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SCHEDULES

SCHEDULE 12

MINOR AND CONSEQUENTIAL AMENDMENTS

POWERS OF CRIMINAL COURTS ACT 1973 (c. 62)

- 1 (1) Section 1 (deferment of sentence) shall be amended as follows.
- (2) In subsection (2) (under which passing sentence may not be deferred for more than six months after the date of the conviction), for " of the conviction" substitute " on which the deferment is announced by the court ".
- (3) After subsection (4) (power of deferring court to pass sentence on offender during period of deferment if he is convicted in Great Britain of another offence) insert—
- “(4A) If an offender on whom a court has under this section deferred passing sentence in respect of one or more offences is during the period of deferment convicted in England or Wales of any offence (' the subsequent offence'), then, without prejudice to subsection (4) above, the court which (whether during that period or not) passes sentence on him for the subsequent offence may also, if this has not already been done, pass sentence on him for the first-mentioned offence or offences:
- Provided that—
- (a) the power conferred by this subsection shall not be exercised by a magistrates' court if the court which deferred passing sentence was the Crown Court; and
- (b) the Crown Court, in exercising that power in a case in which the court which deferred passing sentence was a magistrates' court, shall not pass any sentence which could not have been passed by a magistrates' court in exercising it.”.
- (4) In subsection (5) (summons to, or warrant for arrest of, offender where the passing of sentence has been deferred) for " it" substitute " or where the offender does not appear on the date so specified, the court ".
- (5) For subsection (6) (which, where the trial of an information is adjourned by way of deferment under the section, excludes the obligation to remand the offender which would in certain circumstances be imposed by section 14(4) of the Magistrates' Courts Act 1952) substitute—
- “(6) It is hereby declared that in deferring the passing of sentence under this section a magistrates' court is to be regarded as exercising the power of adjourning the trial which is conferred by section 14(1) of the Magistrates' Courts Act 1952, and that accordingly section 15 of that Act (non-appearance of the accused) applies (without prejudice to subsection (5) above) if the offender does not appear on the date specified in pursuance of subsection (2) above.

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(6A) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.”.

(6) After subsection (7) add—

“(8) The power of a court under this section to pass sentence on an offender in a case where the passing of sentence has been deferred thereunder does not extend to committing him to another court for sentence but, subject to that, includes power to deal with him in any way in which the court which deferred passing sentence could have dealt with him.”.

2 For section 2(5)(b) (which requires a probation order requiring residence in an institution to specify the name of the institution as well as the required period of residence, and imposes a limit of twelve months on that period) substitute—

“(b) where the order requires the offender to reside in an approved probation hostel or any other institution, the period for which he is so required to reside shall be specified in the order.”.

3 In section 9(1) (breach of conditional discharge by young offenders)—

- (a) for the words from " not being" to " 1952" substitute " triable only on indictment in the case of an adult, " ;
- (b) for the words from " such an offence " onwards substitute " an offence triable either way and had been tried summarily. " .

4 In section 15(2) (period within which work under a community service order is to be performed), at the end add " ; but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it. " .

5 In section 17(3) (power of Crown Court to revoke or vary community service orders), for the words from the beginning to "and it appears to the Crown Court" substitute—

“(3) Where an offender in respect of whom such an order is in force—

- (a) is convicted of an offence before the Crown Court; or
- (b) is committed by a magistrates' court to the Crown Court for sentence and is brought or appears before the Crown Court; or
- (c) by virtue of subsection (2)(b) above is brought or appears before the Crown Court,

and it appears to the Crown Court”.

6 In section 49—

- (a) in subsection (1), for "probation hostels and probation homes " substitute " and probation hostels " ;
- (b) in subsection (2), for " approved probation hostels and approved probation homes" substitute " and approved probation hostels " .

7 Section 50 (inspection of approved bail hostels and of non-approved institutions for residence of probationers) shall be amended as follows—

- (a) in subsection (1) omit the words " Any approved bail hostel and ", and after " patient" insert " or in which a person is required to reside as a condition of bail granted to him " ;
- (b) in subsection (2), after " apply to " insert " an approved bail hostel or " .

8 Section 51 (expenses and grants) shall be amended as follows—

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- (a) in subsections (1)(a), (3)(e) and (4)(c), after "servants serving in" insert "approved bail hostels or";
 - (b) in subsection (3)(b), for "probation hostels and probation homes" substitute "and probation hostels".
- 9 In section 57(1) (interpretation)—
 - (a) in the paragraph beginning with the words "' approved probation hostel' ", for the words from the first " and " to "home approved" substitute " means a probation hostel approved " ; and
 - (b) in the paragraph beginning with the words "' probation hostel'", omit the words from " being persons who " onwards.
- 10 Paragraph 3(2)(b) of Schedule 1 (which precludes a supervising court from amending a probation order so as to require residence in an institution for more than twelve months in all) shall be omitted.
- 11 (1) Schedule 3 (the probation and after-care service and its functions) shall be amended as follows.
 - (2) In paragraph 3(1)(b) (remuneration, allowances and expenses of probation officers), for " prescribed " substitute " determined by the Secretary of State under paragraph 18A below ".
 - (3) In paragraph 9 (selection of probation officer for probationer), omit the words from " or if " to "place" (which provide for the selected officer to be changed at the instance of the case committee).
 - (4) In paragraph 18(1)(b) (power to make rules prescribing conditions of service etc. of probation officers and others) omit " conditions of service ".
 - (5) At the end of paragraph 18 insert—

“Conditions of service of probation officers

18A The conditions of service of probation officers and staff appointed under paragraph 10 above shall be such as the Secretary of State may from time to time determine.”.
- (6) Any provision as to the conditions of service of probation officers or staff appointed under paragraph 10 of Schedule 3 which is made by any rules in force under paragraph 18(1) of that Schedule at the coming into force of sub-paragraphs (4) and (5) above shall have effect as if made by a determination of the Secretary of State under paragraph 18A of that Schedule, and shall accordingly be liable to alteration or cancellation by him by subsequent determination under the said paragraph 18A.