

Sentencing (Pre-consolidation Amendments) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Ministry of Justice, have been ordered to be published as Bill 102-EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Robert Buckland has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Sentencing (Pre-consolidation Amendments) Bill [HL] are compatible with the Convention rights.

Sentencing (Pre-consolidation Amendments) Bill

[HL]

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Give effect to Law Commission recommendations relating to commencement of enactments relating to sentencing law and to make provision for pre-consolidation amendments of sentencing law.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Consolidation of sentencing legislation: amendment of law for old offences

(1) In this section—

“repealed provision” means—

- (a) an enactment, to the extent that it is to be repealed or revoked by the sentencing consolidation; 5
- (b) a provision made under such an enactment;

“transition time”, in relation to a repealed provision, means a time that is specified in, or determined in accordance with, an enactment relating to the coming into force of the repealed provision or any other enactment; 10

“trigger event”, in relation to an offence, means the commission of the offence or any event related to the commission of the offence, including any event—

- (a) connected with, or which constitutes any part of, the commission of the offence, or 15
- (b) related to the investigation of, or proceedings related to, the offence.

(2) Subsection (3) applies if a person is convicted of an offence on or after the consolidation date.

(3) Where— 20

- (a) the application to the offence of a repealed provision depends on the time at which a particular trigger event occurred in relation to a particular transition time, and
- (b) the transition time fell after the trigger event occurred,

the repealed provision has effect as if the transition time had instead fallen before the trigger event occurred.

- (4) Subsection (3) does not operate so far as it would increase—
- (a) the maximum term of imprisonment or detention, or
 - (b) the maximum fine,
- with which the offence is punishable. 5
- (5) Subsection (3) is also subject to—
- (a) Schedule 1 (exceptions);
 - (b) any provision made by regulations made by the Secretary of State for the purpose of securing that subsection (3) does not affect the application of particular repealed provisions. 10
- (6) Where a repealed provision has effect in accordance with subsection (3), any related enactment also has effect in accordance with that subsection.
- (7) The following have effect subject to subsections (3) to (6)—
- (a) a commencement or transitional provision relating to the coming into force of a repealed provision or any related enactment; 15
 - (b) a saving subject to which a repealed provision, or any related enactment, has previously been repealed or revoked.
- (8) For the purposes of this section—
- (a) “related enactment”, in relation to a repealed provision, means an enactment which— 20
 - (i) came into force subject to the same commencement or transitional provision as the repealed provision, or
 - (ii) has previously been repealed or revoked subject to the same saving as the repealed provision, 25
 so far as it is necessary for the repealed provision to have full effect;
 - (b) “repealed provision” and “related enactment” do not include a provision to the extent that it is not in force immediately before the consolidation date, except to the extent that it will come into force on or after that date by virtue of an enactment passed or made before that date; 30
 - (c) a reference to the application of a repealed provision includes a reference to whether or not it applies (or applies for a particular purpose), and to the form in which it applies (or applies for a particular purpose); 35
 - (d) references to a repealed provision or related enactment or to any commencement or transitional provision or saving include references to such a provision passed or made after the passing of this Act.

2 Pre-consolidation amendments relating to sentencing

- (1) Schedule 2 contains amendments and modifications of sentencing legislation which are designed to facilitate, or otherwise desirable in connection with, the consolidation of the whole or a substantial part of the Acts relating to sentencing (with or without other sentencing legislation). 40
- (2) The Secretary of State may by regulations make such further amendments and modifications of sentencing legislation (including Schedule 2) as in the Secretary of State’s opinion facilitate, or are otherwise desirable in connection 45

with, the consolidation of the whole or a substantial part of the Acts relating to sentencing (with or without other sentencing legislation).

- (3) In exercising the power under this section, the Secretary of State may have regard in particular to the desirability of removing differences between provisions relating to—
- (a) forfeiture;
 - (b) powers of different courts to deal with offenders subject to particular sentences;
 - (c) powers of different courts to provide for when sentences or particular requirements of sentences are to take effect.
- (4) Provision that may be made by regulations under this section includes, in particular, provision amending or modifying any provision of sentencing legislation which—
- (a) confers power to make legislation, and
 - (b) is subject to a relevant restriction,
- so as to amend or modify that restriction.
- A “relevant restriction” is one by virtue of which legislation made in exercise of the power is to come into force only for cases in which commission or conviction of an offence, or any other event, occurs after the time when the legislation is made or comes into force, or any other particular time.
- (5) For the purposes of this section, “amend” includes repeal or revoke (and similar terms are to be read accordingly).

3 Interpretation

- (1) In this Act—
- “the Acts relating to sentencing” means—
- (a) the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) Part 12 of the Criminal Justice Act 2003;
 - (c) the following Acts so far as relating to the sentencing of offenders in England and Wales—
 - (i) the Serious Organised Crime and Police Act 2005;
 - (ii) the Criminal Justice and Immigration Act 2008;
 - (iii) the Coroners and Justice Act 2009;
 - (iv) the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
 - (v) the Offender Rehabilitation Act 2014;
 - (vi) the Criminal Justice and Courts Act 2015,
- and any other provision of an Act so far as it relates to the sentencing of offenders in England and Wales, whenever passed;
- “the consolidation date” means the date on which the sentencing consolidation is to come into force (except so far as it consolidates legislation that is not in force immediately before that date);
- “enactment” includes an enactment contained in subordinate legislation;
- “the sentencing consolidation” means, if an Act or group of Acts of a kind mentioned in section 5(2) is passed, that Act or group of Acts;
- “sentencing legislation” means any enactment, whenever passed or made which is—

- (a) an enactment relating to the sentencing of offenders, including any power to make such an enactment, or
- (b) an enactment referring to, or applying, modifying, amending, repealing or revoking, an enactment within paragraph (a);
- “the sentencing of offenders” includes anything done by a court, including making an order –
- (a) in relation to a parent or guardian of an offender, or
- (b) relating to the behaviour of the offender, when dealing with an offender for an offence.
- (2) References in this Act to a person’s being convicted include –
- (a) a special verdict (within the meaning of section 1 of the Criminal Procedure (Insanity) Act 1964) being returned,
- (b) a finding mentioned in section 5(1)(b) of that Act being made of the person’s having done the act or made the omission charged (following a finding of being under a disability), and
- (c) being convicted by or before a service court (within the meaning given in section 305 of the Criminal Justice Act 2003).
- 4 Regulations**
- (1) Any power to make regulations under section 1 or 2 is exercisable by statutory instrument.
- (2) A statutory instrument containing any such regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (3) Any such regulations are to come into force in accordance with section 5.
- 5 Commencement, extent and short title**
- (1) So far as necessary to enable regulations to be made under section 1 or 2, this Act comes into force on the day on which it is passed.
- (2) Subject to that, this Act, and any regulations made under section 1 or 2, do not come into force unless –
- (a) a single Act, or
- (b) a group of two or more Acts,
- is passed consolidating the whole or a substantial part of the Acts relating to sentencing (with or without other sentencing legislation).
- (3) If the sentencing consolidation is passed, this Act, so far as not already in force, and any regulations made under section 1 or 2 –
- (a) come into force immediately before the consolidation date, and
- (b) so far as they apply in relation to an offence, have effect only in relation to an offence of which a person is convicted on or after that date.
- (4) Subject to the following, this Act extends to England and Wales only.
- (5) A modification of a provision by section 1 has the same extent within the United Kingdom as the provision modified.

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- (6) An amendment, repeal or revocation made by Schedule 2, or by regulations under section 2, has the same extent within the United Kingdom as the provision amended, repealed or revoked.
- (7) In Schedule 2—
- (a) paragraph 133 also extends to Northern Ireland, and 5
 - (b) paragraph 134 also extends to Scotland and Northern Ireland.
- (8) The power conferred by section 338 of the Criminal Justice Act 2003 (power to extend to Channel Islands and Isle of Man, and to modify) is exercisable in relation to any amendment or modification of that Act that is made by or under this Act. 10
- (9) The armed forces provisions also extend to—
- (a) the Isle of Man, and
 - (b) the British overseas territories except Gibraltar.
- (10) The powers conferred by section 384 of the Armed Forces Act 2006 (power to extend Act to the Channel Islands and powers to make provisions of that Act apply with modifications in relation to the Channel Islands, British overseas territories and the Isle of Man) are exercisable in relation to any armed forces provision. 15
- (11) “Armed forces provision” means—
- (a) an amendment, modification or repeal made by or under this Act of a provision of the Armed Forces Act 2006; 20
 - (b) an amendment, modification or repeal made by or under this Act of any other provision, so far as the provision is applied (by whatever words) by or under the Armed Forces Act 2006.
- (12) This Act may be cited as the Sentencing (Pre-consolidation Amendments) Act 2020. 25

SCHEDULES

SCHEDULE 1

Section 1

SECTION 1: EXCEPTIONS

Nothing in section 1 alters the effect of any of the following –

<i>Surcharge and criminal courts charge</i>	5
1 Paragraph 7 of Schedule 12 to the Domestic Violence, Crime and Victims Act 2004 (commencement of section 14 of that Act (surcharge)), which inserts sections 161A and 161B of the Criminal Justice Act 2003).	
2 Section 54(4) of the Criminal Justice and Courts Act 2015 (commencement of section 21A of the Prosecution of Offences Act 1985 (criminal courts charge)).	10
3 Article 7(2) of the Criminal Justice Act 2003 (Surcharge) Order 2012 (S.I. 2012/1696).	
4 Article 3 of the Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2014 (S.I. 2014/2120).	15
5 Article 3 of the Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2016 (S.I. 2016/389).	
6 Article 3 of the Criminal Justice Act 2003 (Surcharge) (Amendment) Order 2019 (S.I. 2019/985), so far as it relates to article 2(b) of that order.	
<i>Compensation orders</i>	20
7 Paragraph 10 of Schedule 16 to the Crime and Courts Act 2013 (which relates to the commencement of amendments of section 131 of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on amount payable under magistrates' court compensation order) etc).	
8 Paragraph 6A of Schedule 12 to the Criminal Justice Act 1991 (saving relating to changes made by section 17 of that Act) so far as it relates to section 17(3) of the Criminal Justice Act 1991 (increases in certain maxima) so far as it relates to the entry in Part 1 of Schedule 4 to the Criminal Justice Act 1991 relating to section 40(1) of the Magistrates' Courts Act 1980 (compensation orders).	25 30
9 Article 1(2) of the Criminal Penalties etc. (Increase) Order 1984 (S.I. 1984/447), as it has effect by virtue of paragraph 2 of Schedule 11 to the Powers of Criminal Courts (Sentencing) Act 2000 (general saving for old transitional provisions and savings), so far as it relates to article 2(1) of that order, so far as it relates to the entry in Schedule 1 to that order relating to section 40(1) of the Magistrates' Courts Act 1980.	35

- 10 Paragraph 3(3) of Schedule 8 to the Magistrates’ Courts Act 1980 (saving for changes in respect of compensation orders), as it has effect by virtue of paragraph 2 of Schedule 11 to the Powers of Criminal Courts (Sentencing) Act 2000.
- 11 Article 2 of and Schedule 1 to the Criminal Law Act 1977 (Commencement No. 3) Order 1977 (S.I. 1977/1682), as it has effect by virtue of paragraph 3(3) of Schedule 8 to the Magistrates’ Courts Act 1980 (saving for changes in respect of compensation orders) and paragraph 2 of Schedule 11 to the Powers of Criminal Courts (Sentencing) Act 2000, so far as relating to section 60(2) of the Criminal Law Act 1977 (increase in maximum amount of compensation which may be ordered by magistrates’ court). 5
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References to legal aid etc

- 12 Regulation 6(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential, Transitional and Saving Provisions) Regulations 2013 (S.I. 2013/534) (savings), so far as it relates to paragraph (h) of article 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 6) Order 2013 (S.I. 2013/453), so far as that paragraph relates to the commencement of paragraphs 53, 54 and 69 of Schedule 5 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (legal aid: consequential amendments of provisions relating to legal representation). 15
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Driving disqualification

- 13 Paragraph 8(b) of Schedule 11 to the Powers of Criminal Courts (Sentencing) Act 2000 (driving disqualification for certain offences involving assault committed by driving a motor vehicle).
- 14 The words “committed after 31st December 1997” in section 146(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (driving disqualification for any offence). 25

Youth rehabilitation orders: curfew requirements

- 15 Article 3(1)(d) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 4 and Saving Provisions) Order 2012 (S.I. 2012/2906) (saving for commencement of section 81 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (youth rehabilitation order: curfew requirement)). 30

References to remands of children

- 16 Article 7(2)(h) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 4 and Saving Provisions) Order 2012 (S.I. 2012/2906), so far as it relates to paragraph 51 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (saving for reference in section 242 of the Criminal Justice Act 2003 to certain remands etc under section 23 of the Children and Young Persons Act 1969). 35
40

Detention and training orders

- 17 Section 106B(1)(c) of the Powers of Criminal Courts (Sentencing) Act 2000 (further supervision after end of term of detention and training order imposed in respect of offence committed on or after 1 February 2015).

