

SCHEDULE 1

(introduced by section 1(2))

ORDER FOR LIFELONG RESTRICTION: MODIFICATION OF ENACTMENTS

Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)

- 1 (1) The 1993 Act is amended in accordance with this paragraph.
- (2) In section 2 (duty to release discretionary life prisoners)—
- (a) in subsection (1), after paragraph (aa) there is inserted “or
 - (ab) who is subject to an order for lifelong restriction in respect of an offence,”;
 - (b) in subsection (2)(aa)—
 - (i) after the words “paragraph (a)” there is inserted “or (ab)”;
 - (ii) in sub-paragraph (i), after the word “life” there is inserted “, or as the case may be not made the order for lifelong restriction,”;
 - (c) in subsection (3), after the words “subsection (1) above” there is inserted “or makes an order for lifelong restriction”;
 - (d) after subsection (9) there is added—
 - “(10) In subsection (9) above, the reference to “sentences of imprisonment for life” is to be construed as including a reference to any sentence constituted by an order for lifelong restriction.”.
- (3) In section 27(1) (interpretation)—
- (a) in the definition of “life prisoner”, at the end there is added “or in respect of whom there has been made an order for lifelong restriction”;
 - (b) the following definitions are inserted at the appropriate places—
 - ““order for lifelong restriction” means an order under section 210F(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46);”
 - ““risk management plan” shall be construed in accordance with section 6(1) of the Criminal Justice (Scotland) Act 2003 (asp 7);”.

Criminal Procedure (Scotland) Act 1995 (c. 46)

- 2 (1) The 1995 Act is amended in accordance with this paragraph.
- (2) In section 69 (notice of previous convictions)—
- (a) after subsection (4) there is inserted—
 - “(4A) A notice served under subsection (2) or (4) above shall include any details which the prosecutor proposes to provide under section 101(3A) of this Act; and subsection (3) above shall apply in relation to intimation objecting to the provision of such details, on the grounds that they do not apply to the accused or are otherwise inadmissible, as it applies in relation to intimation objecting to a conviction.”; and
 - (b) in subsection (5), after the word “section” there is inserted “, or to the provision of such details as are, by virtue of subsection (4A) above, included in a notice so served,”.

Status: This is the original version (as it was originally enacted).

- (3) In section 101 (previous convictions: solemn proceedings)—
- (a) in subsection (3), the existing words “for sentence” become paragraph (a); and after that paragraph there is inserted the word “; or” and the following paragraph—
 - “(b) for a risk assessment order (or the court at its own instance proposes to make such an order)”; and
 - (b) after that subsection there is inserted—
 - “(3A) Where, under paragraph (b) of subsection (3) above, the prosecutor lays previous convictions before the judge, he shall also provide the judge with such details regarding the offences in question as are available to him.”.
- (4) In section 106(1) (right of appeal), after paragraph (b) there is inserted—
“(ba) against the making of an order for lifelong restriction;”.
- (5) In section 195(1) (sheriff’s duty in certain circumstances to remit convicted person to High Court for sentence), after—
- (a) the word “inadequate” there is inserted “or it appears to him that the criteria mentioned in section 210E of this Act (that is to say, the risk criteria) may be met”; and
 - (b) the words “so that” there is inserted “, in either case,”.
- (6) In section 204(2A) (restrictions on passing sentence of imprisonment or detention), after the word “court” there is inserted “, unless it has made a risk assessment order in respect of the person,”.
- (7) In section 307(1) (interpretation), the following definitions are inserted at the appropriate places—
- ““order for lifelong restriction” means an order under section 210F(1) of this Act;”
 - ““risk assessment order” means an order under section 210B(2) of this Act;”
 - ““risk assessment report” has the meaning given by section 210B(3)(a) of this Act;”.