

SCHEDULES

SCHEDULE 2

SENTENCING CONSOLIDATION: PRE-CONSOLIDATION AMENDMENTS

PART 1

AMENDMENTS OF THE POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000

- 1 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 2 In section 1ZA (undertakings to participate in restorative justice activities), in
subsubsection (6), after “issued” insert “from time to time”.
- 3 In section 1D (deferment of sentence: supplementary), at the end insert—
 - “(7) Where a magistrates’ court has deferred passing sentence on an offender
under section 1, any reference in sections 1 to 1C or this section to the court
which deferred passing sentence on the offender includes a reference to any
magistrates’ court acting in the same local justice area.”
- 4 In section 3 (committal for sentence on summary trial of offence triable either way),
in subsection (2)(a), omit “, in the court’s opinion,”.
- 5 (1) Section 3A (committal for sentence of dangerous adult offenders) is amended as
follows.
 - (2) In subsection (2), for “it appears to the court” substitute “the court is of the opinion”.
 - (3) Subsection (4) is amended as follows—
 - (a) omit “and” at the end of paragraph (a);
 - (b) paragraph (b) becomes subsection (4A).
 - (4) In subsection (5), after “section 3 above” insert “or section 4 below”.
- 6 In section 3B (committal for sentence of young offenders on summary trial of
certain serious offences), in subsection (2), omit “, in the court’s opinion,”.
- 7 (1) Section 3C (committal for sentence of dangerous young offenders) is amended as
follows.
 - (2) In subsection (2), for “it appears to the court” substitute “the court is of the opinion”.
 - (3) In subsection (4)—
 - (a) for “a specified offence” substitute “a person convicted of a specified
offence”;
 - (b) after “section 3B above” insert “or 4A below”.
- 8 (1) Section 4 (committal for sentence on indication of guilty plea to offence triable either
way) is amended as follows.

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- (2) In subsection (5), for the words after “could” substitute “have dealt with him for it”.
- (3) Subsection (8) is amended as follows—
- (a) omit “and” at the end of paragraph (a);
 - (b) paragraph (b) becomes subsection (9).
- 9 (1) Section 4A (committal for sentence on indication of guilty plea by child or young person with related offences) is amended as follows.
- (2) In subsection (1)(a), after “appears or” insert “is”.
- (3) In subsection (5), for the words after “could” substitute “have dealt with him for it”.
- 10 In section 5 (power of Crown Court on committal for sentence under sections 3, 3A and 4), in subsection (1) omit “just”.
- 11 In section 5A (power of Crown Court on committal for sentence under sections 3B, 3C and 4A), in subsection (1) omit “just”.
- 12 In section 6 (committal for sentence in certain cases where offender committed in respect of another offence), in subsection (4)—
- (a) after paragraph (a) insert—
 - “(aa) section 6(6) or 9(3) of the Bail Act 1976 (committal to Crown Court for offences of absconding by person released on bail or agreeing to indemnify sureties in criminal proceedings);
 - (ab) section 43 of the Mental Health Act 1983 (power of magistrates’ courts to commit for restriction order);”;
 - (b) before paragraph (e) insert—
 - “(da) paragraph 22(1) of Schedule 8 to the Criminal Justice Act 2003 (commission of further offence while community order is in force);”;
 - (c) in paragraph (e), for “the Criminal Justice Act 2003” substitute “that Act”.
- 13 (1) Section 7 (power of Crown Court on committal for sentence under section 6) is amended as follows.
- (2) In subsection (1)—
- (a) for “deal”, in the second place it occurs, substitute “have dealt”;
 - (b) omit “just”.
- (3) Omit subsection (4).
- 14 (1) Section 8 (power and duty to remit young offenders to youth courts for sentence) is amended as follows.
- (2) In subsection (2)—
- (a) for “remit the case” substitute “remit the offender”;
 - (b) in paragraph (a), for “where he was sent” substitute “where the magistrates’ court sat which sent the offender”.
- (3) In subsection (3)—
- (a) for “a case” substitute “an offender”;

