a reasonable person looking at the image would think that the persons were real. (7B) For the purposes of [ss](7A) (a) penetration is a continuing act from entry to withdrawal; (b) “vagina” includes vulva. (8) In this [s] “image” means (a) a moving or still image (produced by any means); or (b) data (stored by any means) which is capable of conversion into an image within [para] (a). (9) In this [s] references to a part of the body include references to a part surgically constructed (in particular through gender reassignment surgery). (10) Proceedings for an offence under this [s] may not be instituted (a) in [E&W], except by or with the consent of the [DPP]; or (b) in [NI], except by or with the consent of the [DPP] for [NI]. * (re DPP)

S 64. **Exclusion of classified films Etc.** (1) [S] 63 does not apply to excluded images. (2) An “excluded image” is an image which forms part of a series of images contained in a recording of the whole or part of a classified work. (3) But such an image is not an “excluded image” if (a) it is contained in a recording of an extract from a classified work, and (b) it is of such a nature that it must reasonably be assumed to have been extracted (whether with or without other images) solely or principally for the purpose of sexual arousal. (4) Where an extracted image is one of a series of images contained in the recording, the question whether the image is of such a nature as is mentioned in [ss] (3)(b) is to be determined by reference to (a) the image itself, and (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images; and [s] 63(5) applies in connection with determining that question as it applies in connection with determining whether an image is pornographic. (5) In determining for the purposes of this [s] whether a recording is a recording of the whole or part of a classified work, any alteration attributable to (a) a defect caused for technical reasons or by inadvertence on the part of any person, or (b) the inclusion in the

⁴⁵⁶ All this would not be required on consolidation.

⁴⁵⁷ This will be spent if these common law crimes are abolished.

⁴⁵⁸ As noted previously in the text ‘disgusting’ should be removed as a term. Instead, such acts should be treated as ‘obscene’ or ‘grossly offensive’, and an express distinction made between the two.

recording of any extraneous material (such as adverts []), is to be disregarded. (6) Nothing in this [s] is to be taken as affecting any duty of a designated authority to have regard to [s] 63 (along with other enactments creating criminal offences) in determining whether a video work is suitable for a classification certificate to be issued in respect of it. (7) In this [s] ‘classified work’ means (subject to [ss] (8)) a video work in respect of which a classification certificate has been issued by a designated authority (whether before or after the commencement of this [s]); ‘classification certificate’ and ‘video work’ have the same meanings as in the Video Recordings Act 1984 (c. 39); ‘designated authority’ means an authority which has been designated by the [SS] under [s] 4 of that Act; ‘extract’ includes an extract consisting of a single image; ‘image’ and ‘pornographic’ have the same meanings as in [s] 63; ‘recording’ means any disc, tape or other device capable of storing data electronically and from which images may be produced (by any means). (8) [S] 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this [s] as it applies for the purposes of that Act.**

S 65. **Defences: General** (1) Where a person is charged with an offence under [s] 63, it is a defence for the person to prove any of the matters mentioned in [ss] (2).(2) The matters are (a) that the person had a legitimate reason for being in possession of the image concerned;(b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be an extreme pornographic image; (c) that the person (i) was sent the image concerned without any prior request having been made by or on behalf of the person, and (ii) did not keep it for an unreasonable time. (3) In this [s] ‘extreme pornographic image’ and ‘image’ have the same meanings as in [s] 63.

S 66. **Defence: participation in Consensual Acts.** [Ss] (A2) applies where in [E&W] (a) a person (“D”) is charged with an offence under [s] 63, and (b) the offence relates to an image that portrays an act or acts within [ss] (7)(a) to (c) or (7A) of that [s] (but does not portray an act within [ss] (7)(d) of that [s]). (A2) It is a defence for D to prove (a) that D directly participated in the act or any of the acts portrayed, and(b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and (c) if the image portrays an act within [s] 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse, and (d) if the image portrays an act within [s] 63(7A), that what is portrayed as non-consensual penetration was in fact consensual.(1) [Ss] (2) applies where in [NI] (a) a person (“D”) is charged with an offence under [s] 63, and (b)the offence relates to an image that portrays an act or acts within [ss] (7)(a) to (c) or (7A) of that [s] (but does not portray an act within [ss] (7)(d) of that [s]). (2) It is a defence for D to prove (a) that D directly participated in the act or any of the acts portrayed, and (b) that the act or acts did not involve the infliction of any non-consensual harm on any person, and(c) if the image portrays an act within [s] 63(7)(c), that what is portrayed as a human corpse was not in fact a corpse; and (d) if the image portrays an act within [s] 63(7A), that what is portrayed as non-consensual penetration was in fact consensual. (3) For the purposes of this [s] harm inflicted on a person is “non-consensual” harm if (a) the harm is of such a nature that the person cannot, in law, consent to it being inflicted on himself or herself; or (b) where the person can, in law, consent to it being so inflicted, the person does not in fact consent to it being so inflicted.

S 67. **Penalties etc. for possession of extreme pornographic images** (1) This [s] has effect where a person is guilty of an offence under [s] 63.(2) If the offence relates to an image that portrays any relevant act (with or without other acts), the offender is liable (a) on [SC], to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both; (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine or both. (3) If the offence relates to an image that does not portray any relevant act, the offender is liable (a) on [SC], to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum or both; (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both. (4) In [ss](2)(a) or (3)(a) “the relevant period” means (a) in relation to [E&W], the general limit in a magistrates’ court; (b) in relation to [NI], 6 months. (5) In this [s] “relevant act” means (a) in relation to [E&W], an act within [s] 63(7)(a) or (b) or (7A)(a) or (b); (b) in relation to [NI], an act within [s] 63(7)(a) or (b) or (7A)(a) or (b).

S 68. **Special rules relating to providers of information society services.** [Sch] 14 makes special provision in connection with the operation of [s] 63 in relation to persons providing information society services within the meaning of that [Sch]. See also s 152 (*Extent*).

Coroners and Justice Act 2009

S 62. **Possession of prohibited images of children.** (1) It is an offence for a person to be in possession of a prohibited image of a child. (2) A prohibited image is an image which (a) is pornographic, (b) falls within [ss] (6), and (c) is grossly offensive, disgusting or otherwise of an obscene character. (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal. (4) Where (as found in the person’s possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in [ss] (3) is to be determined by reference to (a) the image itself, and (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images. (5) So, for example, where (a) an image forms an integral part of a narrative constituted by a series of images, and (b) having regard to those images as a whole, they are not of such a nature that they must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal, the image may, by virtue of being part of that narrative, be found not to be pornographic, even though it might have been found to be pornographic if taken by itself. (6) An image falls within this [ss] if it (a) is an image which focuses solely or principally on a child’s genitals or anal region, or (b) portrays any of the acts mentioned in [ss] (7). (7) Those acts are (a) the performance by a person of an act of intercourse or oral sex with or in the presence of a child; (b) an act of masturbation by, of, involving or in the presence of a child; (c) an act which involves penetration of the vagina or anus of a child with a part of a person’s body or with anything else; (d) an act of penetration, in the presence of a child, of the vagina or anus of a person with a part of a person’s body or with anything else; (e) the performance by a child of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary); (f) the performance by a person of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary) in the presence of a child. (8) For the purposes of [ss] (7), penetration is a continuing act from entry to withdrawal. (9) Proceedings for an offence under [ss] (1) may not be instituted (a) in [E&W], except by or with the consent of the [DPP];(b) in [NI], except by or with the consent of the [DPP] for [NI]. * (*re DPP*)

S 63. **Exclusion of classified film etc** (1) [s] 62(1) does not apply to excluded images. (2) An “*excluded image*” is an image which forms part of a series of images contained in a recording of the whole or part of a classified work. (3) But such an image is not an “*excluded image*” if (a) it is contained in a recording of an extract from a classified work, and (b) it is of such a nature that it must reasonably be assumed to have been extracted (whether with or without other images) solely or principally for the purpose of sexual arousal. (4) Where an extracted image is one of a series of images contained in the recording, the question whether the image is of such a nature as is mentioned in [ss] (3)(b) is to be determined by reference to (a) the image itself, and (b) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images; and [s] 62(5) applies in connection with determining that question as it applies in connection with determining whether an image is pornographic. (5) In determining for the purposes of this [s] whether a recording is a recording of the whole or part of a classified work, any alteration attributable to (a) a defect caused for technical reasons or by inadvertence on the part of any person, or (b) the inclusion in the recording of any extraneous material (such as advertisements), is to be disregarded. (6) Nothing in this [s] is to be taken as affecting any duty of a designated authority to have regard to [s] 62 (*along with other enactments creating criminal offences*) in determining whether a video work is suitable for a classification certificate to be issued in respect of it. (7) In this [s] “*classified work*” means (subject to [ss] (8)) a video work in respect of which a classification certificate has been issued by a designated authority (whether before or after the commencement of this [s]); “*classification certificate*” and “*video work*” have the same meaning as in the Video Recordings Act 1984 (c. 39); “*designated authority*” means an authority which has been designated by the [SS] under [s] 4 of that Act; “*extract*” includes an extract consisting of a single image; “*pornographic*” has the same meaning as in [s] 62; “*recording*” means any disc, tape or other device capable of storing data electronically and from which images may be produced (by any means). (8) [s] 22(3) of the Video Recordings Act 1984 (effect of alterations) applies for the purposes of this [s] as it applies for the purposes of that Act.

