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FAO of:

Police and Crime Commissioners in England and Wales
Mayor's Office for Policing and Crime
The Common Council of the City of London
Chief Constables in England and Wales
Association of Police and Crime Commissioners
Association of Policing and Crime Chief Executives
Crown Prosecution Service

Part 1:

FRA Chairs and Chief Fire Officers in England

Sections 36 and 37:

Her Majesty's Inspectorate of Constabulary

Section 178:

Coroners and Coroner Officers in England and Wales
Local Authority Managers of Coroners Offices
Registrars in England and Wales
Health and Social Care Providers

March 2017

Dear Colleague,

1. The Policing and Crime Act 2017 ("the 2017 Act") received Royal Assent on 31 January. The 2017 Act contains a wide range of measures to:
 - improve the efficiency and effectiveness of police forces, including through closer collaboration with other emergency services;
 - enhance the democratic accountability of police forces and fire and rescue services;
 - build public confidence in policing;
 - strengthen the protections for persons under investigation by, or who come into contact with, the police;
 - ensure that the police and other law enforcement agencies have the powers they need to prevent, detect and investigate crime; and
 - further safeguard children and young people from sexual exploitation.



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2. The 2017 Act itself provides for a small number of its provisions to come into force either on the day of Royal Assent or two months afterwards (that is, on 31st March). In addition, the Minister for Policing and the Fire Service has now made the first commencement regulations (the Policing and Crime Act 2017 (Commencement No. 1 and Transitional Provisions) Regulations 2017 (SI 2017/399)) bringing other provisions of the Act into force on either 3rd April, 6th April or 2nd May. This circular provides details of those provisions of the 2017 Act that are coming into force on or before 2nd May. It will be supported by more detailed operational guidance to the police and others.
3. A glossary of abbreviations used in this circular is contained in Annex A.
4. A point of contact for each of the provisions in this circular can be found in Annex B.
5. A list of offence codes for indictable offences are attached at Annex C.

PART 1: EMERGENCY SERVICES COLLABORATION

Sections 1-5: Collaboration agreements (applies to England only)

Provisions commencing on 3rd April 2017

6. These provisions introduce new duties on police, fire and rescue and emergency ambulance services to keep opportunities to collaborate under review, and further, to enter into collaboration agreements where it is in the interests of their efficiency or effectiveness. This sets a clear expectation that collaboration opportunities should be fully exploited.
7. The Emergency Services Collaboration Working Group, led by Police and Crime Commissioner (“PCC”) Philip Seccombe, recently updated its National Overview of Collaboration, which sets out many strong examples of collaborative working that emergency services could draw upon. This can be found [here](#). Guidance to aid implementation of the duties in relation to collaboration will be developed by the working group.

Sections 6 and 7 and Schedule 1: Police and Crime Commissioners: Fire and Rescue functions (applies to England only)

Provisions commencing on 3rd April 2017

8. The provisions in sections 6 and 7 and Schedule 1 relating to governance are enabling. They enable a PCC to take on responsibility for the governance of fire and rescue in his or her area, and thus become the Police, Fire and Crime Commissioner (“PFCC”), where a local case is made and it appears to the Secretary of State to be in the interests of economy, efficiency and effectiveness or public safety for an order to be made giving effect to the proposal. PCCs and PFCCs will also be able to make the case to take an additional step to delegate fire functions to a single chief officer for



policing and fire under the single employer model. From Royal Assent, the 2017 Act brought into force provisions for PCCs to develop and consult on local business cases to take on responsibility for the governance of fire and rescue services.

9. Where a PCC does not take responsibility for the governance of fire and rescue, the amendments to legislation made by section 7 of the 2017 Act will enable them to be represented on a Fire and Rescue Authority (“FRA”), outside of London, and treated as a member of that authority with voting rights, where an FRA agrees. Combined FRAs established or continued in existence under section 2 and 4 of the Fire and Rescue Services Act 2004 will need to have their combination schemes amended to take account of these new provisions. Further information will follow for these affected FRAs.
10. The Association of Policing and Crime Chief Executives has issued guidance on PCC business cases, which has been sent to all PCCs and is available [here](#). PCCs that are developing proposals are advised to contact [Matthew Watts](#), Head of Implementation, in order to discuss legislative requirements and timelines.

