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## SCHEDULES

### SCHEDULE 9

Section 68

#### CHANGES TO POWERS TO MAKE SUSPENDED SENTENCE ORDERS: CONSEQUENTIAL AND TRANSITORY PROVISION

#### PART 1

##### CONSEQUENTIAL AMENDMENTS

##### *Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 1 In section 163(1) of the Powers of Criminal Courts (Sentencing) Act 2000 omit the definition of “operational period”.

##### *Criminal Justice Act 2003 (c. 44)*

- 2 The Criminal Justice Act 2003 is amended as follows.
- 3 For the heading of Chapter 3 of Part 12 substitute “SUSPENDED SENTENCE ORDERS”.
- 4 In section 190(2) (limits on power to impose requirements by suspended sentence order), for “189(1)(a)” substitute “189(1A)”.
- 5 In section 191(1) (power to provide for review of suspended sentence order), after “suspended sentence order” insert “that imposes one or more community requirements”.
- 6 (1) Section 195 (interpretation of Chapter 3) is amended as follows.
- (2) For the definition of “operational period” and “supervision period” substitute—
- ““the operational period”, in relation to a suspended sentence, has the meaning given by section 189(1)(a);”.
- (3) After the definition of “sentence of imprisonment” insert—
- ““the supervision period”, in relation to a suspended sentence, has the meaning given by section 189(1A).”
- 7 (1) Section 196 (meaning of “relevant order”) is amended as follows.
- (2) In the heading, after ““relevant order”” insert “ etc ”.
- (3) After subsection (1) insert—
- “(1A) In this Chapter “suspended sentence order” means a suspended sentence order that imposes one or more community requirements.”

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- 8 In section 200(4) (supervision period and operational period where unpaid work requirement imposed by suspended sentence order)—
- (a) for “189(1)(a)” substitute “ 189(1A) ”, and
  - (b) for “189(1)(b)(ii)” substitute “ 189(1)(a) ”.
- 9 In section 213(3)(d) (supervision requirement: meaning of “relevant period”) for “189(1)(a)” substitute “ 189(1A) ”.
- 10 (1) Paragraph 8 of Schedule 12 (powers of court in case of breach of community requirement or conviction of further offence) is amended as follows.
- (2) In sub-paragraph (2), at the beginning of paragraph (c) insert “ in the case of a suspended sentence order that imposes one or more community requirements, ”.
  - (3) After that paragraph insert—
    - “(d) in the case of a suspended sentence order that does not impose any community requirements, the court may, subject to section 189(3), amend the order by extending the operational period.”
  - (4) In sub-paragraph (4)(a), for “the community requirements” substitute “ any community requirements ”.
  - (5) In sub-paragraph (8), for “the community” substitute “ any community ”.
- 11 In Part 3 of Schedule 12 (amendment of suspended sentence order), before paragraph 13 (and before the italic heading before that paragraph) insert—

*“Application of Part*

- 12B This Part of this Schedule applies only in relation to a suspended sentence order that imposes one or more community requirements.”
- 12 (1) Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland) is amended as follows.
- (2) In paragraph 1(1) (suspended sentence order in respect of an offender residing in Scotland)—
    - (a) after “a suspended sentence order” in the first place those words appear insert “ that imposes one or more community requirements ”, and
    - (b) before “a suspended sentence order” in the second place those words appear insert “ such ”.
  - (3) In paragraph 6(1) (suspended sentence order in respect of an offender residing in Northern Ireland)—
    - (a) after “a suspended sentence order” in the first place those words appear insert “ that imposes one or more community requirements ”, and
    - (b) before “a suspended sentence order” in the second place those words appear insert “ such ”.

*Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643)*

- 13 In the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 omit—

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- (a) article 2(2) (modifications to section 189 of the Criminal Justice Act 2003 pending the commencement of the repeal of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000), and
- (b) article 3(2)(a) (modifications to section 189 of the Criminal Justice Act 2003 pending the commencement of section 61 of the Criminal Justice and Court Services Act 2000).

*Armed Forces Act 2006 (c. 52)*

- 14 The Armed Forces Act 2006 is amended as follows.
- 15 (1) Section 200 (suspended sentence orders with or without community requirements) is amended as follows.
- (2) In the heading omit “with or without community requirements”.
  - (3) Omit subsections (1) to (4) (power of relevant service court to make suspended sentence order with or without community requirements, and meanings of those terms).
  - (4) In subsection (5) (modification of section 189(1) of the Criminal Justice Act 2003 in its application to a relevant service court)—
    - (a) for “(b)(ii)” substitute “(a)”,
    - (b) for “the end of sub-paragraph (ii)” substitute “imprisonment,””, and
    - (c) in the words treated as substituted, for “(a)” substitute “(i)” and for “(b)” substitute “(ii)”.
  - (5) After subsection (6) insert—
 

“(7) In this Chapter “a suspended sentence order with community requirements” means a suspended sentence order that imposes one or more community requirements within the meaning of section 189(7)(c) of the 2003 Act.”
- 16 Omit section 201 (provisions of the Criminal Justice Act 2003 that do not apply to suspended sentence orders without community requirements).
- 17 In section 207 (definitions for purposes of Chapter 4 of Part 8)—
  - (a) in the definition of “suspended sentence order with community requirements” for “200(3)” substitute “200(7)”, and
  - (b) omit the definition of “suspended sentence order without community requirements”.
- 18 (1) Schedule 7 (suspended prison sentence: further conviction or breach of requirement) is amended as follows.
- (2) For the heading before paragraph 1 substitute “ Modifications of Part 2 of Schedule 12 to the 2003 Act ”.
  - (3) In paragraph 1 (modifications of Part 2 of Schedule 12 to the Criminal Justice Act 2003 in case of suspended sentence orders with community requirements) omit “with community requirements”.
  - (4) Omit paragraph 2 (modifications of Part 2 of Schedule 12 to the Criminal Justice Act 2003 in case of suspended sentence orders without community requirements) and the heading before that paragraph.
  - (5) After paragraph 6 insert—

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“6A Paragraph 8(2)(ba) of that Schedule has effect as if at the beginning there were inserted “where the court dealing with the offender is the Crown Court.””

*Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (SI 2009/1059)*

19 In Schedule 2 to the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 omit paragraph 2(2) (modifications to section 189 of the Criminal Justice Act 2003 pending the commencement of the repeal of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000).

## PART 2

### TRANSITORY PROVISION

20 In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution, custody for life etc), section 189 of the Criminal Justice Act 2003 has effect with the following modifications—

- (a) in subsection (1), after the first “imprisonment” insert “ or, in the case of a person aged at least 18 but under 21, a sentence of detention in a young offender institution ”,
- (b) in that subsection, after the second “imprisonment” insert “ or detention in a young offender institution ”, and
- (c) in subsection (1B), after “imprisonment” insert “ or detention in a young offender institution ”.

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