

SCHEDULE

Section 10

CONSEQUENTIAL AMENDMENTS

Administration of Justice Act 1970 (c. 31)

- 1 The Administration of Justice Act 1970 is amended as follows.
- 2 In section 41(8) (power of Crown Court to specify longer period of imprisonment for default under compensation order), after “paragraph 10” insert “or 13A”.
- 3 In Schedule 9 (enforcement of orders for costs, compensation, etc), in Part 1 (payment enforceable as on summary conviction), after paragraph 13 insert—
 - “13A Where under section 4 of the Prevention of Social Housing Fraud Act 2013 a court makes an unlawful profit order.”

Housing Act 1988 (c. 50)

- 4 In section 1 of the Housing Act 1988 (meaning of assured tenancy), after subsection (1) insert—
 - “(1A) Subsection (1) has effect subject to section 15A (loss of assured tenancy status).”

Criminal Justice Act 1991 (c. 53)

- 5 (1) Section 24 of the Criminal Justice Act 1991 (recovery of fines by deduction from certain benefits) is amended as follows.
 - (2) In subsection (1)—
 - (a) after “compensation order” insert “or unlawful profit order”, and
 - (b) in paragraph (a), for “or compensation” substitute “, compensation or unlawful profit”.
 - (3) In subsection (3)(b), after “compensation order” insert “or unlawful profit order”.
 - (4) In subsection (4), after the definition of “prescribed” insert “; unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”

Family Law Act 1996 (c. 27)

- 6 In section 30(4)(b) of the Family Law Act 1996 (occupation by spouse or civil partner with home rights to be treated as occupation by other spouse or civil partner), for “and Chapter I of Part V of the Housing Act 1996” substitute “, Chapter 1 of Part 5 of the Housing Act 1996 and the Prevention of Social Housing Fraud Act 2013”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 7 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 8 In section 12(7) (power to order absolute or conditional discharge not to affect power to make various orders), after “orders)” insert “or from making in respect of the offence an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”

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- 9 In section 133(3)(c) (review of compensation order where person subject to confiscation order made in same proceedings), after “Proceeds of Crime Act 2002” insert “or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 (or both).”
- 10 In section 142(1) (power of Crown Court to order defendant to be searched on imposing fine or making various orders), after paragraph (c) insert—
“(ca) the Crown Court makes an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 against a person.”.

Proceeds of Crime Act 2002 (c. 29)

- 11 The Proceeds of Crime Act 2002 is amended as follows.
- 12 In section 6 (making of confiscation order), after subsection (6) insert—
“(6A) The court must also treat the duty in subsection (5) as a power if—
(a) an order has been made, or it believes an order may be made, against the defendant under section 4 (criminal unlawful profit orders) of the Prevention of Social Housing Fraud Act 2013 in respect of profit made by the defendant in connection with the conduct, or
(b) it believes that a person has at any time started or intends to start proceedings against the defendant under section 5 (civil unlawful profit orders) of that Act in respect of such profit.”
- 13 In section 7(3) (calculation of recoverable amount), after “section 6(6)” insert “or 6(6A)”.
- 14 (1) Section 13 (effect of confiscation order on court’s other powers) is amended as follows.
(2) In subsection (3) (confiscation order to be taken into account before making certain orders), in paragraph (a) (orders other than compensation orders), after “(compensation orders)” insert “or an order under section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders)”.
- (3) In subsection (5) (confiscation order and compensation order in same proceedings)—
(a) for paragraph (a) substitute—
“(a) the Crown Court makes—
(i) both a confiscation order and a compensation order under section 130 of the Sentencing Act,
(ii) both a confiscation order and an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013, or
(iii) a confiscation order, a compensation order and an unlawful profit order,
against the same person in the same proceedings,” and”
(b) in paragraph (b), after “both the orders” insert “or all the orders”.
- (4) In subsection (6) (payment of compensation out of sums recovered under confiscation order), after “compensation” insert “or amount payable under the unlawful profit order (or both)”.

