



# Sentencing Act 2020

## 2020 CHAPTER 17

### FIFTH GROUP OF PARTS Sentencing: miscellaneous provision and interpretation

#### PART 13

##### INTERPRETATION

#### 397 Interpretation: general

(1) In this Code, except where the contrary intention appears—

“accommodation provided by or on behalf of a local authority” has the same meaning as in the Children Act 1989 (see section 105 of that Act);

“the appropriate officer of the court” means, in relation to a magistrates’ court, the designated officer for the court;

“associated”, in relation to offences, is to be read in accordance with section 400;

“attendance centre” has the meaning given by section 221 of the Criminal Justice Act 2003;

“community order” means an order under section 200;

“community order requirement” is to be read in accordance with section 200(2);

“community requirement”, in relation to a suspended sentence order, has the meaning given by section 286(7);

“community sentence” means a sentence which consists of or includes—

(a) a community order, or

(b) a youth rehabilitation order;

“compensation order” has the meaning given by section 133;

“court” does not include a service court;

“criminal behaviour order” has the meaning given by section 330;

“criminal courts charge order” has the meaning given by section 46(3);

“custodial sentence” has the meaning given by section 222;

“detention and training order” has the meaning given by section 233;

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“electronic compliance monitoring requirement” has the meaning given by paragraph 29 of Schedule 9;

“electronic monitoring requirement”, in relation to a community order or suspended sentence order, means—

- (a) an electronic compliance monitoring requirement, or
- (b) an electronic whereabouts monitoring requirement;

“electronic whereabouts monitoring requirement” has the meaning given by paragraph 30 of Schedule 9;

“end date”, in relation to a community order, means the date for the time being specified in the order under—

- (a) section 209 (community order to specify end date),
- (b) paragraph 13(1)(b) of Schedule 10 (power to substitute later end date on breach), or
- (c) paragraph 20(1) of that Schedule (power to amend order to substitute later end date);

“extended sentence” means a sentence under—

- (a) section 254 (extended custodial sentence for persons aged under 18),
- (b) section 266 (extended sentence of detention in a young offender institution for adults aged under 21), or
- (c) section 279 (extended sentence of imprisonment);

“guardian” has the same meaning as in the Children and Young Persons Act 1933 (see section 107(1) of that Act);

“home local justice area” means—

- (a) in relation to a community order, the local justice area specified in the order under section 210 or paragraph 16 or 17 of Schedule 10;
- (b) in relation to a suspended sentence order which imposes one or more community requirements, the local justice area specified in the order under section 296 or paragraph 23 or 24 of Schedule 16;

“imprisonable offence” means an offence that is punishable with imprisonment in a court (even if the offence in question is not so punishable by the court dealing with the offender for it);

“local authority foster parent” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);

“order for absolute discharge” has the meaning given by section 79;

“order for conditional discharge” has the meaning given by section 80;

“place of safety” has the same meaning as in the Children and Young Persons Act 1933 (see section 107(1) of that Act);

“pre-sentence report” has the meaning given by section 31;

“probation trust” means a trust established under section 5 of the Offender Management Act 2007;

“referral order” has the meaning given by section 83;

“relevant order” means—

- (a) a community order, or
- (b) a suspended sentence order which imposes one or more community requirements;

“reparation order” has the meaning given by section 109(1);

“the responsible officer”—

- (a) in relation to a community order, has the meaning given by section 213;

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- (b) in relation to a suspended sentence order which imposes one or more community requirements, has the meaning given by section 299;
  - “restraining order” has the meaning given by section 359;
  - “sentence of imprisonment” does not include a committal—
    - (a) in default of payment of any sum of money,
    - (b) for want of sufficient distress to satisfy any sum of money, or
    - (c) for failure to do or abstain from doing anything required to be done or left undone,

and references to sentencing an offender to imprisonment are to be read accordingly;