Detention of child for specified period

- 18 Paragraph 8 of Schedule 2 to the Offensive Weapons Act 2019 (prohibition of certain firearms: application of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000).

Life sentences other than the mandatory life sentence for murder etc

- 19 Section 224A(1)(b) of the Criminal Justice Act 2003 (life sentence for second listed offence). 5
- 20 The words “committed after the commencement of this section” in section 225(1)(a) of the Criminal Justice Act 2003 (life sentence for serious offences).
- 21 The words “committed after the commencement of this section” in section 226(1)(a) of the Criminal Justice Act 2003 (detention for life for serious offences committed by those under 18). 10
- 22 Section 2(10) of the Criminal Justice and Courts Act 2015 (commencement of amendments of Schedule 15 to the Criminal Justice Act 2003).
- 23 Section 3(9) of the Criminal Justice and Courts Act 2015 (commencement of amendments of Schedule 15B to the Criminal Justice Act 2003). 15
- 24 In paragraph 5(2) of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) (saving provisions relating to Chapters 1 to 5 of Part 12 of the Criminal Justice Act 2003) – 20
- (a) the paragraph (aa) treated as inserted by paragraph 136 of Schedule 2 to this Act (saving on repeal of section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 (required life sentence for second serious offence));
 - (b) paragraph (c)(xii), so far as it relates to the repeal of section 109 of the Powers of Criminal Courts (Sentencing) Act 2000. 25
- 25 In section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 (as it has effect by virtue of the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), in subsection (1)(a), the words “committed after 30th September 1997”. 30
- 26 Paragraph 37 of Schedule 22 to the Coroners and Justice Act 2009 (which relates to the commencement of amendments to Schedule 15 to the Criminal Justice Act 2003 (specified offences)), so far as it relates to Schedule 15 to the Criminal Justice Act 2003 as it applies for the purposes of sections 225 and 226 of the Criminal Justice Act 2003 and sections 219 and 221 of the Armed Forces Act 2006. 35

Mandatory life sentence for murder etc

- 27 Section 27(4) of the Criminal Justice and Courts Act 2015 (term of imprisonment for murder of police or prison officer).
- 28 Article 3 of the Criminal Justice Act 2003 (Mandatory Life Sentence: Determination of Minimum Term) Order 2010 (S.I. 2010/197) (commencement of amendments relating to starting point where offender took knife or other weapon to scene). 40

- 29 Article 7(4) of the Coroners and Justice Act 2009 (Commencement No. 4, Transitional and Saving Provisions) Order 2010 (S.I. 2010/816) (commencement of amendments to Schedule 21 to the Criminal Justice Act 2003 (starting point for mandatory life sentence)).
- 30 Paragraph 9(b) of Schedule 22 to the Criminal Justice Act 2003 (restriction on powers of court where it passes mandatory life sentence for murder committed before 18 December 2003). 5
- 31 Article 3(1)(a) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 4 and Saving Provisions) Order 2012 (S.I. 2012/2906) so far as it relates to the commencement of section 65(9) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (amendments of aggravating factors for purposes of determining minimum term of mandatory life sentence). 10

Mandatory minimum sentences

- 32 In section 51A of the Firearms Act 1968 (minimum sentence for certain offences under section 5 of that Act), in subsection (1)(b), the words “after the commencement of this section and”. 15
- 33 Section 54(8) of the Offensive Weapons Act 2019 (prohibition of certain firearms: application of minimum sentences under section 51A of the Firearms Act 1968). 20
- 34 Section 30(5) of the Violent Crime Reduction Act 2006 (application of minimum sentences for certain firearms offences).
- 35 Paragraph 12 of Schedule 2 to the Offensive Weapons Act 2019 (prohibition of certain firearms: application of minimum sentences for certain offences).
- 36 Paragraph 41(1) of Schedule 22 to the Coroners and Justice Act 2009 so far as it relates to amendments made by paragraph 10 of Schedule 17 to that Act (mandatory minimum sentences for certain repeat offences). 25
- 37 In section 110 of the Powers of Criminal Courts (Sentencing) Act 2000 (minimum of 7 years for third class A drug trafficking offence) – 30
- (a) in subsection (1)(a), the words “committed after 30th September 1997”;
 - (b) in subsection (2A)(a)(ii), the words “was committed after the relevant date”.
- 38 In section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 (minimum of 3 years for third domestic burglary offence) – 35
- (a) in subsection (1)(a), the words “committed after 30th November 1999”;
 - (b) in subsection (1)(c), “and both of them were committed after the relevant date”.
- 39 In section 114 of the Powers of Criminal Courts (Sentencing) Act 2000 (offences under service law), in subsection (1A)(a), the words “committed after the relevant date”. 40
- 40 Section 1(2A)(a) of the Prevention of Crime Act 1953 (application of minimum sentence for offence under section 1 of that Act).

41	Section 139(6A)(b) of the Criminal Justice Act 1988 (application of minimum sentence for offence under section 139 of that Act).	
42	Section 139A(5A)(b) of the Criminal Justice Act 1988 (application of minimum sentence for offence under section 139A of that Act).	
43	Section 8(7) of the Offensive Weapons Act 2019 (application of minimum sentence for conviction of offence of having a corrosive substance in a public place).	5

SCHEDULE 2

Section 2

SENTENCING CONSOLIDATION: PRE-CONSOLIDATION AMENDMENTS

PART 1

10

AMENDMENTS OF THE POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000

1	The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.	
2	In section 1ZA (undertakings to participate in restorative justice activities), in subsection (6), after “issued” insert “from time to time”.	
3	In section 1D (deferment of sentence: supplementary), at the end insert—	15
	“(7) Where a magistrates’ court has deferred passing sentence on an offender under section 1, any reference in sections 1 to 1C or this section to the court which deferred passing sentence on the offender includes a reference to any magistrates’ court acting in the same local justice area.”	20
4	In section 3 (committal for sentence on summary trial of offence triable either way), in subsection (2)(a), omit “, in the court’s opinion,”.	
5	(1) Section 3A (committal for sentence of dangerous adult offenders) is amended as follows.	
	(2) In subsection (2), for “it appears to the court” substitute “the court is of the opinion”.	25
	(3) Subsection (4) is amended as follows—	
	(a) omit “and” at the end of paragraph (a);	
	(b) paragraph (b) becomes subsection (4A).	
	(4) In subsection (5), after “section 3 above” insert “or section 4 below”.	30
6	In section 3B (committal for sentence of young offenders on summary trial of certain serious offences), in subsection (2), omit “, in the court’s opinion,”.	
7	(1) Section 3C (committal for sentence of dangerous young offenders) is amended as follows.	
	(2) In subsection (2), for “it appears to the court” substitute “the court is of the opinion”.	35
	(3) In subsection (4)—	

- (a) for “a specified offence” substitute “a person convicted of a specified offence”;
- (b) after “section 3B above” insert “or 4A below”.
- 8 (1) Section 4 (committal for sentence on indication of guilty plea to offence triable either way) is amended as follows. 5
- (2) In subsection (5), for the words after “could” substitute “have dealt with him for it”.
- (3) Subsection (8) is amended as follows –
- (a) omit “and” at the end of paragraph (a);
- (b) paragraph (b) becomes subsection (9). 10
- 9 (1) Section 4A (committal for sentence on indication of guilty plea by child or young person with related offences) is amended as follows.
- (2) In subsection (1)(a), after “appears or” insert “is”.
- (3) In subsection (5), for the words after “could” substitute “have dealt with him for it”. 15
- 10 In section 5 (power of Crown Court on committal for sentence under sections 3, 3A and 4), in subsection (1) omit “just”.
- 11 In section 5A (power of Crown Court on committal for sentence under sections 3B, 3C and 4A), in subsection (1) omit “just”.
- 12 In section 6 (committal for sentence in certain cases where offender committed in respect of another offence), in subsection (4) – 20
- (a) after paragraph (a) insert –
- “(aa) section 6(6) or 9(3) of the Bail Act 1976 (committal to Crown Court for offences of absconding by person released on bail or agreeing to indemnify sureties in criminal proceedings); 25
- (ab) section 43 of the Mental Health Act 1983 (power of magistrates’ courts to commit for restriction order);”;
- (b) before paragraph (e) insert –
- “(da) paragraph 22(1) of Schedule 8 to the Criminal Justice Act 2003 (commission of further offence while community order is in force);” 30
- (c) in paragraph (e), for “the Criminal Justice Act 2003” substitute “that Act”.
- 13 (1) Section 7 (power of Crown Court on committal for sentence under section 6) is amended as follows. 35
- (2) In subsection (1) –
- (a) for “deal”, in the second place it occurs, substitute “have dealt”;
- (b) omit “just”.
- (3) Omit subsection (4). 40
- 14 (1) Section 8 (power and duty to remit young offenders to youth courts for sentence) is amended as follows.
- (2) In subsection (2) –
- (a) for “remit the case” substitute “remit the offender”;

- (b) in paragraph (a), for “where he was sent” substitute “where the magistrates’ court sat which sent the offender”.
- (3) In subsection (3) –
- (a) for “a case” substitute “an offender”;
- (b) for “the offender shall be brought before a youth court accordingly, and that court” substitute “the youth court before which the offender appears or is brought”. 5
- (4) In subsection (4) –
- (a) for “remitting a case” substitute “remitting an offender”;
- (b) in paragraph (a), after “may” insert “in the case of the Crown Court” and after “he can” insert “appear or”; 10
- (c) in paragraph (b), for “cause to be transmitted” substitute “provide”;
- (d) in paragraph (b)(ii), for “the case” substitute “the offender”.
- (5) After subsection (4) insert –
- “(4A) A magistrates’ court which remits an offender to a youth court under subsection (2) above must adjourn proceedings in relation to the offence; and section 128 of the Magistrates’ Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings are to have effect, in relation to the magistrates’ court’s power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the youth court to which the offender is being remitted. 15
20
- (4B) For the purposes of subsection (4A) “enactment” and “bail in criminal proceedings” have the meanings given by section 10(8).” 25
- (6) In subsection (5) –
- (a) for “a case” substitute “an offender”;
- (b) after “but” insert “(if the offender is remitted by the Crown Court)”;
- (c) for “the case” substitute “the offender”;
- (d) at the end insert – 30
- “(This is without prejudice to any right of appeal which the offender may have against any order made in respect of the offence by that court, where the offender is remitted to it by a magistrates’ court.)” 35
- (7) In subsection (6) –
- (a) for “case”, in the first place it occurs, substitute “offender”;
- (b) at the end, insert “(in which event the court may, but need not, so remit the offender)”.
- (8) In subsection (7) for “case”, in the second place it occurs, substitute “offender”. 40
- 15 In section 9 (power of youth court to remit offender who attains age of 18 to magistrates’ court other than youth court for sentence), in subsection (2)(b) –
- (a) for “case” substitute “offender”;
- (b) for “deal with it” substitute “deal with the offender”. 45

- 16 (1) Section 10 (power of magistrates’ court to remit case to another magistrates’ court for sentence) is amended as follows.
- (2) In subsection (2) –
- (a) in paragraph (a), at the end insert “by the court by which the offender was convicted”; 5
- (b) in paragraph (b), for “convicting court”, substitute “court by which the offender was convicted”.
- (3) In subsection (3) –
- (a) in the opening words, for “the trial of the information charging him with” substitute “proceedings in relation to”; 10
- (b) in paragraph (b), for “case” substitute “offender” and for “deal with it” substitute “deal with the offender”.
- (4) In subsection (6), for “any other” substitute “an”.
- 17 In section 12 (absolute and conditional discharge), in subsection (1)(b), for “from” substitute “beginning with”. 15
- 18 (1) Section 13 (commission of further offence by person conditionally discharged) is amended as follows.
- (2) In subsection (5), for paragraph (a) substitute –
- “(a) may commit him in custody or on bail to the Crown Court; and”.
- (3) In subsection (6), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”. 20
- (4) After subsection (6) insert –
- “(6A) But if the order for conditional discharge was made by the Crown Court otherwise than on appeal from a magistrates’ court but 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, the power of the Crown Court under subsection (6) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then).” 25
- (5) In subsection (7), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”. 30
- (6) In subsection (8), at the end insert “(but as if the offender were the same age as when in fact convicted, if the offender had been under 18 then)”. 35
- (7) Omit subsection (9).
- 19 (1) Section 15 (discharge: supplementary) is amended as follows.
- (2) After subsection (1) insert – 40
- “(1A) Provision that may be made by an order under subsection (1) includes provision that has effect in relation to an offence (whenever committed) of which a person is convicted after the order comes into force.”

