

Draft Regulations laid before Parliament under section 407(7) of, and paragraph 19(4) of Schedule 23 to, the Sentencing Act 2020, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No.

CRIMINAL LAW, ENGLAND AND WALES

**The Sentencing Act 2020 (Amendment
of Schedule 21) Regulations 2023**

Made - - - - *******
Coming into force - - *******

The Lord Chancellor makes these Regulations in exercise of the powers conferred by paragraph 19(1) of Schedule 23 to the Sentencing Act 2020⁽¹⁾ (“the Act”).

The Lord Chancellor has consulted the Sentencing Council for England and Wales in accordance with paragraph 19(2) of Schedule 23 to the Act.

In accordance with section 407(7) of, and paragraph 19(4) of Schedule 23 to, the Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023.

(2) These Regulations come into force 21 days after the day on which they are made.

(3) These Regulations extend to England and Wales.

(4) In these Regulations, “the Act” means the Sentencing Act 2020.

Amendment of Schedule 21 to the Sentencing Act 2020

2. Schedule 21 to the Act (determination of minimum term in relation to mandatory life sentence for murder etc) is amended in accordance with regulations 3 and 4.

3. In paragraph 9—

(a) after sub-paragraph (b), insert—

“(ba) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact

that the offender had repeatedly or continuously engaged in behaviour towards the victim that was controlling or coercive and, at the time of the behaviour, the offender and the victim were personally connected within the meaning of section 76(6) to (7) of the Serious Crime Act 2015(2),”;

(b) in sub-paragraph (f), omit “and”;

(c) after sub-paragraph (f), insert—

“(fa) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the use of sustained and excessive violence towards the victim, and”.

4. In paragraph 10, after sub-paragraph (c) insert—

“(ca) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact that the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the victim and the offender were personally connected within the meaning of section 76(6) to (7) of the Serious Crime Act 2015,”.

Date

Name
Lord Chancellor
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend paragraphs 9 and 10 of Schedule 21 to the Sentencing Act 2020. They create two additional statutory aggravating factors, and one additional statutory mitigating factor, in the determination of the minimum term in relation to mandatory life sentences for murder.

The new aggravating factors apply where: (1) the offender had repeatedly or continuously engaged in behaviour towards the victim that was controlling or coercive and, at the time of the behaviour, the offender and victim were personally connected within the meaning of section 76(6) to (7) of the Serious Crime Act 2015; and (2) the offender used sustained and excessive violence towards the victim (sometimes referred to as “overkill”).

The new mitigating factor applies where the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the victim and offender were personally connected within the meaning of section 76(6) to (7) of the Serious Crime Act 2015.

These new statutory aggravating and mitigating factors only apply to offences committed on or after the day on which these Regulations come into force.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector and community bodies is available from www.legislation.gov.uk.