

Status: Point in time view as at 01/04/2005.

Changes to legislation: Criminal Justice Act 1991, SCHEDULE 12 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Section 101(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Commencement Information

- II** Sch. 12 partly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 1; further in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(1)** and Sch. 2; further in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**; further in force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3; **Sch. 12 para. 16(2)-(4)** in force (1.6.1999) by S.I. 1999/1280, **art. 3**, **Sch.**

Custodial and community sentences

F1

Textual Amendments

- F1** Sch. 12 para. 1 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt.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

F2

Textual Amendments

- F2** Sch. 12 para. 2 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt.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

F3

Textual Amendments

- F3** Sch. 12 para. 3 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

F4

Textual Amendments

- F4** Sch. 12 para. 4 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Community orders: supplemental

F5

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Textual Amendments

F5 Sch. 12 para. 5 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Financial penalties

^{F6}

Textual Amendments

F6 Sch. 12 para. 6 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

[^{F7}6A Section 17 of this Act shall not apply in relation to offences committed before the commencement of that section.]

Textual Amendments

F7 Sch. 12 para. 6A inserted (28.5.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 149**

Increase of certain penalties

7 Neither of subsections (3) and (4) of section 26 of this Act shall apply in relation to offences committed before the commencement of that subsection.

Commencement Information

I2 Sch. 12 para. 7 wholly in force at 25.10.1991 see s. 102(2)(3) and S.I. 1991/2208, **art. 2(2)** and Sch. 2

Early release: general

- 8 (1) In this paragraph and paragraphs 9 to 11 below—
 - “existing licensee” means any person who, before the commencement of Part II of this Act, has been released on licence under section 60 of the 1967 Act and whose licence under that section is in force at that commencement;
 - “existing prisoner” means any person who, at that commencement, is serving a custodial sentence;
 and sub-paragraphs (2) to (7) below shall have effect subject to those paragraphs.
- (2) Subject to sub-paragraphs (3) to (7) below, Part II of this Act shall apply in relation to an existing licensee as it applies in relation to a person who is released on licence under that Part; and in its application to an existing prisoner, or to an existing licensee who is recalled under section 39 of this Act, that Part shall apply with the modifications made by those sub-paragraphs.
- ^{F8}(3)
- (4) In relation to an existing prisoner whose sentence is for a term of twelve months, section 33(1) of this Act shall apply as if that sentence were for a term of less than twelve months.

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- (5) In relation to an existing prisoner or licensee whose sentence is for a term of —
- (a) more than twelve months; and
 - (b) less than four years or, as the case may require, such other period as may for the time being be referred to in section 33(5) of this Act,
- Part II of this Act shall apply as if he were or had been a long-term rather than a short-term prisoner.
- (6) In relation to an existing prisoner or licensee whose sentence is for a term of more than twelve months—
- (a) section 35(1) of this Act shall apply as if the reference to one half of his sentence were a reference to one-third of that sentence or six months, whichever is the longer; and
 - (b) sections 33(3) and 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to two-thirds of that sentence.
- (7) In relation to an existing prisoner or licensee—
- (a) whose sentence is for a term of more than twelve months; and
 - (b) whose case falls within such class of cases as the Secretary of State may determine after consultation with the Parole Board,
- section 35(1) of this Act shall apply as if the reference to a recommendation by the Board included a reference to a recommendation by a local review committee established under section 59(6) of the 1967 Act.
- (8) In this paragraph “custodial sentence” means—
- (a) a sentence of imprisonment;
 - (b) a sentence of detention in a young offender institution;
 - (c) a sentence of detention (whether during Her Majesty’s pleasure, for life or for a determinate term) under section 53 of the 1933 Act; or
 - (d) a sentence of custody for life under section 8 of the 1982 Act.

Textual Amendments

F8 Sch. 12 para. 8(3) repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Modifications etc. (not altering text)

C1 Sch. 12 para. 8 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(4), Sch. 5 paras. 9(1)(a)(b)(2)(a)(b), **10(1)(b)(c)(2)(a)(b)**; S.I. 1997/2200, art. 2(1)(n).

