

SCHEDULES

SCHEDULE 5

Section 56(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Sentences for offences committed before the commencement of Chapter I of Part II

- 1 Notwithstanding their repeal by this Act, sections 33, 35 to 47, 49 to 51 and 65 of the 1991 Act shall, so far as applicable and subject to the following provisions of this Schedule, continue to have effect in relation to persons sentenced to determinate sentences of imprisonment for offences committed before the commencement of Chapter I of Part II of this Act.

Consecutive sentences for offences committed before and after that commencement

- 2 (1) This paragraph applies where consecutive terms of imprisonment include—
- (a) the term of a sentence imposed on an offender for an offence committed after the commencement of Chapter I of Part II of this Act; and
 - (b) the term of a sentence imposed on him for an offence committed before that commencement.
- (2) Subject to sub-paragraphs (3) and (4) below, the time to be served by the offender shall be determined separately in respect of each sentence under whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to that sentence.
- (3) Where the offender was remanded in custody in connection with—
- (a) an offence falling within sub-paragraph (1)(a) above; and
 - (b) an offence falling within sub-paragraph (1)(b) above,
- any additional days which have been both conditionally and provisionally awarded to him shall be taken into account for the purposes of Chapter I of Part II of this Act and not for the purposes of Part II of the 1991 Act.
- (4) The time to be served by the offender in respect of a sentence falling within sub-paragraph (1)(b) above which—
- (a) is for a term of four years or more; and
 - (b) is not the final sentence,
- shall be determined as if section 35(1) of the 1991 Act were omitted.
- (5) The offender shall be released when he has served the time required to be served in respect of the final sentence.
- (6) Subject to sub-paragraph (7) below, whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence shall apply in relation to the offender after his release.

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- (7) Notwithstanding anything in Part II of the 1991 Act, the offender’s supervision shall be for the period which would be applicable if each of his terms of imprisonment had been imposed in respect of offences committed after the commencement of Chapter I of Part II of this Act.
- (8) In this paragraph “the final sentence”, in relation to any time, means the sentence which at that time falls to be served after the other or others.
- (9) In this paragraph and paragraph 3 below—
“conditionally awarded” means conditionally awarded under prison rules made by virtue of section 42(1) of the 1991 Act;
“provisionally awarded” means provisionally awarded under prison rules having effect by virtue of section 15(2) of this Act;
and any reference to Part II of the 1991 Act includes, unless the context otherwise requires, a reference to section 65 of that Act.

Concurrent sentences for offences committed before and after that commencement

- 3 (1) This paragraph applies where terms of imprisonment which are wholly or partly concurrent include—
- (a) the term of a sentence imposed on an offender for an offence committed after the commencement of Chapter I of Part II of this Act; and
 - (b) the term of a sentence imposed on him for an offence committed before that commencement.
- (2) Subject to sub-paragraph (3) below, the time to be served by the offender in respect of the final sentence shall be determined under whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to that sentence.
- (3) Where the offender was remanded in custody in connection with—
- (a) an offence falling within sub-paragraph (1)(a) above; and
 - (b) an offence falling within sub-paragraph (1)(b) above,
- any additional days which have been both conditionally and provisionally awarded to him shall be taken into account only for the purposes of whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence.
- (4) The offender shall be released when he has served the time required to be served in respect of the final sentence.
- (5) Subject to sub-paragraph (6) below, whichever of Chapter I of Part II of this Act and Part II of the 1991 Act is applicable to the final sentence shall apply in relation to the offender after his release.
- (6) Notwithstanding anything in Part II of the 1991 Act, the offender’s supervision shall be for the period which would be applicable if each of his terms of imprisonment had been imposed in respect of offences committed after the commencement of Chapter I of Part II of this Act.
- (7) Where at any time a sentence falling within sub-paragraph (1)(a) above (“sentence A”) becomes the final sentence in place of a sentence falling within sub-paragraph (1)(b) above (“sentence B”) either—
- (a) because the term of sentence A is increased on appeal; or
 - (b) because sentence B is set aside, or its term is reduced, on appeal,

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then, for each assessment period for the purposes of section 11 of this Act beginning before that time, the prescribed person or, as the case may be, the Secretary of State shall assume, for the purposes of subsection (2) or (3) of that section, that the prisoner's behaviour was such as to entitle him to the maximum number of early release days available under that subsection.

