

SCHEDULES

SCHEDULE 12

Section 101(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Custodial and community sentences

- 1 Each of sections 1 to 13 of this Act shall apply in relation to offenders convicted (but not sentenced) before the commencement of that section as it applies in relation to offenders convicted after that commencement.
- 2 Neither subsection (2) of section 8 of this Act, nor the repeal by this Act of section 13 of the 1973 Act, shall affect the operation of section 13 in relation to persons placed on probation before the commencement of that subsection or, as the case may be, that repeal.
- 3 An establishment which immediately before the commencement of Part II of Schedule 1 to this Act is a day centre within the meaning of section 4B of the 1973 Act shall be treated as if, immediately after that commencement, it had been approved by the Secretary of State as a probation centre within the meaning of paragraph 3(7) of Schedule 1A to that Act.
- 4 Paragraph 6 of Schedule 11 to this Act shall apply in relation to offenders convicted (but not sentenced) before the commencement of that paragraph as it applies to offenders convicted after that commencement.

Community orders: supplemental

- 5 (1) Paragraphs 3 and 4 of Schedule 2 to this Act shall apply in relation to pre-existing failures to comply with the requirements of probation orders or community service orders as if, in sub-paragraph (1)(a), for “£1,000” there were substituted “£400”.
(2) In this paragraph “pre-existing”, in relation to either of those paragraphs, means occurring before the commencement of that paragraph.

Financial penalties

- 6 None of sections 17 to 20 of this Act shall apply in relation to offences committed before the commencement of that section.

Increase of certain penalties

- 7 Neither of subsections (3) and (4) of section 26 of this Act shall apply in relation to offences committed before the commencement of that subsection.

Early release: general

- 8 (1) In this paragraph and paragraphs 9 to 11 below—

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“existing licensee” means any person who, before the commencement of Part II of this Act, has been released on licence under section 60 of the 1967 Act and whose licence under that section is in force at that commencement;

“existing prisoner” means any person who, at that commencement, is serving a custodial sentence;

and sub-paragraphs (2) to (7) below shall have effect subject to those paragraphs.

- (2) Subject to sub-paragraphs (3) to (7) below, Part II of this Act shall apply in relation to an existing licensee as it applies in relation to a person who is released on licence under that Part; and in its application to an existing prisoner, or to an existing licensee who is recalled under section 39 of this Act, that Part shall apply with the modifications made by those sub-paragraphs.
 - (3) Section 40 of this Act shall not apply in relation to an existing prisoner or licensee.
 - (4) In relation to an existing prisoner whose sentence is for a term of twelve months, section 33(1) of this Act shall apply as if that sentence were for a term of less than twelve months.
 - (5) In relation to an existing prisoner or licensee whose sentence is for a term of —
 - (a) more than twelve months; and
 - (b) less than four years or, as the case may require, such other period as may for the time being be referred to in section 33(5) of this Act,
 Part II of this Act shall apply as if he were or had been a long-term rather than a short-term prisoner.
 - (6) In relation to an existing prisoner or licensee whose sentence is for a term of more than twelve months—
 - (a) section 35(1) of this Act shall apply as if the reference to one half of his sentence were a reference to one-third of that sentence or six months, whichever is the longer; and
 - (b) sections 33(3) and 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to two-thirds of that sentence.
 - (7) In relation to an existing prisoner or licensee—
 - (a) whose sentence is for a term of more than twelve months; and
 - (b) whose case falls within such class of cases as the Secretary of State may determine after consultation with the Parole Board,
 section 35(1) of this Act shall apply as if the reference to a recommendation by the Board included a reference to a recommendation by a local review committee established under section 59(6) of the 1967 Act.
 - (8) In this paragraph “custodial sentence” means—
 - (a) a sentence of imprisonment;
 - (b) a sentence of detention in a young offender institution;
 - (c) a sentence of detention (whether during Her Majesty’s pleasure, for life or for a determinate term) under section 53 of the 1933 Act; or
 - (d) a sentence of custody for life under section 8 of the 1982 Act.
- 9 (1) This paragraph applies where, in the case of an existing life prisoner, the Secretary of State certifies his opinion that, if—
- (a) section 34 of this Act had been in force at the time when he was sentenced; and

