

SCHEDULES

SCHEDULE 1

AMENDMENTS OF SERIOUS CRIME ACT 2007: SCOTLAND

17 After that section insert—

“Extension of jurisdiction: Scotland

22A Orders by High Court of Justiciary and sheriff on conviction

- (1) Subsection (2) applies where—
 - (a) the High Court of Justiciary (the “High Court”) is dealing with a person who—
 - (i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or
 - (ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or
 - (b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.
- (2) The High Court or (as the case may be) the sheriff may, in addition to dealing with the person in relation to the offence, make an order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.
- (3) The High Court or sheriff making an order by virtue of subsection (2) in the case of a person who is already the subject of a serious crime prevention order in Scotland must discharge the existing order.
- (4) An order under this section may contain—
 - (a) such prohibitions, restrictions or requirements; and
 - (b) such other terms;as the High Court or (as the case may be) the sheriff considers appropriate for the purpose of protecting the public by preventing, restricting or disrupting involvement by the person concerned in serious crime in Scotland.
- (5) The powers of the High Court and the sheriff in respect of an order under this section are subject to sections 6 to 15 (safeguards).
- (6) An order must not be made under this section except—
 - (a) in addition to a sentence imposed in respect of the offence concerned; or

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(b) in addition to an order discharging the person absolutely.

(7) An order under this section is also called a serious crime prevention order.

22B Powers of High Court of Justiciary and sheriff to vary orders on conviction

(1) Subsection (2) applies where—

(a) the High Court of Justiciary (the “High Court”) is dealing with a person who—

(i) has been convicted by or before the High Court of having committed a serious offence in Scotland, or

(ii) has been convicted by or before the sheriff of having committed a serious offence in Scotland and by virtue of section 195 of the Criminal Procedure (Scotland) Act 1995 has been remitted by the sheriff to the High Court for sentencing; or

(b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed a serious offence in Scotland.

(2) The High Court or (as the case may be) the sheriff may—

(a) in the case of a person who is the subject of a serious crime prevention order in Scotland; and

(b) in addition to dealing with the person in relation to the offence, vary the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.

(3) A variation under this section may be made only on an application by the Lord Advocate.

(4) A variation must not be made except—

(a) in addition to a sentence imposed in respect of the offence concerned; or

(b) in addition to an order discharging the person absolutely.

(5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).

22C Powers of High Court of Justiciary and sheriff to vary or replace orders on breach

(1) Subsection (2) applies where—

(a) the High Court of Justiciary (the “High Court”) is dealing with a person who—

(i) has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a serious crime prevention order and has been remitted to the High Court to be dealt with, or

Status: This is the original version (as it was originally enacted).

- (ii) has been convicted by or before the High Court of having committed an offence under section 25 in relation to a serious crime prevention order; or
 - (b) the sheriff is dealing with a person who has been convicted by or before the sheriff of having committed an offence under section 25 in relation to a serious crime prevention order.
- (2) The High Court or (as the case may be) the sheriff may—
 - (a) in the case of an order in Scotland; and
 - (b) in addition to dealing with the person in relation to the offence; vary or replace the order if the High Court or (as the case may be) the sheriff has reasonable grounds to believe that the terms of the order as varied, or the new order, would protect the public by preventing, restricting or disrupting involvement by the person in serious crime in Scotland.
- (3) An order may be varied or replaced under this section only on an application by the Lord Advocate.
- (4) A variation or new order must not be made except—
 - (a) in addition to a sentence imposed in respect of the offence concerned; or
 - (b) in addition to an order discharging the person absolutely.
- (5) A variation may include an extension of the period during which the order, or any provision of it, is in force (subject to the original limits imposed on the order by section 16(2) and (4)(b)).
- (6) A reference in this section to replacing a serious crime prevention order is to making a new serious crime prevention order and discharging the existing one.

22D Inter-relationship between different types of orders in Scotland

- (1) A serious crime prevention order made under section 1(1A) or varied under section 17(1A) may be varied under section 22B(2) or 22C(2).
- (2) The fact that a serious crime prevention order made under section 1(1A) or varied under section 17(1A) has been varied under section 22B(2) or 22C(2) does not prevent it from being varied or discharged by the appropriate court.
- (3) A decision by the High Court of Justiciary or (as the case may be) the sheriff not to make an order under section 22A does not prevent a subsequent application to the appropriate court for an order under section 1(1A) in consequence of the same offence.
- (4) Where a serious crime prevention order is made under section 1(1A) or varied under section 17(1A), a decision by the High Court of Justiciary or (as the case may be) the sheriff not to vary the order under section 22B(2) or 22C(2) does not prevent a subsequent application under section 17(1A) for a variation of the order in consequence of the same offence.”