S 64. **Defences.** (1) Where a person is charged with an offence under [s] 62(1), it is a defence for the person to prove any of the following matters (a) that the person had a legitimate reason for being in possession of the image concerned; (b) that the person had not seen the image concerned and did not know, nor had any cause to suspect, it to be a prohibited image of a child; (c) that the person (i) was sent the image concerned without any prior request having been made by or on behalf of the person, and (ii) did not keep it for an unreasonable time. (2) In this [s] “*prohibited image*” has the same meaning as in [s] 62.

S 65. **Meaning of “image” and “child”** (1) The following apply for the purposes of sections 62 to 64. (2) “*Image*” includes (a) a moving or still image (produced by any means), or (b) data (stored by any means) which is capable of conversion into an image within [para] (a). (3) “*Image*” does not include an indecent photo[,], or indecent pseudo-[,], of a child. (4) In [ss] (3) “*indecent photo [.]*” and “*indecent pseudo-photo [.]*” are to be construed (a) in relation to [E&W], in accordance with the Protection of Children Act 1978 (c. 37), and (b) in relation to [NI], in accordance with the Protection of Children ([NI]) Order 1978 (S.I. 1978/1047 (N.I. 17)). (5) “*Child*”, subject to [ss] (6), means a person under the age of 18. (6) Where an image shows a person the image is to be treated as an image of a child if (a) the impression conveyed by the image is that the person shown is a child, or (b) the predominant impression conveyed is that the person shown is a child despite the fact that some of the physical characteristics shown are not those of a child. (7) References to an image of a person include references to an image of an imaginary person. (8) References to an image of a child include references to an image of an imaginary child.

S 66. **Penalties.** (1) This [s] has effect where a person is guilty of an offence under [s] 62(1). (2) The offender is liable (a) on [SC], to imprisonment for a term not exceeding the relevant period or a fine not exceeding the statutory maximum, or both; (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years or a fine, or both. (3) “*The relevant period*” means (a) in relation to [E&W], the general limit in a magistrates’ court; (b) in relation to [NI], 6 months.

S 67. **Entry, search, seizure and forfeiture** (1) *The following provisions of the Protection of Children Act 1978 (c. 37) apply in relation to prohibited images of children as they apply in relation to indecent photo[s] of children (within the meaning of that Act) (a) [s] 4 (entry, search and seizure); (b) the [Sch] (forfeiture of photos[.]).* (2) *The following provisions of the Protection of Children ([NI]) Order 1978 (S.I. 1978/1047 (N.I. 17)) apply in relation to prohibited images of children as they apply in relation to indecent photo[.] of children (within the meaning of that Order) (a) Art[.] 4 (entry, search and seizure); (b) the Sch[.] (forfeiture of photos[.]).* (3) *In this [s] “prohibited image of a child” means a prohibited image of a child to which [s] 62(1) applies.* **459

S 68. **Special rules relating to providers of information society services** [Sch]13 makes special provision in connection with the operation of [s] 62(1) in relation to persons providing information society services within the meaning of that [sch].

Serious Crime Act 2015

S 69. **Possession of paedophile manual.** (1) It is an offence to be in possession of any item that contains advice or guidance about abusing children sexually. (2) It is a defence for a person (D) charged with an offence under this [s] (a) to prove that D had a legitimate reason for being in possession of the item; (b) to prove that (i) D had not read, viewed or (as appropriate) listened to the item, and (ii) D did not know, and had no reason to suspect, that it contained advice or guidance about abusing children sexually; or (c) to prove that (i) the item was sent to D without any request made by D or on D's behalf, and (ii) D did not keep it for an unreasonable time. (3) A person guilty of an offence under this [s] is liable (a) on [SC] in [E&W], to imprisonment for a term not exceeding the general limit in a magistrates’ court or to a fine, or to both; (b) on [SC] in [NI], to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; (c) on conviction on indictment, to imprisonment for a term not exceeding 3 years or to a fine, or to both. (4) *Proceedings for an offence under this [s] may be brought (a) in [E&W], only by or with the consent of the [DPP]; (b) in [NI], only by or with the consent of the [DPP] for [NI].* (5) In [E&W], the following provisions of the Protection

⁴⁵⁹ The PACE 1984 should now apply.

of Children Act 1978 apply in relation to prohibited items as they apply in relation to indecent photos[] of children (within the meaning of that Act) (a) [s] 4 (*entry, search and seizure*); (b) the [sch] (*forfeiture of photo[s]*). (6) In [NI], the following provisions of the Protection of Children ([NI]) Order 1978 (S.I. 1978/1047 (N.I. 17)) apply in relation to prohibited items as they apply in relation to indecent photos [] of children (within the meaning of that Order) (a) [art] 4 (*entry, search and seizure*); (b) the [sch] (*forfeiture of photo[s]*). (7) [sch] 3 makes special provision in connection with the operation of [ss] (1) in relation to persons providing information society services within the meaning of that [sch]. (8) In this [s] “*abusing children sexually*” means doing anything that constitutes (a) an offence under Part 1 of the Sexual Offences Act 2003, or under Part 2, 3 or 4 of the Sexual Offences ([NI]) Order 2008 (S.I. 2008/1769 (N.I. 2)), against a person under 16, or (b) an offence under [s] 1 of the Protection of Children Act 1978, or under [art] 3 of the Protection of Children ([NI]) Order 1978, involving indecent photo[s] (but not pseudo-photo[s]), or (d) an offence under [s] 2 of the Modern Slavery Act 2015 (*human trafficking*) committed with a view to exploitation that consists of or includes behaviour within [s] 3(3) of that Act (*sexual exploitation*), or doing anything outside [E&W] or [NI] that would constitute such an offence if done in [E&W] or [NI]; “*item*” includes anything in which information of any description is recorded; “*prohibited item*” means an item within [ss] (1). * (*re DPP*)

Appendix 7 - Texts on Criminal Law

Many lawyers think there are a huge number of texts on English criminal law. This is untrue (although there are, often, many editions of a text). The first text on criminal law was in 1557, being Staunford’s *Pleas of the Crown*. This list seeks to list all English texts on criminal law - as well as reports and journals. However, it excludes texts relating to the following:

- Treason and witchcraft;⁴⁶⁰
- Courts;
- Criminal procedure (inc. punishment and sentencing, except Archbold);⁴⁶¹
- Juries and evidence;⁴⁶²
- Abridgments of criminal legislation;
- Readings, essays, thoughts, observations, inquiries and considerations dealing with individual aspects of criminal law;⁴⁶³
- Criminal justice in general;
- Minor student texts.

1. Texts prior to 1557

The first text on criminal law was in 1557. Before that, English criminal law was mentioned in the following:

- **Glanvill** (ed GDG Hall), *The Treatise on the Laws and Customs of the Realm of England* (Nelson, 1965)(c.1189)(first legal text);⁴⁶⁴
- **H Bracton** (trans Thorne), *On the Law and Customs of England* c.1240 (Cambridge UP, 1968-76, 4 vols)(also online);⁴⁶⁵
- **Britton** (c. 1290). Translation with notes by FM Nichols (John Byrne, 1901) (also online);⁴⁶⁶
- **Fleta** (c. 1290). Selden Society reports (‘SS’) (also online);⁴⁶⁷
- Texts on Justices of the Peace.⁴⁶⁸

As for cases, these tend to be found in the following:

- **Selden Society Reports** (vols 1-133)(see SS website);⁴⁶⁹
- **Yearbooks** (1268-1535)(see website of David Seipp);⁴⁷⁰

⁴⁶⁰ A detailed list of texts and treatises on criminal law may be found in Sweet & Maxwell, *A Legal Bibliography of the British Commonwealth of Nations* (2nded, 1955), 2 Vols. This covers English law from 1189-1955. For texts on treason and on witchcraft, *Ibid*, vol 1, pp 366-8 and 372-4 (up to 1800) and vol 2 (up to 1955).

