

SCHEDULES

SCHEDULE 4

Section 55.

MINOR AND CONSEQUENTIAL AMENDMENTS

Army Act 1955 (c. 18)

- 1 (1) After subsection (3) of section 70 of the Army Act 1955 (civil offences) there shall be inserted the following subsection—
- “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”
- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—
- “(1A) Where—
- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,
- the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”
- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 70(3A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

Air Force Act 1955 (c. 19)

- 2 (1) After subsection (3) of section 70 of the Air Force Act 1955 (civil offences) there shall be inserted the following subsection—
- “(3A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the

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sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 71A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

- (3) In subsection (6A) of section 71AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 5A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 70(3A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

Naval Discipline Act 1957 (c. 53)

- 3 (1) After subsection (1) of section 42 of the Naval Discipline Act 1957 (civil offences) there shall be inserted the following subsection—

“(1A) Where the corresponding civil offence is one to which section 2, 3 or 4 of the Crime (Sentences) Act 1997 would apply, the court-martial shall impose the sentence required by subsection (2) of that section unless it is of the opinion that there are exceptional circumstances which justify its not doing so.”

- (2) For subsection (1A) of section 43A of that Act (juveniles) there shall be substituted the following subsection—

“(1A) Where—

- (a) a person under 21 years of age is convicted of murder or any other civil offence the sentence for which is fixed by law as imprisonment for life; or
- (b) a person under that age is convicted of any civil offence to which section 2 of the Crime (Sentences) Act 1997 would apply and the court is not of the opinion mentioned in subsection (2) of that section,

the court shall sentence him to custody for life unless he is liable to be detained under subsection (3) below.”

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- (3) In subsection (6A) of section 43AA of that Act (young service offenders: custodial orders), for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.
- (4) In paragraph 3(1) of Schedule 4A to that Act (powers of court on trial of civilian), after the words “fixed by law” there shall be inserted the words “or falls to be imposed under section 42(1A) above”.
- (5) In paragraph 10(6A) of that Schedule, for the words “Section 65 of the Criminal Justice Act 1991” there shall be substituted the words “Sections 16 and 17 of the Crime (Sentences) Act 1997 (as modified by section 19 of that Act)”.

Children and Young Persons Act 1963 (c. 37)

- 4 After subsection (2) of section 16 of the Children and Young Persons Act 1963 (offences committed by children under 14 to be disregarded for purposes of evidence relating to previous convictions) there shall be inserted the following subsection—

“(3) Nothing in subsection (2) of this section shall be taken to prevent the adduction of evidence of previous convictions for the purpose of establishing the application of any provision of Part I of the Crime (Sentences) Act 1997 (mandatory and minimum custodial sentences).”

Criminal Justice Act 1967 (c. 80)

- 5 (1) In subsection (2) of section 56 of the Criminal Justice Act 1967 (committal for sentence for offences tried summarily)—
- (a) for the words “sections 37 and 38” there shall be substituted the words “sections 37, 38 and 38A”; and
 - (b) for the words “and section 62(6) of this Act” there shall be substituted the words “, section 17(3) of the Crime (Sentences) Act 1997 (committal for breach of conditions of release supervision order),”.
- (2) In subsection (4) of section 72 of that Act (power of magistrates to issue warrants for escaped prisoners and mental patients), after the words “restricting his discharge” there shall be inserted the words “or in pursuance of a hospital direction and a limitation direction”.

Criminal Appeal Act 1968 (c. 19)

- 6 (1) In subsection (1) of section 50 of the Criminal Appeal Act 1968 (meaning of sentence)—
- (a) after paragraph (b) there shall be inserted the following paragraph—

“(bb) a hospital direction and a limitation direction under that Part;”;
 - (b) after paragraph (c) there shall be inserted the following paragraph—

“(cc) a direction under section 20(3) or 21(3) of the Crime (Sentences) Act 1997 (extended supervision for sexual or violent offenders);”.

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- (2) In sub-paragraph (4) of paragraph 2 of Schedule 2 to that Act (procedural and other provisions applicable on order for retrial), for the words “Section 67 of the Criminal Justice Act 1967 (deduction from certain sentences of time spent in custody before sentence)” there shall be substituted the words “Section 9 of the Crime (Sentences) Act 1997 (crediting of periods of remand in custody)”.

Immigration Act 1971 (c. 77)

- 7 In subsection (4) of section 7 of the Immigration Act 1971 (exemption from deportation for certain existing residents), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words “section 9 of the Crime (Sentences) Act 1997”.

Powers of Criminal Courts Act 1973 (c. 62)

- 8 (1) In section 1A(1) of the 1973 Act (absolute and conditional discharge), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (2) In section 2(1) of that Act (probation orders), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (3) In section 30(1) of that Act (general power to fine offender), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (4) In subsection (1) of section 42 of that Act (power of Crown Court on committal for sentence), after the words “section 38” there shall be inserted the words “or 38A”.