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- (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this paragraph applies, Part II of this Act except section 35(2) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner for the purposes of that Part; and
- (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate.
- (3) In this paragraph “existing life prisoner” means a person who, at the commencement of Part II of this Act, is serving one or more of the following sentences, namely—
- (a) a sentence of life imprisonment;
- (b) a sentence of detention during her Majesty’s pleasure or for life under section 53 of the 1933 Act; or
- (c) a sentence of custody for life under section 8 of the 1982 Act.
- (4) A person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of Part II of this Act unless the requirements of subparagraph (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 of this Act shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.
- 10 Prison rules made by virtue of section 42 of this Act may include provision for applying any provisions of Part II of this Act, in relation to any existing prisoner or licensee who has forfeited any remission of his sentence, as if he had been awarded such number of additional days as may be determined by or under the rules.

Early release of young persons detained under 1933 Act

- 11 In relation to an existing prisoner or licensee whose sentence is a determinate sentence of detention under section 53 of the 1933 Act—
- (a) Part II of this Act shall apply as if he were or had been a life rather than a long-term or short-term prisoner;
- (b) section 35(2) of this Act shall apply as if the requirement as to consultation were omitted; and
- (c) section 37(3) of this Act shall apply as if the reference to his death were a reference to the date on which he would (but for his release) have served the whole of his sentence.

Early release of prisoners serving extended sentences

- 12 (1) In relation to an existing prisoner or licensee on the passing of whose sentence an extended sentence certificate was issued—
- (a) section 33(3) of this Act shall apply as if the duty to release him unconditionally were a duty to release him on licence; and
- (b) section 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to the whole of that sentence.

Status: This is the original version (as it was originally enacted).

- (2) In this paragraph “extended sentence certificate” means a certificate issued under section 28 of the 1973 Act stating that an extended term of imprisonment was imposed on an offender under that section.

Early release of fine defaulters and contemnors

- 13 Part II of this Act shall apply in relation to any person who, before the commencement of that Part, has been committed to prison or to be detained under section 9 of the 1982 Act—
- (a) in default of payment of a sum adjudged to be paid by a conviction; or
 - (b) for contempt of court or any kindred offence,
- as it applies in relation to any person who is so committed after that commencement.

Responsibilities of parent or guardian

- 14 None of sections 56 to 58 of this Act shall apply in relation to offences committed before the commencement of that section; and the repeals of subsections (7)(c), (7B) and (7C) of section 7 of the 1969 Act shall not apply in relation to offences committed before the commencement of those repeals.

Remands and committals of children and young persons

- 15 (1) In this paragraph—
- “section 23” means section 23 of the 1969 Act as substituted by section 60(1) of this Act;
 - “the modifications” means the modifications of section 23 set out in section 62 of this Act;
 - “remand or committal” means a remand of a child or young person charged with or convicted of one or more offences, or a committal of a child or young person for trial or sentence.
- (2) Section 23 as it has effect with the modifications shall not apply in relation to any remand or committal which is in force immediately before the commencement of sections 60 and 62 of this Act.
- (3) Subject to sub-paragraphs (4) and (5) below, section 23 as it has effect without the modifications shall not apply in relation to any remand or committal which is in force immediately before the day appointed under section 62(1) of this Act.
- (4) Any person who, in pursuance of any such remand or committal, is held in a remand centre or prison shall be brought before the court which remanded or committed him before the end of the period of 8 days beginning with the day so appointed.
- (5) Where any person is brought before a court under sub-paragraph (4) above, section 23 as it has effect without the modifications shall apply as if the court were just remanding or committing him as mentioned in subsection (1)(a) of that section.
- 16 (1) Subsection (2)(a) of section 60 of this Act shall not apply in any case where proceedings for the offence in question have begun before the commencement of that section.