Commencement Information

I3 Sch. 12 para. 8 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 9 (1) This paragraph applies where, in the case of an existing life prisoner, the Secretary of State certifies his opinion that, if—
- (a) section 34 of this Act had been in force at the time when he was sentenced; and
 - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,

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the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.

- (2) In a case to which this paragraph applies, Part II of this Act except section 35(2) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner for the purposes of that Part; and
 - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate. [^{F9}and
 - (c) in section 34 of this Act, paragraph (a) of subsection (6) and subsection (6A) were omitted.]
- (3) In this paragraph “existing life prisoner” means a person who, at the commencement of Part II of this Act, is serving one or more of the following sentences, namely—
- (a) a sentence of life imprisonment;
 - (b) a sentence of detention during her Majesty’s pleasure or for life under section 53 of the 1933 Act; or
 - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (4) A person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of Part II of this Act unless the requirements of subparagraph (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 of this Act shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

Textual Amendments

F9 Sch. 12 para. 9(2)(c) and the word “and” immediately preceding it inserted (3.11.1994) by 1994 c. 33, s. 168(1), Sch. 9 para. 46(2).

Modifications etc. (not altering text)

C2 Sch. 12 para. 9 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2), Sch. 5 paras. 9(2)(a)(b), 10(2)(a)(b); S.I. 1997/2200, art. 2(1)(n).

Commencement Information

I4 Sch. 12 para. 9 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 10 Prison rules made by virtue of section 42 of this Act may include provision for applying any provisions of Part II of this Act, in relation to any existing prisoner or licensee who has forfeited any remission of his sentence, as if he had been awarded such number of additional days as may be determined by or under the rules.

Modifications etc. (not altering text)

C3 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), 10(1)(b)(c); S.I. 1997/2200, art. 2(1)(n).

Commencement Information

I5 Sch. 12 para. 10 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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Early release of young persons detained under 1933 Act

- 11 In relation to an existing prisoner or licensee whose sentence is a determinate sentence of detention under section 53 of the 1933 Act—
- (a) Part II of this Act shall apply as if he were or had been a life rather than a long-term or short-term prisoner;
 - (b) section 35(2) of this Act shall apply as if the requirement as to consultation were omitted; and
 - (c) section 37(3) of this Act shall apply as if the reference to his death were a reference to the date on which he would (but for his release) have served the whole of his sentence.

Modifications etc. (not altering text)

- C4** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

- I6** Sch. 12 para. 11 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Early release of prisoners serving extended sentences

- 12 (1) In relation to an existing prisoner or licensee on the passing of whose sentence an extended sentence certificate was issued—
- (a) section 33(3) of this Act shall apply as if the duty to release him unconditionally were a duty to release him on licence; and
 - (b) section 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to the whole of that sentence.
- (2) In this paragraph “extended sentence certificate” means a certificate issued under section 28 of the 1973 Act stating that an extended term of imprisonment was imposed on an offender under that section.

Modifications etc. (not altering text)

- C5** Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

- I7** Sch. 12 para. 12 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Early release of fine defaulters and contemnors

- 13 Part II of this Act shall apply in relation to any person who, before the commencement of that Part, has been committed to prison or to be detained under section 9 of the 1982 Act—
- (a) in default of payment of a sum adjudged to be paid by a conviction; or
 - (b) for contempt of court or any kindred offence,
- as it applies in relation to any person who is so committed after that commencement.

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Modifications etc. (not altering text)

C6 Sch. 12 para. 10-13 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)(n)**.

Commencement Information

I8 Sch. 12 para. 13 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Responsibilities of parent or guardian

^{F10}14

Textual Amendments

F10 Sch. 12 para. 14 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Remands and committals of children and young persons

- 15 (1) In this paragraph—
- “section 23” means section 23 of the 1969 Act as substituted by section 60(1) of this Act;
- “the modifications” means the modifications of section 23 set out in section 62 of this Act;
- “remand or committal” means a remand of a child or young person charged with or convicted of one or more offences, or a committal of a child or young person for trial or sentence.
- (2) Section 23 as it has effect with the modifications shall not apply in relation to any remand or committal which is in force immediately before the commencement of sections 60 and 62 of this Act.
- (3) Subject to sub-paragraphs (4) and (5) below, section 23 as it has effect without the modifications shall not apply in relation to any remand or committal which is in force immediately before the day appointed under section 62(1) of this Act.
- (4) Any person who, in pursuance of any such remand or committal, is held in a remand centre or prison shall be brought before the court which remanded or committed him before the end of the period of 8 days beginning with the day so appointed.
- (5) Where any person is brought before a court under sub-paragraph (4) above, section 23 as it has effect without the modifications shall apply as if the court were just remanding or committing him as mentioned in subsection (1)(a) of that section.