Rehabilitation of Offenders Act 1974 (c. 53)

- 9 (1) In subsection (2) of section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions), after paragraph (c) there shall be inserted the following paragraph—
- “(d) breach of any condition of a release supervision order made under section 16 of the Crime (Sentences) Act 1997.”
- (2) In subsection (6) of section 6 of that Act (the rehabilitation period applicable to a conviction), at the end of paragraph (a) there shall be inserted the words “or of an offence under section 17 of the Crime (Sentences) Act 1997 (breach of conditions of release supervision order)”.

Magistrates' Courts Act 1980 (c. 43)

- 10 (1) In subsection (4A) of section 82 of the 1980 Act (restriction on power to impose imprisonment for default), in paragraph (e) for the words “under the age of 21” there shall be substituted the words “under the age of 25”.
- (2) For subsection (3) of section 85 of that Act (power to remit fine) there shall be substituted the following subsections—
- “(2A) Where the court remits the whole or part of the fine after an order has been made under section 35(2)(a) or (b) of the Crime (Sentences) Act 1997, it

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shall also reduce the total number of hours or days to which the order relates by a number which bears the same proportion as the amount remitted bears to the whole sum or, as the case may be, shall revoke the order.

- (3) In calculating any reduction required by subsection (2) or (2A) above any fraction of a day or hour shall be left out of account.”

Criminal Justice Act 1982 (c. 48)

- 11 In subsection (4) of section 1A of the 1982 Act (detention in a young offender institution), for the words “section 65(6) of the Criminal Justice Act 1991” there shall be substituted the words “section 17(1) of the Crime (Sentences) Act 1997 as it has effect by virtue of section 19 of that Act”.

Mental Health Act 1983 (c. 20)

- 12 (1) In subsection (1) of section 37 of the 1983 Act (powers of courts to order hospital admission or guardianship), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2) of the Crime Sentences) Act 1997”.

- (2) After that subsection there shall be inserted the following subsection—

“(1A) In the case of an offence the sentence for which would otherwise fall to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997, nothing in that subsection shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.”

- (3) In subsection (4) of that section, the words “in the event of such an order being made by the court” shall cease to have effect.

- (4) After subsection (3) of section 50 of that Act (further provisions as to prisoners under sentence) there shall be inserted the following subsection—

“(3A) In applying subsection (3) above account shall be taken of any early release days awarded to the person under section 11 of the Crime (Sentences) Act 1997 (read with section 22 of that Act).”

- (5) After subsection (4) of that section there shall be inserted the following subsection—

“(5) The preceding provisions of this section shall have effect as if—

- (a) the reference in subsection (1) to a transfer direction and a restriction direction having been given in respect of a person serving a sentence of imprisonment included a reference to a hospital direction and a limitation direction having been given in respect of a person sentenced to imprisonment;
- (b) the reference in subsection (2) to a restriction direction included a reference to a limitation direction; and
- (c) references in subsections (3) and (4) to a transfer direction included references to a hospital direction.”

- (6) In section 54 of that Act (requirements as to medical evidence), after the words “38(1)” there shall be inserted the words “45A(2)”.

- (7) In subsection (2) of section 61 of that Act (review of treatment)—

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- (a) after the words “restriction order” there shall be inserted the words “, limitation direction”; and
 - (b) in paragraph (b), after the words “section 41(6)” there shall be inserted the words “, 45B(3)”.
- (8) In subsection (2)(b) of section 69 of that Act (applications to tribunals concerning patients subject to hospital and guardianship orders), after the word “section” there shall be inserted “45B(2),”.
- (9) In section 70(a) of that Act (applications to tribunals concerning restricted patients), after the words “hospital order” there shall be inserted the words “, hospital direction”.
- (10) In subsection (1) of section 74 of that Act (restricted patients), after the words “who is subject to” there shall be inserted the words “a limitation direction or”.
- (11) In subsection (5) of that section, after the word “above” there shall be inserted the words “the relevant hospital direction and the limitation direction or, as the case may be,”.
- (12) In subsection (6) of that section, after the words “references to”, in the second place where they occur, there shall be inserted the words “the hospital direction and the limitation direction or, as the case may be, to”.
- (13) In section 75(1)(b) of that Act (applications and references concerning conditionally discharged restricted patients), after the words “hospital order” there shall be inserted the words “, hospital direction”.
- (14) In subsection (1) of section 79 of that Act (interpretation of Part V), after the words “restriction order” there shall be inserted the words “, limitation direction”.
- (15) In subsection (2) of that section—
- (a) after the words ““the relevant hospital order”” there shall be inserted the words “, “the relevant hospital direction””; and
 - (b) after the words “the hospital order” there shall be inserted the words “, the hospital direction”.
- (16) After subsection (3) of section 92 of that Act (interpretation of Part VI) there shall be inserted the following subsections—
- “(4) Sections 80 to 85A above shall have effect as if—
 - (a) any hospital direction under section 45A above were a transfer direction under section 47 above; and
 - (b) any limitation direction under section 45A above were a restriction direction under section 49 above.
 - (5) Sections 80(5), 81(6) and 85(4) above shall have effect as if any reference to a transfer direction given while a patient was serving a sentence of imprisonment imposed by a court included a reference to a hospital direction given by a court after imposing a sentence of imprisonment on a patient.”
- (17) In subsection (1) of section 117 of that Act (after-care), after the words “transferred to a hospital in pursuance of” there shall be inserted the words “a hospital direction made under section 45A above or”.

