

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 - Confinement and Release of Prisoners *Schedule 3 (introduced by section 53)*

Sentences Framed to Be Run Consecutively

Power to impose sentence to take effect on expiry of other sentence

114. [Paragraph 1](#) provides the main power to impose a sentence to run consecutively to other sentences. It is intended to apply to the case where the prisoner is already serving another sentence and the court wants the new sentence to run consecutively to that existing sentence; and to the case where the court is imposing more than one sentence and it wants them to run consecutively.

Postponement of sentencing where previous punishment part or custody part not specified

115. [Paragraph 2](#) provides that where the court is required to sentence a person who is awaiting the setting of a custody or punishment part for a previous offence, the court may not set the custody or punishment part of the subsequent offence until the previous custody or punishment part has been set.

Effect of sentences framed to take effect consecutively

116. The provisions in paragraphs 3 and 4 deal with the situations where consecutive sentences are intended to intertwine rather than run purely consecutively. There are two circumstances where this might happen. The table below sets out how this schedule deals with the various permutations of sentences running consecutively.

Previous Sentence (PS)	Further Sentence (FS)	Order to be served	Relevant provisions of schedule
Custody-only	Custody-only	Custody-only PS – Custody-only FS	Para 1
Custody-only	Custody and community	Custody-only PS – Custody part of FS – Community part of FS	Para 1

*These notes relate to the Custodial Sentences and Weapons (Scotland)
Act 2007 (asp 17) which received Royal Assent on 19 April 2007*

Custody-only	Life	Custody-only PS – Punishment Part of FS Life licence	Para 1
Custody and community	Custody-only	Custody part of PS – Custody-only FS – Community part of PS	Paras 1 and 3
Custody and community	Custody and community	Custody part of PS – Custody part of FS – Community part of PS Community part of FS	Paras 1 and 4
Custody and community	Life	Custody Part of PS – Punishment Part of FS Life licence	Para 1
Life	Custody-only	Punishment part of PS – Custody-only FS Life licence	Para 1 (the multiple sentence provisions make it clear when the life licence is due to begin)
Life	Custody and community	Punishment part of PS – Custody Part of FS – Life licence	Para 1
Life	Life	Punishment part of PS – Punishment Part of FS Life licence	Para 1

Effect of sentences framed to take effect consecutively on extension periods

117. Paragraph 5 provides the arrangements for the effects of extended sentences to be framed consecutively. The table below sets out how this schedule deals with the various permutations of sentences running consecutively.

Previous Sentence (PS)	Further Sentence (FS)	Order to be served	Relevant provisions of schedule
Custody and community (Extended)	Custody-only	Custody part of PS – Custody-only FS – Community part of PS – Extension period of PS	Paras 1, 3 and 5(1)
Custody and community (Extended)	Custody and community	Custody part of PS – Custody part of FS – Community part of PS – Community part of FS – Extension period of PS	Paras 1, 4 and 5(2)

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Act 2007 (asp 17) which received Royal Assent on 19 April 2007*

Custody community	and	Custody community (Extended)	and	Custody part of PS – Custody part of FS – Community part of PS – Community part of FS – Extension period of FS	Paras 1, 4 and 5(3)
Custody community (Extended)	and	Custody community (Extended)	and	Custody part of PS – Custody part of FS – Community part of PS – Community part of FS – Aggregated extension period for PS and FS (limited to a maximum of ten years)	Paras 1, 4 and 5(4)

**Application of schedule where previous sentence imposed by court outwith
Scotland**

118. [Paragraph 6](#) provides Scottish Ministers with an order making power to make provision to apply this section where a previous sentence has been passed in a court in any part of the United Kingdom outwith Scotland.