

Status: This version of this schedule contains provisions that are prospective.

Changes to legislation: Custodial Sentences and Weapons (Scotland) Act 2007, SCHEDULE 3 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

SCHEDULE 3

(introduced by section 53)

SENTENCES FRAMED TO RUN CONSECUTIVELY

Power to impose sentence to take effect on expiry of other sentence

- 1 (1) This paragraph applies where—
- (a) a prisoner is serving, or liable to serve, at least one sentence of imprisonment (the “previous sentence”), and
 - (b) the court imposes a further sentence of imprisonment for an offence (the “further sentence”).
- (2) The court may, when imposing the further sentence on a prisoner serving, or liable to serve, one previous sentence, frame the further sentence to take effect immediately on the expiry of the relevant period of the previous sentence.
- (3) The court may, when imposing the further sentence on a prisoner serving, or liable to serve, two or more previous sentences, frame the further sentence to take effect immediately on the expiry of the relevant period of whichever previous sentence the court considers appropriate.
- (4) The relevant period, in relation to a sentence of imprisonment, is—
- (a) in the case of a custody-only sentence, that sentence,
 - (b) in the case of a custody and community sentence, the custody part of that sentence,
 - (c) in the case of a life sentence, the punishment part of that sentence.

Postponement of sentencing where previous punishment part or custody part not specified

- 2 (1) This paragraph applies where—
- (a) it falls to the court to sentence a person who is subject to a previous sentence, and
 - (b) a punishment part or, as the case may be, custody part requires to be specified in respect of the previous sentence but has not been so specified.
- (2) The court must not sentence the person until such time as the punishment part or, as the case may be, custody part—
- (a) is specified, or
 - (b) no longer requires to be specified,
- in respect of the previous sentence.

Effect of sentences framed to take effect consecutively

- 3 (1) This paragraph applies where—
- (a) the court imposes a custody-only sentence as a further sentence,
 - (b) the court frames the sentence to take effect in accordance with paragraph 1(2) or (3), and

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- (c) the prisoner's previous sentence (or one of the prisoner's previous sentences) is a custody and community sentence.
- (2) In determining the date on which the previous sentence expires, no account is to be taken of the period of confinement served under the further sentence.
- 4 (1) This paragraph applies where—
- (a) the court imposes a custody and community sentence as a further sentence,
 - (b) the court frames the sentence to take effect in accordance with paragraph 1(2) or (3), and
 - (c) the prisoner's previous sentence (or one of the prisoner's previous sentences) is a custody and community sentence.
- (2) In determining the date on which the previous sentence expires, no account is to be taken of the period of confinement served under the custody part of the further sentence.
- (3) In determining the date on which the further sentence expires, no account is to be taken of the balance of the previous sentence.
- (4) The balance of the previous sentence is the term of the sentence less the custody part of the sentence.
- Effect of sentences framed to take effect consecutively on extension periods*
- 5 (1) In paragraph 3, if the previous sentence is an extended sentence, the reference in sub-paragraph (2) of that paragraph to the date when the previous sentence is due to expire is to be read as a reference to the date when the confinement term of that sentence is due to expire.
- (2) In paragraph 4, if the previous sentence is an extended sentence—
- (a) the reference in sub-paragraph (2) of that paragraph to the date when the previous sentence is due to expire is to be read as a reference to the date when the confinement term of that sentence is due to expire,
 - (b) the extension period of the previous sentence is to commence immediately after the date on which the further sentence expires in accordance with sub-paragraph (3) of that paragraph.
- (3) In paragraph 4, if the further sentence is an extended sentence, the reference in sub-paragraph (3) of that paragraph to the date when the further sentence expires is to be read as a reference to the date when the confinement term of that sentence expires.
- (4) Subject to section 210A(3) of the 1995 Act and to any direction by the court which imposes the further sentence, where both the further sentence and the previous sentence are extended sentences—
- (a) the references in paragraph 4(2) and (3) to the dates when those sentences expire are to be read as references to the dates when the confinement terms of those sentences expire,
 - (b) the extension periods of the sentences must be aggregated, and
 - (c) that aggregated extension period is to commence immediately after the date on which the further sentence expires in accordance with paragraph 4(3).

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- (5) In this paragraph the expressions “extended sentence”, “the confinement term” and “the extension period” are to be construed in accordance with section 210A(2) of the 1995 Act.

Application of schedule where previous sentence imposed by court outwith Scotland

- 6 The Scottish Ministers may by order make provision for or in connection with the application of this schedule (subject to modifications specified in the order) where a previous sentence is passed by a court in any part of the United Kingdom outwith Scotland.

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Changes and effects yet to be applied to :

- Sch. 3 para. 5(1) repealed by [2010 asp 13 Sch. 3 para. 14\(6\)\(a\)](#)
- Sch. 3 para. 1(4)(a) words substituted by [2010 asp 13 Sch. 3 para. 14\(2\)](#)
- Sch. 3 para. 3(1)(a) words substituted by [2010 asp 13 Sch. 3 para. 14\(4\)\(a\)](#)
- Sch. 3 para. 5(2) words substituted by [2010 asp 13 Sch. 3 para. 14\(6\)\(b\)](#)
- Sch. 3 para. 5(3) words substituted by [2010 asp 13 Sch. 3 para. 14\(6\)\(b\)](#)
- Sch. 3 para. 5(4)(a) words substituted by [2010 asp 13 Sch. 3 para. 14\(6\)\(c\)\(i\)](#)
- Sch. 3 para. 5(4)(c) words substituted by [2010 asp 13 Sch. 3 para. 14\(6\)\(c\)\(ii\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29A inserted by [2010 asp 13 s. 18\(6\)](#)
- s. 42A inserted by [2010 asp 13 Sch. 3 para. 6](#)
- s. 45(1)(za)(zb) inserted by [2010 asp 13 Sch. 3 para. 7\(2\)](#)
- s. 46A inserted by [2010 asp 13 s. 18\(7\)](#)
- s. 47(3A) inserted by [2010 asp 13 s. 18\(8\)\(c\)](#)
- s. 47(8)(a)(b) substituted for words by [2010 asp 13 s. 18\(8\)\(e\)](#)
- s. 51(1A) inserted by [2010 asp 13 Sch. 3 para. 9\(3\)](#)
- Sch. 2 para. 1(4) added by [2010 asp 13 Sch. 3 para. 13\(3\)\(c\)](#)
- Sch. 2 para. 7(1A) inserted by [2010 asp 13 Sch. 3 para. 13\(8\)](#)
- Sch. 3 para. 2A inserted by [2010 asp 13 Sch. 3 para. 14\(3\)](#)
- Sch. 3 para. 3(3) inserted by [2010 asp 13 Sch. 3 para. 14\(4\)\(b\)](#)
- Sch. 3 para. 3A inserted by [2010 asp 13 Sch. 3 para. 14\(5\)](#)
- Sch. 3 para. 5(4A) inserted by [2010 asp 13 Sch. 3 para. 14\(6\)\(d\)](#)
- Sch. 3 para. 5(6) inserted by [2010 asp 13 Sch. 3 para. 14\(6\)\(e\)](#)