



Sentencing Act 2020

2020 CHAPTER 17

SIXTH GROUP OF PARTS Supplementary

PART 14

SUPPLEMENTARY PROVISION

407 Regulations and rules

- (1) This section applies to—
 - (a) any power conferred by this Act on the Secretary of State to make regulations or rules;
 - (b) any power conferred by—
 - (i) sections 44 to 50 (criminal courts charge),
 - (ii) section 416(8) (commencement of amendment of the Code in Schedule 22 relating to determination of tariffs), or
 - (iii) paragraph 19 of Schedule 23 (power to amend minimum term of mandatory life sentence for murder),on the Lord Chancellor to make regulations.
- (2) The power is exercisable by statutory instrument.
- (3) Subsections (4) to (6) apply except where otherwise provided.
- (4) The power includes power to make supplementary, incidental or consequential provision.
- (5) The power also includes power to make transitory, transitional or saving provision.
- (6) The power may be exercised so as to make different provision—
 - (a) for different purposes, or
 - (b) for different areas.
- (7) Where regulations under this Act are subject to the “affirmative resolution procedure”, the regulations must not be made unless a draft of the statutory instrument containing

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them has been laid before Parliament and approved by a resolution of each House of Parliament.

- (8) Where regulations or rules under this Act are subject to the “negative resolution procedure” the statutory instrument containing the regulations or rules is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Provision that may be made by regulations under this Act for which no Parliamentary procedure is required may be included in regulations that are subject to the negative or affirmative resolution procedure.
- (10) Provision that may be made by regulations under this Act that are subject to the negative resolution procedure may be included in regulations that are subject to the affirmative resolution procedure.

Commencement Information

I1 [S. 407](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

408 Amendments of the Sentencing Code etc

Schedule 22 contains amendments of the Sentencing Code and certain related amendments of other Acts.

See section 417 for provision about when they come into force.

Commencement Information

I2 [S. 408](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

409 Powers to amend the Sentencing Code

- (1) Schedule 23 contains powers to amend the Sentencing Code.
- (2) Provision that may be made in exercise of a power in Schedule 23 includes provision in respect of an offence (whenever committed) of which a person is convicted after the regulations come into force.

This is subject to express provision to the contrary.

Commencement Information

I3 [S. 409](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

410 Consequential amendments

Schedule 24 contains consequential amendments.

Commencement Information

I4 [S. 410](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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411 Armed forces

- (1) Schedule 25 contains consequential amendments of the Armed Forces Act 2006.
- (2) Schedule 26 contains further amendments of provisions of the Armed Forces Act 2006 that apply provisions of this Code or otherwise relate to sentencing.

See section 418 for provision about when those amendments come into force.

Commencement Information

I5 [S. 411](#) in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

412 Transitional provisions and savings

Schedule 27 contains transitional provisions and savings.

Commencement Information

I6 [S. 412](#) in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

413 Repeals and revocations

- (1) The provisions specified in Schedule 28 (which include provisions that are spent) are repealed or revoked to the extent specified.
- (2) The provisions specified in Schedule 29 are repealed or revoked so far as they extend to England and Wales only.
- (3) Subsections (1) and (2) are subject to the following provisions of this section.

Standard scale and powers to amend fines etc

- (4) Nothing in this section or Schedule 28 or 29 affects any provision of—
 - (a) section 37 of the Criminal Justice Act 1982 (standard scale),
 - (b) section 17 of the Criminal Justice Act 1991 (amendments of standard scale), or
 - (c) section 143 of the Magistrates' Courts Act 1980 (amendments of fines etc),so far as it has been, or is capable of being, extended under section 81(11) of the Criminal Justice Act 1982 (as extended by section 102(7) of the Criminal Justice Act 1991) (power to extend certain provisions to Channel Islands or Isle of Man by Order in Council).

Life sentence for second serious offence committed before 4 April 2005

- (5) Nothing in Schedule 28 affects—
 - (a) section 109 of the Powers of Criminal Courts Sentencing Act 2000 (life sentence for second serious offence), as it has effect by virtue of paragraph 5(2) of Schedule 2 to the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), or
 - (b) any other provision so far as it continues to have effect, by virtue of paragraph 6 of Schedule 2 to that order, in a case in which a court is dealing with a person whose sentence falls to be imposed under that section.

