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SCHEDULES

SCHEDULE 23

Section 409

POWERS TO AMEND THE SENTENCING CODE

PART 1

GENERAL PROVISIONS

Seriousness: list of offences in which terrorist connection to be considered

- 1 (1) The Secretary of State may by regulations amend Schedule 1 (offences where terrorist connection to be considered).
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (3) Subsection (6)(b) of section 407 (power to make different provision for different areas) does not apply to the power conferred by this paragraph.

Commencement Information

11 Sch. 23 para. 1 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

PART 2

ORDERS FOR CONDITIONAL DISCHARGE

- 2 (1) The Secretary of State may by regulations amend subsection (5) of section 80 by substituting such period as may be specified in the regulations for the maximum period for the time being specified in that subsection.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (3) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

12 Sch. 23 para. 2 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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PART 3

REFERRAL ORDERS

Power to amend descriptions of offender for certain purposes connected with referral orders

- 3 (1) The Secretary of State may by regulations amend any provision of sections 84 and 85, other than paragraphs (a) to (e) of section 84(1), to alter in any way the descriptions of offenders in whose case a referral order must or may be made.
- (2) The Secretary of State may by regulations amend any provision of paragraphs 14 to 16 of Schedule 4 to alter in any way the description of the offenders in the case of which an order extending the compliance period may be made.
- (3) Any description of offender having effect by virtue of regulations under this paragraph may be framed by reference to such matters as the Secretary of State considers appropriate, including (in particular) one or more of the following—
- (a) the offender's age,
 - (b) how the offender has pleaded,
 - (c) the offence (or offences) of which the offender has been convicted,
 - (d) the offender's previous convictions (if any),
 - (e) how (if at all) the offender has been previously punished or otherwise dealt with by any court, and
 - (f) any characteristics or behaviour of, or circumstances relating to, any person who has at any time been charged in the same proceedings as the offender (whether or not in respect of the same offence).
- (4) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I3 Sch. 23 para. 3 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to alter amount of fine in respect of referral order on referral back to court

- 4 (1) The Secretary of State may by regulations amend any sum for the time being specified in paragraph 9(3) of Schedule 4 (power to impose fine where offender fails to comply with youth offender contract).
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (3) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

I4 Sch. 23 para. 4 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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PART 4

FINES AND COMPENSATION ORDERS

Standard scale

- 5 (1) The Secretary of State may by regulations amend section 122 so as to provide for such sum as appears to the Secretary of State justified by a change in the value of money since the relevant date to have effect in place of any sum for the time being specified as a level on the standard scale, in relation to offences committed after the regulations come into force.
- (2) In sub-paragraph (1), the “relevant date” means—
- (a) 1 October 1992, or
 - (b) if the sum for the time being specified has effect by virtue of regulations under this paragraph or paragraph 6, the date of those regulations.
- (3) Regulations under this paragraph are subject to the negative resolution procedure.
- (4) The power to make regulations under this paragraph includes power to make regulations reversing the effect of regulations previously made under it.
- (5) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

I5 Sch. 23 para. 5 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

- 6 (1) The Secretary of State may by regulations amend section 122 so as to provide for such sums as the Secretary of State considers appropriate to have effect in place of the sums for the time being specified as levels 1 to 4 on the standard scale in relation to offences committed after the regulations come into force.
- (2) Regulations under this paragraph may not alter the ratio of one of those levels to another.
- (3) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (4) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

I6 Sch. 23 para. 6 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to alter limits on fines and compensation orders etc in magistrates' court

- 7 (1) The Secretary of State may by regulations substitute, for a sum for the time being specified in any of the following provisions, such sum as appears to the Secretary of State justified by a change in the value of money since the relevant date, in relation to offences committed after the regulations come into force—

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section 123	limit on magistrates' court fine for young offender
section 129	limit on term in default of payment of fine
section 139	limit on magistrates' court compensation order for young offender
section 376(2)(b) or (8)	limits on recognizance for parent or guardian of young offender, or fine for unreasonable refusal to enter into recognizance
paragraph 2(2)(a) of Schedule 5	limit on fine on breach of requirement of reparation order

- (2) In sub-paragraph (1), the “relevant date” means—
- (a) 1 October 1992, or
 - (b) if the sum for the time being specified has effect by virtue of regulations under this paragraph, the date of those regulations.
- (3) Regulations under this paragraph are subject to the negative resolution procedure.
- (4) The power to make regulations under this paragraph includes power to make regulations reversing the effect of regulations previously made under it.
- (5) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