“sentencing guidelines” means sentencing guidelines issued by the Sentencing Council for England and Wales under section 120 of the Coroners and Justice Act 2009 as definitive guidelines, as revised by any subsequent guidelines so issued;

[<sup>F1</sup>“serious terrorism sentence” means a sentence under—

- (a) section 268A (serious terrorism sentence of detention in young offender institution for adults aged under 21), or
- (b) section 282A (serious terrorism sentence of imprisonment);]

“service court” means—

- (a) the Court Martial,
- (b) the Summary Appeal Court,
- (c) the Service Civilian Court,
- (d) the Court Martial Appeal Court, or
- (e) the Supreme Court on an appeal from the Court Martial Appeal Court;

“sexual harm prevention order” has the meaning given by section 343(1);

“specified offence” has the meaning given by section 306;

“suspended sentence” and “suspended sentence order” have the meanings given by section 286(6);

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998;

“youth rehabilitation order” has the meaning given by section 173;

“youth rehabilitation order with fostering” has the meaning given by section 176;

“youth rehabilitation order with intensive supervision and surveillance” has the meaning given by section 175.

- (2) Any reference in this Code to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.
- (3) A reference in this Code to want of sufficient distress to satisfy a sum includes a reference to circumstances where—
  - (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
  - (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (within the meaning given by 50(3) of Schedule 12 to that Act).

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- (4) A reference in this Code to an offender who is subject to a detention and training order being released for supervision is to be read in accordance with section 248(5).
- [<sup>F2</sup>(5) For the purposes of this Code, proceedings are instituted when they are instituted for the purposes of Part 1 of the Prosecution of Offences Act 1985 (see section 15(2) of that Act).]

#### Textual Amendments

- F1** Words in s. 397(1) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 11(17)**
- F2** S. 397(5) inserted (31.12.2020 immediately before IP completion day) by The Taking Account of Convictions (EU Exit) (Amendment) Regulations 2020 (S.I. 2020/1520), regs. 1(1), **3**

#### Modifications etc. (not altering text)

- C1** S. 397(1) applied (with modifications) by 2008 c. 4, s. 39(6)(a), **Sch 7** (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 paras. 266(5), 270 (with Sch. 24 para. 447, **Sch. 27**); S.I. 2020/1236, **reg. 2**

#### Commencement Information

- I1** S. 397 in force at 1.12.2020 by S.I. 2020/1236, **reg. 2**

### 398 Ancillary and inchoate offences

- (1) Nothing in this Code is to be taken to affect the operation of the following (liability as an accessory)—
- (a) section 8 of the Accessories and Abettors Act 1861, or
  - (b) section 44 of the Magistrates' Courts Act 1980.
- (2) Accordingly, any reference in this Act to an offence includes a reference to that offence committed by aiding, abetting, counselling or procuring the commission of that offence.
- (3) In this Code, “inchoate offence” in relation to an offence, means—
- (a) an attempt to commit the offence,
  - (b) conspiracy to commit the offence,
  - (c) an offence under Part 2 of the Serious Crime Act 2007 related to the offence, or
  - (d) incitement to commit the offence,
- but this is subject to subsection (4).
- (4) Paragraph (d) of subsection (3) does not apply for the purposes of—
- (a) section 67 (assaults on emergency workers);
  - (b) Schedule 13 (special sentence for offenders of particular concern: offences).
- But paragraph (b) is not to be taken to affect the operation of paragraph [<sup>F38</sup> or 12] of Schedule 13 (abolished offences).
- (5) For the purposes of this Code, an offence committed by a person under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) is related to another offence if that other offence is the offence (or one of the offences) which the person intended or believed would be committed.

