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**Changes to legislation:** Coroners and Justice Act 2009, Paragraph 3 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 16

#### EXTENSION OF DISQUALIFICATION FOR DRIVING

##### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

3 After section 248C of the Criminal Procedure (Scotland) Act 1995 insert—

**“248D Extension of disqualification where sentence of imprisonment also imposed**

- (1) This section applies where a person is convicted of an offence for which the court—
  - (a) imposes a sentence of imprisonment, and
  - (b) orders the person to be disqualified under section 248 or 248A of this Act from holding or obtaining a driving licence.
- (2) The order under section 248 or 248A of this Act must provide for the person to be disqualified for the appropriate extension period, in addition to the discretionary disqualification period.
- (3) The discretionary disqualification period is the period for which, in the absence of this section, the court would have disqualified the person under section 248 or 248A of this Act.
- (4) The appropriate extension period is—
  - (a) in the case of a life prisoner, a period equal to the punishment part of the life sentence;
  - (b) in the case of a custody and community prisoner, a period equal to half the custody part of the sentence of imprisonment;
  - (c) in the case of a person serving an extended sentence, a period equal to half the confinement term;
  - (d) in any other case, a period equal to half the sentence of imprisonment imposed.
- (5) If a period determined under subsection (4) includes a fraction of a day, that period is to be rounded up to the nearest number of whole days.
- (6) For the purposes of subsection (4), a sentence is to be taken to start on the date of commencement of the sentence.
- (7) Subsection (8) applies where an amending order provides for a different proportion (“the new proportion”) to be substituted for the proportion of a prisoner's sentence referred to in section 6(4)(a) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) (“the 2007 Act”).

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- (8) The Secretary of State may by order provide that the proportion specified in subsection (4)(b) and (c) of this section is to be read, in the case of a sentence of imprisonment to which the amending order relates, as a reference to the new proportion.
- (9) An order under subsection (8) is to be made by statutory instrument and a draft of the statutory instrument containing the order must be laid before, and approved by a resolution of, each House of Parliament.
- (10) In this section—
- “amending order” means an order made by the Scottish Ministers under section 7 of the 2007 Act;
  - “confinement term” has the meaning given by section 210A(2)(a) of this Act;
  - “custody and community prisoner” has the meaning given by section 4 of the 2007 Act;
  - “custody part” has the meaning given by section 6(3) of the 2007 Act;
  - “extended sentence” has the meaning given by section 210A of this Act;
  - “life prisoner” has the meaning given by section 4 of the 2007 Act;
  - “punishment part” has the meaning given by section 4 of the 2007 Act;
  - “sentence of imprisonment” includes—
    - (a) an order for detention in residential accommodation under section 44 of this Act, and
    - (b) a sentence of detention under section 205, 207 or 208 of this Act.

#### **248E Effect of sentence of imprisonment in other cases**

- (1) This section applies where a person is convicted of an offence for which a court proposes to order the person to be disqualified under section 248 or 248A from holding or obtaining a driving licence and—
- (a) the court proposes to impose on the person a sentence of imprisonment for another offence, or
  - (b) at the time of sentencing for the offence, a sentence of imprisonment imposed on the person on an earlier occasion has not expired.
- (2) In determining the period for which the person is to be disqualified under section 248 or 248A, the court must have regard to the consideration in subsection (3) if and to the extent that it is appropriate to do so.
- (3) The consideration is the diminished effect of disqualification as a distinct punishment if the person who is disqualified is also detained in pursuance of a sentence of imprisonment.
- (4) If the court proposes to order the person to be disqualified under section 248 or 248A and to impose a sentence of imprisonment for the same offence, the court may not in relation to that disqualification take that sentence of imprisonment into account for the purposes of subsection (2).

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(5) In this section “sentence of imprisonment” has the same meaning as in section 248D.”

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**Commencement Information**

**I1** Sch. 16 para. 3 in force at 16.7.2018 by S.I. 2018/733, art. 2(b)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11A and cross-heading inserted by [2023 c. 41 Sch. 11 para. 1\(1\)](#)
- Sch. 1A inserted by [2023 c. 41 Sch. 11 para. 1\(2\)](#)