PART 2: POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

Section 32: Guidance on disciplinary proceedings and conduct (applies to England and Wales)

Provisions commencing on 3rd April 2017

11. Section 32 of the 2017 Act confers new powers on the Home Office and the College of Policing to issue guidance in relation to matters of police discipline. The changes amend the Police Act 1996 (“the 1996 Act”) to allow centralised guidance to be created on disciplinary proceedings relating to police officers, special constables, members of the civilian staff of a police force and designated policing volunteers, and the IPCC. This takes into account the changes the 2017 Act introduces to the designation of policing powers.
12. The changes to section 87 of the 1996 Act relate to individuals who are responsible for the administration of the conduct and discipline system. It sets out the responsibilities of forces investigating misconduct or dealing with performance issues, providing for further guidance to make clear how the legislation intends police discipline and unsatisfactory performance or attendance are handled.
13. Section 87A of the 1996 Act relates to guidance issued to individuals who are subject to the discipline system about the processes they are subject to, and will allow in future specific guidance to be made to assist individuals serving with the police to comply with regulations and the processes that they might participate in within the disciplinary or



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performance context. Guidance issued under section 87 and 87A of the 1996 Act is binding and failure to follow the specified processes can be used in evidence against a person who fails to follow it.

14. The existing Home Office guidance on police misconduct, unsatisfactory performance and attendance management procedures will remain in force for the procedures and processes under the Police (Conduct) and (Performance) Regulations, but will be updated and reissued in early summer to coincide with changes related to extending disciplinary proceedings to former police officers.
15. The new role for the College of Policing in issuing the relevant guidance will assist in the professionalization and standardisation of disciplinary functions for police officers and special constables. Subject to the Home Secretary's approval, the College of Policing intends to publish new *Indicative Sanctions* guidance to assist Misconduct Hearing panels in making findings and sanctions decisions at a misconduct hearing. This will be published shortly.

Sections 36 and 37: Inspection of police forces (applies to England and Wales, except 37(6) which applies to the United Kingdom)

Provisions commencing on 2nd May 2017

16. The inspection measures in the 2017 Act aim to ensure that Her Majesty's Inspectorate of Constabulary ("HMIC") has the powers and remit necessary to respond flexibly to emerging risks and concerns in policing, including where policing functions are delivered by multiple bodies.
17. Section 36 allows HMIC to serve a person with a notice requiring them to provide whatever access to information and premises used for the purposes of policing is reasonably required for the purposes of inspection under section 54 of the 1996 Act. Certain bodies, such as the security services, or information obtained from those bodies, are excluded from this. Certain types of sensitive information are also excluded, such as information subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984.
18. Failure to comply with a notice issued by HMIC may be notified by Her Majesty's Chief Inspector of Constabulary ("HMCIC") to the High Court, and the Court may consider it a contempt of court.
19. There is a right of appeal against notices served by HM Inspectors of Constabulary relating to access to information, but anybody who works for or on behalf of a police force, and certain other bodies, is exempt from the right of appeal.



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20. Section 37 requires local policing bodies to respond to recommendations in an inspector's report within 56 days of the report's publication and to send their response directly to HMCIC, in addition to the Home Secretary.
21. Additionally, these provisions allow the HMCIC to initiate inspections outside of the agreed inspection programme, provided that he or she consults the Home Secretary and the relevant force area's local policing body.

PART 4: POLICE POWERS

Sections 52-67: Pre-charge bail (applies to England and Wales)

Provisions commencing on 3rd April 2017

22. Sections 52 to 67 introduce statutory and judicial safeguards to the pre-charge bail process, including time limits and a hierarchy for the decision making process. This will increase accountability and transparency of the process.
23. The main change is that there is now a presumption of release without bail unless the necessity and proportionality criteria are met. Pre-charge bail is initially limited at 28 days, with one extension of up to three months able to be authorised by a senior police officer in complex cases. In exceptional circumstances, the police will have to apply to a magistrate for further bail. Learning materials on the reforms to pre-charge bail have been published by the College of Policing, last updated on 21 March 2017.