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- 15 In section 14(12) (quashing of confiscation order on ground of defect in connection with postponement permitted where certain fines and orders made before confiscation order), at the end of paragraph (c) insert “;
- (d) made an order under section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders).”
- 16 (1) Section 15 (effect of postponement of confiscation proceedings) is amended as follows.
- (2) In subsection (2) (power to sentence defendant during postponement not to cover imposing fines or certain orders)—
- (a) omit the “or” at the end of paragraph (b), and
- (b) at the end of paragraph (c) insert “, or
- (d) make an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”
- (3) In subsection (3) (power, after sentencing during postponement, to vary sentence to impose fines or certain orders)—
- (a) omit the “or” at the end of paragraph (b), and
- (b) at the end of paragraph (c) insert “, or
- (d) making an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”
- 17 (1) Section 19 (reconsideration of case after confiscation order not made) is amended as follows.
- (2) In subsection (7) (fines and orders to be taken into account in arriving at the just amount), at the end of paragraph (d) insert “;
- (e) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders).”
- (3) In subsection (8) (disapplication of section 13(5) and (6) where compensation order made), after “Sentencing Act” insert “or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013”.
- 18 (1) Section 20 (reconsideration of benefit after confiscation order not made) is amended as follows.
- (2) In subsection (11) (fines and orders to be taken into account in arriving at the just amount), at the end of paragraph (d) insert “;
- (e) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders).”
- (3) In subsection (12) (disapplication of section 13(5) and (6) where compensation order made), after “Sentencing Act” insert “or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013”.
- 19 (1) Section 21 (reconsideration of benefit after confiscation order made) is amended as follows.
- (2) In subsection (9) (fines and orders to be taken into account in arriving at the just amount), at the end of paragraph (c) insert “;

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- (d) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders).”
- (3) In subsection (10) (court not to take account of compensation order if direction made under section 13(6)), after “(9)(c)” insert “or (d)”.
- 20 In section 32(7) (Court of Appeal’s power on appeal: duty to have regard to compensation order), after “orders” insert “or section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders)”.
- 21 In section 33(9) (Crown Court’s powers following appeal to Supreme Court: duty to have regard to compensation order), after “orders” insert “or section 4 of the Prevention of Social Housing Fraud Act 2013 (unlawful profit orders)”.
- 22 In section 55(5) (application of sums received under confiscation order to pay compensation), after “compensation” insert “or all or part of an amount payable under an unlawful profit order”.
- 23 In section 308 (general exceptions to concept of recoverable property), after subsection (7) insert—
- “(7A) If—
- (a) a payment is made to a person in pursuance of an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013, and
- (b) apart from this subsection, the sum received would be recoverable property,
- the property ceases to be recoverable.”

Courts Act 2003 (c. 39)

- 24 Schedule 5 to the Courts Act 2003 (collection of fines and other sums adjudged to be paid on conviction) is amended as follows.
- 25 In paragraph 2(2) (interpretation), after the definition of “a sum required to be paid by a compensation order” insert “; and
- a sum required to be paid by an unlawful profit order” means any sum required to be paid by an order made under section 4 of the Prevention of Social Housing Fraud Act 2013.”
- 26 In paragraph 7A (attachment of earnings order or application for benefit deduction where person liable to pay compensation), in sub-paragraph (1), after “a compensation order” insert “or an unlawful profit order”.
- 27 In paragraph 13(1)(aa) (requirement for collection order to state amount of fine or amount payable under collection order)—
- (a) for “or a sum required to be paid by a compensation order” substitute “, a sum required to be paid by a compensation order or a sum required to be paid by an unlawful profit order”, and
- (b) for sub-paragraph (i) substitute—
- “(i) the amount of the fine, the amount required to be paid by the compensation order or the amount required to be paid by the unlawful profit order

(or, where that sum consists of or includes two or more of those amounts, each of those amounts).”.

Criminal Justice Act 2003 (c. 44)

- 28 The Criminal Justice Act 2003 is amended as follows.
- 29 In section 151 (community order or youth rehabilitation order for persistent offender previously fined), in subsection (5) (fine not to include compensation order, surcharge etc), after “section 161A” insert “, or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013”.
- 30 (1) Section 161A (court’s duty to order payment of surcharge) is amended as follows.
- (2) In subsection (3) (reduction of surcharge where compensation order made)—
- (a) in paragraph (a), after “compensation order” insert “or an unlawful profit order (or both)”, and
- (b) in paragraph (b), after “appropriate compensation” insert “or both the surcharge and an appropriate amount under the unlawful profit order (or the surcharge, appropriate compensation and an appropriate amount under the unlawful profit order)”.
- (3) After subsection (4) insert—
- “(5) In this section “unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”

Armed Forces Act 2006 (c. 52)

- 31 In the section 270A of the Armed Forces Act 2006 inserted by paragraph 20(2) of Schedule 3 to the Armed Forces Act 2011 (exceptions to restrictions on community punishments), in subsection (6) (orders which do not form part of an offender’s sentence), at the end of paragraph (c) insert “;
- (d) an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.”