I7 Sch. 23 para. 7 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

PART 5

YOUTH REHABILITATION ORDERS

Responsible officer

- 8 (1) The Secretary of State may by regulations—
- (a) amend section 191 (meaning of “the responsible officer”), and
 - (b) make any other amendments of—
 - (i) Chapter 1 of Part 9 (youth rehabilitation orders), or
 - (ii) any provision of this Act derived from Chapter 1 of Part 12 of the Criminal Justice Act 2003 (general provisions about sentencing),
 that appear to be necessary or expedient in consequence of any amendment made by virtue of paragraph (a).
- (2) Regulations under sub-paragraph (1) may, in particular, provide for the court to determine which of two or more descriptions of responsible officer is to apply in relation to any youth rehabilitation order.

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(3) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I8 Sch. 23 para. 8 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to amend limits

- 9 (1) The Secretary of State may by regulations substitute a maximum number of hours, or a period, for the time being specified in either of the following provisions of Schedule 6 (youth rehabilitation order: requirements)—
- (a) paragraph 10(3) (unpaid work requirement), or
 - (b) paragraph 18(4) (curfew requirement).
- (2) The Secretary of State may by regulations substitute a period for the time being specified in any of the following provisions of Schedule 6 (youth rehabilitation order: requirements)—
- (a) paragraph 18(5) (curfew requirement);
 - (b) paragraph 20(3) (exclusion requirement);
 - (c) paragraph 24(4)(a) (local authority residence requirement);
 - (d) paragraph 26(3)(a) (fostering requirement).
- (3) Regulations under this paragraph which amend paragraph 26(3)(a) of Schedule 6 may also make consequential amendments of paragraphs 10(9) and (10) and 17(5) and (6) of Schedule 7.
- (4) Regulations under this paragraph are subject to the affirmative resolution procedure.

Modifications etc. (not altering text)

C1 Sch. 23 para. 9 applied (with modifications) by 2008 c. 4, s. 39(6)(e), Sch 7 (as amended) (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 paras. 266(5), 270 (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

Commencement Information

I9 Sch. 23 para. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to amend fines for breach of youth rehabilitation order

- 10 (1) The Secretary of State may by regulations amend any sum for the time being specified in paragraph 6(5)(a) or 7(2)(a) of Schedule 7 (fine on breach of youth rehabilitation order).
- (2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.
- (3) In sub-paragraph (2), “the relevant date” means—
- (a) 3 December 2012, or

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- (b) if the sum specified in paragraph 6(5)(a) or 7(2)(a) (as the case may be) of Schedule 7 has been substituted by regulations under sub-paragraph (1), the date on which the sum was last so substituted.

(4) Regulations under this paragraph are subject to the negative resolution procedure.

Commencement Information

I10 Sch. 23 para. 10 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Maximum period of fostering requirement where imposed by virtue of Schedule 7

- 11 (1) The Secretary of State may by regulations amend paragraph 10(10) or 17(6) of Schedule 7 by substituting, for—
- (a) the period of 18 months specified in the provision, or
- (b) any other period which may be so specified by virtue of previous regulations under this paragraph,
- such other period as may be specified in the regulations.

(2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I11 Sch. 23 para. 11 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

*Power to amend provisions of Schedule 8 in
 consequence of changes to the law in Northern Ireland*

- 12 (1) This paragraph applies where a change is made to the law in Northern Ireland adding further descriptions of orders to the kinds of orders which a court in that jurisdiction may impose in dealing with an offender aged under 18 at the time of conviction.
- (2) The Secretary of State may by regulations make such amendments to Schedule 8 (transfer of youth rehabilitation orders to Northern Ireland) as appear expedient in consequence of the change.
- (3) Regulations under this paragraph are subject to the negative resolution procedure.

Commencement Information

I12 Sch. 23 para. 12 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

PART 6

COMMUNITY REQUIREMENTS

Power to amend limits

- 13 (1) The Secretary of State may by regulations substitute the maximum number of hours for the time being specified in—

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- (a) paragraph 2(1) of Schedule 9 (unpaid work requirement), or
 - (b) paragraph 9(4) of that Schedule (curfew requirement).
- (2) The Secretary of State may by regulations substitute any period of time for the time being specified in—
- (a) paragraph 9(5) of Schedule 9 (curfew requirement);
 - (b) paragraph 11(4) of that Schedule (exclusion requirement);
 - (c) paragraph 25(4)(b) of that Schedule (alcohol abstinence and monitoring requirement).
- (3) Regulations under this paragraph are subject to the affirmative resolution procedure.