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Commencement Information

I7 S. 413 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

414 Extent

- (1) Subject to the following provisions of this section and to section 415, the provisions of this Act extend to England and Wales only.
- (2) The following provisions extend to England and Wales, Scotland and Northern Ireland—
 - (a) section 219 and Schedule 11 (transfer of community orders to Scotland or Northern Ireland);
 - (b) section 304 and Schedule 17 (transfer to Scotland or Northern Ireland of suspended sentence orders which impose community requirements);
 - (c) section 349(2) (effect of making sexual harm prevention order where order already exists);
 - (d) this section and sections 416 to 420;
 - (e) paragraph 18 of Schedule 16 (duty of court in Scotland or Northern Ireland when informed of suspended sentence).
- (3) The following provisions extend to England and Wales and Northern Ireland—
 - (a) section 196 and Schedule 8 (transfer of youth rehabilitation orders to Northern Ireland);
 - (b) section 351 (variation of sexual harm prevention order by court in Northern Ireland);
 - (c) section 407 (regulations and rules);
 - (d) paragraph 12 of Schedule 23 (power to amend Schedule 8 in consequence of changes to the law in Northern Ireland).
- (4) The following provisions extend to England and Wales and Scotland—
 - (a) sections 38, 40 and 41 (effect of derogatory assertion orders);
 - (b) section 82 (effect of order for absolute discharge and order for conditional discharge);
 - (c) section 396 (execution of process between England and Wales and Scotland).
- (5) Any amendment, repeal or revocation made by—
 - (a) Schedule 22 (amendments of the Sentencing Code and related amendments of other legislation),
 - (b) Schedule 24 (consequential amendments),
 - (c) Schedule 25 (amendments of the Armed Forces Act 2006),
 - (d) Schedule 26 (further amendments of the Armed Forces Act 2006), or
 - (e) Schedule 28 (repeals and revocations),
 has the same extent in the United Kingdom as the provision to which it relates.
- (6) Nothing in subsections (1) to (4) affects the extent within the United Kingdom of—
 - (a) any provision of or made under this Act so far as it is applied (by whatever words) by the Armed Forces Act 2006, or
 - (b) the repeal by this Act of any provision so far as that provision is applied (by whatever words) by the Armed Forces Act 2006.

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Commencement Information

18 [S. 414](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

415 Channel Islands, Isle of Man and British overseas territories

- (1) Her Majesty may by Order in Council extend any relevant provision, with such modifications as appear to Her Majesty in Council to be appropriate, to any of the Channel Islands or the Isle of Man.
- (2) In subsection (1) “relevant provision”, in relation to any of the Channel Islands or the Isle of Man, means any provision of this Act so far as it restates a provision that, immediately before the commencement date, is capable of being extended there under section 338 of the Criminal Justice Act 2003 (certain provisions of that Act as enacted or subsequently amended by certain other Acts).
- (3) An Order in Council under subsection (1) may—
 - (a) make supplementary, incidental or consequential provision;
 - (b) make transitory, transitional or saving provision.
- (4) The armed forces provisions extend to—
 - (a) the Isle of Man, and
 - (b) the British overseas territories except Gibraltar.
- (5) The powers conferred by section 384 of the Armed Forces Act 2006 (power to extend Act to the Channel Islands and powers to make provisions of that Act apply with modifications in relation to the Channel Islands, British overseas territories except Gibraltar, and the Isle of Man) are exercisable in relation to any armed forces provision.
- (6) In subsections (4) and (5) “armed forces provision” means—
 - (a) a provision of or made under this Act so far as it is applied (by whatever words) by or under the Armed Forces Act 2006,
 - (b) an amendment, modification or repeal made by this Act of a provision of, or made under, the Armed Forces Act 2006, or
 - (c) an amendment, modification or repeal made by this Act of any other provision, so far as the provision is applied (by whatever words) by or under the Armed Forces Act 2006.