- (3) In subsection (2)(b), omit “the criminal division of”.
- 20 In section 16 (duty and power to refer certain young offenders to youth offender panels), in subsection (1), for “aged under 18 for an offence” substitute “for an offence where the person was aged under 18 at the time of conviction of the offence”. 5
- 21 In section 17 (the referral conditions), after subsection (4) insert –
- “(4A) Provision that may be made by regulations under this section includes provision that has effect in relation to an offence (whenever committed) of which an offender is convicted after the regulations come into force.” 10
- 22 In section 24 (first meeting; duration of contract), in subsection (5), for “9ZD, 11 or 12” substitute “6A, 9ZD or 10”.
- 23 In section 30 (regulations under Part 3), in subsection (4), after “such” insert “consequential”.
- 24 (1) Section 73 (reparation orders) is amended as follows. 15
- (2) In subsection (3), for “an offender” substitute “an offence”.
- (3) In subsection (4) –
- (a) in the opening words, for “the offender” substitute “the offence”;
- (b) in paragraph (a), for “him” substitute “the offender”;
- (c) in paragraph (b), for “him” substitute “the offence”. 20
- (4) In subsection (4B), for “under” substitute “as mentioned in”.
- (5) In subsection (5), omit “an officer of a local probation board,”.
- 25 (1) Section 74 (requirements and provisions of reparation order, and obligations of person subject to it) is amended as follows.
- (2) In subsection (3), for paragraph (a) (but not including the “and” at the end) substitute – 25
- “(a) any conflict with the offender’s religious beliefs or with any other court order to which the offender may be subject;”.
- (3) In subsection (5)(a), omit –
- (a) “an officer of a local probation board or”;
- (b) “(as the case may be)”. 30
- (4) Omit subsection (6).
- (5) In subsection (8), in paragraph (b), for “from” substitute “beginning with”.
- 26 (1) Section 83 (restriction on imposing custodial sentences on persons not legally represented) is amended as follows. 35
- (2) In subsection (2), after paragraph (a) insert –
- “(aa) pass an extended sentence of detention under section 226B of the Criminal Justice Act 2003;”.
- (3) In subsection (5), after “119 below” insert “, under paragraph 8 of Schedule 12 to the Criminal Justice Act 2003”. 40

- (4) In subsection (6), at the end insert “and a reference to a person being sentenced to imprisonment is to be read accordingly”.
- 27 In section 91 (offenders under 18 convicted of certain serious offences: power to detain for specified period), at the end insert –
- “(6) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (5) to a person aged 18 or over is to be read as a reference to a person aged 21 or over.” 5
- 28 In section 96 (detention in a young offender institution for other cases where offender at least 18 but under 21), in paragraph (b), for the words after “opinion” substitute “mentioned in subsection (2) of section 152 of the Criminal Justice Act 2003 or the case falls within subsection (3) of that section”. 10
- 29 In section 97 (term of detention in a young offender institution, and consecutive sentences), in subsection (5), for “section 84 above” substitute “section 265 of the Criminal Justice Act 2003 (restriction on consecutive sentences for released prisoners)”. 15
- 30 (1) Section 100 (offenders under 18: detention and training orders) is amended as follows.
- (2) In subsection (1)(b), omit “or the case falls within subsection (3) of that section”. 20
- (3) In subsection (1A), at the end insert –
- “(c) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).” 25
- 31 (1) Section 101 (term of detention and training order, consecutive terms and taking account of remands) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) In the case of a summary offence, the maximum term of a detention and training order may not exceed the maximum term of imprisonment that may be imposed (in the case of an offender aged 18 or over) for the offence.” 30
- (3) In subsection (2), at the beginning insert “In any other case,”.
- (4) Before subsection (3) insert –
- “(2B) Unless the court provides otherwise under subsection (3) below, a detention and training order takes effect at the beginning of the day on which it is made.” 35
- (5) At the end insert –
- “(14) Until the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (1A) above to an offender aged 18 or over is to be read as a reference to an offender aged 21 or over.” 40
- 32 (1) Section 103 (detention and training orders: the period of supervision) is amended as follows.

- (2) In subsection (2A), after paragraph (b) (but not as part of that paragraph), insert –
- “but subject to that, the provision that may be made by an order under subsection (2) includes provision about detention and training orders imposed in respect of an offence (whenever committed) of which a person is convicted after the order comes into force.”
- (3) In subsection (3)(a), omit “an officer of a local probation board or”.
- (4) Omit subsection (4) (provision applicable where supervision provided by officer of local probation board).
- 33 (1) Section 104 (breach of supervision requirements) is amended as follows. 10
- (2) In subsection (3A)(b), for “beginning with” substitute “between” and omit “ending with”.
- (3) In subsection (3B), after “days” in the first place it occurs, insert “, or at some time during a period of two or more days,”.
- (4) In subsection (3D)(a) for “on the date” substitute “with the day on which”. 15
- 34 In section 104B (interaction of orders under section 104(3)(a) with other sentences), in subsection (7)(b), after “incidental,” insert “consequential,”.
- 35 In section 105 (offences during currency of detention and training order), in subsection (2), for the words before “the new offence” substitute “The court which deals with a person to whom this section applies for”. 20
- 36 (1) Section 106 (interaction with sentences of detention in a young offender institution) is amended as follows.
- (2) In subsection (4), for “the one of them that was imposed on the later occasion” substitute “the sentence of detention in a young offender institution”. 25
- (3) In subsection (6), after “on a previous occasion could have dealt with him,” insert “or could deal with the person for an offence if the person were the same age as when convicted of it,”.
- 37 In section 106B (further supervision after end of term of detention and training order), in subsection (4)(b), for “the youth offending team” substitute “a youth offending team”. 30
- 38 In section 110 (minimum of 7 years for third class A drug trafficking offence), in subsection (6)(b), after “institution” insert “(and includes, in relation to an offence for which a person aged 21 or over would be liable to imprisonment for life, custody for life under section 94 above)”. 35
- 39 (1) Section 130 (compensation orders against convicted persons) is amended as follows.
- (2) In subsection (1), omit “, instead of or in addition to dealing with him in any other way,”.
- (3) After that subsection insert – 40
- “(1A) The power in subsection (1) is exercisable whether or not the court also deals with the offender for the offence in any other way.”
- (4) Omit subsections (2) to (2A).

- 40 (1) Section 132 (compensation orders: appeals etc) is amended as follows.
- (2) In subsection (1), for “an appeal on which the order could be varied or set aside” substitute “the order being varied or set aside on appeal”.
- (3) In subsection (2), at the end insert “under subsection (1)”.
- 41 (1) Section 133 (review of compensation orders) is amended as follows. 5
- (2) In subsection (2)(a), for “an appeal on which the compensation order could be varied or set aside” substitute “the compensation order being varied or set aside on appeal”.
- (3) In subsection (5)(b), omit “the criminal division of”.
- 42 In section 134 (effect of compensation order on subsequent award of damages in civil proceedings), in subsection (2), for “plaintiff” substitute “claimant”. 10
- 43 In section 137 (power to order parent or guardian to pay fine, costs, compensation or surcharge), in subsection (1A) –
- (a) after “Where” insert “a child or young person is convicted of an offence and”;
- (b) for “a child” substitute “the child”. 15
- 44 In section 139 (powers and duties of Crown Court in relation to fines and forfeited recognizances), in subsection (2), at the end insert “(but this subsection does not apply where the court imposes a fine on an offender who was aged under 18 at the time of conviction)”. 20
- 45 In section 140 (enforcement of fines imposed and recognizances forfeited by Crown Court), in subsection (6), for “the Justices of the Peace Act 1997 and, in particular, section 60 of that Act (application of fines and fees)” substitute “section 38 of the Courts Act 2003 (application of receipts of designated officers)”. 25
- 46 (1) Section 144 (forfeited property which is in police possession) is amended as follows.
- (2) In subsection (1), in paragraph (a), for “from” substitute “beginning with”.
- (3) In subsection (3), for “relevant authority” substitute “relevant body”. 30
- (4) In subsection (5), for ““relevant authority”” substitute ““relevant body””.
- 47 (1) Section 146 (driving disqualification for any offence) is amended as follows.
- (2) In subsection (1), omit “, instead of or in addition to dealing with him in any other way,”.
- (3) After that subsection insert – 35
- “(1A) The power in subsection (1) is exercisable whether or not the court also deals with the offender for the offence in any other way.”
- (4) Omit subsections (2) and (2A).
- 48 In section 147 (driving disqualification where vehicle used for purposes of crime), in subsection (1), omit paragraph (b) and the word “or” immediately before it. 40

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- 49 (1) Section 149 (restitution orders: supplementary) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3) –
- (a) for “his sentence” substitute “the sentence of an offender for an offence”; 5
- (b) in paragraph (a), for “he”, in the first place it occurs, substitute “the offender”;
- (c) omit paragraph (b).
- (4) In subsection (4), for paragraphs (a) and (b) substitute “until there is no further possibility of the order being varied or set aside on appeal (disregarding any power of a court to grant leave to appeal out of time)”. 10
- 50 (1) Section 150 (binding over of parent or guardian) is amended as follows.
- (2) In subsection (7), for “among other things” substitute “, in particular,”.
- (3) In subsection (10), for “revoke” substitute “discharge”.
- 51 In section 154 (commencement of Crown Court sentence), in subsection (1), for “the Crown Court” substitute “a court”. 15
- 52 (1) Schedule 1 (youth offender panels: further court proceedings) is amended as follows.
- (2) In paragraph 5 (power of court where it upholds panel’s decision) –
- (a) in sub-paragraph (3), after “paragraphs” insert “6A,”; 20
- (b) in sub-paragraph (5) –
- (i) in paragraph (a), for the words after “applied)” (but not including the “and” at the end of the paragraph), substitute “it could deal with the offender if it had just convicted the offender of that offence (but as if the offender were the same age as when in fact convicted)”;
- (ii) in paragraph (b), for “have regard to” substitute “take into account”. 25
- (3) In paragraph 6A (power of court to impose fine or extend period for which contract has effect), at the end insert – 30
- “(8) Provision that may be made by an order under sub-paragraph (7) (an “amending order”) includes provision that has effect in relation to a referral order made in respect of an offence (whenever committed) of which an offender was convicted after the amending order comes into force.” 35
- (4) In paragraph 9 (discharge of extension orders), after “paragraphs” insert “6A,”.
- (5) In paragraph 9ZD (power of court on referral back to court for extension of period for which contract has effect), in sub-paragraph (3), for “have regard to” substitute “take into account”. 40
- (6) In paragraph 9D (power of court to make parenting order: application of supplemental provisions), in sub-paragraph (7) –
- (a) for “18(3)” substitute “18(3A)”;

- (b) for “any other parenting order” substitute “a parenting order made by virtue of section 8(1)(c) of that Act”.
- (7) In paragraph 13 (provisions supplementary to paragraph 10), in sub-paragraph (8)–
- (a) for “subsection (4)” substitute “subsections (4) and (4A)”; 5
 - (b) for “it applies” substitute “they apply”.
- (8) In paragraph 14 (further convictions: power to revoke referral orders)–
- (a) in sub-paragraph (2A), after “under paragraph” insert “6A,”;
 - (b) in sub-paragraph (3), for the words after “applied”, substitute “a magistrates’ court could deal with the offender if it had just convicted the offender of that offence (but as if the offender were the same age as when in fact convicted)”; 10
 - (c) in sub-paragraph (4), for “have regard to” substitute “take into account”.
- 53 (1) Schedule 8 (breach, revocation and amendment of reparation orders) is amended as follows. 15
- (2) In paragraph 2 (breach of requirement of reparation order)–
- (a) in sub-paragraph (1), in paragraphs (a) and (b), after “youth court”, in each place it occurs, insert “, or, if the offender is aged 18 or over, a magistrates’ court other than a youth court,”; 20
 - (b) in sub-paragraph (2)–
 - (i) in paragraph (b) (re-sentencing powers of appropriate court), for “he could have been dealt with for that offence by the court which made the order if the order had not been made” substitute “the appropriate court could deal with the offender if it had just convicted him of that offence (but the offender were the same age as when in fact convicted)”; 25
 - (ii) in paragraph (c), for “in” substitute “to”;
 - (c) in sub-paragraph (3), for “an offender” substitute “an offender’s case”; 30
 - (d) in sub-paragraph (4), for “have dealt with him for that offence if it had not made the order” substitute “deal with the offender if the offender had just been convicted before it of that offence (but were the same age as when in fact convicted)”; 35
 - (e) after that sub-paragraph insert–
 - “(4A) But if the reparation order was made by the Crown Court 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, the power of the Crown Court under sub-paragraph (4) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”; 40
 - (f) in sub-paragraph (8)–
 - (i) in paragraph (b), omit “the criminal division of”;
 - (ii) omit the words after paragraph (b); 45