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- (b) for “the offender shall be brought before a youth court accordingly, and that court” substitute “the youth court before which the offender appears or is brought”.
- (4) In subsection (4)—
 - (a) for “remitting a case” substitute “remitting an offender”;
 - (b) in paragraph (a), after “may” insert “in the case of the Crown Court” and after “he can” insert “appear or”;
 - (c) in paragraph (b), for “cause to be transmitted” substitute “provide”;
 - (d) in paragraph (b)(ii), for “the case” substitute “the offender”.
- (5) After subsection (4) insert—
 - “(4A) A magistrates’ court which remits an offender to a youth court under subsection (2) above must adjourn proceedings in relation to the offence; and section 128 of the Magistrates’ Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings are to have effect, in relation to the magistrates’ court’s power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the youth court to which the offender is being remitted.
 - (4B) For the purposes of subsection (4A) “enactment” and “bail in criminal proceedings” have the meanings given by section 10(8).”
- (6) In subsection (5)—
 - (a) for “a case” substitute “an offender”;
 - (b) after “but” insert “(if the offender is remitted by the Crown Court)”;
 - (c) for “the case” substitute “the offender”;
 - (d) at the end insert—
 - “(This is without prejudice to any right of appeal which the offender may have against any order made in respect of the offence by that court, where the offender is remitted to it by a magistrates’ court.)”
- (7) In subsection (6)—
 - (a) for “case”, in the first place it occurs, substitute “offender”;
 - (b) at the end, insert “(in which event the court may, but need not, so remit the offender)”.
- (8) In subsection (7) for “case”, in the second place it occurs, substitute “offender”.
- 15 In section 9 (power of youth court to remit offender who attains age of 18 to magistrates’ court other than youth court for sentence), in subsection (2)(b)—
 - (a) for “case” substitute “offender”;
 - (b) for “deal with it” substitute “deal with the offender”.
- 16 (1) Section 10 (power of magistrates’ court to remit case to another magistrates’ court for sentence) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a), at the end insert “by the court by which the offender was convicted”;

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- (b) in paragraph (b), for “convicting court”, substitute “court by which the offender was convicted”.
- (3) In subsection (3)—
 - (a) in the opening words, for “the trial of the information charging him with” substitute “proceedings in relation to”;
 - (b) in paragraph (b), for “case” substitute “offender” and for “deal with it” substitute “deal with the offender”.
- (4) In subsection (6), for “any other” substitute “an”.
- 17 In section 12 (absolute and conditional discharge), in subsection (1)(b), for “from” substitute “beginning with”.
- 18 (1) Section 13 (commission of further offence by person conditionally discharged) is amended as follows.
 - (2) In subsection (5), for paragraph (a) substitute—
 - “(a) may commit him in custody or on bail to the Crown Court; and”.
 - (3) In subsection (6), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”.
 - (4) After subsection (6) insert—
 - “(6A) But if the order for conditional discharge was made by the Crown Court otherwise than on appeal from a magistrates’ court but in circumstances where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates’ court on convicting the offender of the offence, the power of the Crown Court under subsection (6) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then).”
 - (5) In subsection (7), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”.
 - (6) In subsection (8), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”.
 - (7) Omit subsection (9).
- 19 (1) Section 15 (discharge: supplementary) is amended as follows.
 - (2) After subsection (1) insert—
 - “(1A) Provision that may be made by an order under subsection (1) includes provision that has effect in relation to an offence (whenever committed) of which a person is convicted after the order comes into force.”
 - (3) In subsection (2)(b), omit “the criminal division of”.
- 20 In section 16 (duty and power to refer certain young offenders to youth offender panels), in subsection (1), for “aged under 18 for an offence” substitute “for an offence where the person was aged under 18 at the time of conviction of the offence”.
- 21 In section 17 (the referral conditions), after subsection (4) insert—

