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## SCHEDULES

### SCHEDULE 9 **E+W**

Section 120(1).

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### Commencement Information

- I1** Sch. 9 partly in force; Sch. 9 not in force at Royal Assent see s. 121; Sch. 9 para. 9 in force at 7.8.1998 by S.I.1998/1883, art. 3; certain paras. in force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8) and for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); Sch. 9 para. 7 in force at 1.7.1999 by S.I. 1998/3263, art. 6.

##### *Presumption of incapacity*

- 1 Nothing in section 34 of this Act shall apply in relation to anything done before the commencement of that section.

##### Commencement Information

- I2** Sch. 9 para. 1 wholly in force; Sch. 9 para. 1 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

##### *Effect of child's silence at trial*

- 2 Nothing in section 35 of this Act shall apply where the offence was committed before the commencement of that section.

##### Commencement Information

- I3** Sch. 9 para. 2 wholly in force; Sch. 9 para. 2 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

##### *Sexual or violent offenders: extended sentences*

- F13** .....

##### Textual Amendments

- F1** Sch. 9 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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### *Drug treatment and testing orders*

F24

#### **Textual Amendments**

**F2** Sch. 9 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

### *Young offenders: cautions*

- 5 (1) Any caution given to a child or young person before the commencement of section 65 of this Act shall be treated for the purposes of subsections (2) and (4) of that section as a reprimand.
- (2) Any second or subsequent caution so given shall be treated for the purposes of paragraphs (a) and (b) of subsection (3) of that section as a warning.

#### **Commencement Information**

**I4** Sch. 9 para. 5 wholly in force; Sch. 9 para. 5 not in force at Royal Assent, see s. 121; Sch. 9 para. 5 in force at 30.9.1998 for the purpose of warning a person under s. 65 in any area specified in Sch. 3 of the said S.I. by S.I. 1998/2327, art. 3(3) (as amended by 1998/2412); Sch. 9 para. 5 in force at 1.4.2000 for specified purposes and 1.6.2000 to the extent that it is not already in force by S.I. 2000/924, arts. 3, 4, **Sch.**

### *Abolition of secure training orders*

- 6 In relation to any time before the commencement of subsection (7) of section 73 of this Act, section 9A of the 1997 Act shall have effect as if after subsection (1) there were inserted the following subsection—
- “(1A) Section 9 above applies to periods of detention which offenders are liable to serve under secure training orders as it applies to sentences of imprisonment.”

#### **Commencement Information**

**I5** Sch. 9 para. 6 wholly in force; Sch. 9 para. 6 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

### *Sentencing guidelines*

- 7 (1) Section 80 of this Act does not apply by virtue of subsection (1)(a) of that section in any case where the Court is seised of the appeal before the commencement of that section.
- (2) In this paragraph “the Court” and “seised” have the same meanings as in that section.

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### *Confiscation orders on committal for sentence*

- 8 Section 83 of this Act does not apply where the offence was committed before the commencement of that section.

#### **Commencement Information**

- I6** Sch. 9 para. 8 wholly in force; Sch. 9 para. 8 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

### *Football spectators: failure to comply with reporting duty*

- 9 Section 84 of this Act does not apply where the offence was committed before the commencement of that section.

### *Power to release short-term prisoners on licence*

- 10 (1) Section 99 of this Act does not apply in relation to a prisoner who, immediately before the commencement of that section, has served one or more days more than the requisite period for the term of his sentence.
- (2) In this paragraph “the requisite period” has the same meaning as in section 34A of the 1991 Act (which is inserted by section 99 of this Act).

### *Early release: two or more sentences*

- 11 (1) Where the terms of two or more sentences passed before the commencement of section 101 of this Act have been treated, by virtue of section 51(2) of the 1991 Act, as a single term for the purposes of Part II of that Act, they shall continue to be so treated after that commencement.
- (2) Subject to sub-paragraph (1) above, section 101 of this Act applies where one or more of the sentences concerned were passed after that commencement.

#### **Commencement Information**

- I7** Sch. 9 para. 11 wholly in force; Sch. 9 para. 11 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

### *Recall to prison of short-term prisoners*

- 12 (1) Sub-paragraphs (2) to (7) below have effect in relation to any prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of section 103 of this Act.
- (2) The following provisions of this Act do not apply, namely—
- (a) section 103;
  - (b) paragraphs 83(1)(b) and 88(3)(a) of Schedule 8 to this Act and section 119 so far as relating to those paragraphs; and
  - (c) section 120(2) and Schedule 10 so far as relating to the repeal of section 38 of the 1991 Act and the repeals in sections 37(1) and 45(4) of that Act.