- (g) after sub-paragraph (8) insert –
- “(8A) In proceedings before the Crown Court under this paragraph any question whether the offender has breached a requirement of the order is to be determined by the court and not by the verdict of a jury.” 5
- (3) In paragraph 5 (revocation and amendment of reparation order), in sub-paragraph (1)(b)(ii), for the words after “any provision which” substitute “it could include in a reparation order if it were now making such an order in respect of the offence for which the order was made, if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted)” 10
- (4) In paragraph 6 (presence of offender in court, remands etc) –
- (a) in sub-paragraph (5)(b), omit –
- (i) “subject to sub-paragraph (7) below”;
- (ii) “to local authority accommodation”; 15
- (b) omit sub-paragraph (6);
- (c) after that sub-paragraph insert –
- “(6A) If the offender is aged under 18, any remand under sub-paragraph (5) is to be to local authority accommodation.”;
- (d) omit sub-paragraph (7). 20

PART 2

AMENDMENTS OF THE CRIMINAL JUSTICE ACT 2003

- 54 The Criminal Justice Act 2003 is amended as follows.
- 55 In section 142 (purposes of sentencing), in subsection (2A), at the end insert – 25
- “(h) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).”
- 56 In section 142A (purposes of sentencing: offender under 18), in subsection (5), at the end insert – 30
- “(f) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).”
- 57 (1) Section 143 (determining the seriousness of an offence) is amended as follows. 35
- (2) After subsection (2) insert –
- “(2A) Where under subsection (2) the court treats a previous conviction as an aggravating factor, it must state in open court that the offence was so aggravated.”
- (3) In subsection (3), at the end insert “and must state in open court that the offence was so aggravated.” 40
- (4) In subsection (6) –
- (a) in paragraph (a), for “defendant” substitute “offender”;

- (b) in paragraph (b)(ii), for “defendant” substitute “offender”.
- 58 Section 146 (increase in sentences for aggravation related to disability, sexual orientation or transgender identity), at the end insert –
“(7) In this section “presumed” means presumed by the offender.”
- 59 (1) Section 150 (community sentence not available where sentence fixed by law etc) is amended as follows. 5
(2) In subsection (2) –
(a) omit “or” at the end of paragraph (a);
(b) after paragraph (b) insert “, or
(c) falls to be imposed under section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).” 10
(3) After subsection (2) insert –
“(3) This section is subject to section 73(5) of the Serious Organised Crime and Police Act 2005 (assistance by defendant: reduction in sentence).” 15
- 60 Section 152 (general restrictions on imposing discretionary custodial sentences), in subsection (1A), at the end insert –
“(g) section 8(2) of the Offensive Weapons Act 2019.”
- 61 In section 153 (length of discretionary custodial sentences: general provision), in subsection (3), at the end insert –
“(g) section 8(2) of the Offensive Weapons Act 2019.” 20
- 62 (1) Section 154 (general limit on magistrates’ court’s power to impose imprisonment) is amended as follows.
(2) In subsection (6), for “goods” substitute “distress”. 25
(3) For subsection (8) substitute –
“(8) In subsection (4), the reference to want of sufficient goods to satisfy a fine is 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 fine from a person, but 30
(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 (as defined by paragraph 50(3) of that Schedule).” 35
- 63 In section 163 (general power of Crown Court to fine offender convicted on indictment) omit “110(2) or”.
- 64 In section 164 (fixing of fines), in subsection (3), for “among other things,” substitute “in particular,”.
- 65 In section 166 (savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders), in subsection (1), for

- paragraphs (e) and (f) substitute –
- “(ee) section 1(4) of the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance or with fostering).”
- 66 (1) Section 177 (community orders) is amended as follows. 5
- (2) In subsection (1)(l), after “25” insert “when convicted”.
- (3) In subsection (5B) for “on” substitute “at the end of”.
- (4) After subsection (6) insert –
- “(7) In any case in which the amendments made by paragraph 12 of Schedule 16 to the Crime and Courts Act 2013 (electronic monitoring) do not have effect, the references in subsections (5A) and (6) to requirements falling within subsection (1) include an electronic monitoring requirement.” 10
- 67 In section 178 (power to provide for court review of community orders), in subsection (3), for “this Part” substitute “this Chapter or Chapter 4 of this Part (apart from sections 221 to 223)”. 15
- 68 (1) Section 190 (imposition of requirements by suspended sentence order) is amended as follows.
- (2) In subsection (1)(l), after “25” insert “when convicted”.
- (3) After subsection (5) insert – 20
- “(6) In any case in which the amendments made by paragraph 13 of Schedule 16 to the Crime and Courts Act 2013 (electronic monitoring) do not have effect, the references in subsection (5) to requirements falling within subsection (1) include an electronic monitoring requirement.” 25
- 69 (1) Section 191 (power to provide for review of suspended sentence order) is amended as follows.
- (2) In subsection (2), for “Subsection (1) does not apply in the case of an order imposing” substitute “But provision may not be made under subsection (1) in relation to the review of”. 30
- (3) In subsection (4) –
- (a) for “area for which” substitute “area in which”;
- (b) for “, if it thinks fit, include in the order provision specifying” substitute “specify”;
- (c) for “for the area” substitute “in the area”. 35
- (4) In subsection (5), omit “the criminal division of”.
- 70 In section 196 (meaning of “relevant order” etc), after subsection (1A) insert –
- “(1B) For the purposes of this Chapter a suspended sentence order is in force during the supervision period (within the meaning given in section 189(1A)).” 40
- 71 In section 198 (duties of responsible officer), in subsection (1), for “has effect” substitute “is in force”.

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- 72 In section 199 (unpaid work requirement), in subsection (3) omit “an officer of a local probation board or”.
- 73 In section 200A (rehabilitation activity requirement), in subsection (2), for “for” substitute “on”.
- 74 In section 203 (prohibited activity requirement), in subsection (2), omit “an officer of a local probation board or”.
- 75 In section 204 (curfew requirement), in subsection (3), for “it is made” substitute “the requirement first takes effect”.
- 76 In section 205 (exclusion requirement), in subsection (2), at the end insert “beginning with the day on which the requirement first takes effect.”
- 77 In section 206 (residence requirement), in subsection (4), omit “an officer of a local probation board or”.
- 78 In section 206A (foreign travel prohibition requirement) in subsections (2) and (3) for “the relevant order is made” substitute “the requirement takes effect”.
- 79 (1) Section 207 (mental health treatment requirement) is amended as follows.
- (2) In subsection (2) –
- (a) in the opening words, after “required” insert “during a period specified under subsection (1)”;
- (b) in paragraph (a), after “patient in” insert “a hospital or care home specified in the order which is”.
- (3) In subsection (3)(c) for “such a” substitute “the”.
- 80 (1) Section 208 (mental health treatment at place other than that specified in order) is amended as follows.
- (2) In subsection (1), in the words after paragraph (b), omit “, with the consent of the offender,”.
- (3) After that subsection insert –
- “(1A) Such arrangements as are mentioned in subsection (1) may only be made if the offender has expressed willingness for the treatment to be given as mentioned in that subsection.”
- 81 (1) Section 209 (drug rehabilitation requirement) is amended as follows.
- (2) In subsection (1)(b), for the words after “description” substitute “as may be determined by the responsible officer or by the person specified as the person by or under whose direction the treatment is to be provided, at such times or in such circumstances as may (subject to the provisions of the order) be so determined”.
- (3) In subsection (2)(c), omit “an officer of a local probation board or”.
- (4) In subsection (4), after “period” insert “during the treatment and testing period”.
- 82 (1) Section 210 (drug rehabilitation requirement: provision for review by court) is amended as follows.
- (2) In subsection (3), for “for the area” substitute “in the area”.

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- (3) In subsection (4), omit “the criminal division of”.
- 83 (1) Section 211 (periodic review of drug rehabilitation requirement) is amended as follows.
- (2) In subsection (3)(b), for the words after “in which” substitute “the court could deal with the offender if the offender had just been convicted by or before it”. 5
- (3) After subsection (3) insert –
- “(3A) If the relevant order was made by the Crown Court 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, the power of the Crown Court under subsection (3)(b) is power to deal with the offender in any way in which the magistrates court could deal with the offender if it had just convicted the offender of the offence.” 10
- 84 In section 212 (alcohol treatment requirement), in subsection (5) – 15
- (a) in the opening words, after “period” insert “during the period specified under subsection (1)”;
- (b) in paragraph (c), for the words after “direction of” substitute “the person specified under subsection (1)”.
- 85 In section 212A (alcohol abstinence and monitoring requirement), in subsection (12), at the end insert “(and the notice has not been withdrawn)”. 20
- 86 (1) Section 217 (requirement to avoid conflict with other orders etc) is amended as follows.
- (2) In subsection (1)(a), for “relevant order” substitute “court order”.
- (3) In subsection (2), omit “or requirement imposed”. 25
- 87 (1) Section 218 (availability of arrangements in local area) is amended as follows.
- (2) In subsection (3), at the end insert “(and the notice has not been withdrawn)”.
- (3) In subsection (4) – 30
- (a) in the opening words, omit “the court”;
- (b) in paragraph (a) –
- (i) at the beginning, insert “the court”;
- (ii) at the end (but before the “and”) insert “(and the notice has not been withdrawn)”; 35
- (c) in paragraph (b), at the beginning, insert “the court”.
- (4) In subsection (9) –
- (a) in the opening words, omit “the court”;
- (b) in paragraph (a) –
- (i) at the beginning, insert “the court”;
- (ii) at the end, insert “(and the notice has not been withdrawn)”; 40
- (c) in each of paragraphs (b) and (c), at the beginning, insert “the court”.
- 88 In section 219 (provision of copies of relevant orders), in subsection (1)(d), for “acting” substitute “operating”.

- 89 In section 220A (duty to obtain permission before changing residence), after subsection (4) insert –
- “(4A) The responsible officer must refuse an application for permission if –
- (a) the offender’s present residence is in England or Wales, and
 - (b) the offender’s proposed residence is outside England and Wales.”
- 90 In section 222 (rules), in subsection (1)(c), omit “local probation boards or”.
- 91 In section 223 (power to amend limits), at the end insert –
- “(4) Provision that may be made by an order under this section includes provision that has effect in relation to any offence of which a person is convicted after the order comes into force.”
- 92 In section 225 (life sentence for serious offences), in subsection (2), as it has effect by virtue of article 3 of the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643), after “custody for life” insert “under section 94 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- 93 In section 226A (extended sentence for certain violent, sexual or terrorism offences: persons 18 or over), in subsection (10), for “and a specified sexual offence” substitute “, a specified sexual offence and a specified terrorism offence”.
- 94 In section 236A (special custodial sentence for certain offenders of particular concern), in subsection (7), for “an offence committed before” substitute “any offence of which the person was convicted after”.
- 95 In section 238 (power of court to recommend licence conditions for certain prisoners), omit subsection (4).
- 96 In section 269 (determination of minimum term in relation to mandatory life sentence), after subsection (6) insert –
- “(6A) Amendments made by an order under subsection (6) may not have effect in relation to an offence committed before the order comes into force.”
- 97 In section 270 (duty to give reasons), at the end insert –
- “(3) The reference in subsection (2) to section 174(2) includes section 252(1)(a) of the Armed Forces Act 2006 (service offence sentences: duty to give reasons).”
- 98 In section 298 (term of detention and training order), in subsection (3), in the inserted subsection (2A) of section 101 of the Powers of Criminal Courts (Sentencing) Act 2000, at the end of paragraph (a) insert “and”.
- 99 In section 305 (interpretation of Part 12), in subsection (4), after paragraph (d) insert –
- “(da) a sentence falls to be imposed under section 8(2) of the Offensive Weapons Act 2019 if it is required by that provision and the court is not of the opinion there mentioned.”
- 100 (1) Schedule 8 (breach, revocation or amendment of community order) is amended as follows.