Sections 68 and 69: Breach of pre-charge conditions relating to travel (applies to England, Wales and Northern Ireland)

Provisions commencing on 3rd April 2017

24. Sections 68 and 69 provide for a new offence of breach of pre-charge bail conditions related to travel. The new offence applies where a person is arrested on suspicion of committing a relevant terrorism offence (as listed in section 41 of the Counter-Terrorism Act 2008), is then released on pre-charge bail and subsequently breaches conditions of that bail aimed at preventing them from leaving or attempting to leave the UK.
25. The bail conditions are determined by the police and may include not leaving the UK, not entering any port, a requirement to surrender travel documents and a requirement not to be in possession of any travel documents – even if they belong to another individual.
26. The maximum penalty is a 12 months' imprisonment, an unlimited fine, or both.



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Sections 72 to 79: Powers under PACE: miscellaneous (applies to England and Wales, except 76(3) which applies to the United Kingdom)

Provisions commencing on 31st March 2017, in the case of section 76, and 3rd April 2017, in the case of sections 72 to 75 and 77 to 79

27. These provisions amend the Police and Criminal Evidence Act 1984 (“PACE”). Section 72 fills a gap in police bail enforcement powers by extending the power under section 17 of PACE to enter and search premises for the purpose of arrest to include existing powers to arrest persons if they fail to comply with the terms and conditions of their bail, whether before or after charge. Previously the section 17 power did not apply.
28. Section 73 amends the remaining provisions in PACE, namely sections 30A (bail elsewhere than at a police station), 63B (testing for presence of class A drugs) and 65 (appropriate consent), that treat 17 year olds as adults to ensure that they are always treated as children when detained in police custody.
29. Sections 74 and 75 insert new sections 45ZA and 45ZB in PACE and amend sections 39, 45 and 45A of PACE to enable the police to make efficiencies through the use of ‘live link’ technology for extensions of detention under sections 42, 43 and 44 of PACE, and for interviewing suspects detained at police stations where the interviewing officer is at a different location to the suspect.
30. Section 76 updates the terminology in section 60 of PACE, substituting the term ‘tape recording’ for ‘audio recording’.
31. Section 77 inserts a new requirement in section 60B of PACE that suspects who are interviewed voluntarily (having not been arrested) are notified in writing of a decision that they are not to be prosecuted for the offence in question.
32. Section 78 amends the procedure under section 67 of PACE for revising the PACE Codes of Practice, but will not have any direct implications for operational policing.
33. Finally, section 79 amends the term “a person employed by the police” which appears in the existing definitions of “appropriate adult” in PACE and other legislation to ensure consistency with the definition in the new sections 45ZA and 45ZB of PACE.

Section 120: Face coverings (applies to England and Wales)

Provisions commencing on 3rd April 2017

34. Section 120 amends section 60AA (Powers to require removal of disguises) of the Criminal Justice and Public Order Act 1994 to make provision for an oral authorisation to be given to remove disguises where it would not be practicable to make an authorisation in writing. In such cases, the oral authorisation would need to specify



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appropriate matters (such as the location where the powers could be exercised) and be subsequently recorded in writing. This provision will enhance the police's ability to prevent crime in spontaneous, fast moving public order situation.

PART 5: POLICE AND CRIME COMMISSIONERS AND POLICE AREAS

Section 121: Deputy PCC term of office (applies to England and Wales)

Provisions commencing on 3rd April 2017

35. The Police Reform and Social Responsibility 2011 currently ties the term of office of a Deputy PCC to the term of the appointing PCC.
36. The 2017 Act amends this to provide greater flexibility to the Deputy PCC's term of office. This means that, following an ordinary PCC election, the Deputy PCC's contractual term of office must now end no later than six days after the ordinary election (that is, the day on which the term of office of the appointing PCC would, if there were no vacancy in the office before then, end). This ensures the Deputy PCC is able to remain in post until a new PCC takes office.
37. Additionally, where a by-election is called due to a vacancy in the office of the PCC, the Deputy PCC's contract must provide that their term of office will now terminate on the making and delivering of the declaration of acceptance of office by the newly elected PCC. The newly-elected PCC may then decide whether to re-appoint the existing Deputy PCC, replace them or discontinue the post altogether. This will also ensure that a Deputy PCC is eligible to be appointed as the Acting PCC, if the relevant Police and Crime Panel choose to do so. This is because an Acting PCC must be appointed from the existing staff of the PCC, and the Deputy PCC can now remain as a member of staff of the PCC until the newly- elected PCC takes office.

