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## SCHEDULES

### SCHEDULE 22

#### AMENDMENTS OF THE SENTENCING CODE AND RELATED AMENDMENTS OF OTHER LEGISLATION

PROSPECTIVE

#### PART 1

##### GENERAL PROVISIONS

##### *Pre-sentence drug testing*

1 After section 34 insert—

##### *“Pre-sentence drug testing*

#### **34A Pre-sentence drug testing**

- (1) This section applies where—
  - (a) a person is convicted of an offence, and
  - (b) the court is considering passing—
    - (i) a community sentence, or
    - (ii) a suspended sentence.
- (2) The court may make an order requiring the offender to provide samples for the purpose of ascertaining whether the offender has any specified Class A drug in his or her body.
- (3) An order under this section—
  - (a) must specify the descriptions of samples to be provided,
  - (b) if the offender is aged under 17, must provide for the samples to be provided in the presence of an appropriate adult, and
  - (c) may include further provision about how the samples are to be provided.
- (4) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on the offender a fine of an amount not exceeding level 4.
- (5) In subsection (4) “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.

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(6) The court may not make an order under subsection (2) unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court (and the notice has not been withdrawn).

(7) In this section—

“appropriate adult” in relation to a person aged under 17, means—

- (a) the person's parent or guardian or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
- (b) a social worker of a local authority, or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes;

“police purposes” has the meaning given by section 101(2) of the Police Act 1996;

“specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000 (see section 70 of that Act).”

2 In section 230 (threshold for imposing discretionary custodial sentence), after subsection (3) insert—

“Exception to subsection (2) relating to pre-sentence drug testing

(3A) Nothing in subsection (2) prevents the court from passing a custodial sentence on the offender if the offender fails to comply with an order under section 34A (pre-sentence drug testing).”

#### *Purposes of sentencing*

3 (1) For section 58 substitute—

#### “58 Purposes etc of sentencing: offenders under 18

(1) This section applies where a court is dealing with an offender aged under 18 for an offence.

(2) The court must have regard to—

- (a) the principal aim of the youth justice system (which is to prevent offending (or re-offending) by persons aged under 18: see section 37(1) of the Crime and Disorder Act 1998);
- (b) in accordance with section 44 of the Children and Young Persons Act 1933, the welfare of the offender, and
- (c) the purposes of sentencing mentioned in subsection (3) (so far as it is not required to do so by paragraph (a)).

(3) Those purposes of sentencing are—

- (a) the punishment of offenders,
- (b) the reform and rehabilitation of offenders,
- (c) the protection of the public, and

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(d) the making of reparation by offenders to persons affected by their offences.

(4) This section does not apply—

- (a) to an offence in relation to which a mandatory sentence requirement applies;
- (b) in relation to making any of the following orders under Part 3 of the Mental Health Act 1983—
  - (i) a hospital order (with or without a restriction order);
  - (ii) an interim hospital order;
  - (iii) a hospital direction;
  - (iv) a limitation direction.”

(2) In section 57 (purposes of sentencing: adults), in subsection (1)(b), omit “when convicted”.

*[<sup>F1</sup>Seriousness]*

#### Textual Amendments

**F1** Sch. 22 para. 4 and cross-heading repealed in part (29.6.2021 for specified purposes) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v)(3)(h), [Sch. 13 para. 6\(4\)](#)

4 *[<sup>F1</sup>In Schedule 1 (offences where terrorist connection to be considered)—*

(a) after paragraph 13 insert—

“13A An offence under any of the following paragraphs of Schedule 4 to the Space Industry Act 2018—

- (a) paragraph 1 (hijacking of spacecraft);
- (b) paragraph 2 (destroying, damaging or endangering safety of spacecraft);
- (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft);
- (d) paragraph 4 (endangering safety at spaceports);
- (e) paragraph 5 (offences in relation to certain dangerous articles).”;

(b) in paragraph 14, for “13” substitute “ 13A ”.]

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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\(8\)](#)