- (2) In paragraph 5 (duty to give warning), in sub-paragraph (2)(c), for “the next twelve months” substitute “the period of 12 months beginning with the date on which the warning was given”.
- (3) In paragraph 7 (issue of summons or warrant by justice of the peace), in sub-paragraph (3)(a), for “before the magistrates’ court responsible for the order” substitute “if the court responsible for the order is a magistrates’ court, before that court”. 5
- (4) In paragraph 9 (powers of magistrates’ court), in sub-paragraph (1)(a), after “include if” insert “the court had just convicted the offender of the offence in respect of which the order was made and”. 10
- (5) In paragraph 10 (powers of Crown Court to deal with offender on breach) –
- (a) in sub-paragraph (1)(a), for “impose if” substitute “include if the offender had just been convicted before it of the offence in respect of which the order was made and”;
- (b) in sub-paragraph (1)(b), for the words after “made” substitute “– 15
- (i) in any way in which it could deal with the offender for the offence if the offender had just been convicted before it of the offence, unless sub-paragraph (3C) applies;
- (ii) if sub-paragraph (3C) applies, in any way in which a magistrates’ court could deal with the offender for the offence if it had just convicted the offender of the offence.”; 20
- (c) after sub-paragraph (3B) insert –
- “(3C) This sub-paragraph applies where the community order was made by the Crown Court 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.” 25
- 30
- (6) In paragraph 11 (restriction of powers in paragraphs 9 and 10 where treatment required), omit sub-paragraph (2).
- (7) In paragraph 11A (power to amend amount of fine on breach of community order), for sub-paragraph (4) (amendment not to have effect in relation to offence committed before commencement of amendment), substitute – 35
- “(4) Provision that may be made by an order under sub-paragraph (1) (a “fine amendment order”) includes provision that has effect in relation to a community order made in respect of an offence (whenever committed) of which the offender was convicted after the fine amendment order comes into force.” 40
- (8) In paragraph 13 (revocation of order with or without re-sentencing: powers of magistrates’ court) –
- (a) in sub-paragraph (6) –
- (i) for “a magistrates’ court” substitute “the appropriate magistrates’ court”; 45
- (ii) for “this paragraph” substitute “sub-paragraph (2)(b)”;

- (b) in sub-paragraph (7)(a), for “the magistrates’ court responsible for the order” substitute “if a magistrates’ court is responsible for the order, that court”.
- (9) In paragraph 14 (powers of Crown Court to deal with offender on revoking community order) – 5
- (a) in sub-paragraph (2)(b)(ii), for the words after “in which” substitute “it could deal with the offender for the offence if the offender had just been convicted before it of the offence (but this is subject to sub-paragraph (2A)).”; 10
- (b) after sub-paragraph (2) insert – 10
- “(2A) Where the community order was made by the Crown Court 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, the power of the Crown Court under sub-paragraph (2)(b)(ii) is power to deal with the offender for the offence in any way in which a magistrates’ court could deal with the offender for the offence if it had just convicted the offender of the offence.” 15
- (c) in sub-paragraph (5), for “this paragraph” substitute “sub-paragraph (2)(b)”. 20
- (10) In paragraph 17 (amendment of requirements of community order) –
- (a) in sub-paragraph (1)(b), after “include if” insert “the offender had just been convicted by or before it of the offence in respect of which the community order was made and”; 25
- (b) in sub-paragraph (3)(b), for the words after “in which” substitute “it could deal with the offender for the offence if the offender had just been convicted by or before it of the offence (but this is subject to sub-paragraph (3A)).”; 30
- (c) after sub-paragraph (3) insert – 30
- “(3A) Where the community order was made by the Crown Court 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, the power of the Crown Court under sub-paragraph (3)(b) is power to deal with the offender for the offence in any way in which a magistrates’ court could deal with the offender for the offence if it had just convicted the offender of the offence.” 35
- (11) In paragraph 18 (amendment of treatment requirements of community order on report of practitioner) – 40
- (a) in sub-paragraph (1) –
- (i) in the opening words, for “the medical practitioner or other person” substitute “the treatment practitioner”; 45
- (ii) in the words after paragraph (b), for “variation” substitute “replacement”;

- (b) after sub-paragraph (2) insert –
- “(2A) In sub-paragraph (1), “treatment practitioner” means, in relation to a requirement to which that sub-paragraph applies –
- (a) the medical practitioner or other person specified in the community order as the person by whom, or under whose direction, the offender is being treated in pursuance of the requirement, or
- (b) in the case of a mental health treatment requirement, if no such person is specified, the person by whom, or under whose direction, the offender is being treated in pursuance of the requirement.”
- (12) In paragraph 21(2)(b)(ii) (powers of magistrates’ court following subsequent conviction: offender subject to community order made by a magistrates’ court) for the words after “in which” substitute “it could deal with the offender for the offence if it had just convicted the offender of that offence”.
- (13) In paragraph 22(1) (powers of magistrates’ court following subsequent conviction: offender subject to community order made by Crown Court), for “in custody” substitute “to custody”.
- (14) In paragraph 23 (powers of Crown Court following subsequent conviction) –
- (a) in sub-paragraph (2)(b)(ii), for the words after “in which” substitute “it could deal with the offender for the offence if the offender had just been convicted before it of the offence (but this is subject to sub-paragraph (2A))”;
- (b) after sub-paragraph (2) insert –
- “(2A) Where the community order was made –
- (a) by a magistrates’ court, or
- (b) by the Crown Court 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,
- the power of the Crown Court under sub-paragraph (2)(b)(ii) is power to deal with the offender for the offence in any way in which a magistrates’ court could deal with the offender for the offence if it had just convicted the offender of the offence.”
- (15) In paragraph 24(1) (supplementary) –
- (a) after “13,” insert “14,”;
- (b) after “17” insert “, 19A”.
- (16) In paragraph 25 (court to issue summons or warrant before exercising certain powers) –
- (a) in sub-paragraph (2), for the words from “cancelling” to “substituting” substitute “which only does one or more of the following –
- (a) revokes a community order;

- (b) cancels a requirement of a community order or replaces it with one of a shorter duration;
 - (c) substitutes”;
 - (b) after sub-paragraph (2) insert –
 - “(3) This paragraph also does not apply where a court proposes to exercise its powers under Part 5 of this Schedule where the offender is before the court.” 5
- (17) In paragraph 26 (restrictions on imposing requirements), for the words after “effect” substitute “, in relation to the imposition of any requirement under any of those paragraphs, subject to any provision that applies to the court in making a community order as if the court were imposing that requirement on making the order”. 10
- (18) In paragraph 27 (copies of revoking or amending orders and other information) –
 - (a) in sub-paragraph (1), in the opening words, omit “the proper officer of”; 15
 - (b) in sub-paragraph (2) –
 - (i) omit “the proper officer of”;
 - (ii) for “the officer” substitute “the court”;
 - (c) omit sub-paragraph (3). 20
- 101 (1) Schedule 9 (transfer of community orders to Scotland or Northern Ireland) is amended as follows.
- (2) In paragraph 1(6)(c) (matters that must be specified in a community order to be transferred to Scotland), at the beginning insert “if the order specifies as the corresponding order a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995,”. 25
- (3) In paragraph 3 (orders transferred to Northern Ireland) –
 - (a) in sub-paragraph (1)(a), for the words from “the petty sessions district” to “force” substitute “in Northern Ireland”;
 - (b) in sub-paragraph (1)(aa)(i), for “that locality” substitute “Northern Ireland”; 30
 - (c) in sub-paragraph (5), for the words from “the petty sessions district” to “residing” substitute “that the offender resides in Northern Ireland or will be residing there”.
- (4) In paragraph 5 (interpretation), in paragraph (b) of the definition of “home court”, for the words after “relevant time,” substitute “a court of summary jurisdiction”. 35
- (5) In paragraph 9 (matters to be explained to offender), before paragraph (a) insert –
 - “(za) the effect of paragraph 8,”. 40
- (6) In paragraph 10 (restrictions on exercise of powers by home court), in paragraphs (c) and (d), for “have specified” substitute “specify if it were now making the order on the assumption that the offender had just been convicted by or before it of the offence in respect of which the order was made”. 45
- (7) In paragraph 11(a)(ii) (powers of home court), omit the words after “justice of the peace”.

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- (8) In paragraph 15(b) (certificate of home court to be evidence of breach of order), for “which made the order” substitute “in England and Wales”.
- 102 (1) Schedule 12 (breach or amendment of suspended sentence order, and effect of further conviction) is amended as follows.
- (2) In paragraph 6(2) (failure to comply with community requirement: issue of summons or warrant by justice of the peace), for “while a suspended sentence order to which this paragraph applies is in force” substitute “during the supervision period of a suspended sentence order to which this paragraph applies”. 5
- (3) In paragraph 7(2) (failure to comply with community requirement: issue of summons or warrant by Crown Court), for “while a suspended sentence order to which this paragraph applies is in force” substitute “during the supervision period of a suspended sentence order to which this paragraph applies”. 10
- (4) In paragraph 8 (powers of court on breach of community requirement or conviction of further offence) – 15
- (a) in sub-paragraph (1) –
- (i) in paragraph (a), after “192(6)” insert “or sub-paragraph (6) of this paragraph”;
- (ii) in paragraph (b), in the opening words, for “(other than one which” substitute “order (other than one in respect of which the suspended sentence”;
- (b) in sub-paragraph (2) –
- (i) in the opening words, omit “consider his case and”;
- (ii) in paragraph (c)(i), after “include if” insert “the offender had just been convicted by or before it of the offence in respect of which the order was made and”;
- (c) in sub-paragraph (6), for “or (c)” substitute “, (c) or (d)”;
- (d) after sub-paragraph (7) insert –
- “(7A) Where – 30
- (a) an offender is convicted of an offence committed during the operational period of a suspended sentence order made by a magistrates’ court, and
- (b) a magistrates’ court commits the offender to the Crown Court under section 6 of the Powers of Criminal Courts (Sentencing) Act 2000 to be dealt with in respect of the suspended sentence order, sub-paragraph (2) does not apply to the magistrates’ court mentioned in paragraph (b).” 35
- (5) In paragraph 9 (further provisions as to order that suspended sentence is to take effect), in sub-paragraph (1)(b), for “term of imprisonment” substitute “custodial sentence”. 40
- (6) In paragraph 10 (restriction of powers in paragraph 8 where treatment required), omit sub-paragraph (2).
- (7) In paragraph 12A (power to amend level of fines on breach or further 45

conviction), for sub-paragraph (4) substitute –

- “(4) Provision that may be made by an order under sub-paragraph (1) (a “fine amendment order”) includes provision that has effect in relation to a suspended sentence order made in respect of an offence (whenever committed) of which the offender was convicted after the fine amendment order comes into force.” 5
- (8) In paragraph 13(1) (cancellation of community requirements of suspended sentence order), for “at any time while a suspended sentence order is in force” substitute “during the supervision period of a suspended sentence order”. 10
- (9) In paragraph 14(1) (amendment by reason of change of residence), for “at any time while a suspended sentence order is in force” substitute “during the supervision period of a suspended sentence order”.
- (10) In paragraph 14A(1) (amendment by reason of change of residence), for “at any time while a suspended sentence order is in force” substitute “during the supervision period of a suspended sentence order”. 15
- (11) In paragraph 15 (amendment of community requirements of suspended sentence order) –
- (a) in sub-paragraph (1)(b), after “include if” insert “the offender had just been convicted by or before it of the offence in respect of which the order was made and”; 20
- (b) omit sub-paragraph (3);
- (c) in sub-paragraph (4)(b), for the words after “in which” substitute “it could deal with the offender for the offence if the offender had just been convicted by or before it of the offence (but this is subject to sub-paragraph (4A)).”; 25
- (d) after sub-paragraph (4) insert –
- “(4A) Where the suspended sentence order was made 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, the power of the Crown Court under sub-paragraph (4)(b) is power to deal with the offender for the offence in any way in which a magistrates’ court could deal with the offender for the offence if it had just convicted the offender of the offence.” 30 35
- (12) In paragraph 18(1), for “Where –” and paragraphs (a) and (b) substitute “Where, during the supervision period of a suspended sentence order imposing an unpaid work requirement, it appears to the appropriate court, on the application of the offender or an officer of a provider of probation services, that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,”. 40
- (13) In paragraph 21 (restrictions on imposing requirements), for the words after “effect” substitute “in relation to the imposition of any requirement under either of those paragraphs subject to any provision that applies to the court in making a suspended sentence order as if the court were imposing that requirement on making the order”. 45

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- (14) In paragraph 22 (copies of amending orders) –
- (a) in sub-paragraph (1) –
 - (i) in the opening words, after “amending” insert “or revoking” and omit “the proper officer of”;
 - (ii) in paragraph (a), after “amending” insert “or revoking”;
 - (b) in sub-paragraph (2) –
 - (i) omit “the proper officer of”;
 - (ii) for “the officer” substitute “the court”;
 - (c) omit sub-paragraph (3).
- 103 (1) Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland) is amended as follows. 10
- (2) In paragraph 1(6) (order amended on transfer to Scotland not to be made subject to review), after “made” insert “or amended”.
- (3) In paragraph 6 (Northern Ireland) –
- (a) in sub-paragraph (1)(a) (arrangements needed for particular requirements), for the words from “the petty sessions district in Northern Ireland” to “force” substitute “Northern Ireland”;
 - (b) in sub-paragraph (1)(aa)(i), for “that locality” substitute “Northern Ireland”;
 - (c) in sub-paragraph (5) (order amended on transfer to Northern Ireland not to be made subject to review), after “made” insert “or amended”.
- (4) In paragraph 7(a), for the words from “the petty sessions district in Northern Ireland” to “force” substitute “that the offender resides in Northern Ireland or will be residing there”.
- (5) In paragraph 8(1), for paragraph (b) substitute – 25
- “(b) a court of summary jurisdiction in Northern Ireland;”.
- (6) In paragraph 11, in paragraph (b) of the definition of “home court”, for the words after “relevant time,” substitute “a court of summary jurisdiction”.
- (7) In paragraph 12 (application of Schedule 12 with modifications) –
- (a) in sub-paragraph (5) for “In paragraphs 4 and 5” substitute “Paragraphs 4 and 5 have effect as if the amendments made by paragraph 7(3) to (5) of Schedule 4 to the Offender Rehabilitation Act 2014 (enforcement officers) had not been made, and in those paragraphs”; 30
 - (b) after sub-paragraph (5) insert – 35
 - “(5ZA) Paragraph 5A (role of enforcement officer) is omitted.”;
 - (c) in sub-paragraph (6) –
 - (i) for “paragraph 14” substitute “paragraphs 14 and 14A”;
 - (ii) in paragraph (a)(i), for “concerned” substitute “specified in the order”;
 - (iii) omit paragraph (b);40
 - (d) after that sub-paragraph insert –
 - “(6A) If the home court is in Northern Ireland, paragraphs 14 and 14A are omitted.”
- (8) In paragraph 20 (transfer to England and Wales) – 45

- (a) in sub-paragraph (5) for “petty sessions” substitute “local justice”;
- (b) in sub-paragraph (6)(a) omit “the local probation board acting in the new local justice area, or (as the case may be)”.