⁴⁶¹ *Ibid*, vol 1 pp 258-357 (up to 1800) and vol 2 (up to 1955). An exception is made in the case of Archbold (first published in 1822) since it is so longstanding.

⁴⁶² *Ibid*, pp 375-9 (up to 1800) and vol 2 (up to 1955).

⁴⁶³ *Ibid*, pp 358-66 (up to 1800) and vol 2 (up to 1955).

⁴⁶⁴ Hall’s translation is generally accepted as the best. Published by Nelson in association with the Selden Society.

⁴⁶⁵ See bracton.law.harvard.edu/

⁴⁶⁶ See www.anglo-norman.net/

⁴⁶⁷ See SS, vols 72, 89 & 99. See also www.wshein.com/. See also the *Mirror of Justices* (c. 1290), SS, vol 7.

⁴⁶⁸ See **13(e) herein**.

⁴⁶⁹ See selden.society.com. Also www.wshein.com/ which has put SS vols 1-124 online.

⁴⁷⁰ The best hardcopy edition is that of Maynard (Vulgate, 1678), reprinted by LBE (it has also been put online by Hein). David Seipp (a professor at Boston university) has put translations of most of the 22,000 Yearbook cases online in the form of an Index. See www.bu.edu/law/faculty/scholarship/yearbooks.

- **Book of Assizes** (*Liber Assisarum*)(Criminal cases in time of Edward III, 1327-77, rep Law Book Exchange ('LBE'),⁴⁷¹
- **Rolls of Parliament** (1275-1504)(*Rotuli Parliamentorum*, also on CD and online);⁴⁷²
- **English Reports** (online, Hein, Sweet & Maxwell, Justis, Butterworths);
- **Abridgments**. Those of Statham (c.1490)⁴⁷³ and Fitzherbert (c. 1516);⁴⁷⁴
- For London, some cases are mentioned in the Calendars of **Letterbooks** (online).⁴⁷⁵
- JM Kaye (ed), **Placita Corone** (1966, trans of 13th c text, anon).⁴⁷⁶
- TFT Plucknett, **Edward I and Criminal Law** (1960).

The volume of texts (and reported cases) on early criminal law is not large.

2. Legal Texts 1557-1700⁴⁷⁷

References to cases may be found in the abridgments of:

- | | |
|---|-----------------------|
| • A Fitzherbert, <i>La Graunde Abridgment</i> (Tottell, 3 rd ed 1577); ⁴⁷⁸ | Reprinted |
| • R Brooke, <i>La Graunde Abridgment</i> (Tottell, 3 rd ed, 1586); ⁴⁷⁹ | Reprinted |
| • H Rolle, <i>Abridgment des plusieurs Cases et Resolutions del Common Ley</i> (A Crooke <i>et al</i> , 1668); | Reprinted |
| • W Hughes, <i>Grand Abridgment of the Law</i> (Henry Twyford <i>et al</i> , 1660-3, 3 vols); ⁴⁸⁰ | Reprinted |
| • W Sheppard, <i>Grand Abridgment of the Common and Statute Law of England</i> (1 st ed 1675, 3 vols). | Online ⁴⁸¹ |

For texts, see:

J Brydall	<i>Jus Criminis</i> (1 st ed 1675, 3 rd ed, 1679). ⁴⁸²
W Cecil, Lord Burleigh	The Execution of Justice in England (1583).
E Coke (Sir)	Institutes of the Laws of England, Third Part (1 st ed 1644, last ed 1817). ⁴⁸³
R Crompton	A Short Declaration of the Ende of Traytors <i>etc</i> (1587).
M Dalton	The Countrey Justice (1 st ed, 1618, 2 nd ed, 1619 (corrected ed), last ed 1746). ⁴⁸⁴
M Hale (Sir)	Summary of Pleas of the Crown (1 st ed 1678, last ed 1773). ⁴⁸⁵
M Hale (Sir)	<i>Historia Placitorum Coronae</i> (History of the Pleas of the Crown) (1 st ed 1736, last ed, 1800). ⁴⁸⁶
W Lambard(e)	<i>Eirenarcha</i> or of the Office of the Justices of Peace (1 st ed, 1581, last ed 1619). ⁴⁸⁷
J Mallet	Concerning Penal Laws (1680). ⁴⁸⁸
F Pulton	<i>De Pace Regis et Regni</i> (Peace of the King and the Kingdome) (1 st ed 1609, last ed 1623). ⁴⁸⁹

⁴⁷¹ See www.lawbookexchange.com/. The *Liber* was first published in 1516 (J Rastell).

⁴⁷² See www.sd-editions.com

⁴⁷³ N Statham, *Abridgment of the Law* (Pynson, c 1490). See, also, a translation of MC Klingelsmith, Boston Book Co. 1915. Both have been reprinted by Law Book Exchange.

⁴⁷⁴ A Fitzherbert, *La Graunde Abridgment*. The 3rd ed (1577) is generally preferred. The 1st ed was in 1516, the 2nd ed in 1565.

⁴⁷⁵ *Calendar of Letterbooks* (Books A-L)(ed RR Sharpe, 1275-1496), see British History online, www.british-history.ac.uk.

⁴⁷⁶ Published by the Selden Society.

⁴⁷⁷ For Crown pleas between 12th-14th centuries, see Sweet & Maxwell, n 460, vol 1, pp 70-4.

⁴⁷⁸ Reprinted LBE.

⁴⁷⁹ Ibid. The 1st ed was 1573, the 2nd ed in 1576.

⁴⁸⁰ Ibid.

⁴⁸¹ Online by Hein.

⁴⁸² See also 'A Compendious Collection of the Laws of England touching matters Criminal.'

⁴⁸³ The full title is 'Third Part of the Institutes of the Laws of England; concerning High Treason and other Pleas of the Crown, and Criminal Causes.' The 1817 ed has been reprinted by LBE.

⁴⁸⁴ 'The Practice of the Justices of the Peace out of their Sessions.' Reprinted by Professional Books Ltd. 2nd ed (1619) reprinted by LBE

⁴⁸⁵ Also 'or a Methodical Summary of the Principal Matters relating to the Subject'. The 1685 ed has been reprinted by EEBO.

⁴⁸⁶ See also A Amos, *Ruins of Time exemplified in Sir Matthew Hale's History of the Pleas of the Crown* (1856).

⁴⁸⁷ 1st ed reprinted by LBE.

⁴⁸⁸ Comprises 'A Discourse or Charge at Sessions in the Burrough of Bridgewater, 12 July 1680.' Reprinted by EEBO.

⁴⁸⁹ 1sted reprinted by LBE.

W Staunford (Sir) *Les Plees del Coron* (Pleas of the Crown)(1sted 1557, last ed 1607).⁴⁹⁰

3. Legal Texts: 1700 - 1800

References to cases may be found in the abridgments of:

- W Nelson, *Abridgment of the Common Law* (E & R Gosling, 1725-6, 3 vols); Reprinted
- M Bacon, *New Abridgment of the Law* (best ed is that of H Gwillim (ed), 5thed, 7 vols, 1798); Reprinted
- E Viner, *A General Abridgment of the Law and Equity* (GCJ & J Robinson, 1sted, 1742-53, 2nded 1791),⁴⁹¹ Reprinted
- J Comyns, *Digest of the Laws of England* (1st ed, 1762. 5 vols plus supplement. Last ed, 1822); Reprinted
- J Lilley, *Practical Register* (2nded, 1765, 2 vols). Reprinted

For texts, see:

WJ, a Barrister	Common Law and Statute Law of England concerning Trials in High Treason, Misprision of Treason <i>etc</i> (1710).
R Beville	Treatise on the law of Homicide and of Larceny at Common Law (1799). ⁴⁹²
W Blackstone	Commentaries on the Laws of England (1 st ed, 1765-9, rep Uni.of Chicago Press, 1979). ⁴⁹³
W Boscawen	A Treatise on Convictions on Penal Statutes (1792). ⁴⁹⁴
R Burn	The Justice of the Peace and Parish Officer (1 st ed, 1755; 23 rd ed 1820, last (30th), 1869).
H Dagge	Considerations on Criminal Law (1 st ed, 1772, last ed, 1774). ⁴⁹⁵
T Doherty	Crown Circuit Assistant (1787).
W Eden	Principles of Penal Law (1 st ed 1771, 3 rd 1775). ⁴⁹⁶
W Hawkins	A Treatise of the Pleas of the Crown (1 st ed, 1716-21, last ed (8 th), 1824). ⁴⁹⁷
W Hawkins	Summary of the Crown Law (1728). ⁴⁹⁸
G Jacob	Laws of Appeals and Murder (1719). ⁴⁹⁹
W Stubbs & G Talmash	Crown Circuit Companion (1 st ed, 1738, last (10 th ed), 1836). ⁵⁰⁰
J Tremaine (Sir)	<i>Placita Coronae</i> (Pleas of the Crown in matters Criminal and Civil)(1 st ed, 1723, last ed, 1793). ⁵⁰¹
T Wood	An Institute of the Laws of England (1 st ed 1720, last ed 1772).