- (8) In this paragraph "the final sentence", in relation to any time, means the sentence which at that time will have the later or latest release date on the following assumptions, namely—
- (a) that the time to be served in respect of a sentence falling within subparagraph (1)(a) above is equal to the term imposed by the court less the number of days (if any) directed by the court to count as time served as part of the sentence; and
 - (b) that the time to be served in respect of a sentence falling within subparagraph (1)(b) above is equal to the appropriate proportion of the term imposed by the court less any period by which the sentence falls to be reduced under section 67 of the Criminal Justice Act 1967.
- (9) In sub-paragraph (8) above "the appropriate proportion" means one-half in the case of a term of less than four years and two thirds in the case of a term of four years or more.

Crediting of periods of remand in custody

- 4 In relation to any time between the commencement of section 9 of this Act and the commencement of Chapter I of Part II of this Act, sections 34, 41 and 47 of the 1991 Act shall have effect as if any reference (however expressed) to a relevant period by which a sentence falls to be reduced under section 67 of the 1967 Act were a reference to a number of days directed under section 9 of this Act to count as time served as part of a sentence.

Duty to release certain life prisoners

- 5 (1) In relation to any time before the commencement of section 9 of this Act, section 28 of this Act shall have effect as if, in paragraph (b) of subsection (3), for the words "of any direction it would have given under section 9 above" there were substituted the words "which section 67 of the Criminal Justice Act 1967 would have had".
- (2) In relation to any time before the commencement of Chapter I of Part II of this Act, section 28 of this Act shall have effect as if—
- (a) after paragraph (b) of subsection (3), there were inserted the words "and
 - (c) the provisions of this section as compared with those of sections 33(2) and 35(1) of the 1991 Act"; and
 - (b) in paragraph (c) of subsection (7), for the words from "the time when" to the end there were substituted the words "he has served one-half of that sentence".
- (3) Section 28(7) of this Act shall have effect as if—
- (a) any reference of a prisoner's case made to the Parole Board under section 32(2) or 34(4) of the 1991 Act had been made under section 28(6) of this Act; and
 - (b) any such reference made under section 39(4) of that Act had been made under section 32(4) of this Act.

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Life prisoners transferred to England and Wales

- 6 In relation to any time before the commencement of Schedule 1 to this Act, section 33 of this Act shall have effect as if, in paragraph (b)(i) of subsection (4), for the words “paragraph 1 of Schedule 1 to this Act” there were substituted the words “section 26 of the Criminal Justice Act 1961”.

Recall of life prisoners while on licence

- 7 (1) Section 32(3) and (4) of this Act shall have effect as if any life prisoner recalled to prison under subsection (1) or (2) of section 39 of the 1991 Act had been recalled to prison under the corresponding subsection of section 32 of this Act.
- (2) Section 32(4) of this Act shall have effect as if any representations made by a life prisoner under section 39(3) of the 1991 Act had been made under section 32(3) of this Act.

Transfers of prisoners: general

- 8 In relation to any person serving a determinate custodial sentence in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 6 of Schedule 1 to this Act shall have effect as if, in sub-paragraph (3)(b) of that paragraph, for the words “recalled to prison under the licence” there were substituted the words “recalled or returned to prison”.

Transfers of prisoners from England and Wales to Scotland

- 9 (1) In relation to any person serving a determinate custodial sentence imposed in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 33, 35 to 39, 41 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as relating to short-term or long-term prisoners;
 - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37 to 39, 43 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as so relating;
 - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act; and
 - (d) section 67 of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) or, as the case may require, section 9 of this Act extended to Scotland.
- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 8 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
 - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
 - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

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Transfers of prisoners from England and Wales to Northern Ireland

- 10 (1) In relation to any person serving a determinate custodial sentence imposed in respect of an offence committed before the commencement of Chapter I of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—
- (a) in sub-paragraph (1), paragraph (a) and, in paragraph (b), the words “to that and” were omitted;
 - (b) references in sub-paragraph (2) to provisions of that Chapter were references to sections 33, 35 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as relating to short-term or long-term prisoners;
 - (c) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37 to 40, 43 to 46 and 65 of the 1991 Act and paragraphs 8, 10 to 13 and 19 of Schedule 12 to that Act, so far as so relating;
 - (d) the reference in sub-paragraph (6) to any provision of Part II of this Act were a reference to any provision of Part II of that Act; and
 - (e) section 67 of the Criminal Justice Act 1967 or, as the case may require, section 9 of this Act extended to Northern Ireland.
- (2) In relation to any time before the commencement of Chapter II of Part II of this Act, paragraph 9 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to provisions of that Chapter were references to sections 34 to 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as relating to life prisoners;
 - (b) references in sub-paragraph (4) to provisions of that Chapter were references to sections 37, 39, 43 and 46 of the 1991 Act and paragraphs 8 and 9 of Schedule 12 to that Act, so far as so relating; and
 - (c) the reference in sub-paragraph (5) to any provision of Part II of this Act were a reference to any provision of Part II of that Act.