Section 122: Eligibility of deputy police and crime commissioner for election (applies to England and Wales)

Provisions commencing on 3rd April 2017

38. By virtue of the provision above, which provides for a Deputy PCC to remain employed throughout the period until the arrival of the newly elected PCC, deputy PCCs would be disqualified from standing for election as PCC by the 2011 Act.
39. This provision therefore allows Deputy PCCs, who are appointed as Acting Commissioner following a vacancy arising in the office of the PCC, to stand for election as PCC in the subsequent by-election. This avoids any conflict between a Police and



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Crime Panel who may wish to have the option of appointing a Deputy PCC as Acting Commissioner and the Deputy who may wish to stand for election.

40. This will only apply to those Deputy PCCs who are appointed as Acting Commissioners, and is designed to support continuity. This is to avoid creating a situation whereby Deputy PCCs elsewhere in the country could stand for election as PCC, which could have a destabilising effect.

41. However, all Deputy PCCs may stand for election at an ordinary election since it is not envisaged this will have any effect on the stability of the system under the current arrangements.

PART 6: FIREARMS AND PYROTECHNIC ARTICLES

Sections 125 and 127 to 130: Firearms (applies to Great Britain)

Provisions commencing on 3rd April 2017, in the case of section 133, and on 6th May 2017, in the case of sections 125 and 127 to 130.

42. A separate circular on the new firearms provisions will be published shortly.

Section 133: Guidance to police officers in respect of firearms (applies to Great Britain)

Provisions commencing 3rd April 2017

43. Subsection 133(2) of the 2017 Act inserts new section 55A in the 1968 Act which provides the power to the Secretary of State to issue, revise and publish “statutory” guidance to chief officers of police on the exercise of their functions under, or in connection with, that Act. When the guidance is issued, new subsection 55A(4) places a duty on chief officers of police to have regard to it when exercising their functions.

44. Before issuing the guidance, the Secretary of State must consult the National Police Chiefs’ Council and the chief constable of the Police Service of Scotland (see section 55A). The Government also intends to consult publicly on the contents of the guidance before publication, which is expected later this year.

45. The Home Office’s non-statutory “Guide on Firearms Licensing Law” will remain in its current form until the statutory guidance is published.

Section 134: Possession of pyrotechnic articles at musical events (applies to England and Wales)

Provisions commencing on 3rd April 2017



46. This section makes it an offence to possess a pyrotechnic article (for example, a firework, flare or smoke bomb) at a qualifying musical event. The Policing and Crime Act 2017 (Possession of Pyrotechnic Articles at Musical Events) Regulations 2017 (SI 2017/306) defines a qualifying musical event as an event that is provided to any extent for members of the public, or a section of the public, and takes place on premises in respect of which a premises license under the Licensing Act 2003 has been granted and the licence authorises the premises to be used for the provision of regulated entertainment (as defined by the Licensing Act 2003) in the form of a performance of live music. The maximum penalty for the offence is three months' imprisonment, a level 3 fine (currently £1,000), or both.

PART 7: ALCOHOL AND LATE NIGHT REFRESHMENT

Sections 135 to 140: Licensing (applies to England and Wales)

Provisions commencing on 6th April 2017

47. These provisions make a number of amendments to the Licensing Act 2003. These will clarify the law on summary reviews of premises licences (reviews of premises associated with serious crime or serious disorder), grant licensing authority powers to revoke or suspend personal licences when the holder is convicted of a relevant offence, add further offences to the list of relevant offences in the Act and amend the definition of alcohol to include powdered and vaporised alcohol. They also remove the Parliamentary procedures around publication of the statutory guidance.
48. The statutory guidance issued under section 182 of the Licensing Act 2003 will be updated to reflect the changes and published to coincide with commencement of the provisions [here](#).