PART 3

AMENDMENTS OF THE CRIMINAL JUSTICE AND IMMIGRATION ACT 2008 5

- 104 The Criminal Justice and Immigration Act 2008 is amended as follows.
- 105 In section 1 (youth rehabilitation orders), in subsection (4)(b), after “conviction” insert “and the offence was committed before the date appointed under section 100(2)(b)(ii) of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training order for offender aged under 12)”. 10
- 106 (1) Section 4 (meaning of “responsible officer”) is amended as follows.
- (2) In subsection (2)(b) –
- (a) omit “an officer of a local probation board appointed for or assigned to the local justice area for the time being so specified or (as the case may be)”;
 - (b) for “so specified” (in the second place it occurs) substitute “specified in the order”. 15
- (3) In subsection (3)(b), omit sub-paragraph (ii) (and the word “or” immediately before it). 20
- (4) After subsection (4) insert –
- “(5) Provision that may be made by an order under subsection (3) includes provision that has effect in relation to a youth rehabilitation order made in respect of an offence (whenever committed) of which an offender is convicted after the order comes into force.” 25
- 107 (1) Section 5 (responsible officer and offender: duties in relation to the other) is amended as follows.
- (2) In subsection (1), for “has effect” substitute “is in force”.
- (3) In subsection (3), for “youth rehabilitation order” substitute “court order”.
- 108 (1) Section 7 (youth rehabilitation orders: interpretation) is amended as follows. 30
- (2) In subsection (1), omit the definitions of –
- (a) “local authority”;
 - (b) “local probation board”.
- (3) After subsection (1) insert –
- “(1A) In this Part, any reference to a local authority in relation to – 35
- (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), or
 - (b) placing a person aged under 18 with a local authority foster parent, 40
- has the same meaning as in the Children Act 1989 (see section 105 of that Act).

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- (1B) In this Part, 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.” 5
- (4) In subsection (2) –
- (a) for “the Secretary of State or a local authority”, in the first place it occurs, substitute “or the Secretary of State”;
 - (b) omit “or a local authority” in the second place it occurs. 10
- 109 (1) Section 11 (restriction on power to make a community order) is amended as follows.
- (2) In subsection (4)(b), in the paragraph (a) to be substituted in section 151(1) of the Criminal Justice Act 2003, for “16” substitute “18”.
 - (3) In subsection (5), in paragraph (b) of the subsection (1A) to be inserted into section 151 of that Act, for “16” substitute “18”. 15
- 110 (1) Schedule 1 (further provision about youth rehabilitation orders) is amended as follows.
- (2) In paragraph 8 (activity requirement: further provisions) –
 - (a) in sub-paragraph (3)(a) omit “, an officer of a local probation board”;
 - (b) in sub-paragraph (4), for “involve” substitute “require”. 20
 - (3) In paragraph 10 (unpaid work requirement), in sub-paragraph (4) omit “, an officer of a local probation board”.
 - (4) In paragraph 11 (programme requirement) –
 - (a) omit sub-paragraph (3)(a)(ii) (but not the “or” at the end);
 - (b) in sub-paragraph (4), for “involve” substitute “require”. 25
 - (5) In paragraph 12 (attendance centre requirement), in sub-paragraph (3)(a), omit the “and” at the end of sub-paragraph (ii) and after that sub-paragraph (but not as part of it) insert –

“(and the notice has not been withdrawn), and”. 30
 - (6) In paragraph 13 (prohibited activity requirement), in sub-paragraph (2) omit paragraph (b) (but not the “or” at the end).
 - (7) In paragraph 14 (curfew requirement), in sub-paragraph (4) –
 - (a) for “the place” substitute “each place”;
 - (b) for “in the order” substitute “under sub-paragraph (1)”. 35
 - (8) In paragraph 16 (residence requirement), omit sub-paragraph (7)(b).
 - (9) In paragraph 18 (fostering requirement), in sub-paragraph (7), at the end insert “(and the notice has not been withdrawn)”.
 - (10) In paragraph 20 (mental health treatment requirement), in sub-paragraph (2)(a) –
 - (a) omit the words after “Mental Health Act 1983 (c. 20)” in sub-paragraph (iv); 40

- (b) after that sub-paragraph (iv) (but not as part of it) insert “but not in hospital premises where high security psychiatric services (within the meaning of the Mental Health Act 1983) are provided”.
- (11) In paragraph 22 (drug treatment requirement), in sub-paragraph (4) –
- (a) in paragraph (a), at the end insert “(and the notice has not been withdrawn)”;
- (b) in paragraph (c), omit “, an officer of a local probation board”.
- (12) In paragraph 23 (drug testing requirement), in sub-paragraph (3)(a), at the end insert “(and the notice has not been withdrawn)”.
- (13) In paragraph 24 (intoxicating substance treatment requirement), in sub-paragraph (4)(b), omit “, an officer of a local probation board”.
- (14) In paragraph 26 (electronic monitoring requirement), in sub-paragraph (6)(a), omit the “and” at the end of sub-paragraph (ii) and after that sub-paragraph (but not as part of it) insert –
- “(and the notice has not been withdrawn in relation to any of those areas), and”.
- (15) In paragraph 27 (power to amend limits), at the end insert –
- “(5) Provision that may be made by an order under this paragraph includes provision that has effect in relation to an offence (whenever committed) of which a person is convicted after the order comes into force.”
- (16) In paragraph 29 (compatibility of requirements, requirement to avoid conflict with religious beliefs, etc) –
- (a) in sub-paragraph (1) omit –
- (i) paragraph (b), and
- (ii) in the words after paragraph (b), “or orders”;
- (b) in sub-paragraph (3)(c) for “youth rehabilitation order” substitute “court order”.
- (17) In paragraph 30 (date of taking effect and other existing orders), in sub-paragraph (1), for “on”, in the first place it occurs, substitute “at the beginning of”.
- (18) In paragraph 31 (concurrent and consecutive orders) –
- (a) in sub-paragraph (1) –
- (i) for “who has been convicted of” substitute “for”;
- (ii) omit “associated”;
- (b) in sub-paragraph (3), after “(1)” insert “, (1A)”.
- (19) In paragraph 32 (date for compliance with requirements to be specified in order), in sub-paragraph (4), for “on” substitute “at the end of”.
- (20) In paragraph 34 (provision of copies of orders) –
- (a) before sub-paragraph (1) insert –
- “(A1) This paragraph applies on the making by a court of a youth rehabilitation order.”;
- (b) in sub-paragraph (1)(c), for “of a local probation board assigned to the court or to” substitute “who is acting at the court and is”;

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- (c) in sub-paragraph (2), for paragraphs (a) and (b) substitute “is made by a court, other than a magistrates’ court which acts in the local justice area specified in the order”;
- (d) in sub-paragraph (3)(b), omit “the local probation board acting for that area or (as the case may be)”. 5
- (21) In paragraph 35 (power to provide for court review of orders), in sub-paragraph (3) omit paragraph (b) (and the word “or” immediately before it).
- (22) In paragraph 36 (order made by Crown Court: direction in relation to further proceedings), in sub-paragraph (1), after “youth rehabilitation order” insert “otherwise than on appeal from a magistrates’ court”. 10
- 111 (1) Schedule 2 (breach, revocation or amendment of youth rehabilitation orders) is amended as follows.
- (2) In paragraph 2 (orders made on appeal), in paragraph (b), omit “the criminal division of”.
- (3) In paragraph 6 (powers of magistrates’ court), in sub-paragraph (2)– 15
- (a) in paragraph (b), for “which could have been included in the order when it was made–” substitute “which, if the court had just convicted the offender of the offence in respect of which the order was made, the court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)–”; 20
- (b) in paragraph (c), for the words after “could” substitute “deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence).”
- (4) In paragraph 7 (power of magistrates’ court to refer offender to Crown Court)– 25
- (a) in sub-paragraph (1)(b), omit “would (apart from that sub-paragraph) be required, or”;
- (b) in sub-paragraph (2)(a), for “in” substitute “to”.
- (5) In paragraph 8 (powers of Crown Court), in sub-paragraph (2)– 30
- (a) in paragraph (b), for “which could have been included in the order when it was made–” substitute “which, if the offender had just been convicted on indictment of the offence in respect of which the order was made, the Crown Court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)–”; 35
- (b) in paragraph (c), for the words after “Crown Court” substitute “, or, if the youth rehabilitation order was made 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, a magistrates’ court, could deal with the offender for that offence if the offender had just been convicted by or before it of the offence (but were the same age as when in fact convicted of the offence)”. 40
- (6) In paragraph 10 (power to amend amounts of fines), for sub-paragraph (4) 45

substitute –

- “(4) Provision that may be made by an order under sub-paragraph (1) (a “fine amendment order”) includes provision that has effect in relation to a youth rehabilitation order made in respect of an offence (whenever committed) of which the offender was convicted after the fine amendment order comes into force.” 5
- (7) In paragraph 11 (revocation of order with or without re-sentencing: powers of appropriate court) –
- (a) in sub-paragraph (2)(b)(ii) for the words after “could” substitute “deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence);” 10
- (b) in sub-paragraph (6), omit “by the offender”.
- (8) In paragraph 12 (revocation of order with or without re-sentencing: powers of Crown Court) – 15
- (a) in sub-paragraph (2)(b)(ii), for the words after “could” substitute “deal with the offender for that offence if the offender had just been convicted before it of the offence (but were the same age as when in fact convicted of the offence);”
- (b) after sub-paragraph (2) insert – 20
- “(2A) If the youth rehabilitation order was made –
- (a) by a magistrates’ court, or
- (b) 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, 25
- the power of the Crown Court under sub-paragraph (2)(b)(ii) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”;
- (c) in sub-paragraph (5) omit “by the offender”.
- (9) In paragraph 13 (amendment by appropriate court), in sub-paragraph (4)(b), for “which could have been included in the order when it was made” substitute “which, if the court had just convicted the offender of the offence in respect of which the order was made, the court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)”.
- (10) In paragraph 14 (amendment by Crown Court), in sub-paragraph (4)(b), for “which could have been included in the order when it was made” substitute “which, if the offender had just been convicted before it of the offence in respect of which the order was made, the Crown Court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence).” 45
- (11) In paragraph 16 (exercise of powers under paragraph 13(4) or 14(4): further provisions) –