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- “(4A) Provision that may be made by regulations under this section includes provision that has effect in relation to an offence (whenever committed) of which an offender is convicted after the regulations come into force.”
- 22 In section 24 (first meeting: duration of contract), in subsection (5), for “9ZD, 11 or 12” substitute “6A, 9ZD or 10”.
- 23 In section 30 (regulations under Part 3), in subsection (4), after “such” insert “consequential”.
- 24 (1) Section 73 (reparation orders) is amended as follows.
- (2) In subsection (3), for “an offender” substitute “an offence”.
- (3) In subsection (4)—
- (a) in the opening words, for “the offender” substitute “the offence”;
- (b) in paragraph (a), for “him” substitute “the offender”;
- (c) in paragraph (b), for “him” substitute “the offence”.
- (4) In subsection (4B), for “under” substitute “as mentioned in”.
- (5) In subsection (5), omit “an officer of a local probation board,”.
- 25 (1) Section 74 (requirements and provisions of reparation order, and obligations of person subject to it) is amended as follows.
- (2) In subsection (3), for paragraph (a) (but not including the “and” at the end) substitute—
- “(a) any conflict with the offender’s religious beliefs or with any other court order to which the offender may be subject;”.
- (3) In subsection (5)(a), omit—
- (a) “an officer of a local probation board or”;
- (b) “(as the case may be)”.
- (4) Omit subsection (6).
- (5) In subsection (8), in paragraph (b), for “from” substitute “beginning with”.
- 26 (1) Section 83 (restriction on imposing custodial sentences on persons not legally represented) is amended as follows.
- (2) In subsection (2), after paragraph (a) insert—
- “(aa) pass an extended sentence of detention under section 226B of the Criminal Justice Act 2003;”.
- (3) In subsection (5), after “119 below” insert “, under paragraph 8 of Schedule 12 to the Criminal Justice Act 2003”.
- (4) In subsection (6), at the end insert “and a reference to a person being sentenced to imprisonment is to be read accordingly”.
- 27 In section 91 (offenders under 18 convicted of certain serious offences: power to detain for specified period), at the end insert—
- “(6) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (5) to a person aged 18 or over is to be read as a reference to a person aged 21 or over.”

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- 28 In section 96 (detention in a young offender institution for other cases where offender at least 18 but under 21), in paragraph (b), for the words after “opinion” substitute “mentioned in subsection (2) of section 152 of the Criminal Justice Act 2003 or the case falls within subsection (3) of that section”.
- 29 In section 97 (term of detention in a young offender institution, and consecutive sentences), in subsection (5), for “section 84 above” substitute “section 265 of the Criminal Justice Act 2003 (restriction on consecutive sentences for released prisoners)”.
- 30 (1) Section 100 (offenders under 18: detention and training orders) is amended as follows.
- (2) In subsection (1)(b), omit “or the case falls within subsection (3) of that section”.
- (3) In subsection (1A), at the end insert—
- “(c) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).”
- 31 (1) Section 101 (term of detention and training order, consecutive terms and taking account of remands) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) In the case of a summary offence, the maximum term of a detention and training order may not exceed the maximum term of imprisonment that may be imposed (in the case of an offender aged 18 or over) for the offence.”
- (3) In subsection (2), at the beginning insert “In any other case,”.
- (4) Before subsection (3) insert—
- “(2B) Unless the court provides otherwise under subsection (3) below, a detention and training order takes effect at the beginning of the day on which it is made.”
- (5) At the end insert—
- “(14) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (1A) above to an offender aged 18 or over is to be read as a reference to an offender aged 21 or over.”
- 32 (1) Section 103 (detention and training orders: the period of supervision) is amended as follows.
- (2) In subsection (2A), after paragraph (b) (but not as part of that paragraph), insert—
- “but subject to that, the provision that may be made by an order under subsection (2) includes provision about detention and training orders imposed in respect of an offence (whenever committed) of which a person is convicted after the order comes into force.”
- (3) In subsection (3)(a), omit “an officer of a local probation board or”.
- (4) Omit subsection (4) (provision applicable where supervision provided by officer of local probation board).
- 33 (1) Section 104 (breach of supervision requirements) is amended as follows.