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#### Textual Amendments

- F3** Words in s. 398(4) substituted (30.4.2021 except as it has effect for the purposes of Sch. 13 as it is applied by 2006 c. 52, s. 224A) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i)(3) (i), **Sch. 13 para. 12(1)** (with Sch. 13 para. 12(2))

#### Commencement Information

- I2** S. 398 in force at 1.12.2020 by S.I. 2020/1236, **reg. 2**

### 399 Mandatory sentences

For the purposes of this Code, where a court is dealing with an offender for an offence, a mandatory sentence requirement applies in relation to the offence if—

- (a) the offence is one for which the sentence is fixed by law,
- (b) the court is obliged by one of the following provisions to pass a sentence of detention for life, custody for life or imprisonment for life—
  - (i) section [F4 258, 258A, 274, 274A, 285 or 285A] (life sentence for certain F5 ... offenders);
  - (ii) section 273 or 283 (life sentence for second listed offence),
- [F6 (ba) the court is obliged by section 268B or 282B to impose a serious terrorism sentence,] or
- (c) a sentence is required by one of the following provisions and the court is not of the opinion mentioned in that provision—
  - (i) section 311(2) (minimum sentence for certain offences involving firearms that are prohibited weapons);
  - (ii) section 312(2) [F7 or (2A)] (minimum sentence for offence of threatening with weapon or bladed article);
  - (iii) section 313(2) [F8 or (2A)] (minimum sentence of 7 years for third class A drug trafficking offence);
  - (iv) section 314(2) [F9 or (2A)] (minimum sentence of 3 years for third domestic burglary);
  - (v) section 315(2) [F10 or (2A)] (minimum sentence for repeat offence involving weapon [F11 or corrosive substance] or bladed article).

#### Textual Amendments

- F4** Words in s. 399(b)(i) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 3(13)(a), 208(5)(b)**
- F5** Word in s. 399(b)(i) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 3(13)(b), 208(5)(b)**
- F6** S. 399(ba) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 11(18)**
- F7** Words in s. 399(c)(ii) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(8)(a), 208(5)(k)**
- F8** Words in s. 399(c)(iii) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(8)(b), 208(5)(k)**
- F9** Words in s. 399(c)(iv) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(8)(c), 208(5)(k)**

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- F10** Words in s. 399(c)(v) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(8)(d), 208(5)(k)**
- F11** Words in s. 399(c)(v) inserted (6.4.2022) by Sentencing Act 2020 (c. 17), s. 417(1), **Sch. 22 para. 83(c)** (with Sch. 27); S.I. 2022/415, reg. 2

**Commencement Information**

- I3** S. 399 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

**400 Meaning of “associated offence”**

For the purposes of this Code, an offence is associated with another if—

- (a) the offender—
- (i) is convicted of it in the proceedings in which the offender is convicted of the other offence, or
  - (ii) (although convicted of it in earlier proceedings) is sentenced for it at the same time as being sentenced for that offence, or
- (b) in the proceedings in which the offender is sentenced for the other offence, the offender—
- (i) admits having committed it, and
  - (ii) asks the court to take it into consideration in sentencing for that other offence.

**Modifications etc. (not altering text)**

- C2** S. 400 applied (with modifications) by 2008 c. 4, s. 39(6)(a), Sch 7 (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 paras. 266(5), **270** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2)

**Commencement Information**

- I4** S. 400 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

**401 Meaning of “sentence”**

In this Code, except where otherwise provided, “sentence”, in relation to an offence, includes any order made by a court when dealing with the offender in respect of the offence, and “sentencing” is to be construed accordingly.

**Commencement Information**

- I5** S. 401 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

**402 Powers to re-sentence**

- (1) Where under this Code a court has power to re-sentence an offender for an offence, the court may deal with the offender in any way in which it could deal with the offender—
- (a) if the offender had just been convicted by or before it of the offence, and
  - (b) in a case where the offender was aged under 18 when in fact convicted of the offence, as if the offender were the same age as when in fact convicted.

