

SCHEDULES

SCHEDULE 2

SENTENCING CONSOLIDATION: PRE-CONSOLIDATION AMENDMENTS

PART 4

AMENDMENTS OF OTHER ACTS

Criminal Procedure (Insanity) Act 1964

- 114 (1) The Criminal Procedure (Insanity) Act 1964 is amended as follows.
- (2) In section 5 (powers to deal with person where special verdict returned or unfit to plead etc), after subsection (3) insert—
- “(3A) Where the court have power under subsection (2)(c) to make an order for the absolute discharge of the accused, they may do so where they think, having regard to the circumstances, including the nature of the offence charged and the character of the accused, that such an order would be most suitable in all the circumstances of the case.”
- (3) In section 5A (orders made under or by virtue of section 5), omit subsection (6).

Firearms Act 1968

- 115 In section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), in subsection (2C)(a), after “imprisonment” insert “, or detention in a young offender institution,”.

Magistrates’ Courts Act 1980

- 116 In the Magistrates’ Courts Act 1980, in section 113 (bail on appeal or case stated), in subsection (3), after “section 3” insert “, 3A, 3B or 3C”.

Protection of Military Remains Act 1986

- 117 In section 7 of the Protection of Military Remains Act 1986 (supplemental provision with respect to offences), in subsection (1), omit—
- (a) “Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 and”;
- (b) “in England and Wales and”;
- (c) “respectively”.

Protection from Harassment Act 1997

- 118 In the Protection from Harassment Act 1997, in section 5(3A) (civil evidence rules to apply in relation to restraining orders), after “this section” insert “, other than proceedings for an offence under subsection (5).”.

Crime and Disorder Act 1998

- 119 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 9 (parenting orders: supplemental), after subsection (5) insert—
- “(5A) In the case of a parenting order made by virtue of section 8(1)(c) or (d), subsection (5) has effect as if, in paragraph (b), for the words after “any provision” there were substituted “the court could include if it were now making the order.”
- (3) In section 10 (appeals against parenting orders), omit subsection (5).
- (4) In section 38 (local provision of youth justice services), in subsection (4), omit paragraph (j).

Criminal Justice and Court Services Act 2000

- 120 In Schedule 7 to the Criminal Justice and Court Services Act 2000 (minor and consequential amendments), in paragraph 4 (officers of local probation boards), in sub-paragraph (2), omit the entries relating to the following provisions of the Powers of Criminal Courts (Sentencing) Act 2000—
- (a) section 73;
 - (b) section 74;
 - (c) section 103.

Proceeds of Crime Act 2002

- 121 In section 39 of the Proceeds of Crime Act 2002 (reconsideration etc: variation of prison term)—
- (a) in subsection (1)(b), for “section 139(4) of the Sentencing Act” substitute “section 35(2A)”;
 - (b) in subsection (5)—
 - (i) for “section 139(4) of the Sentencing Act” substitute “section 35(2A)”;
 - (ii) for “that Act” substitute “the Sentencing Act”.

Constitutional Reform Act 2005

- 122 In Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor), in paragraph 4, in the entry for the Criminal Justice Act 2003, omit—
- “Section 174(4)”.

Armed Forces Act 2006

- 123 (1) The Armed Forces Act 2006 is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In section 178 (service community orders), in subsection (1)(b), for the words after “Wales” substitute “or the locality in Scotland where the offender resides or will reside, or that the offender resides or will reside in Northern Ireland”.
- (3) In section 209 (offenders under 18 convicted of certain serious offences)—
- (a) in the heading, for “power to detain” substitute “detention”;
 - (b) in subsection (2), after paragraph (b) insert—

“and the case does not fall within section 221 or 227 (see subsections (4), (5B) and (5C)).”;
 - (c) in subsection (3), after paragraph (d) insert—

“and the case does not fall within section 221 (see subsection (5B)).”;
 - (d) in subsection (4), for “it falls within section 227(1) (certain firearms offences)” substitute “—
 - (a) it falls within section 227(1) (certain firearms offences), and
 - (b) the court is of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).”;
 - (e) after subsection (5) insert—

“(5A) Subsection (5D) (duty to pass sentence of detention) applies where—
 - (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct); and
 - (b) the case is within subsection (5B) or (5C).

(5B) The case is within this subsection if it falls within section 221 (life sentence for certain dangerous offenders aged under 18).

(5C) The case is within this subsection if—
 - (a) it falls within section 227(1) (certain firearms offences), and
 - (b) the Court Martial is not of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).