4. Legal Texts: 1800- 50

J Adolphus	Observations on the Vagrant <i>etc</i> Act (1824).
JF Archbold	A Digest of Pleas of the Crown (1813).
JF Archbold	The Justice of the Peace and Parish Officer (1 st ed, 1840, last (7 th ed) 1855).
JF Archbold	Digest of the Penal Laws relative to Offences against God and Religion (1813).
JF Archbold	A Summary of the Law relative to Pleading and Evidence in Criminal Cases (1 st ed 1822-2023) ⁵⁰²
P Burke	The Criminal Law and its Sentences in Treasons, Felonies & Misdemeanours (1 st ed, 1842, 2 nd ed 1844). ⁵⁰³
FA Carrington	A Supplement to all the Modern Treatises on the Criminal Law (2 nd ed, 1827). ⁵⁰⁴

⁴⁹⁰ The earliest professed treatise on the criminal law. See Sweet & Maxwell, n 460, vol 1, p 365. 1st ed reprinted by LBE.

⁴⁹¹ 1sted reprinted by LBE (23 vols) with CD (with wordsearch).

⁴⁹² Reprinted by Gale Ecco.

⁴⁹³ The last edited version of Blackstone is that of HJ Stephen, *New Commentaries on the Laws of England* (4 vols, 1841-5).

⁴⁹⁴ Ibid.

⁴⁹⁵ Reprinted by Gale Ecco.

⁴⁹⁶ 2nd ed reprinted by LBE.

⁴⁹⁷ 3rd ed (1739) has been reprinted by LBE.

⁴⁹⁸ This is an abridgment of his Pleas of the Crown. Reprinted by Gale Ecco.

⁴⁹⁹ Said to have been compiled from the MS of an eminent practitioner (Mr Gale). Reprinted by Gale Ecco.

⁵⁰⁰ 2nd ed (1749) reprinted by EEBO. In 1787, Thomas Doherty produced a Crown Circuit Assistant (it was later incorporated into the Crown Circuit Companion).

⁵⁰¹ Last ed reprinted by LBE. The work is, principally, a collection of indictments.

⁵⁰² 1st ed reprinted by Sweet & Maxwell. For an abridgment of Archbold see A Denman, *Digest of the Law and Practice relating to Indictable Offences* (1sted, 1912, 2nded 1918).

⁵⁰³ Reprinted by Gale Ecco.

⁵⁰⁴ Ibid.

J Chitty	A Practical Treatise on the Criminal Law (1 st ed, 1816, 2 nd ed, 1826, 4 vols). ⁵⁰⁵
EH East (Sir)	A Treatise of the Pleas of the Crown (1803). ⁵⁰⁶
J Gabbett	A Treatise on the Criminal Law (1843). ⁵⁰⁷
A Hammond	The Criminal Code (7 vols, 1825-9). ⁵⁰⁸
T Jevons	Remarks on Criminal Law (1834).
R Matthews	Law relating to Offences punishable by Indictment and by Information in the Crown Office (1833, supp 1836).
R Maugham	Outlines of Criminal Law. Comprising Criminal Wrongs (1 st ed, 1837, 2 nd ed, 1842).
J Miller	An Inquiry on the Present State of the Statute and Criminal Law of England (1822). ⁵⁰⁹
TH Nuttall	A Digested Index to the Crown Law (1816).
C Penruddocke	A Short Analysis of the Criminal Law of England (1 st ed, 1830, 2 nd ed, 1842). ⁵¹⁰
H Roscoe	Digest of the Law relating to Offences against the Coin (1832).
WO Russell	A Treatise on Crimes and Misdemeanors (1 st ed 1819, last ed, 12 th ed, 1964). ⁵¹¹
TW Saunders	Law of Assault and Battery (1842).
T Starkie	Law of Slander and Libel (1 st ed 1813, 7 th ed, 1908). ⁵¹²
HJ Stephen	Summary of the Criminal Law (1834). ⁵¹³
5. Legal Texts: 1850-1900	
B Boothby	Synopsis of the Law relating to Indictable Offences (1 st ed 1842, 2 nd ed 1854).
RR Cherry	An Outline of Criminal Law (1892). ⁵¹⁴
EW Cox	Principles of Punishment as applied in the Administration of the Criminal Law (1877). ⁵¹⁵
EW Cox	Practice of Summary Convictions in Larceny (1856).
EW Cox & TW Saunders	The Criminal Law Consolidation Acts (3 rd ed, 1870).
D Dewar	Penal Servitude and the Prevention of Crimes 1853-91 (1895).
HW Disney	The Criminal Law (1 st ed, 1895; 2 nd ed, 1926).
EF Du Cane	The Punishment and Prevention of Crime (1885). ⁵¹⁶
EF Du Cane	An Account of the Manner in which Sentences of Penal Servitude are Carried out in England (1882)
LF Everest	The Defence of Insanity in Criminal Cases (1887). ⁵¹⁷
CS Greaves	The Criminal Law Consolidation and Amendment Acts (1862).
SF Harris	Principles of the Criminal Law (1 st ed, 1877, last ed (22nd ed) 1973).
ED Lewis	A Draft Code of Criminal Law and Procedure (1879).
J Paterson	Commentaries on the Liberty of the Subject (1877). ⁵¹⁸
LO Pike	History of Crime in England (1873-6). ⁵¹⁹

⁵⁰⁵ Contains precedents of indictments, but also some useful observations.

⁵⁰⁶ Reprinted by LBE.

⁵⁰⁷ Reprinted Gale Ecco.

⁵⁰⁸ The Criminal Code prepared as the basis of the consolidation of the Criminal Laws (arising out of a Select C-ee Report (Cmnd paper 205, 1824). See also A Hammond, *The Consolidation of the Criminal Law* (1826).

⁵⁰⁹ This has been reprinted.

⁵¹⁰ Reprinted by Gale ECCO.

⁵¹¹ The first edition has been reprinted.

⁵¹² 2nd ed reprinted by Gale Ecco. Other texts on criminal libel are not stated since the crime has now been abolished.

⁵¹³ 1840 ed (US) reprinted by Gale Ecco.

⁵¹⁴ Reprinted by Gale Ecco.

⁵¹⁵ Ibid.

⁵¹⁶ Reprinted by Gale Ecco.

⁵¹⁷ Ibid.

⁵¹⁸ The full title is '*Commentaries on the Liberty of the Subject and the Laws of England relating to the Liberty of the Person.*'

⁵¹⁹ Ibid.