Modifications etc. (not altering text)

C2 Sch. 23 para. 13 extended by 2006 c. 52, Sch. 6 para. 8 (as amended) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 11\(9\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

Commencement Information

I13 Sch. 23 para. 13 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 7

COMMUNITY ORDERS

Breach of community order: power to amend amounts of fines

- 14 (1) The Secretary of State may by regulations amend any sum for the time being specified in paragraph 10(5)(a) or 11(2)(a) of Schedule 10 to the Code (breach etc of community order).
- (2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.
- (3) In sub-paragraph (2), “the relevant date” means—
- (a) if the sum specified in paragraph 10(5)(a) or 11(2)(a) of Schedule 10 to the Code (as the case may be) has been substituted by regulations under sub-paragraph (1), the date on which the sum was last so substituted;
 - (b) otherwise, 3 December 2012.
- (4) Regulations under this paragraph are subject to the negative resolution procedure.

Commencement Information

I14 Sch. 23 para. 14 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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PART 8

CUSTODIAL SENTENCES

Detention and training orders: end of period of supervision

- 15 (1) Subject to sub-paragraphs (2) and (3), the Secretary of State may by regulations amend section 242 (detention and training order: period of supervision) as it has effect for the time being so as to alter the point at which the period of supervision of a detention and training order is to end.
- (2) The period of supervision must end no later than the end of the term of the order.
- (3) Regulations under this paragraph may not include provision about cases in which—
- (a) the offender is aged 18 or over at the half-way point of the term of the detention and training order, and
 - (b) the order was made in respect of an offence committed on or after 1 February 2015.
- (4) Expressions used in this paragraph and sections 233 to 237 have the same meanings in this paragraph as in those sections.
- (5) For the purposes of sub-paragraph (3)(b), where an offence is found to have been committed—
- (a) over a period of 2 or more days, or
 - (b) at some time during a period of 2 or more days,
- it is to be taken to have been committed on the last of those days.
- (6) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (7) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the power conferred by this paragraph.

Commencement Information

I15 Sch. 23 para. 15 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Offenders of particular concern: listed offences

- 16 (1) The Secretary of State may by regulations amend Schedule 13 by—
- (a) adding offences, or
 - (b) varying or omitting offences listed in the Schedule.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I16 Sch. 23 para. 16 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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Suspended sentence order: power to amend amounts of fines

- 17 (1) The Secretary of State may by regulations amend any sum for the time being specified in paragraph 13(1)(c) of Schedule 16 to the Code (breach etc of community requirement of suspended sentence order or conviction of further offence).
- (2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.
- (3) In sub-paragraph (2), “the relevant date” means—
- (a) if the sum specified in paragraph 13(1)(c) of Schedule 16 to the Code has been substituted by regulations under sub-paragraph (1), the date on which the sum was last so substituted;
 - (b) otherwise, 3 December 2012.
- (4) Regulations under this paragraph are subject to the negative resolution procedure.

Commencement Information

I17 Sch. 23 para. 17 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to exclude application of minimum sentences to those under 18

- 18 (1) The Secretary of State may by regulations—
- (a) amend section 311(1)(b) (minimum sentence for certain offences involving firearms that are prohibited weapons) by substituting for the word “16” the word “18”;
 - (b) repeal section 252(1)(b) (maximum sentence of detention in case where minimum sentence required under section 311).
- (2) Regulations under this paragraph may make such other provision as the Secretary of State considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of sub-paragraph (1).
- The provision that may be made by virtue of this sub-paragraph includes, in particular, provision amending or repealing any provision of an Act (whenever passed) including any provision of the Sentencing Code.
- (3) Regulations under this paragraph may make provision in relation to offences even if committed, or the offender was convicted, before the regulations come into force.
- (4) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I18 Sch. 23 para. 18 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Determining minimum term of mandatory life sentence

- 19 (1) The Lord Chancellor may by regulations amend Schedule 21.
- (2) Before making regulations under sub-paragraph (1), the Lord Chancellor must consult the Sentencing Council for England and Wales.

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- (3) Regulations under this paragraph may not have effect in relation to any offence committed before the regulations come into force.
- (4) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

I19 Sch. 23 para. 19 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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