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- (18) In subsection (3) of section 143 of that Act (general provisions as to regulations, orders and rules), after the word “section” there shall be inserted the word “45A(10),”.
- (19) In subsection (1) of section 145 of that Act (interpretation)—
- (a) after the definition of “hospital” there shall be inserted the following definition—
- ““hospital direction” has the meaning given in section 45A(3)(a) above;”;
- (b) after the definition of “interim hospital order” there shall be inserted the following definition—
- ““limitation direction” has the meaning given in section 45A(3)(b) above;”.

Criminal Justice Act 1988 (c. 33)

- 13 At the end of subsection (2) of section 36 of the Criminal Justice Act 1988 (review of sentencing) there shall be inserted the words “or failed to impose a sentence required by section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.

Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)

- 14 In sub-paragraph (5) of paragraph 9 of Schedule 2 to the Prevention of Terrorism (Temporary Provisions) Act 1989 (exemption from exclusion orders), for the words “section 67 of the Criminal Justice Act 1967” there shall be substituted the words “section 9 of the Crime (Sentences) Act 1997”.

Criminal Justice Act 1991 (c. 53)

- 15 (1) In subsection (1) of section 1 of the 1991 Act (restrictions on imposing custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (2) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with a requirement which is proposed by the court to be included in a probation order or supervision order and which requires an expression of such willingness.”
- (3) In subsection (1) of section 2 of that Act (length of custodial sentences), after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (4) At the beginning of subsection (2) of that section there shall be inserted the words “Subject to sections 3(2) and 4(2) of that Act,”.
- (5) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) Subsection (3) above shall not apply in any case where the court passes a custodial sentence falling to be imposed under subsection (2) of section 3 or 4

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of the Crime (Sentences) Act 1997 which is for the minimum term specified in that subsection.”

- (6) In subsection (1) of section 4 of that Act (additional requirements in the case of mentally disordered offenders)—
- (a) the words “section 3(1) above applies and” shall cease to have effect; and
 - (b) after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (7) In subsection (3) of that section, after the words “fixed by law” there shall be inserted the words “or falling to be imposed under section 2(2) of the Crime (Sentences) Act 1997”.
- (8) In subsection (1) of section 11 of that Act (orders combining probation and community service), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (9) In subsection (1) of section 12 of that Act (curfew orders), after the words “is fixed by law” there shall be inserted the words “or falls to be imposed under section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997”.
- (10) In section 32 of that Act (the Parole Board)—
- (a) in subsection (1), for the words from “be constituted” to the end there shall be substituted the following paragraphs—
 - “(a) be constituted in accordance with this Part; and
 - (b) have the functions conferred by Part II of the Crime (Sentences) Act 1997 (“Part II”).”; and
 - (b) in subsections (3), (4) and (6), for the words “this Part” there shall be substituted the words “Part II”.
- (11) In sub-paragraph (2) of each of paragraphs 3 and 4 of Schedule 2 to that Act (powers of magistrates' court and Crown Court), for paragraph (b) there shall be substituted the following paragraph—
- “(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.”
- (12) In sub-paragraph (2)(a)(ii) of paragraph 13 of that Schedule (amendment of requirements of probation or curfew order), after the word “unless” there shall be inserted the words “the offender has expressed his willingness to comply with such a requirement and”.
- (13) In sub-paragraph (2)(b) of paragraph 14 of that Schedule (amendment of certain requirements of probation order), the words from “being treatment” to the end shall cease to have effect.

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

- 16 (1) In section 10(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (meaning of transferred life prisoner), for the words “section 26 of the Criminal Justice Act 1961” there shall be substituted the words “paragraph 1 of Schedule 1 to the Crime (Sentences) Act 1997”.

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- (2) In Schedule 6 to that Act, in paragraph 1, in the definition of “new provisions”, after the word “Act” where it last occurs, there shall be inserted the words “and the Repatriation of Prisoners Act 1984 as it has effect by virtue of paragraphs 6 and 7 of Schedule 2 to the Crime (Sentences) Act 1997”.

Criminal Justice and Public Order Act 1994 (c. 33)

- 17 After subsection (2) of section 48 of the Criminal Justice and Public Order Act 1994 (reduction in sentences for guilty pleas) there shall be inserted the following subsection—

“(3) In the case of an offence the sentence for which falls to be imposed under subsection (2) of section 3 or 4 of the Crime (Sentences) Act 1997, nothing in that subsection shall prevent the court, after taking into account any matter referred to in subsection (1) above, from imposing any sentence which is not less than 80 per cent of that specified in that subsection.”