- WS Shirley Sketch of the Criminal Law (1sted, 1880, 2nded 1889).⁵²⁰
- JF Stephen (Sir) A General View of the Criminal Law (1sted 1863, 2nded, 1890).
A History of the Criminal Law of England (3 vols, 1883).⁵²¹
A Digest of the Criminal Law: Crimes and Punishments (1sted 1883, 9thed 1950).⁵²²
- CEH Vincent A Police Code and Manual of the Criminal Law (1sted 1881, last ed (17thed), 1931).
- RS Wright The Law of Criminal Conspiracies and Agreements (1873).⁵²³
- 6. Legal Texts: 1900- 30**
- GG Alexander The Administration of Justice in Criminal Matters in England & Wales (1sted 1911, 2nded 1915, supp, 1920).⁵²⁴
- JC Fox (Sir) The History of Contempt of Court (1927).⁵²⁵
- G Ives A History of Penal Methods (1914).⁵²⁶
- JW Jeurwine Tort, Crime and Police in Medieval Britain (1917).⁵²⁷
- JW Jeurwine Observations in English Criminal Law and Procedure (1920).
- CS Kenny Outlines of Criminal Law (1sted, 1902, last ed (19thed) 1966, ed JWC Turner).
- GD Nokes History of the Crime of Blasphemy (1928).
- DA Stroud *Mens Rea*, or Impossibility under the Law of England (1914).
- AM Wilshere Elements of Criminal Law and Procedure (1sted 1906, 4thed, 1935, a text for students).
- 7. Legal Texts: 1930- 50**
- J Baker The Law of Political Uniforms, Public Meetings and Private Armies (1937).
- R Cross ⁵²⁸ & PA Jones *Introduction to Criminal Law (1sted 1948, 22thed, 2016 see Card).*
- JG Cumming Bibliography dealing with Crime and Cognate Subjects (1sted, 1914, 3rded, 1935).
- DS Davies *et al* The Modern Approach to Criminal Law. Collected Essays (1945).⁵²⁹
- MA Elliott Conflicting Penal Theories in Statutory Law (1931).
- J Goebel Felony and Misdemeanor. A Study in the History of Criminal Law (1937).
- M Grunhut Penal Reform (1948).
- P Howard Criminal Justice in England. A Study in Law Administration (1931).
- L Radzinowicz Penal Reform in England (1sted 1940, last ed, 1946).⁵³⁰
- L Radzinowicz A History of English Criminal Law and its Administration from 1750 (1948-84).⁵³¹
- JC Smith & B Hogan *Criminal Law (1sted, 1965, 15thed, Ormerod, 2015).*⁵³²
- 8. Legal Texts 1950- 70**
- CK Allen The Queen's Peace. Hamlyn Lectures (1953).
- S Amos (Sir) British Criminal Justice (1957).
- I Brownlie Law of Public Order (1sted, 1968, 3rded 2012)
- JS Cockburn Crime in England 1550-1800 (1977).

⁵²⁰ Ibid.

⁵²¹ Reprinted by WS Hein. See also L Radzinowicz (Sir), *Sir James Fitzjames Stephen 1929-1894 and his Contribution to the Development of the Criminal Law* (1957).

⁵²² Reprinted by Kessinger Publishing.

⁵²³ Reprinted by Gale Ecco.

⁵²⁴ Reprinted Gale Ecco.

⁵²⁵ Reprinted Professional Books Ltd.

⁵²⁶ Reprinted Gale Ecco.

⁵²⁷ Ibid.

⁵²⁸ See also C Tapper, *Crime, Proof and Punishment. Essays in memory of Sir Rupert Cross* (1981).

⁵²⁹ Collected Essays. English Studies in Criminal Science, vol 4.

⁵³⁰ English Studies in Criminal Science, vol 1.

⁵³¹ 5 Vols. Volume 5 by L Radzinowicz & R Hood.

⁵³² See also P Smith, *Criminal Law. Essays in Honour of JC Smith* (1987).

JJ Edwards	Mens Rea and Statutory Offences (1955).
E Griew	The Theft Acts (1 st ed, 1968, 7 th ed, 1995).
J Hall	General Principles of Criminal Law (1960).
HLA Hart	The Morality of the Criminal Law: Two Lectures (1965).
LH Leigh	The Criminal Liability of Corporations in English Law (1969).
ACL Morrison	The Criminal Justice Act 1948 (1 st ed 1949, 2 nd ed, 1952).
G Robertson	Obscenity (1979).
JC Smith	Law of Theft (1 st ed, 1968, 9 th ed 2007).
D Williams	Keeping the Peace (1967).
GL Williams	Criminal Law - The General Part (1 st ed 1953, 2 nd ed 1961). ⁵³³
GL Williams	The Sanctity of Life and the Criminal Law (1957).
GL Williams	The Mental Element in Crime (1965).
GL Williams	The Proof of Guilt (1 st ed 1955, 3 rd ed 1963).
BL Wootton	Crime and the Criminal Law: Reflections of a Magistrate and Social Scientist (1 st ed 1963, 2 nd ed, 1981).

9. Legal Texts: 1970- 90

A Arlidge <i>et al</i>	On Contempt (1 st ed 1982, 4 th ed, 2011).
JM Beattie	Crime and the Courts in England 1660-1800 (1986).
JG Bellamy	Crime and Public Order in the Later Middle Ages (1973).
R Bingham	Crown Court Law and Practice (2 nd ed, 1987).
R Card & J English	Police Law (1 st ed, 1985, 13 th ed 2013).
CMV Clarkson	Understanding Criminal Law (1 st ed 1987, 4 th ed 2005).
CMV Clarkson & HM Keating	Criminal Law, Text and Materials (1st ed, 1984, 7 th ed, 2010).
WR Cornish <i>et al</i>	Crime and Law in 19 th century Britain (1977).
R Cross	Punishment, Prison and the Public (1971).
IH Dennis (ed)	Criminal Law and Justice (1987).
J Dressler	Understanding Criminal Law (1987).
G Fletcher	Rethinking Criminal Law (1978).
PR Glazebrook	Reshaping the Criminal Law (1978). ⁵³⁴
J Herring	Criminal Law (1 st ed 1989, 8 th ed, 2013).
RM Jackson	Enforcing the Law (1972).
N Lacey	State Punishment (1988).
N Lacey, Wells & Quick	Reconstructing Criminal Law. Text and Materials. (1 st ed, 1990, 4 th ed, 2010).
A Norrie	Crime, Reason and History (1993).
R Perkins & R Boyce	Criminal Law (1982).
G Robertson	An Account of Censorship Laws and their Enforcement in England and Wales 1978).
P Seago	Criminal Law (1 st ed, 1981, 5 th ed 2015 with A Reed & B Fitzpatrick).
JA Sharpe	Crime in Seventeenth Century England: A County Study (1983).
S Shute <i>et al</i>	Action and Value in Criminal Law (1993)
ATH Smith	The Offences against Public Order including the Public Order Act 1986 (1987).
JC Smith (Sir)	Towards a Rational Criminal Law (1983).
JC Smith (Sir)	Justification and Excuse in the Criminal Law (1989).
P Smith	Criminal Law. Essays in Honour of JC Smith (1987).

⁵³³ See also PR Glazebrook (ed), *Reshaping the Criminal Law, Essays in Honour of Glanville Williams* (1978).

⁵³⁴ Essays in honour of Glanville Williams.

10. Legal Texts: 1990-2000⁵³⁵

JM Beattie	Policing and Punishment in London 1660-1750 (2001).
JG Bellamy	The Criminal Trial in Later Medieval England: Felony before the courts from Edward I to the Sixteenth Century (1998).
Bentley	Select Cases from the Twelve Judges' Notebooks (1997).
W Blackstone	Criminal Practice (1 st ed 1991, 31 st ed 2021)(ed D Omerod).
J Briggs <i>et al</i>	Crime and Punishment in England. An Introductory History (1996).
TD Campbell	Criminal Law (1991).
P Carter & R Harrison	Offences of Violence (1991, supp. 1994).
C Elliott & F Quinn	Criminal Law (1 st ed, 1996, 9 th ed, 2016).
C Emsley	Crime and Society in England 1750-1900 (1996).
C Emsley	Crime History and Histories of Crime (1996).
J Horder	Provocation and Responsibility (1992).
P Hungerford Welch & A Taylor	Sourcebook on Criminal Law (1997).
M Jefferson	Criminal Law (1 st ed, 1992, 9 th ed. 2009).
RD MacKay	Mental Condition Defences in the Criminal Law (1995).
N Padfield	Criminal Law (1 st ed, 1998, 7 th ed, 2010).
N Padfield	A Guide to the Crime Disorder Act 1998.
A Reed & B Fitzpatrick	Criminal Law (1 st ed 1999, 4 th ed, 2009).
JA Sharpe	Crime in Early Modern England 1550-1750 (1998).
ATH Smith	Property Offences: The Protection of Property through the Criminal Law (1994).
KJM Smith	A Modern Treatise on the Law of Criminal Complicity (1991).
R Stone	Offences against the Person (1999).
S Uglow	Criminal Justice (1 st ed 1995, 2 nd ed, 2002).
M Wasik	Blackstone's Guide to the Criminal Justice and Public Order Act 1994 (1994).
W Wilson	Criminal Law. Doctrine and Theory (1 st ed 1998, 4 th ed, 2011).
W Wilson	Relocating Criminal Law (2000).