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- (2) But where under this Code the Crown Court has power to re-sentence an offender for an offence and subsection (3) applies, the power of the Crown Court is power to deal with the offender in any way in which a magistrates' court could deal with the offender for the offence if—
- (a) the offender had just been convicted by the magistrates' court of the offence, and
  - (b) in a case where the offender was aged under 18 when in fact convicted of the offence, the offender were the same age as when in fact convicted.
- (3) This subsection applies where—
- (a) the Crown Court's power to re-sentence the offender for the offence is exercisable—
    - (i) where the Crown Court revokes another order previously made in respect of the offence, or
    - (ii) where an order for conditional discharge has previously been made in respect of the offence, by virtue of a further offence committed during the period of conditional discharge, and
  - (b) the previous order was made—
    - (i) by a magistrates' court, or
    - (ii) by the Crown Court in circumstances where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates' court on convicting the offender of the offence.

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**Commencement Information**

**I6** S. 402 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

### **403 References to “local authority”**

- (1) In this Code, any reference to a local authority in relation to—
- (a) accommodation provided by or on behalf of a local authority (including any reference to a local authority which is to receive a person aged under 18),
  - (b) placing a person aged under 18 with a local authority foster parent, or
  - (c) an order made under section 380 (power to order parent or guardian to pay fine, costs, compensation or surcharge) against a local authority,
- has the same meaning as in the Children Act 1989 (see section 105 of that Act).
- (2) In this Code, in relation to a youth offending team—
- (a) any reference to a local authority has the same meaning as in Part 3 of the Crime and Disorder Act 1998 (see section 42 of that Act), and
  - (b) any reference to the area of that local authority is to be read in accordance with section 42(2) of that Act.

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**Modifications etc. (not altering text)**

**C3** Ss. 403-405 applied (with modifications) by 2008 c. 4, s. 39(6)(a), Sch 7 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), Sch. 24 paras. 266(5), **270** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

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#### Commencement Information

**I7** S. 403 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

### 404 References to parent or guardian of offender where local authority has parental responsibility

- (1) This section applies where an offender for whom a local authority has parental responsibility is—
  - (a) in the care of the local authority, or
  - (b) provided with accommodation by the local authority in the exercise of any social services functions of the authority.
- (2) Any reference in this Code to the offender's parent or guardian is to be read as a reference to that authority.
- (3) This does not apply in paragraphs 27 and 39 of Schedule 6 (fostering and education requirements of youth rehabilitation orders) and is subject to express provision to the contrary.
- (4) In this section—
  - “local authority” has the same meaning as it has in the Children Act 1989;
  - “parental responsibility” has the same meaning as it has in that Act (see section 3 of that Act);
  - “social services functions”—
    - (a) in relation to a local authority in England, has the same meaning as in the Local Authority Social Services Act 1970 (see section 1A of that Act);
    - (b) in relation to a local authority in Wales, has the same meaning as in the Social Services and Well-being (Wales) Act 2014 (anaw 4) (see section 143 of that Act).

#### Modifications etc. (not altering text)

**C3** Ss. 403-405 applied (with modifications) by 2008 c. 4, s. 39(6)(a), Sch 7 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), Sch. 24 paras. 266(5), **270** (with Sch. 24 para. 447, Sch. 27); [S.I. 2020/1236, reg. 2](#))

#### Commencement Information

**I8** S. 404 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

### 405 Age of the offender

- (1) This section applies for the purposes of any provision of this Code which requires a person's age to be determined by the court or the Secretary of State.
- (2) The person is to be deemed to be whatever age the person appears to the court, or, as the case may be, the Secretary of State, to be.
- (3) For this purpose, the court or Secretary of State must consider any available evidence.



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**Commencement Information**

**I9** S. 405 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

**406 Offender reaching 18 during proceedings**

Nothing in this Code affects section 29 of the Children and Young Persons Act 1963 (power of a court, where an offender reaches 18 during proceedings for an offence, to deal with the offender as if still under 18).

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**Commencement Information**

**I10** S. 406 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

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**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. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)