- (a) in sub-paragraph (4)(b), for the words after “could” substitute “deal with the offender for that offence if the offender had just been convicted by or before it of the offence (but were the same age as when in fact convicted of the offence)”;
- (b) after sub-paragraph (4) insert – 5
- “(4A) Where –
- (a) it falls to the Crown Court to exercise the power in sub-paragraph (4)(b), and
- (b) the Crown Court made the youth rehabilitation order 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, 10
- the power of the Crown Court under sub-paragraph (4)(b) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).” 15
- (12) In paragraph 17 (extension of unpaid work requirement), in paragraph (b) after “appropriate court” insert “(within the meaning of paragraph 16A)”. 20
- (13) In paragraph 18 (powers of magistrates’ court following subsequent conviction) –
- (a) in sub-paragraph (4), for the words after “could” substitute “deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence)”;
- (b) in sub-paragraph (9)(a), for “in” substitute “to”;
- (c) in sub-paragraph (11)(a), for “in” substitute “to”. 25
- (14) In paragraph 19 (powers of Crown Court following subsequent conviction) – 30
- (a) in sub-paragraph (3), for the words after “could” substitute “deal with the offender for that offence if the offender had just been convicted before it of that offence (but were the same age as when in fact convicted of that offence)”;
- (b) after that sub-paragraph insert – 35
- “(3A) If the youth rehabilitation order was made –
- (a) by a magistrates’ court, or
- (b) 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, 40
- the power of the Crown Court under sub-paragraph (3) is power to deal with the offender in any way in which a magistrates’ court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).” 45
- (15) In paragraph 20 (appearance of offender before court) –

- (a) in sub-paragraph (2) –
 - (i) for “make an order” substitute “exercise those powers only to make an order doing one or more of the following”;
 - (ii) in paragraph (b), omit “, or reducing the duration of,”;
 - (iii) after that paragraph insert – 5
 - “(ba) replacing a requirement of a youth rehabilitation order with one of a shorter duration;”;
- (b) after that sub-paragraph insert –
 - “(3) This paragraph also does not apply where a court proposes to exercise its powers under Part 5 of this Schedule where the offender is before the court.” 10
- (16) In paragraph 21 (warrants) –
 - (a) in sub-paragraph (2)(b), for “a magistrates’ court” substitute “a youth court (or, if the offender is 18 or over, a magistrates’ court other than a youth court)”;
 - (b) in sub-paragraph (9), omit paragraph (b) (and the word “and” immediately before it). 15
- (17) For paragraph 23 (restrictions on imposition of intensive supervision and surveillance or fostering) substitute – 20
 - “23 Paragraphs 6(2)(b), 8(2)(b), 13(4)(b) and 14(4)(b) have effect in relation to the imposition of any requirement under any of those paragraphs subject to any provision that applies to the court in making a youth rehabilitation order as if the court were imposing that requirement on making the order.” 25
- (18) In paragraph 24 (provision of copies of orders etc) –
 - (a) in sub-paragraph (1) –
 - (i) in the opening words omit “the proper officer of”;
 - (ii) in paragraph (c)(i), omit “the local probation board acting for that area or (as the case may be)”;30
 - (b) in sub-paragraph (2) –
 - (i) omit “the proper officer of”;
 - (ii) for “the officer” substitute “the court”;
 - (c) omit sub-paragraph (3).
- (19) In paragraph 25 (power to amend maximum period of fostering requirement) – 35
 - (a) the existing paragraph becomes sub-paragraph (1);
 - (b) after that sub-paragraph insert –
 - “(2) Provision that may be made by an order under this paragraph includes provision that has effect in relation to an offence (whenever committed) of which an offender is convicted after the order comes into force.” 40
- 112 (1) Schedule 3 (transfer of youth rehabilitation orders to Northern Ireland) is amended as follows.

-
- (2) In paragraph 1 (making of youth rehabilitation order where offender resides or will reside in Northern Ireland), in sub-paragraph (5)(a), for the words after “requirement” substitute “in Northern Ireland”.
- (3) In paragraph 2 (amendment of youth rehabilitation order where offender resides or proposes to reside in Northern Ireland), in sub-paragraph (5)(a), for the words after “requirement” substitute “in Northern Ireland”. 5
- (4) In paragraph 3 (further provisions regarding the making or amending of youth rehabilitation orders under paragraph 1 or 2), omit paragraph (a).
- (5) In paragraph 4 (further provisions applying where court makes or amends order under Part 1 of Schedule 3) – 10
- (a) in sub-paragraph (1) (matters to be explained to offender), before paragraph (a) insert –
 “(za) the effect of paragraph 9;”
- (b) in sub-paragraph (2) (notices), after “must” insert “forthwith”.
- (6) In paragraph 5 (modifications to Part 1) – 15
- (a) in sub-paragraph (2)(d), omit “18(7),” and “fostering requirement;”
- (b) in sub-paragraph (5), for the words after “have effect as” substitute “references to the Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.))”;
- (c) in sub-paragraph (6A), for “the Education and Library Board specified under that paragraph” substitute “the Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.))”. 20
- (7) In paragraph 8 (interpretation), in the definition of “home court”, for paragraph (a) substitute – 25
- “(a) a court of summary jurisdiction in Northern Ireland, or”.
- (8) In paragraph 11 (direction by Crown Court in Northern Ireland that proceedings in Northern Ireland be before a court of summary jurisdiction), for the words after “before” substitute “a court of summary jurisdiction”. 30
- (9) In paragraph 12 (powers of the home court in respect of the youth rehabilitation order), in paragraph (c), for “the court which made the order could have specified” substitute “if the offender had just been convicted by or before it of the offence in respect of which the order was made, a court in England and Wales could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)”. 35
- (10) In paragraph 13 (powers of home court in respect of the youth rehabilitation order), in sub-paragraph (2), for “a lay magistrate acting for the petty sessions district for the time being specified in the order” substitute “a lay magistrate in Northern Ireland”. 40
- (11) In paragraph 16 (powers of court in England or Wales before which the offender is required to appear), in sub-paragraph (1), at the beginning insert “Where the offender resides in Northern Ireland,”.
- (12) In paragraph 17 (power to amend provisions of Schedule 3 in consequence 45

of changes to the law in Northern Ireland), after sub-paragraph (2) insert –

“(3) Provision that may be made by an order under this paragraph includes provision that has effect in relation to a court dealing with an offender for an offence (whenever committed) who is convicted after the order comes into force.”

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113 (1) Schedule 4 (youth rehabilitation orders: consequential amendments) is amended as follows.

(2) Omit paragraph 54 (which amends section 74 of the Powers of Criminal Courts (Sentencing) Act 2000).

(3) In paragraph 73 (which amends section 148 of the Criminal Justice Act 2003), at the end insert –

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“(5) In subsection (4), after “151(2)” insert “and (2B)”.”

PART 4

AMENDMENTS OF OTHER ACTS

Criminal Procedure (Insanity) Act 1964

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114 (1) The Criminal Procedure (Insanity) Act 1964 is amended as follows.

(2) In section 5 (powers to deal with person where special verdict returned or unfit to plead etc), after subsection (3) insert –

“(3A) Where the court have power under subsection (2)(c) to make an order for the absolute discharge of the accused, they may do so where they think, having regard to the circumstances, including the nature of the offence charged and the character of the accused, that such an order would be most suitable in all the circumstances of the case.”

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(3) In section 5A (orders made under or by virtue of section 5), omit subsection (6).

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Firearms Act 1968

115 In section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), in subsection (2C)(a), after “imprisonment” insert “, or detention in a young offender institution,”.

30

Magistrates’ Courts Act 1980

116 In the Magistrates’ Courts Act 1980, in section 113 (bail on appeal or case stated), in subsection (3), after “section 3” insert “, 3A, 3B or 3C”.

Protection of Military Remains Act 1986

117 In section 7 of the Protection of Military Remains Act 1986 (supplemental provision with respect to offences), in subsection (1), omit –

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(a) “Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 and”;

(b) “in England and Wales and”;

(c) “respectively”.

Protection from Harassment Act 1997

- 118 In the Protection from Harassment Act 1997, in section 5(3A) (civil evidence rules to apply in relation to restraining orders), after “this section” insert “, other than proceedings for an offence under subsection (5),”. 5

Crime and Disorder Act 1998

- 119 (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) In section 9 (parenting orders: supplemental), after subsection (5) insert –
- “(5A) In the case of a parenting order made by virtue of section 8(1)(c) or (d), subsection (5) has effect as if, in paragraph (b), for the words after “any provision” there were substituted “the court could include if it were now making the order.” 10
- (3) In section 10 (appeals against parenting orders), omit subsection (5).
- (4) In section 38 (local provision of youth justice services), in subsection (4), omit paragraph (j). 15

Criminal Justice and Court Services Act 2000

- 120 In Schedule 7 to the Criminal Justice and Court Services Act 2000 (minor and consequential amendments), in paragraph 4 (officers of local probation boards), in sub-paragraph (2), omit the entries relating to the following provisions of the Powers of Criminal Courts (Sentencing) Act 2000 – 20
- (a) section 73;
- (b) section 74;
- (c) section 103.

Proceeds of Crime Act 2002

- 121 In section 39 of the Proceeds of Crime Act 2002 (reconsideration etc: variation of prison term) – 25
- (a) in subsection (1)(b), for “section 139(4) of the Sentencing Act” substitute “section 35(2A)”;
- (b) in subsection (5) – 30
- (i) for “section 139(4) of the Sentencing Act” substitute “section 35(2A)”;
- (ii) for “that Act” substitute “the Sentencing Act”.

Constitutional Reform Act 2005

- 122 In Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor), in paragraph 4, in the entry for the Criminal Justice Act 2003, omit – 35
- “Section 174(4)”.

Armed Forces Act 2006

- 123 (1) The Armed Forces Act 2006 is amended as follows.

- (2) In section 178 (service community orders), in subsection (1)(b), for the words after “Wales” substitute “or the locality in Scotland where the offender resides or will reside, or that the offender resides or will reside in Northern Ireland.”
- (3) In section 209 (offenders under 18 convicted of certain serious offences) – 5
- (a) in the heading, for “power to detain” substitute “detention”;
 - (b) in subsection (2), after paragraph (b) insert –
“and the case does not fall within section 221 or 227 (see subsections (4), (5B) and (5C)).”; 10
 - (c) in subsection (3), after paragraph (d) insert –
“and the case does not fall within section 221 (see subsection (5B)).”; 10
 - (d) in subsection (4), for “it falls within section 227(1) (certain firearms offences)” substitute “–
 - (a) it falls within section 227(1) (certain firearms offences), and 15
 - (b) the court is of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).”; 15
 - (e) after subsection (5) insert – 20
“(5A) Subsection (5D) (duty to pass sentence of detention) applies where –
 - (a) a person aged under 18 is convicted by the Court Martial of an offence under section 42 (criminal conduct); and 25
 - (b) the case is within subsection (5B) or (5C).
 - (5B) The case is within this subsection if it falls within section 221 (life sentence for certain dangerous offenders aged under 18).
 - (5C) The case is within this subsection if –
 - (a) it falls within section 227(1) (certain firearms offences), and 30
 - (b) the Court Martial is not of the opinion mentioned in section 227(2) (exceptional circumstances justifying not imposing the required sentence).
 - (5D) Where this subsection applies, the court must pass a sentence of detention under this section.”; 35
 - (f) in subsection (7) –
 - (i) after “(5)” insert “, (5D)”; 35
 - (ii) omit from “sections 224A” to “offences); and”.
- (4) In section 211, in subsection (4), omit “218A,”. 40
- (5) In section 212 (term of detention and training order: general), at the end insert –
“(3) An order under section 211 takes effect at the beginning of the day on which it is made, unless the court provides otherwise under section 101(3) of the Sentencing Act (as applied by section 213 of this Act).” 45

- (6) In section 213 (application of provisions relating to civilian detention and training orders) –
- (a) in subsection (1), after “(10)” insert “, (12A)”;
 - (b) in subsection (2), after “(10)” insert “, (12A)”.
- (7) In section 270A (exception to restrictions on community punishments), in subsection (6) –
- (a) before paragraph (a) insert –
 - “(za) a criminal courts charge order (or an order under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge));”
 - (b) after paragraph (d) insert –
 - “(e) a slavery and trafficking reparation order under section 8 of the Modern Slavery Act 2015.”.
- (8) In Schedule 7 (suspended prison sentences: further conviction or breach of requirement), in paragraph 9 (activation of suspended sentences: appeals etc) –
- (a) at the beginning insert –
 - “(A1) Paragraph 9 of that Schedule has effect in relation to a suspended sentence order passed by a relevant service court as if, after sub-paragraph (1) there were inserted –
 - “(1A) In this paragraph, “custodial sentence” includes a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act).”;
 - (b) in sub-paragraph (1)(b), in the sub-paragraph (2) treated as substituted for sub-paragraph (2) of paragraph 9 of Schedule 12 to the Criminal Justice Act 2003, for “term of imprisonment” substitute “custodial sentence”.

Tribunals, Courts and Enforcement Act 2007

- 124 In the Tribunals, Courts and Enforcement Act 2007, in Schedule 13 (taking control of goods: amendments), in paragraph 154(2) (amendments of section 154 of the Criminal Justice Act 2003), for “subsections (4) and (6)” substitute “subsection (4)”.

Education and Skills Act 2008

- 125 In the Education and Skills Act 2008, in section 56 (enforcement of non-participation fine etc: person reaching 18), in subsection (7)(b)(ii), after “137(1)” insert “or (1A)”.

