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## SCHEDULES

### SCHEDULE 4

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Criminal Justice Act 1991 (c. 53)*

- 15 (1) In subsection (1) of section 1 of the 1991 Act (restrictions on imposing custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (2) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with a requirement which is proposed by the court to be included in a probation order or supervision order and which requires an expression of such willingness.”
- (3) In subsection (1) of section 2 of that Act (length of custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (4) At the beginning of subsection (2) of that section there shall be inserted the words “Subject to sections 3(2) and 4(2) of that Act,”.
- (5) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) Subsection (3) above shall not apply in any case where the court passes a custodial sentence falling to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997 which is for the minimum term specified in that subsection.”
- (6) In subsection (1) of section 4 of that Act (additional requirements in the case of mentally disordered offenders)—
- (a) the words “section 3(1) above applies and” shall cease to have effect; and
- (b) after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (7) In subsection (3) of that section, after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (8) In subsection (1) of section 11 of that Act (orders combining probation and community service), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.

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- (9) In subsection (1) of section 12 of that Act (curfew orders), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (10) In section 32 of that Act (the Parole Board)—
- (a) in subsection (1), for the words from “be constituted” to the end there shall be substituted the following paragraphs—
    - “(a) be constituted in accordance with this Part; and
    - (b) have the functions conferred by Part II of the Crime (Sentences) Act 1997 (“Part II”).”; and
  - (b) in subsections (3), (4) and (6), for the words “this Part” there shall be substituted the words “Part II”.
- (11) In sub-paragraph (2) of each of paragraphs 3 and 4 of Schedule 2 to that Act (powers of magistrates' court and Crown Court), for paragraph (b) there shall be substituted the following paragraph—
- “(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.”
- (12) In sub-paragraph (2)(a)(ii) of paragraph 13 of that Schedule (amendment of requirements of probation or curfew order), after the word “unless” there shall be inserted the words “the offender has expressed his willingness to comply with such a requirement and”.
- (13) In sub-paragraph (2)(b) of paragraph 14 of that Schedule (amendment of certain requirements of probation order), the words from “being treatment” to the end shall cease to have effect.