Transfers of prisoners from Scotland to England and Wales

- 11 (1) In relation to any prisoner sentenced on or after 1st October 1993 in respect of an offence committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997 (“the 1997 Act”), paragraph 10 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to sections 1 to 3, 5, 6(1)(a) and (b)(i) and (iii), 9, 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
 - (b) references in sub-paragraph (5) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to sections 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
 - (c) references in that sub-paragraph to sections 2(4), 11 to 13 and 17 of the 1993 Act were references to sections 26 and 28 of the Prisons (Scotland) Act 1989 (“the 1989 Act”); and
 - (d) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the 1993 Act.
- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 10 of Schedule 1 to this Act shall have effect as if—

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- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to Schedule 6 to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43 of, and Schedule 1 to, the 1989 Act and any rules made under section 18 or 39 of that Act;
 - (b) references in sub-paragraph (5) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and
 - (c) the reference in sub-paragraph (7) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the said Schedule 6 or the 1989 Act.
- (3) In sub-paragraph (1) above the reference to section 6(1)(b)(i) of the 1993 Act is a reference to that provision so far as it relates to a person sentenced under section 205(3) of the Criminal Procedure (Scotland) Act 1995; and in sub-paragraph (2) above—
- (a) the reference to section 19(4) of the 1989 Act is a reference to that provision so far as it applies section 24 of that Act in relation to persons detained in young offenders institutions; and
 - (b) any reference to the existing provisions is a reference to the existing provisions within the meaning of Schedule 6 to the 1993 Act.

Transfers of prisoners from Scotland to Northern Ireland

- 12 (1) In relation to any prisoner sentenced on or after 1st October 1993 for an offence committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997 (“the 1997 Act”), paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) and sections 33(5), 34, 37 and 39 of the 1997 Act were references to sections 1, 2, 3, 5, 6(1)(a) and (b)(i) and (iii), 9, 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
 - (b) references in sub-paragraph (4) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5) and 37 of the 1997 Act were references to sections 11 to 13, 15 to 21 and 27 of, and Schedules 2 and 6 to, the 1993 Act;
 - (c) references in that sub-paragraph to sections 2(4), 11 to 13 and 17 of the 1993 Act were references to sections 26 and 28 of the Prisons (Scotland) Act 1989 (“the 1989 Act”); and
 - (d) the reference in sub-paragraph (5) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the 1993 Act, and the Table set out in that sub-paragraph contained the following entry—

“Probation officer appointed for or assigned to such petty sessions area	Probation Officer appointed by the Probation Board for Northern Ireland”
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- (2) In relation to any prisoner to whom the existing provisions apply, paragraph 11 of Schedule 1 to this Act shall have effect as if—
- (a) references in sub-paragraph (2) to sections 15, 18 and 19 of the 1993 Act and to sections 33(5), 34, 37 and 39 of the 1997 Act were references to Schedule 6

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to the 1993 Act and to the following existing provisions, namely, sections 18, 19(4), 22, 24, 26, 28 to 30, 32 and 43, and Schedule 1 to, the 1989 Act and any rules made under section 18 or 39 of that Act;

(b) references in sub-paragraph (4) to sections 15, 18 and 19 of the 1993 Act and sections 33(5) and 37 of the 1997 Act were references to the said Schedule 6 and to the following existing provisions, namely, sections 30, 32 and 43 of the 1989 Act; and

(c) the reference in sub-paragraph (6) to any provision of Part I of the 1993 Act or Part III of the 1997 Act were a reference to any provision of the said Schedule 6 or the 1989 Act.

(3) Sub-paragraph (3) of paragraph 11 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

Interpretation

13 In this Schedule—

“life prisoner” has the same meaning as in Chapter II of Part II of this Act;

“term of imprisonment” includes a sentence of detention in a young offender institution or under section 53 of the 1933 Act.