- (2) In subsection (3A)(b), for “beginning with” substitute “between” and omit “ending with”.
- (3) In subsection (3B), after “days” in the first place it occurs, insert “, or at some time during a period of two or more days,”.
- (4) In subsection (3D)(a) for “on the date” substitute “with the day on which”.
- 34 In section 104B (interaction of orders under section 104(3)(a) with other sentences), in subsection (7)(b), after “incidental,” insert “consequential,”.
- 35 In section 105 (offences during currency of detention and training order), in subsection (2), for the words before “the new offence” substitute “The court which deals with a person to whom this section applies for”.
- 36 (1) Section 106 (interaction with sentences of detention in a young offender institution) is amended as follows.
- (2) In subsection (4), for “the one of them that was imposed on the later occasion” substitute “the sentence of detention in a young offender institution”.
- (3) In subsection (6), after “on a previous occasion could have dealt with him,” insert “or could deal with the person for an offence if the person were the same age as when convicted of it,”.
- 37 In section 106B (further supervision after end of term of detention and training order), in subsection (4)(b), for “the youth offending team” substitute “a youth offending team”.
- 38 In section 110 (minimum of 7 years for third class A drug trafficking offence), in subsection (6)(b), after “institution” insert “(and includes, in relation to an offence for which a person aged 21 or over would be liable to imprisonment for life, custody for life under section 94 above)”.
- 39 (1) Section 130 (compensation orders against convicted persons) is amended as follows.
- (2) In subsection (1), omit “, instead of or in addition to dealing with him in any other way,”.
- (3) After that subsection insert—
- “(1A) The power in subsection (1) is exercisable whether or not the court also deals with the offender for the offence in any other way.”
- (4) Omit subsections (2) to (2A).
- 40 (1) Section 132 (compensation orders: appeals etc) is amended as follows.
- (2) In subsection (1), for “an appeal on which the order could be varied or set aside” substitute “the order being varied or set aside on appeal”.
- (3) In subsection (2), at the end insert “under subsection (1)”.
- 41 (1) Section 133 (review of compensation orders) is amended as follows.
- (2) In subsection (2)(a), for “an appeal on which the compensation order could be varied or set aside” substitute “the compensation order being varied or set aside on appeal”.
- (3) In subsection (5)(b), omit “the criminal division of”.

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- 42 In section 134 (effect of compensation order on subsequent award of damages in civil proceedings), in subsection (2), for “plaintiff” substitute “claimant”.
- 43 In section 137 (power to order parent or guardian to pay fine, costs, compensation or surcharge), in subsection (1A)—
- (a) after “Where” insert “a child or young person is convicted of an offence and”;
 - (b) for “a child” substitute “the child”.
- 44 In section 139 (powers and duties of Crown Court in relation to fines and forfeited recognizances), in subsection (2), at the end insert “(but this subsection does not apply where the court imposes a fine on an offender who was aged under 18 at the time of conviction)”.
- 45 In section 140 (enforcement of fines imposed and recognizances forfeited by Crown Court), in subsection (6), for “the Justices of the Peace Act 1997 and, in particular, section 60 of that Act (application of fines and fees)” substitute “section 38 of the Courts Act 2003 (application of receipts of designated officers)”.
- 46 (1) Section 144 (forfeited property which is in police possession) is amended as follows.
- (2) In subsection (1), in paragraph (a), for “from” substitute “beginning with”.
 - (3) In subsection (3), for “relevant authority” substitute “relevant body”.
 - (4) In subsection (5), for ““relevant authority”” substitute ““relevant body””.
- 47 (1) Section 146 (driving disqualification for any offence) is amended as follows.
- (2) In subsection (1), omit “, instead of or in addition to dealing with him in any other way,”.
 - (3) After that subsection insert—

“(1A) The power in subsection (1) is exercisable whether or not the court also deals with the offender for the offence in any other way.”
 - (4) Omit subsections (2) and (2A).
- 48 In section 147 (driving disqualification where vehicle used for purposes of crime), in subsection (1), omit paragraph (b) and the word “or” immediately before it.
- 49 (1) Section 149 (restitution orders: supplementary) is amended as follows.
- (2) Omit subsection (2).
 - (3) In subsection (3)—
 - (a) for “his sentence” substitute “the sentence of an offender for an offence”;
 - (b) in paragraph (a), for “he”, in the first place it occurs, substitute “the offender”;
 - (c) omit paragraph (b).
 - (4) In subsection (4), for paragraphs (a) and (b) substitute “until there is no further possibility of the order being varied or set aside on appeal (disregarding any power of a court to grant leave to appeal out of time)”.
- 50 (1) Section 150 (binding over of parent or guardian) is amended as follows.
- (2) In subsection (7), for “among other things” substitute “, in particular,”.