11. Legal Texts: 2000- 5

P Aldridge	Money Laundering Law (1 st ed 2003, 11 th ed, 2011).
R Heaton & C Than	Criminal Law (1 st ed 2004, 3 rd ed, 2011).
J Herring	Criminal Law: Text, Cases and Materials. (1 st ed 2004, 5 th ed, 2012).
P King	Crime, Justice and Discretion in England 1740-1820 (2001).
J Martin & T Storey	Unlocking Criminal Law (1 st ed 2004, 3 rd ed, 2010).
C Nicholls <i>et al</i>	Corruption and Misuse of Public Office (1 st ed 2006, 2 nd ed, 2011).
A Norrie	Crime, Reason and History (1 st ed, 2001, 2 nd ed, 2006).
AP Simester	Simester and Sullivan's Criminal Law: Theory and Doctrine (1 st ed, 2000, 8 th ed, 2022).
D Wolchover	Silence and Guilt: An Assessment of Case Law on the Criminal Justice & Public Order Act 1994 (2001& supp).

12. Legal Texts: 2005-10

C McAlhone/R Huxley-Binns	Criminal Law. The Fundamentals (1 st ed, 2007, 2 nd ed, 2010).
CMV Clarkson	Criminal Liability for Non-Aggressive Death (2008).
NG Fielding	Counting Offences against the Person. Cases in Court (2006).
J Horder	Excusing Crime (2007).
J Loveless	Complete Criminal Law. Text.Cases and Materials (1 st ed, 2008, 2 nd ed, 2010).
Montgomery & D Ormerod	On Fraud: Criminal Law and Procedure (2008, with updates).

⁵³⁵ After 1990, in particular, there was a plethora of students and specialist texts. Thus, the more minor of the same are not cited.

J Ulph	Commercial Fraud (2006).
I Walden	Computer Crimes and Digital Investigations (2007).
13. Legal Texts: 2010-20	
RJ Allan	Handbook for Magistrates (3 rd ed, 2012)
A Arlidge	Arlidge and Parry on Fraud (1 st ed, 1985, <i>et al</i> , 6 th ed, 2020).
K Betz	Proving Bribery, Fraud and Money Laundering (2017)
Blackstone	Magistrates' Court Handbook 2012 (ed. Andrew Keogh).
A Bogg	Criminality at Work (2020).
R Card	Criminal Law (Card, Cross & Jones, 22 nd ed, 2016).
De Azevedo	Cyber Risks (2022).
DW Elliott	Elliott & Wood's Cases and Materials on Criminal Law (12 th ed, 2016).
B Emmerson	Human Rights and Criminal Justice (3 rd ed, 2012).
I Freckelson	Scholarly Misconduct (2016).
F Gerry & C Sjolin	Sexual Offences Handbook. Law Practice and Procedure (2011, 2 nd ed 2014).
P Thornton <i>et al</i>	The Law of Public Order and Protest (1 st ed, 2010).
J Horder	Criminal Misconduct in Office (2018).
R Lissack	Lissack and Horlick on Bribery and Corruption (3 rd ed, 2020).
M Raphael	Bribery: Law and Practice (2016).
M Richardson	Cyber Crime: Law and Practice (2014).
I Walden	Computer Crimes and Digital Investigations (2 nd ed, 2016).
H Wong	Cyber Security (2018).

14. Current Legal Texts -

MJ Allen	Textbook on Criminal Law (1 st ed 1991, 17 th ed, 2024).
E Anthony	Anthony & Berryman's Magistrates' Court Guide 2023 (2022).
Archbold	Magistrates' Courts Criminal Practice (19 th ed 2023).
JF Archbold	Archbold Criminal Pleading Evidence and Practice (2024).
D Armstrong	Cyber Security: Law and Practice (2019).
A Ashworth	Sentencing and Criminal Justice (7 th ed, 2021).
A Ashworth	Principles of Criminal Law (1 st ed, 1991, 10 th ed, 2024).
B Douglas Jones	Human Rights in Criminal Law (2023).
D Ormerod	Blackstone's Criminal Practice (32 nd ed, 2022).
PFG Rook	Rook and Ward on Sexual Offences Law and Practice (6 th ed, 2021).
JC Smith	Smith, Hogan and Ormerod's Criminal Law (17th ed, 2024).
GL Williams	Textbook of Criminal Law (1 st ed, 1978; 5 th ed, 2021).

English Criminal Law Reports

(a) Collections - State & Criminal Trials⁵³⁶

WP Baildon	<i>Les Reportes del Cases in Camera Stellata</i> 1593-1609. ⁵³⁷ (Star Chamber).
G Borrow	<i>Celebrated Trials and Remarkable Cases</i> (6 vols, 1825). ⁵³⁸
GL Browne	<i>Narratives of the State Trials in the Nineteenth Century</i> (2 vols, 1882).
G Browne & CG Stewart	<i>Trials for Murder by Poisoning</i> (1883).
P Burke	<i>Celebrated Naval and Military Trials</i> (1865).

⁵³⁶ This lists only more major texts. Lincoln's Inn contains a large selection. However, apart from those cited many are of inferior (and sensational) quality, often being abridged. By far the best collections in respect of all State trials are Howell & Howell (1828). Also, MacDonnell & Wallis (1820-58). Many of the State and criminal trials have been reprinted.

⁵³⁷ Star Chamber Cases. From MS of J Hawarde. Reprinted by LBE.

⁵³⁸ The full title is '*Celebrated Trials and Remarkable Cases of Criminal Jurisprudence from the Earliest Records to the Year 1825.*'

GL Craik	English Cause Celebres (1840).
R Crompton	Star Chamber Cases (ed FF Heard, rep from ed of 1630 or 1641). ⁵³⁹
JH Hodge	Notable British Trials (1586-1959) (vols 1-83, 1 st ed 1905, 2 nd ed 1952).
TB Howell & TJ Howell	Complete Collection of State Trials from 1163 (33 vols, 1828). ⁵⁴⁰ (<i>online</i>)
J Macdonell	Historical Trials (ed RW Lee)(1927).
J Macdonell & JEP Wallis	State Trials. New Series 1820-1858 (8 vols). (<i>online</i>)
WM Medland & C Webly	Collection of remarkable and interesting Criminal Trials (1803-4).
SM Phillips	State Trials (2 vols, 1826).
T Salmon	Complete Collection of State Trials [1407-1709] (1 st ed, 1719 (4 vols), last ed (4 th ed, 11 vols in 5, 1776-81). ⁵⁴¹
HL Stephen	State Trials (1902, 2 nd series, 6 vols).
TF Tout & H Johnstone	State Trials of the reign of Henry I, 1289-93 (1906). ⁵⁴²
WC Townsend	Modern State Trials (2 vols, 1850).
J Tutchin	New Martyrology or Bloody Assizes (3 rd ed, 1689).
JWB Willis-Bund	Selection of Cases from the State Trials.1327-1681(2 vols, 1879-82).
WO Woodall	Collection of Reports of Celebrated Trials (1873).

(b) Criminal Trials: Reports

Anon	The Justices Caselaw (1731). ⁵⁴³
ACF Boulton	Criminal Appeals under Act of 1907 (1908).
EW Cox	Reports of Cases in Criminal Law (31 vols, 1843-1948). ⁵⁴⁴
HR Dearlsey	Crown Cases Reserved 1852-6, 1858 (1856, 1858).
M Foster (Sir)	Crown Cases (1 st ed, 1762, last ed (3 rd ed), 1809). ⁵⁴⁵
D Jardine	Criminal Trials [1554-1605] (2 vols, 1832-5).
J Kelyng (Sir)	Reports of divers Cases in Pleas of the Crown (1 st ed, 1708, last ed (3rd ed) 1873). ⁵⁴⁶
T Leach	Cases in Crown Law [1730-1815] (1 st ed 1789, last ed (4 th ed) 1815).
RR Pearce	Crown Cases Reserved (1851-3).
Criminal Appeal Reports	1908 - current
L Temple & G Mew	Reports of Cases in the Court of Criminal Appeal 1848-51 (1852)

(c) Criminal Law: Journals

Archbold Review	2010 - current
Criminal Law and Justice Weekly	2009 - current (formerly, Justice of the Peace, see below)
Criminal Law Review	1954 - current
Criminal Recorder	1804-15 (6 vols, 1804-9, 2 vols and 1815, 2 vols)
Journal of Criminal Law	1937 - current

⁵³⁹ Reprinted by LBE.

⁵⁴⁰ The full title is ‘*Complete Collection of State Trials and Proceedings for High Treason and other Crimes and Misdemeanours from the Earliest Period until 1820.*’ The first 12 vols were by William Cobbett and his name appears on the title page in some copies.