Commencement Information

19 [S. 415](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

416 Commencement

- (1) This Act comes into force on [F11 December 2020] (referred to in this Act as “the commencement date”).
- (2) Subsections (4) to (6) of section 407 do not apply to the power conferred by subsection (1).
- (3) The Sentencing Code has effect in accordance with section 2.

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- (4) Subsection (1) is subject to—
- (a) section 417 (commencement of amendments of the Code and certain consequential amendments of other Acts),
 - (b) section 418 (commencement of certain amendments of the Armed Forces Act 2006),
 - (c) subsection (5), and
 - (d) subsection (9) (commencement of repeal postponed until repeal of connected provisions comes into force).
- (5) Regulations under this Act may be made before [^{F2}1 December 2020], but may not—
- (a) come into force before that date, or
 - (b) bring a provision into force before that date.
- (6) An amendment, repeal or revocation made by Schedule 24 (consequential amendments) has effect in accordance with Part 7 of that Schedule.
- (7) An amendment, repeal or revocation made by Schedule 25 (armed forces) or Schedule 28 or 29 (repeals and revocations), so far as it has effect—
- (a) in relation to dealing with a person for an offence, or
 - (b) in relation to a sentence passed for an offence,
- has effect only where the person is convicted of the offence on or after [^{F3}1 December 2020].
- (8) But subsection (7) does not apply to the repeal by Schedule 28 of the following provisions—
- (a) paragraphs 6, 36, 37, 47, 85, 86, 88, 123(2), 136, 186(2), 197(b), 200 and 205 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) paragraphs 21(3), 26 and 64(6) of Schedule 32 to the Criminal Justice Act 2003;
 - (c) paragraph 100 of Schedule 4 to the Criminal Justice and Immigration Act 2008.
- (9) The repeal in Schedule 28 relating to the Powers of Criminal Courts (Sentencing) Act 2000, so far as it relates to section 159 of that Act (execution of process between England and Wales and Scotland) as it applies to process issued under Schedule 5 to that Act (breach of attendance centre order), comes into force at the same time as the repeal of that Schedule by section 6(1) of the Criminal Justice and Immigration Act 2008.

Textual Amendments

- F1** Words in s. 416(1) substituted (1.12.2020) by [The Sentencing Act 2020 \(Commencement No. 1\) Regulations 2020 \(S.I. 2020/1236\)](#), regs. 1, [4\(5\)\(a\)](#)
- F2** Words in s. 416(5) substituted (1.12.2020) by [The Sentencing Act 2020 \(Commencement No. 1\) Regulations 2020 \(S.I. 2020/1236\)](#), regs. 1, [4\(5\)\(b\)](#)
- F3** Words in s. 416(7) substituted (1.12.2020) by [The Sentencing Act 2020 \(Commencement No. 1\) Regulations 2020 \(S.I. 2020/1236\)](#), regs. 1, [4\(5\)\(c\)](#)

Commencement Information

- I10** S. 416 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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417 Commencement of Schedule 22

- (1) Schedule 22 comes into force in accordance with regulations made by the Secretary of State, subject to the following.

Abolition of detention in a young offender institution and custody for life

- (2) Paragraphs 65 and 68 come into force at the same time as paragraph 44.
- (3) The following provisions come into force at the same time as section 61 of the Criminal Justice and Courts Services Act 2000 (abolition of sentences of detention in a young offender institution)—
- (a) paragraphs 36 to 38, 40, 41, 45 and 46;
 - (b) paragraph 47(b);
 - (c) paragraphs 51 and 52;
 - (d) paragraph 53, so far as it relates to sections 264, 265, 266 to 268, 273 and 274;
 - (e) paragraphs 54 to 64;
 - (f) paragraphs 69, 70, 72 to 75, 77 and 78;
 - (g) Part 8 of Schedule 22 (amendments of other Acts that are consequential on paragraph (d)).

This is subject to subsection (4).