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- (2) Subject to sub-paragraphs (3) and (4) below, subsection (2)(b) and (c) of that section shall not apply in relation to any committal under section 37 of the 1980 Act which is in force immediately before that commencement.
- (3) Any person less than 17 years old who, in pursuance of any such committal, is held in a remand centre or prison shall be brought before the court which committed him before the end of the period of 8 days beginning with that commencement.
- (4) Where any person is brought before a court under sub-paragraph (3) above, section 37 of the 1980 Act shall apply as if the court were just committing him under that section.

Custodial sentences for young offenders

- 17 (1) Subject to sub-paragraph (2) below, section 63 of this Act shall apply in relation to young offenders convicted (but not sentenced) before the commencement of that section as it applies in relation to young offenders convicted after that commencement.
- (2) Subsections (2), (3) and (5) of that section shall not apply in any case where proceedings for the offence in question have begun before that commencement and the offender is aged 17 at the date of his conviction.
- (3) For the purposes of the provisions substituted by subsection (3)(c) of that section, any sentence of detention in a young offender institution which, at that commencement, is being served by an offender aged 17 shall be disregarded.
- 18 Section 64 of this Act shall not apply in any case where the offence in question was committed before the commencement of that section and the offender is aged 16 at the date of his conviction.

Supervision of young offenders after release

- 19 Section 65 of this Act shall not apply in relation to any person under the age of 22 years who, before the commencement of that section, is released from a term of detention in a young offender institution or under section 53 of the 1933 Act; and the repeal by this Act of section 15 of the 1982 Act shall not affect the operation of that section in relation to any such person who is so released.

Supervision orders

- 20 (1) In relation to pre-existing failures to comply with the requirements of supervision orders, section 15 of the 1969 Act as substituted by Schedule 7 to this Act shall apply as if—
 - (a) in subsection (3)(a), for “£1,000” there were substituted “£100”;
 - (b) in subsection (5)(b), for “£5,000” there were substituted “£2,000”; and
 - (c) in subsection (5)(c), for “£5,000” there were substituted the words “£2,000 in the case of a person who has attained the age of 18 years and £400 in the case of a person who has not attained that age”.
- (2) In this paragraph “pre-existing” means occurring before the commencement of section 66 of this Act and that Schedule.

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Attendance centre orders

- 21 (1) Subsection (2) of section 67 of this Act shall not apply in relation to attendance centre orders made before the commencement of that section.
- (2) Subsection (4) of that section shall not apply in relation to pre-existing failures to attend in accordance with an attendance centre order or pre-existing breaches of rules made under section 16(3) of the 1982 Act.
- (3) In this paragraph “pre-existing” means occurring or committed before that commencement.

Provisions for treating persons aged 17 as young persons

- 22 (1) Paragraphs 1, 3, 4 and 6 of Schedule 8 shall not apply in any case where proceedings for the offence in question have begun before the commencement of that Schedule.
- (2) Paragraph 5 of that Schedule shall apply in relation to any sentence imposed on any person who was convicted before that commencement and was aged 17 at the date of his conviction.

Renaming of juvenile courts etc.

- 23 In relation to any time before the commencement of section 70 of this Act, references in any other provision of this Act, or in any enactment amended by this Act, to youth courts shall be construed as references to juvenile courts.

Supplemental

- 24 For the purposes of this Schedule proceedings for an offence shall be regarded as having begun as follows—
- (a) in the case of an offence triable only summarily, when a plea is entered;
 - (b) in the case of an offence triable only on indictment, when the magistrates' court begins to inquire into the offence as examining magistrates;
 - (c) in the case of an offence triable either way, when the magistrates' court determines to proceed with the summary trial of the offence or, as the case may be, to proceed to inquire into the offence as examining justices.