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- (3) In subsection (10), for “revoke” substitute “discharge”.
- 51 In section 154 (commencement of Crown Court sentence), in subsection (1), for “the Crown Court” substitute “a court”.
- 52 (1) Schedule 1 (youth offender panels: further court proceedings) is amended as follows.
- (2) In paragraph 5 (power of court where it upholds panel’s decision)—
- (a) in sub-paragraph (3), after “paragraphs” insert “6A,”;
- (b) in sub-paragraph (5)—
- (i) in paragraph (a), for the words after “applied)” (but not including the “and” at the end of the paragraph), substitute “it could deal with the offender if it had just convicted the offender of that offence (but as if the offender were the same age as when in fact convicted)”;
- (ii) in paragraph (b), for “have regard to” substitute “take into account”.
- (3) In paragraph 6A (power of court to impose fine or extend period for which contract has effect), at the end insert—
- “(8) Provision that may be made by an order under sub-paragraph (7) (an “amending order”) includes provision that has effect in relation to a referral order made in respect of an offence (whenever committed) of which an offender was convicted after the amending order comes into force.”
- (4) In paragraph 9 (discharge of extension orders), after “paragraphs” insert “6A,”.
- (5) In paragraph 9ZD (power of court on referral back to court for extension of period for which contract has effect), in sub-paragraph (3), for “have regard to” substitute “take into account”.
- (6) In paragraph 9D (power of court to make parenting order: application of supplemental provisions), in sub-paragraph (7)—
- (a) for “18(3)” substitute “18(3A)”;
- (b) for “any other parenting order” substitute “a parenting order made by virtue of section 8(1)(c) of that Act”.
- (7) In paragraph 13 (provisions supplementary to paragraph 10), in sub-paragraph (8)—
- (a) for “subsection (4)” substitute “subsections (4) and (4A)”;
- (b) for “it applies” substitute “they apply”.
- (8) In paragraph 14 (further convictions: power to revoke referral orders)—
- (a) in sub-paragraph (2A), after “under paragraph” insert “6A,”;
- (b) in sub-paragraph (3), for the words after “applied)”, substitute “a magistrates’ court could deal with the offender if it had just convicted the offender of that offence (but as if the offender were the same age as when in fact convicted)”;
- (c) in sub-paragraph (4), for “have regard to” substitute “take into account”.
- 53 (1) Schedule 8 (breach, revocation and amendment of reparation orders) is amended as follows.
- (2) In paragraph 2 (breach of requirement of reparation order)—

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- (a) in sub-paragraph (1), in paragraphs (a) and (b), after “youth court”, in each place it occurs, insert “, or, if the offender is aged 18 or over, a magistrates’ court other than a youth court.”;
 - (b) in sub-paragraph (2)—
 - (i) in paragraph (b) (re-sentencing powers of appropriate court), for “he could have been dealt with for that offence by the court which made the order if the order had not been made” substitute “the appropriate court could deal with the offender if it had just convicted him of that offence (but the offender were the same age as when in fact convicted)”;
 - (ii) in paragraph (c), for “in” substitute “to”;
 - (c) in sub-paragraph (3), for “an offender” substitute “an offender’s case”;
 - (d) in sub-paragraph (4), for “have dealt with him for that offence if it had not made the order” substitute “deal with the offender if the offender had just been convicted before it of that offence (but were the same age as when in fact convicted)”;
 - (e) after that sub-paragraph insert—
 - “(4A) But if the reparation order was made by the Crown Court where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates’ court on convicting the offender of the offence, the power of the Crown Court under sub-paragraph (4) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”;
 - (f) in sub-paragraph (8)—
 - (i) in paragraph (b), omit “the criminal division of”;
 - (ii) omit the words after paragraph (b);
 - (g) after sub-paragraph (8) insert—
 - “(8A) In proceedings before the Crown Court under this paragraph any question whether the offender has breached a requirement of the order is to be determined by the court and not by the verdict of a jury.”
- (3) In paragraph 5 (revocation and amendment of reparation order), in sub-paragraph (1) (b)(ii), for the words after “any provision which” substitute “it could include in a reparation order if it were now making such an order in respect of the offence for which the order was made, if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted)”.
- (4) In paragraph 6 (presence of offender in court, remands etc)—
- (a) in sub-paragraph (5)(b), omit—
 - (i) “subject to sub-paragraph (7) below”;
 - (ii) “to local authority accommodation”;
 - (b) omit sub-paragraph (6);
 - (c) after that sub-paragraph insert—
 - “(6A) If the offender is aged under 18, any remand under sub-paragraph (5) is to be to local authority accommodation.”;

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

(d) omit sub-paragraph (7).