Commencement Information

I9 Sch. 12 para. 15 partly in force; Sch. 12 para. 15(1)(2) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.
 Sch. 15 para. 15(3)-(5) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3.

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- 16 (1) Subsection (2)(a) of section 60 of this Act shall not apply in any case where proceedings for the offence in question have begun before the commencement of that section.
- (2) Subject to sub-paragraphs (3) and (4) below, subsection (2)(b) and (c) of that section shall not apply in relation to any committal under section 37 of the 1980 Act which is in force immediately before that commencement.
- (3) Any person less than 17 years old who, in pursuance of any such committal, is held in a remand centre or prison shall be brought before the court which committed him before the end of the period of 8 days beginning with that commencement.
- (4) Where any person is brought before a court under sub-paragraph (3) above, section 37 of the 1980 Act shall apply as if the court were just committing him under that section.

Commencement Information

I10 Sch. 12 para. 16 wholly in force at 1.6.1999; Sch. 12 para. 16(1) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.; Sch. 12 para. 16(2)-(4) in force (1.6.1999) by S.I. 1999/1280, art. 3, Sch. Sch. 12 para. 16(2)-(4) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3 (which art. 2(5) is revoked (1.6.1999) by S.I. 1999/1280, art. 2

Custodial sentences for young offenders

^{F11}17

Textual Amendments

F11 Sch. 12 para. 17 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

- 18 Section 64 of this Act shall not apply in any case where the offence in question was committed before the commencement of that section and the offender is aged 16 at the date of his conviction.

Commencement Information

I11 Sch. 12 para. 18 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supervision of young offenders after release

- 19 Section 65 of this Act shall not apply in relation to any person under the age of 22 years who, before the commencement of that section, is released from a term of detention in a young offender institution or under section 53 of the 1933 Act; and the repeal by this Act of section 15 of the 1982 Act shall not affect the operation of that section in relation to any such person who is so released.

Modifications etc. (not altering text)

C7 Sch. 12 para. 19 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2)(a)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), 10(1)(b)(c); S.I. 1997/2200, art. 2(1)(n).

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Commencement Information

I12 Sch. 12 para. 19 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supervision orders

F12²⁰

Textual Amendments

F12 Sch. 12 para. 20 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Attendance centre orders

F13²¹

Textual Amendments

F13 Sch. 12 para. 21 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

Provisions for treating persons aged 17 as young persons

- 22 (1) Paragraphs 1, 3, 4 and 6 of Schedule 8 shall not apply in any case where proceedings for the offence in question have begun before the commencement of that Schedule.
- (2) Paragraph 5 of that Schedule shall apply in relation to any sentence imposed on any person who was convicted before that commencement and was aged 17 at the date of his conviction.

Commencement Information

I13 Sch. 12 para. 22 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Renaming of juvenile courts etc.

- 23 In relation to any time before the commencement of section 70 of this Act, references in any other provision of this Act, or in any enactment amended by this Act, to youth courts shall be construed as references to juvenile courts.

Commencement Information

I14 Sch. 12 para. 23 wholly in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1) and Sch. 1

Supplemental

- 24 For the purposes of this Schedule proceedings for an offence shall be regarded as having begun as follows—
- (a) in the case of an offence triable only summarily, when a plea is entered;

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- (b) in the case of an offence triable only on indictment, when the magistrates' court begins to inquire into the offence as examining magistrates;
- (c) in the case of an offence triable either way, when the magistrates' court determines to proceed with the summary trial of the offence or, as the case may be, to proceed to inquire into the offence as examining justices.

Commencement Information

I15 Sch. 12 para. 24 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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