(5D) Where this subsection applies, the court must pass a sentence of detention under this section.”;
 - (f) in subsection (7)—
 - (i) after “(5)” insert “, (5D)”;
 - (ii) omit from “sections 224A” to “offences); and”.
- (4) In section 211, in subsection (4), omit “218A.”.
- (5) In section 212 (term of detention and training order: general), at the end insert—

“(3) An order under section 211 takes effect at the beginning of the day on which it is made, unless the court provides otherwise under section 101(3) of the Sentencing Act (as applied by section 213 of this Act).”
- (6) In section 213 (application of provisions relating to civilian detention and training orders)—

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- (a) in subsection (1), after “(10)” insert “, (12A)”;
 - (b) in subsection (2), after “(10)” insert “, (12A)”.
- (7) In section 270A (exception to restrictions on community punishments), in subsection (6)—
- (a) before paragraph (a) insert—
 - “(za) a criminal courts charge order (or an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge));”
 - (b) after paragraph (d) insert—
 - “(e) a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2015.”.
- (8) In Schedule 7 (suspended prison sentences: further conviction or breach of requirement), in paragraph 9 (activation of suspended sentences: appeals etc)—
- (a) at the beginning insert—
 - “(A1) Paragraph 9 of that Schedule has effect in relation to a suspended sentence order passed by a relevant service court as if, after sub-paragraph (1), there were inserted—
 - “(1A) In this paragraph, “custodial sentence” includes a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act).”
 - (b) in sub-paragraph (1)(b), in the sub-paragraph (2) treated as substituted for sub-paragraph (2) of paragraph 9 of Schedule 12 to the Criminal Justice Act 2003, for “term of imprisonment” substitute “custodial sentence”.

Tribunals, Courts and Enforcement Act 2007

- 124 In the Tribunals, Courts and Enforcement Act 2007, in Schedule 13 (taking control of goods: amendments), in paragraph 154(2) (amendments of section 154 of the Criminal Justice Act 2003), for “subsections (4) and (6)” substitute “subsection (4)”.

Education and Skills Act 2008

- 125 In the Education and Skills Act 2008, in section 56 (enforcement of non-participation fine etc: person reaching 18), in subsection (7)(b)(ii), after “137(1)” insert “or (1A)”.

Coroners and Justice Act 2009

- 126 (1) The Coroners and Justice Act 2009 is amended as follows.
- (2) In section 125 (sentencing guidelines: duty of court)—
- (a) in subsection (2)(a), for “a person (“P”) who is guilty of” substitute “an offender (“P”) for”;
 - (b) in subsection (6), at the end insert—
 - “(i) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).”
- (3) In section 126 (sentencing guidelines: determination of tariffs etc)—
- (a) after subsection (1) insert—

Status: This is the original version (as it was originally enacted).

- “(1A) In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (1)(c) to imprisonment is to be read, in relation to a person aged under 21, as if it were a reference to detention in a young offender institution.”;
 - (b) in subsection (2), before paragraph (c) insert—
 - “(ba) whether the sentence condition in section 224A(3) of the Criminal Justice Act 2003 (life sentence for second listed offence) is met.”;
 - (c) in subsection (4)—
 - (i) after “as the case may be,” insert “permitted”;
 - (ii) at the end insert “or if section 224A of the Criminal Justice Act 2003 had not required the court to impose a life sentence”.
- (4) In Schedule 17 (treatment of convictions in other member States etc), in paragraph 8—
- (a) in sub-paragraph (5), in the subsection (4A) to be inserted into section 151 of the Criminal Justice Act 2003, for “defendant” substitute “offender”;
 - (b) in sub-paragraph (6)(c), in sub-paragraph (ii) of the paragraph (c) to be inserted into subsection (8) of that section, for “defendant” substitute “offender”.

Anti-social Behaviour, Crime and Policing Act 2014

- 127 (1) The Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows.
- (2) In section 22 (power to make criminal behaviour orders)—
 - (a) in subsection (6), for the words after “only if it” substitute “—
 - (a) does so in addition to dealing with the offender for the offence, and
 - (b) does not make an order discharging the offender absolutely in respect of the offence.”;
 - (b) in subsection (9)(b) omit “or injunction”;
 - (c) in subsection (10)—
 - (i) in paragraph (a), for “lives” substitute “resides”;
 - (ii) omit paragraph (b) (and the “or” immediately before it).
 - (3) In section 24 (requirements included in criminal behaviour orders), in subsection (5)—
 - (a) in paragraph (a), for “lives” substitute “resides”;
 - (b) omit paragraph (b) (and the “or” immediately before it).
 - (4) In section 29 (carrying out and participating in reviews), in subsections (1) and (2), for “lives or appears to be living” substitute “resides or appears to be residing”, in both places.
 - (5) In section 33 (saving and transitional provision), omit subsection (5).