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- (3) Section 33 of the 1991 Act has effect as if, in subsection (3)(b) (as amended by paragraph 80(1) of Schedule 8 to this Act), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) or 39(1) or (2) ”.
- (4) Section 33A of the 1991 Act (as inserted by paragraph 81 of Schedule 8 to this Act) has effect as if—
- (a) in subsection (1), for the words “section 38A(1) or 39(1) or (2)” there were substituted the words “ section 38(2) or 38A(1) ”; and
  - (b) in subsection (3), for the words “section 39(1) or (2)”, in both places where they occur, there were substituted the words “ section 38(2) ”.
- (5) Section 34A of the 1991 Act (as inserted by section 99 of this Act) has effect as if, in subsection (2)(g), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) ”.
- (6) Section 40A of the 1991 Act (as inserted by section 105 of this Act) has effect as if, in subsection (1), for the word “39” there were substituted the word “ 38 ”.
- (7) Section 44 of the 1991 Act (as substituted by section 59 of this Act) has effect as if—
- (a) in subsections (3) and (4), after the words “subject to” there were inserted the words “ any suspension under section 38(2) above or, as the case may be, ”; and
  - (b) in subsection (7), for the words “sections 37(5) and 39(1) and (2)” there were substituted the words “ section 37(5), 38(2) and 39(1) and (2) ”.
- (8) Section 45 of the 1991 Act has effect as if, in subsection (3) (as amended by paragraph 88(2) of Schedule 8 to this Act), for the words “section 39(1) or (2)” there were substituted the words “ section 38(2) or 39(1) or (2) ”.
- (9) For the purposes of this paragraph and paragraph 13 below, consecutive sentences, or sentences that are wholly or partly concurrent, shall be treated as parts of a single sentence.

#### Commencement Information

- 18** [Sch. 9 para. 12](#) wholly in force at 1.1.1999; [Sch. 9 para. 12](#) not in force at Royal Assent see [s. 121](#); [Sch. 9 para. 12\(1\)\(3\)-\(9\)](#) in force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#)); [Sch. 8 para. 83](#) in force at 1.1.1999 (to the extent that entry in not already in force) by [S.I. 1998/3263](#), [art. 2](#)

#### *Release on licence following recall to prison*

- 13 Section 104 of this Act does not apply in relation to a prisoner whose sentence, or any part of whose sentence, was imposed for an offence committed before the commencement of that section.

#### Commencement Information

- 19** [Sch. 9 para. 13](#) wholly in force; [Sch. 9 para. 13](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

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*Release on licence following return to prison*

- 14 (1) Section 105 of this Act does not apply where the new offence was committed before the commencement of that section.
- (2) In this paragraph “the new offence” has the same meaning as in [<sup>F3</sup>section 116 of the Powers of Criminal Courts (Sentencing) Act 2000].

**Textual Amendments**

**F3** Words in [Sch. 9 para. 14\(2\)](#) substituted (25.8.2000) by [2000 c. 6, ss. 165, 168\(1\)](#), [Sch. 9 para. 203](#)

**Commencement Information**

**I10** [Sch. 9 para. 14](#) wholly in force; [Sch. 9 para. 14](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

*Remand time: two or more sentences*

- 15 (1) Where the terms of two or more sentences passed before the commencement of paragraph 11 of Schedule 8 to this Act have been treated, by virtue of section 104(2) of the <sup>M1</sup>Criminal Justice Act 1967, as a single term for the purposes of section 67 of that Act, they shall continue to be so treated after that commencement.
- (2) Subject to sub-paragraph (1) above, paragraph 11 of Schedule 8 to this Act applies where one or more of the sentences concerned were passed after that commencement.

**Commencement Information**

**I11** [Sch. 9 para. 15](#) wholly in force; [Sch. 9 para. 15](#) not in force at Royal Assent see [s. 121](#); In force at 30.9.1998 by [S.I. 1998/2327](#), [art. 2\(1\)](#) (subject to savings in [arts. 5-8](#))

**Marginal Citations**

**M1** [1967 c.80](#).

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