Coroners and Justice Act 2009

- 126 (1) The Coroners and Justice Act 2009 is amended as follows.
- (2) In section 125 (sentencing guidelines: duty of court) –
- (a) in subsection (2)(a), for “a person (“P”) who is guilty of” substitute “an offender (“P”) for”;

- (b) in subsection (6), at the end insert –
 - “(i) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance).”
- (3) In section 126 (sentencing guidelines: determination of tariffs etc) – 5
 - (a) after subsection (1) insert –
 - “(1A) In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (1)(c) to imprisonment is to be read, in relation to a person aged under 21, as if it were a reference to detention in a young offender institution.”; 10
 - (b) in subsection (2), before paragraph (c) insert –
 - “(ba) whether the sentence condition in section 224A(3) of the Criminal Justice Act 2003 (life sentence for second listed offence) is met;” 15
 - (c) in subsection (4) –
 - (i) after “as the case may be,” insert “permitted”;
 - (ii) at the end insert “or if section 224A of the Criminal Justice Act 2003 had not required the court to impose a life sentence”.
- (4) In Schedule 17 (treatment of convictions in other member States etc), in paragraph 8 – 20
 - (a) in sub-paragraph (5), in the subsection (4A) to be inserted into section 151 of the Criminal Justice Act 2003, for “defendant” substitute “offender”;
 - (b) in sub-paragraph (6)(c), in sub-paragraph (ii) of the paragraph (c) to be inserted into subsection (8) of that section, for “defendant” substitute “offender”. 25

Anti-social Behaviour, Crime and Policing Act 2014

- 127 (1) The Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows. 30
- (2) In section 22 (power to make criminal behaviour orders) –
 - (a) in subsection (6), for the words after “only if it” substitute “ –
 - (a) does so in addition to dealing with the offender for the offence, and
 - (b) does not make an order discharging the offender absolutely in respect of the offence.”; 35
 - (b) in subsection (9)(b) omit “or injunction”;
 - (c) in subsection (10) –
 - (i) in paragraph (a), for “lives” substitute “resides”;
 - (ii) omit paragraph (b) (and the “or” immediately before it). 40
 - (3) In section 24 (requirements included in criminal behaviour orders), in subsection (5) –
 - (a) in paragraph (a), for “lives” substitute “resides”;
 - (b) omit paragraph (b) (and the “or” immediately before it).

- (4) In section 29 (carrying out and participating in reviews), in subsections (1) and (2), for “lives or appears to be living” substitute “resides or appears to be residing”, in both places.
- (5) In section 33 (saving and transitional provision), omit subsection (5).

PART 5

5

MODIFICATIONS OF ACTS

- 128 For the purposes of the application of the Police (Property) Act 1897 by section 144(1) of the Powers of Criminal Courts (Sentencing) Act 2000 to property which is in the possession of the police by virtue of section 143 of that Act, section 1 of the Police (Property) Act 1897 (power to make orders with respect to property in possession of police) is to have effect as if, in subsection (2), for “from” there were substituted “beginning with”. 10
- 129 Section 160(6) of the Powers of Criminal Courts (Sentencing) Act 2000 (power for orders made by Secretary of State to include transitional provision) is to be read, in its application for all purposes other than section 36B of that Act, as if, for the words after “Act” there were substituted “may include transitory, transitional or saving provision”. 15
- 130 Section 291 of the Criminal Justice Act 2003 (power by order to exclude application of minimum sentence to those under 18), so far as it extends to England and Wales, has effect as if at the end there were inserted – 20
- “(3) The provision made by an order under this section includes provision that has effect in relation to offences whenever committed and whatever the date of conviction.”
- 131 (1) In the Serious Organised Crime and Police Act 2005, sections 73 to 75, so far as they extend to England and Wales, have effect with the following modifications. 25
- (2) Section 73 (assistance by defendant: reduction in sentence) has effect as if –
- (a) after subsection (5), there were inserted –
- “(5A) In relation to England and Wales subsection (5) has effect as if for paragraphs (a) and (b) and the words “enactment which –” immediately before them there were substituted “of the following enactments –
- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for certain offences involving offensive weapons), 35
- (b) section 51A(2) of the Firearms Act 1968 (minimum sentence for certain firearms offences),
- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for certain offences involving article with blade or point or offensive weapon), 40
- (d) section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (minimum sentence for certain drug trafficking and burglary offences),

- (e) section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentence in certain cases of using someone to mind a weapon),
 - (f) section 8(2) of the Offensive Weapons Act 2019 (minimum sentence in certain cases of possession of a corrosive substance), or 5
 - (g) section 269 of and Schedule 21 to the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence),”.”;
- (b) after subsection (6), there were inserted – 10
 - “(6A) In relation to England and Wales subsection (6) has effect as if for the opening words there were substituted “Nothing in this section is to be taken to prevent the court from taking account of any matter not mentioned in this section for the purposes of determining –”.”; 15
- (c) in subsection (7), for “174(1)(a)” there were substituted “174(2)”;
- (d) after subsection (8), there were inserted –
 - “(8A) In relation to England and Wales subsection (8) has effect as if for paragraph (a) there were substituted – 20
 - “(a) “sentence” has the same meaning as in Chapter 1 of Part 12 of the Criminal Justice Act 2003 (see section 142(3) of that Act);”.”
- (3) Section 74 (assistance by defendant: review of sentence) has effect as if, at the end, there were inserted –
 - “(16) In its application in relation to England and Wales this section has effect as if – 25
 - (a) in subsection (2)(b), for “having offered in pursuance of a written agreement to give assistance” there were substituted “having given or offered to give assistance in pursuance of a written agreement”; 30
 - (b) in subsection (10) there were inserted at the end “(including a sentence passed in pursuance of section 73 which has been substituted under subsection (5) above but is less than the sentence which the court would have passed but for the agreement to give assistance)”; 35
 - (c) in subsection (14), for “Section 174(1)(c)” there were substituted “Section 174(2)”, the words after “applies” were paragraph (a) of that subsection and, at the end, there were inserted –
 - “(b) to a sentence substituted under subsection (6) above, but subject to section 73(7) above as applied by subsection (15) below.”.” 40
- (4) Section 75 (proceedings under section 74: exclusion of public), has effect as if, at the end, there were inserted –
 - “(6) In its application in relation to England and Wales this section has effect as if – 45
 - (a) in subsection (2)(b), for “to give such directions as it thinks appropriate prohibiting” there were substituted “to prohibit”, and

- (b) in subsection (3), for “to the extent that” there were substituted “if”.
- 132 Section 33 of the Counter-Terrorism Act 2008 (power to amend list of offences where terrorist connection to be considered), as it has effect in England and Wales, is to be read as if, for subsection (3), there were substituted – 5
- “(3) Provision that may be made by an order under this section includes provision that has effect in relation to an offence (whenever committed) of which an offender is convicted after the order comes into force.” 10
- 133 (1) This paragraph applies in relation to any provision of any of the Acts relating to sentencing that confers power to make regulations or an order –
- (a) for which no Parliamentary procedure is required, or
- (b) that are subject to the negative resolution procedure.
- (2) But it applies in relation to such a provision only to the extent that it is to be repealed by the sentencing consolidation. 15
- (3) In a case within sub-paragraph (1)(a), any provision that may be made in exercise of the power may be included in regulations or an order subject to the negative or affirmative resolution procedure.
- (4) In a case with sub-paragraph (1)(b), any provision that may be made in exercise of the power may be included in regulations or an order subject to the affirmative resolution procedure. 20
- (5) For the purposes of this paragraph –
- (a) regulations are, or an order is, subject to the negative resolution procedure if the statutory instrument containing the regulations or order is subject to annulment in pursuance of a resolution of either House of Parliament; 25
- (b) regulations are, or an order is, subject to the affirmative resolution procedure if the regulations or order must not be made unless a draft of the statutory instrument containing the regulations or order has been laid before Parliament and approved by a resolution of each House of Parliament. 30
- 134 (1) The Secretary of State may, in connection with the coming into force of an uncommenced or amending provision, by regulations made by statutory instrument amend a relevant enactment to secure that – 35
- (a) the enactment specifies the purposes for which, or the cases in which, the provision has effect;
- (b) so far as practicable, any relevant enactment which, as a result of the provision, is to continue to have effect only for particular purposes or in particular cases remains in place instead of having effect by virtue of transitional, transitory or saving provision. 40
- (2) The regulations may make consequential amendments to any enactment.
- (3) Subsections (4) and (5) of section 104 of the Deregulation Act 2015 (restrictions on power to spell out dates described in legislation) apply to regulations under this paragraph as they apply to an order under that section. 45
- (4) In this paragraph –

- “amending provision” means an amendment or repeal of a relevant enactment, made under a power conferred by such an enactment;
“relevant enactment” means an enactment that is to be repealed or revoked by, and restated in, the sentencing consolidation;
“uncommenced provision” means a relevant enactment, to the extent that it is not in force immediately before the consolidation date.

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PART 6

AMENDMENTS AND MODIFICATIONS OF STATUTORY INSTRUMENTS

- 135 In the Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), in the Schedule, in paragraph 76, insert “and” after “action plan orders),” and omit “and 103(4) (the period of supervision)”. 10
- 136 Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) (transitional and saving provisions) has effect as if, in paragraph 5(2), after paragraph (a) there were inserted – 15
- “(aa) section 303(d)(iv) (repeal of section 109 of the Sentencing Act);”.
- 137 In the Firearms (Sentencing) (Transitory Provisions) Order 2007 (S.I. 2007/1324), in article 2(b), in the inserted sub-paragraph (ia), after “2000” insert “(and includes, in relation to an offence for which a person aged 21 or over would be liable to imprisonment for life, custody for life under section 94 of that Act)”. 20
- 138 (1) This paragraph has effect for the purposes of paragraph (2)(h) of article 7 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 4 and Saving Provisions) Order 2012 (S.I. 2012/2906) so far as it relates to paragraph 51 of Schedule 12 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (saving for reference in section 242 of the Criminal Justice Act 2003 to certain remands etc under section 23 of the Children and Young Persons Act 1969). 25
- (2) For those purposes, paragraph (3) of that article has effect as if – 30
- (a) after “a remand” in the opening words, and
- (b) after “remand” in sub-paragraph (b),
- there were inserted “or committal”.

PART 7

TRANSITORY AMENDMENTS FOR OFFENDERS AGED AT LEAST 18 BUT UNDER 21 35

- 139 (1) The Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643) is amended as follows.
- (2) In article 3 (modifications for sentencing of offenders aged 18 but under 21) – 40
- (a) in paragraph (4)(a) (modifications of section 225 of the Criminal Justice Act 2003), after “(2),” insert “ –
- (i) in each of paragraphs (a) and (b), at the end, insert “or custody for life”;
- (ii) in the words after paragraph (b),”;

- (b) in paragraph (8) (modifications of section 238 of the Criminal Justice Act 2003), at the end insert “and, at the end, insert “or detention””.
- 140 In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution, custody for life etc) – 5
- (a) section 99 of the Powers of Criminal Courts (Sentencing) Act 2000 (conversion of sentences of detention to sentences of imprisonment) has effect as if, in subsection (5) (definition of “relevant sentence of detention”) as modified by article 3(6) of the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643) – 10
- (i) in paragraph (a), for “91” there were substituted “91, 93, 94”;
- (ii) in paragraph (c), before “227” there were inserted “226A or”;
- (b) that section has effect as if, in subsection (6) (application to armed forces) – 15
- (i) after “226,” there were inserted “226A,”;
- (ii) after “221,” there were inserted “219A,”;
- (c) section 101(2A) of that Act (to be inserted by section 298 of the Criminal Justice Act 2003) is to have effect as if, for “18” there were substituted “21”; 20
- (d) section 154 of the Criminal Justice Act 2003 (general limit on magistrates’ court’s power to impose imprisonment) has effect as if in subsections (1) and (2), after “imprisonment” there were inserted “or detention in a young offender institution”;
- (e) section 165 of that Act (remission of fines) has effect as if in subsection (3), after “imprisonment” there were inserted “or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000”. 25
- 141 In relation to any time before the repeal by Part 7 of Schedule 37 to the Criminal Justice Act 2003 of section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 comes into force, paragraph 177 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (which amends that section) is to be treated as not having been repealed by virtue of paragraph 44(4)(t) of Schedule 1 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950) (and, accordingly, as being capable of being brought into force under section 80(1) of the Criminal Justice and Court Services Act 2000). 30 35

Sentencing (Pre-consolidation Amendments) Bill

[HL]

A

B I L L

To give effect to Law Commission recommendations relating to commencement of enactments relating to sentencing law and to make provision for pre-consolidation amendments of sentencing law.

Brought from the House of Lords, 4 March 2020.

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