PART 9: MISCELLANEOUS AND GENERAL

Section 163: Seizure etc invalid travel documents (applies to the United Kingdom)

Provisions commencing on 3rd April 2017

49. This provision in the Act will provide the police and immigration officers with new powers in relation to searches for and seizures of invalid travel documents. Invalid travel documents include passports cancelled by the Home Office under Royal Prerogative public interest criteria or non-UK passports cancelled by the issuing State. Updated police guidance on the power to seize UK travel documents will be communicated across the police CT network. The College of Policing's Authorised Professional Practice will be amended to provide guidance on the powers relating to overseas travel documents.



Sections 173: Forced marriage: anonymity for victims (applies to England and Wales)

Provisions commenced on 31st January 2017

50. This provision provides lifelong anonymity for victims of forced marriage. The protection applies from the time an allegation is made. From that point, the publication or broadcast of any information likely to result in the identity of a victim being identified to members of the public will be prohibited. The protection given is broad and wide-ranging; it covers traditional print and broadcast media as well as information published online, including on social media. It will be an offence to publish information in contravention of the prohibition (the maximum penalty for the offence is an unlimited fine). The aim of this measure is to give more victims the confidence to come forward so they receive the support they deserve and perpetrators are brought to justice.

Section 175: Sentences for offences of putting people in fear of violence etc. (applies to England and Wales)

Provisions commencing on 3rd April 2017

51. In response to concerns about the significant impact which the most serious stalking and harassment offences can have on victims, section 175 increases the maximum penalty for these offences so that courts will have the power to impose longer custodial sentences in the most serious cases.

52. Section 4A of the Protection from Harassment Act 1997 provides for the offence of stalking involving fear of violence or serious alarm or distress. Section 4 of that Act provides for the offence of putting people in fear of violence.

53. Section 175 of the 2017 Act increases the maximum penalty for these two offences from five to ten years' imprisonment, and amends the Crime and Disorder Act 1998 in order to increase the maximum penalty for the racially or religiously aggravated versions of both these offences from seven to 14 years' imprisonment.

54. These changes only apply to offences committed on or after 3rd April 2017.

Section 176: Child sexual exploitation: streaming indecent images (applies to England and Wales)

Provisions commenced on 31st January 2017

55. Section 176 amends the definition of sexual exploitation at section 51 of the Sexual Offences Act 2003 ("the 2003 Act"), which applies to the offences at sections 48 to 50 of the 2003 Act. These offences are concerned with the sexual exploitation of children and, respectively, punish causing or inciting such exploitation, controlling a child in



relation to sexual exploitation or arranging or facilitating the sexual exploitation of a child. Currently, for the purposes of these offences a child is sexually exploited if he or she either offers or provides sexual services in return for payment, or “if an indecent image of [the child] is recorded”.

56. The amendment made by section 176 ensures that the definition also covers situations where indecent images of a child are “streamed or otherwise transmitted” as well as where they are recorded, making the offences more robust in the light of technological changes and ensuring that those who exploit children in this way can be effectively prosecuted for the appropriate offence.

Section 178: Coroners’ investigations into deaths: meaning of “state detention” (applies to England and Wales)

Provisions commencing on 3rd April 2017

57. This section amends section 48 of the Coroners and Justice Act 2009 (“the 2009 Act”) by excluding from the definition of state detention persons who are subject to Mental Capacity Act 2005 (“MCA”) deprivation of liberty provisions. The effect of this is to remove the duty on coroners to conduct an inquest in all cases where the deceased had an authorisation for the deprivation of their liberty in place either under an MCA Deprivation of Liberty Safeguard (“DoLS”) or a Court of Protection Order or the deprivation of their liberty was otherwise authorised by the MCA.

58. Under section 1 of the 2009 Act, coroners have a duty to undertake an investigation, including an inquest, into a person’s death when they have reason to suspect that the deceased died “while in custody or otherwise in state detention.” A person is in state detention under section 48 of the 2009 Act when they are compulsorily detained by a public authority. Under the MCA a person who lacks capacity may be deprived of their liberty for the purposes of care or treatment by the authority of a Local Authority or the Court of Protection in circumstances which amount to detention. This has meant that those who died whilst deprived of their liberty under the MCA fell within the definition of state detention and a coroner’s inquest had to be held in every case even where the deceased died of natural causes and the death was expected.