- (4) If before [F⁴1 December 2020] an order has been made under section 80(1) of the Criminal Justice and Court Services Act 2000 in relation to section 61 of that Act, the provisions of Schedule 22 mentioned in subsection (3)—
- (a) come into force on the commencement date or, if later, the date on which section 61 of the Criminal Justice and Court Services Act 2000 comes into force, and
 - (b) so far as they apply—
 - (i) in relation to dealing with a person for an offence, or
 - (ii) in relation to a sentence passed for an offence,have effect only where the person is convicted of the offence on or after the commencement date.

Paragraph (b) is subject to section 1 of the Sentencing (Pre-consolidation Amendments) Act 2020 (read with any provision that may be made under it).

Other provisions of Schedule 22

- (5) Paragraph 11 (consequences for imposition of youth rehabilitation order of failure to comply with pre-sentence drug testing order) comes into force at the same time as paragraph 1 (pre-sentence drug testing).
- (6) Paragraphs 21 and 22 (provisions applicable only where community order can be made in respect of offence not punishable with imprisonment) come into force at the same time as paragraph 13 (community order available for offence not punishable with imprisonment in case of wilful and persistent offender).
- (7) Paragraph 28 (repeal of temporary provision resulting from paragraph 27) comes into force 2 years after paragraph 27 (detention and training orders: offenders aged under 12), and has effect only in relation to an offence of which the offender is convicted after paragraph 28 comes into force.

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- (8) Paragraph 85 (indeterminate sentences: determination of tariffs) comes into force in accordance with regulations made by the Lord Chancellor.
- (9) Part 6 of Schedule 22 (which makes amendments in consequence of the United Kingdom's withdrawal from the EU) comes into force on IP completion day^{F5}....

Textual Amendments

- F4** Words in s. 417(4) substituted (1.12.2020) by [The Sentencing Act 2020 \(Commencement No. 1\) Regulations 2020 \(S.I. 2020/1236\)](#), regs. 1, [4\(6\)\(a\)](#)
- F5** Words in s. 417(9) omitted (1.12.2020) by virtue of [The Sentencing Act 2020 \(Commencement No. 1\) Regulations 2020 \(S.I. 2020/1236\)](#), regs. 1, [4\(6\)\(b\)](#)

Commencement Information

- I11** S. 417 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

418 Commencement of Schedule 26

- (1) Schedule 26 (further amendments of the Armed Forces Act 2006) comes into force as follows.
- (2) Paragraphs 2(a), 3(a), 4(a), 5(a), 6 to 23 and 24(c) (and paragraph 1 so far as it relates to them) come into force at the same time as section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution).
- (3) Subsection (4) of section 417 applies to the provisions of Schedule 26 mentioned in subsection (2) as it applies to the provisions of Schedule 22 mentioned in subsection (3) of that section.
- (4) Paragraphs 2(b), 3(b), 4(b), 5(b) and 24(a) and 24(b) (and paragraph 1 so far as it relates to them) come into force at the same time as paragraph 24 of Schedule 22 (increase in magistrates' court's power to impose imprisonment etc).
- (5) Paragraph 25 (and paragraph 1 so far as it relates to it) comes into force at the same time as section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences), but only in relation to offences committed after that time.

Commencement Information

- I12** S. 418 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

419 Power to state effect of commencement provisions

- (1) The Secretary of State may, in connection with the coming into force of an amendment or repeal made by Schedule 22 or under Schedule 23, by regulations amend this Act to secure that—
- the Act specifies the purposes for which, or the cases in which, the amendment or repeal has effect;
 - so far as practicable, any provision of the Act which, as a result of the amendment or repeal, is to continue to have effect only for particular purposes

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or in particular cases remains in place instead of having effect by virtue of transitional, transitory or saving provision.

- (2) The regulations may make consequential amendments to any enactment.
- (3) Subsections (4) and (5) of section 104 of the Deregulation Act 2015 (restrictions on power to spell out dates described in legislation) apply to regulations under this section as they apply to an order under that section.
- (4) Subsections (4) and (6) of section 407 do not apply to the power conferred by this section.
- (5) In this section “enactment” includes an enactment contained in subordinate legislation.

Commencement Information

I13 [S. 419](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

420 Short title

This Act may be cited as the Sentencing Act 2020.

Commencement Information

I14 [S. 420](#) in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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