⁵⁴¹ The full title is ‘*Complete Collection of State Trials and Proceedings for High Treason and other Crimes and Misdemeanours.*’ See also T Salmon, *New Abridgment and Critical Review of the State Trials* (2nded, 2 vols, 1741). Also, T Salmon, *Trials for Treason and other Crimes* (6 vols, 1720).

⁵⁴² Contains selected cases from the Plea Rolls.

⁵⁴³ A concise abridgment of all the cases of Crown law relating to Justices of the Peace. Reprinted.

⁵⁴⁴ Also called Cox’s Criminal Cases.

⁵⁴⁵ Also titled ‘*A Report of some proceedings on the Commission for Trial of Rebels in 1746 in the county of Surry; and of Crown cases to which are added Discourses upon a few branches of the Crown Law viz, high treason, homicide, accomplices and observations on the writings of Lord Hale.*’

⁵⁴⁶ Full title ‘*A Report of divers cases in Pleas of the Crown [1662-69] adjudged and determined in the reign of the late king Charles II with directions for Justices of the Peace and others.*’

Justice of the Peace 1837 - current⁵⁴⁷
 Proceeds of Crime Review⁵⁴⁸ 2008 - current

(d) Newgate, Tyburn & Old Bailey Reports

R Sanders Newgate Calendar (5 vols, 1760).⁵⁴⁹
 A Hogg The Malefactor's Register (6 vols, 1779).⁵⁵⁰
 Central Criminal Court Minutes of Evidence from 1834 to 1913 (158 vols).
 Old Bailey Sessions Papers, Proceedings, Commissions of the Peace from 1730-1834 (76 vols, 1730-1834).⁵⁵¹
 J Mountague Old Bailey Chronicle (4 vols, 1sted, 1783, last ed (3rded) 1788).⁵⁵²
 Select Trials Select Criminal Trials in the Old Bailey (1sted 1803, 2nded, 1810).⁵⁵³
 RM Villette *et al* Annals of Newgate or the Malefactors' Register (4 vols, 1776).⁵⁵⁴
 Bloody Register Trials for Murders, Robberies, Rape *etc* (last ed 1764).
 Tyburn Chronicle (4 vols, 1768).⁵⁵⁵

(e) Texts on JP's⁵⁵⁶

Anon The Boke of Justices of the Peace (1506).⁵⁵⁷
 Anon The Practick Part of the Office of a Justice of the Peace (1682).
 JF Archbold The Justice of the Peace and Parish Officer (1sted 1840, last 1855).
 JF Archbold Jervis's Acts relating to the Duties of Justices of the Peace (1849).
 JF Archbold Peel's Acts with the Forms of Indictment (1828).
 CA Beard Office of Justice of the Peace in England in its Origin and Development (1904, rep. 1967).
 S Blackerby The Justice of the Peace and his Companion (1sted 1711, last ed 1749).
 E Bohun The Justice of the Peace (1693).
 J Bond A Complete Guide for Justices of the Peace (1692).
 R Boyd Powers and Jurisdiction of HM's Justices of the Peace and Commissioners of Supply (1787).
 R Burn The Justice of the Peace and Parish Officer (1sted 1755, last ed 1869).
 R Chamberlayne The Complete Justice (1681).
 M Dalton The Country Justice (1sted 1618, last ed 1747).
 W Dickinson The Office and Duties of a Justice of Peace (1813).
 W Eagle Magistrates' Pocket Companion (1839).
 A Fitzherbert L'Office et Auctoryte des Justyces de Peas (1sted 1538, rev and enlarged R Compton, 1584).⁵⁵⁸

⁵⁴⁷ There was a separate series of Magistrates Cases culled from the Justices of the Peace (1896-1929).

⁵⁴⁸ The Journal of Asset Forfeiture.

⁵⁴⁹ This Calendar went through various editions and consolidated versions, see Sweet & Maxwell, n 460, vol 1, p 370 and vol 2, p 256. The Navarre Society produced a 5 vol edition in 1926. The Folio Society produced a 1 volume edition (ed. Sir Norman Birkett) in 1951.

⁵⁵⁰ Title continues 'or, *The Newgate and Tyburn Calendar, containing the Authentic Lives, Trials, Accounts of Executions and Dying Speeches of the Most Notorious Violators of the Laws of their Country*'.

⁵⁵¹ The full title is '*Old Bailey Sessions Papers, Proceedings, Commissions of the Peace, Oyer and Terminer, and Goal Delivery for London and Goal Delivery for County of Middlesex, Old Bailey 1729-1834*'.

⁵⁵² A previous chronicle from December 1763 - October 1770 (3 vols) was also published. See Sweet & Maxwell, n 460, vol 1, p 370.

⁵⁵³ The full title is '*Select Criminal Trials in the Old Bailey with the Opinions of the Twelve Judges on Several Interesting Points occurring in the course of them and reserved for their Decision*'.

⁵⁵⁴ Title continues: '*Account of the lives and trials of Notorious Malefactors*'.

⁵⁵⁵ Title continues '*or Villany display'd in all its branches, lives, adventures, tryals, executions, and dying speeches of notorious malefactors in England, Scotland and Ireland from 1700*'.

⁵⁵⁶ See also Royal Commission on Justices of the Peace 1946-8 (Cmd, July 1948). Putnam (see n 557 below) estimated that there were printed between 1506-99, at least, 57 editions or issues of treatises for JP's.

⁵⁵⁷ Reprinted by Professional Books (1972). For a list of treatises of the 15th and 16th century on JP's, see BH Putnam, *Oxford Studies in Social and Legal History* (1924), vol 7. See also BH Putnam & TFT Plunkett, *Proceedings before the Justices of the Peace in the Fourteenth and Fifteenth Centuries* (Ames Foundation, 1938).

⁵⁵⁸ Both Fitzherbert and Crompton (ed) were reprinted by Professional Books (1972).

W Fleetwood	Office of a Justice of Peace (1658).
JH Gleason	Justices of the Peace in England 1558-1640 (1 st ed, 1969).
J Keble	An Assistance to Justices (1683).
R Kilburne	Choice Presidents upon all Acts of Parliament relating to the Office and Duty of a Justice of the Peace (1680).
J Kitchin	The Authority of all Justices of Peace (1580).
G Jacob	The Modern Justice (1 st ed, 1716, last ed 1729).
W Lambard(e)	Eirenarcha (1 st ed 1581, last ed 1619). ⁵⁵⁹
H L'Estrange	Justices' Law (1770).
T Marow	Lectures (1503). ⁵⁶⁰
W Nelson	The Office and Authority of a Justice of the Peace (1 st ed, 1745).
GC Oke	The Magisterial Synopsis (1 st ed, 1848, last ed (14 th) 1893).
B Osborne	Justices of the Peace 1361-1848.
W Sheppard	Sure Guide for his Majesties Justices of the Peace (1 st ed, 1649, last ed 1669). Whole Office of the Country Justice of Peace (1 st ed, 1650, last ed (3 rd) 1655-6).
T Skyrme	History of the Justices of the Peace (3 vols, 1991).
J Stone	The Practice of Petty Sessions (1 st ed 1836, last 1882).
S Stone	The Justices' Pocket Manual (1 st ed 1842).

(f) Commission Reports etc.⁵⁶¹

(i) Irish Univ Press has republished 6 volumes of Reports from HM Commissioners 1819-1879. They comprise:

- 1 Select C-ee on the Criminal Law relating to Capital Punishment.
- 2 Select C-ee on the Criminal Law with Appendix, 1824.
- 3 Royal Commission on Criminal Law, 1834-41.
- 4 Royal Commission on Criminal Law, 1843-5.
- 5 Royal Commission Revising and Consolidating the Criminal Law, 1845-9.
- 6 Select C-ees, Royal Commission and Other Reports on the Criminal Law, 1847-79.

(ii) Report of the Commissioners appointed to Inquire into the Consolidation of the Statute Law (1835).

(iii) Report of the Standing Committee of Jurisprudence and Amendment of the Law on the law of appeal in Criminal Cases (1865).

(g) Law Commission Reports - English Criminal Law 1966-2011⁵⁶²

1966	Proposal to Abolish certain Ancient Criminal Offences	(Law Com no 3)
1967	Imputed Criminal Intent (<i>DPP v Smith</i>)	(10)
1970	Report on Offences of Damage to Property	(HC 91, no 29)
1973	Report on Forgery and Counterfeit Currency	(HC 320, no 55)
1976	Conspiracy and Criminal Law Reform	(HC 176, no 76)
1977	Report on Defences of General Application	(HC 566, no 83)
1978	Report on the Mental Element in Crime	(HC 499, no 89)
	Report on the Territorial and Extra-Territorial Extent of the Criminal Law	(HC 75, no 91)
1979	Offences relating to Interference with the Course of Justice	(HC 213, no 96)
1983	Offences relating to Public Order	(HC 85, no 123)

⁵⁵⁹ Eirenarcha (1581) reprinted by Law Book Exchange.