59. The change that section 178 makes will mean that when a person deprived of their liberty under the MCA dies *on or after* 3rd April 2017, there is no longer an automatic requirement to hold an inquest. Where a person deprived of their liberty under the MCA dies *before* 3rd April 2017 they will have died “in state detention” and so the death must be reported to the coroner and an inquest held. Where a person is deprived of their liberty by a public authority without the authority of the MCA then they will continue to fall within the definition of “in state detention”.



60. Coroners will continue to have a duty to conduct an investigation into the death of any person who was in custody or otherwise in state detention, or whose death was violent, unnatural, or of unknown cause. **Therefore when a person dies whilst deprived of their liberty under the MCA on or after 3rd April, the death should still be referred in the normal way to the coroner where there are any concerns about the cause of death** including where there is a concern that a failure of care may have contributed to the death.
61. **Registrars must still refer the death of a person deprived of their liberty to the coroner if there is any concern about the cause of death.** Any other person, such as a family member of the deceased, as well as health and care workers should also report the death to the coroner where there are any concerns.
62. The Chief Coroner has published guidance for doctors in reporting deaths to coroners. This guidance is being updated and will be available [here](#) in due course. The Chief Coroner published guidance in 2014 to coroners on DoLS deaths with regards to their duties to undertake inquests in deaths “in custody and otherwise in state detention”. The guidance in its current form will no longer apply for deaths on or after 3 April 2017.



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Annex A – Glossary

DoLS – Deprivation of Liberty Safeguards

FRA – Fire and Rescue Authority

HMCIC – Her Majesty’s Chief Inspector of Constabulary

HMIC – Her Majesty’s Inspectorate of Constabulary

MCA – Mental Capacity Act 2003

PACE – Police and Criminal Evidence Act 1984

PCC – Police and Crime Commissioner

PFCC – Police, Fire and Crime Commissioner

The 1996 Act – The Police Act 1996

The 2003 Act – Sexual Offences Act 2003

The 2009 Act – Coroners and Justice Act 2009

The 2017 Act – Policing and Crime Act 2017



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Annex B - Contact List

Section(s)	Provision	Contact
1-8	Collaboration agreements; PCC FRA functions	Matthew.Watts@homeoffice.gsi.gov.uk
32	Guidance on disciplinary proceedings and conduct	Rupert.Bailey@homeoffice.gsi.gov.uk
36, 37	Police Inspections	Joanne.Dawes@homeoffice.gsi.gov.uk
52-67	Pre-Charge Bail	Andrew.Alexander@homeoffice.gsi.gov.uk
68-69	Breach of pre-charge bail conditions related to travel	Daniel.Hunt1@homeoffice.gsi.gov.uk
72-79	Powers under PACE: miscellaneous	John.DeSousa2@homeoffice.gsi.gov.uk
120	Face coverings	John.DeSousa2@homeoffice.gsi.gov.uk
121-122	Deputy PCCs: terms of office and eligibility for election	Melanie.Phillip@homeoffice.gsi.gov.uk
125-133	Firearms	Paul.Nicol@homeoffice.gsi.gov.uk
134	Possession of pyrotechnic articles at musical events	Charles.Goldie1@homeoffice.gsi.gov.uk
135-140	Licensing	Anna.Dawson@homeoffice.gsi.gov.uk
163	Seizure etc. of invalid travel documents	David.Saville3@homeoffice.gsi.gov.uk
173	Forced marriage: anonymity for victims	David.Myers@fco.gov.uk
175	Sentences for offences of putting people in fear of violence	Eleanor.Nicholls@justice.gsi.gov.uk
176	Child sexual exploitation: streaming indecent images	Dave.Pearson@justice.gsi.gov.uk
178	Coroners' investigations into deaths: meaning of "state detention"	coroners@justice.gsi.gov.uk



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Annex C - Offence Codes for Indictable Offences

Section	Offence	Code
68	Breach of pre-charge bail conditions relating to travel	83/8
127	Possession of articles for conversion of imitation firearms	81/90
128	Controls on defectively deactivated weapons	81/91