⁵⁶⁰ See Putnam, n 557.

⁵⁶¹ In Victorian times, the issue of a Criminal Law Code was considered in 1833, 1836 and 1839 (3 different Commissions were issued and 8 reports made). In 1845, a 4th commission was issued (5 reports made). In 1848, a Bill was introduced into the House of Lords by Lord Brougham, but not proceeded with. A Bill for codification of offences against the person was considered in 1852 but not proceeded with. In 1853, a Bill was also considered but not proceeded with. 9 Bills were prepared in 1856 and 7 became the Greaves' Criminal Consolidation Acts of 24 & 25 Vict, c 94-100, which made no attempt at codification as such. See Irish Univ Press, vol 6, pp 373-4 (Criminal Code Bill Commission Report of 1878 with Draft Code, which did not become law).

⁵⁶² Details also available on Law Commission website.

1985	Codification of the Criminal Law - A Report to the Law Commission	(HC 270)
	Offences against the Person and Public Worship	(HC 443, no 145)
	Poison Pen Letters	(HC 519, no 147)
	Report on Criminal Libel	(Cmnd 9618, no 149)
1989	Criminal Law: A Criminal Code	(HC 299, no 177)
	Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element	(HC 318, no 180)
1991	Corroboration of Evidence in Criminal Trials	(Cm 1620, no 202)
1992	Rape within Marriage	(HC 167, no 205)
	Domestic Violence and Occupation of the Family Home	(HC, no 207)
1993	Legislating the Criminal Code: Offences against the Person and General Offences	(Cm 2370, no 218)
1994	Binding Over	(Cm 2439, no 222)
	Conspiracy to Defraud	(HC 11, no 228)
1995	Intoxication and Criminal Liability	(HC153, no 229)
	The Year and a Day Rule in Homicide	(HC 183, no 230)
1996	Involuntary Manslaughter	(HC 171, no 237)
	Money Transfers	(HC 690, no 243)
1997	Evidence in Criminal Proceedings: Hearsay	(Cm 3670, no 245)
1998	Corruption	(HC 254, no 248)
	Consents to Prosecution	(HC 1085, no 255)
2001	Double Jeopardy and Prosecution Appeals	(Cm 5048, no 267)
	Bail and the Human Rights Act 1998	(HC7, no 269)
	Evidence of Bad Character in Criminal Proceedings	(Cm 5257, no 273)
2002	Fraud	(Cm 5560)
	The Effective Prosecution of Multiple Offending	(Cm 5609, no 277)
2003	Children: Their Non-Accidental Death or Serious Injury	(HC 650, no 279 - Consultative Report)
	Children: Their Non-Accidental Death or Serious Injury	(HC 1054)
2004	Partial Defences to Murder	(Cm 6301, no 290)
2006	Inchoate Liability for Assisting and Encouraging Crime	(Cm 6878, no 300)
	Murder, Manslaughter and Infanticide	(HC 30, no 304)
2007	Participating in Crime	(Cm 7084, no 305)
2008	Reforming Bribery	(HC 928, no 313)
2009	Intoxication and Criminal Liability	(Cm 7526, no 314)
	Conspiracy and Attempts	(HC 41, no 318)
2010	The High Court's Jurisdiction in relation to Criminal Proceedings	(HC 329, no 324)
2011	Expert Evidence in Criminal Proceedings in England and Wales	(HC 829, no 325)
2012	Contempt of Court: Scandalising the Court	(LC 335)
2013	Contempt of Court: Juror Misconduct and Internet Publications	(LC 340)
2014	Contempt of Court: Court Reporting	(LC 344)
2014	Hate Crime – Should the Current Offences be Extended?	(LC 348)
2014	Kidnapping and Related Offences	(LC 355)
2015	Reform of Offences against the Person	(LC 361)
2015	Public Nuisance and Outraging Public Decency	(LC 358)
2016	A New Sentencing Code for England and Wales	(LC 365)
2017	Criminal Records Disclosure: Non Filterable Offences	(LC 371)
2018	Sentencing Code	(LC 382)
2019	Anti-Money Laundering: The Sars Regime	(LC 384)

(h) Law Commission Consultation Papers - English Criminal Law 1968-2011⁵⁶³

1968	Codification of the Criminal Law: General Principles, The Field of Enquiry	(no 17)
1969	Malicious Damage to Property	(no 23)
1970	Forgery	(no 26)
	Codification of the Criminal Law (Territorial and Extraterritorial Extent of the Criminal Law)	(no 29)
	Codification of the Criminal Law: General Principles, The Mental Element in Crime	(no 31)
	Criminal Law: Perjury and Kindred Offences	(no 33)
1972	Codification of the Criminal Law: General Principles, Parties, Complicity and Liability for the Acts of Another	(no 43)
	Codification of the Criminal Law: General Principles, Criminal Liability of Corporations	(no 44)
1973	Codification of the Criminal Law: General Principles, Inchoate Offences, Conspiracy, Attempt and Incitement	(no 50)
1974	Offences of Entering and Remaining on Property	(no 54)
	Codification of the Criminal Law: General Principles, Defences of General Application	(no 55)
	Criminal Law: Conspiracy to Defraud	(no 56)
	Codification of the Criminal Law: Conspiracies relating to Morals and Decency	(no 57)
1975	Offences relating to the Administration of Justice	(no 62)
	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to commit a Civil Wrong	(no 63)
1977	Codification of the Criminal Law: Treason, Sedition and Allied Offences	(no 72)
1981	Offences against Religion and Public Worship	(no 79)
1982	Offences against Public Order	(no 82)
	Criminal Libel	(no 84)
1987	Binding Over: The Issues	(no 103)
	Conspiracy to Defraud	(no 104)
1988	Computer Misuse	(no 110)
1989	Domestic Violence and Occupation of the Family Home	(no 113)
1990	Corroboration of Evidence in Criminal Trials	(no 115)
	Rape within Marriage	(no 116)
1992	Legislating the Criminal Code: Offences against the Person and General Principles	(no 122)
1993	Intoxication and Criminal Liability	(no 127)
	Assisting and Encouraging Crime	(no 131)
1994	Consent and Offences against the Person	(no 134)
	Involuntary Manslaughter (overview published separately)	(no 135)
	The Year and a Day Rule in Homicide	(no 136)
1995	Evidence in Criminal Proceedings: Hearsay and Related Topics	(no 138)
	Consent in the Criminal Law	(no 139)
1996	Evidence in Criminal Proceedings: Previous Misconduct of a Defendant	(no 141)
1997	Legislating the Criminal Code: Corruption	(no 145)
	Consents to Prosecution	(no 149)
	Legislating the Criminal Code: Misuse of Trade Secrets	(no 150)
1999	Legislating the Criminal Code: Fraud and Deception	(no 155)
	Double Jeopardy	(no 156)
	Bail and the Human Rights Act 1998	(no 157)
2000	Prosecution Appeals from Judges' Rulings	(no 158)
2003	Partial Defences to Murder	(no 173)

⁵⁶³ Details also available on Law Commission website.

2005	A New Homicide Act for England and Wales?	(no 177)
2007	Conspiracy and Attempts	(no 183)
	The High Court's Jurisdiction in relation to Criminal Proceedings	(no 184)
	Reforming Bribery	(no 185)
2009	The Admissibility of Expert Evidence in Criminal Proceedings in England and Wales	(no 190)
2010	Simplification of Criminal Law: Public Nuisance and Outraging Public Decency	(no 193)
	Criminal Liability in Regulatory Contexts	(no 195)
	Unfitness to Plead	(no 197)
2011	Simplification of Criminal Law: Kidnapping	(no 200).

Notes:

Data for this note has been assembled from:

- Sweet & Maxwell, *A Legal Bibliography of the British Commonwealth of Nations* (2nded, 1955, 2 vols).
- D Raistrick, *Lawyers' Law Books* (1sted 1977, 3rded 1997).
- Bar libraries (see online websites).

See also generally, **Lincoln's Inn Law Library, Quick Reference Guide. Current Textbooks by Subject. Dec 2022.**

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