

SCHEDULE 1

(introduced by section 1(5))

THE PAROLE BOARD FOR SCOTLAND

Membership

- 1 The Parole Board is to consist of no fewer than 5 members (including a convener) appointed by the Scottish Ministers.
- 2 The membership of the Parole Board must include—
 - (a) a Lord Commissioner of Justiciary,
 - (b) a registered medical practitioner who is a psychiatrist,
 - (c) a person who the Scottish Ministers consider has knowledge and experience of the supervision or aftercare of released prisoners,
 - (d) a person who the Scottish Ministers consider has knowledge and experience of the assessment of the likelihood of offenders causing serious harm to members of the public,
 - (e) a person who the Scottish Ministers consider has knowledge and experience of—
 - (i) the way in which, and
 - (ii) the degree to which,offences perpetrated against members of the public affect those persons.
- 3 (1) The Scottish Ministers must comply with any provision about the procedure, including requirements as to consultation, to be followed in appointing members of the Parole Board as they may, by regulations, prescribe.

(2) Without prejudice to the generality of section 65(2), such regulations may make different provision for different kinds of member of the Parole Board, including the kinds of member holding an office or, as the case may be, possessing a qualification mentioned in paragraph 2.

Tenure of appointments

- 4 Subject to paragraphs 5 to 9, a person is appointed as a member of the Parole Board for such period (being a period of at least 6 years and no more than 7 years) as is specified in the person's instrument of appointment.
- 5 A person ceases to be a member on the day the person attains the age of 75 years.
- 6 If a member such as is mentioned in paragraph 2(a) ceases to hold the office of Lord Commissioner of Justiciary, that person ceases to be a member of the Parole Board.
- 7 If a member such as is mentioned in paragraph 2(b) ceases to be—
 - (a) a registered medical practitioner, or
 - (b) a psychiatrist,that person ceases to be a member of the Parole Board.
- 8 A member may at any time resign by giving notice in writing to that effect to the Scottish Ministers.
- 9 A person ceases to be a member on the day an order is made under paragraph 14 removing the member from the Parole Board.
- 10 A person may be reappointed as a member of the Parole Board only if the person—

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- (a) has ceased to be a member for a period of not less than 3 years, and
- (b) has not previously been reappointed under this paragraph.

- 11 A person who has resigned from the Parole Board may be reappointed under paragraph 10.
- 12 A person who ceases to be a member by virtue of an order under paragraph 14 must not be reappointed under paragraph 10.

Carrying out of functions

- 13 The convener of the Parole Board is to have regard to the desirability of securing that every member is given the opportunity to participate appropriately in the carrying out of the Parole Board's functions on not fewer than 20 days in each successive period of 12 months beginning with the day of the member's appointment.

Removal of members

- 14 A member may be removed from the Parole Board only by order of the tribunal constituted under paragraph 16.
- 15 The tribunal may order the removal of a member only if—
- (a) an investigation is carried out at the request of the Scottish Ministers, and
 - (b) following the investigation, the tribunal finds that the member is unfit to be a member of the Parole Board by reason of inability, neglect of duty or misbehaviour.
- 16 The tribunal is to consist of the following persons appointed by the Lord President of the Court of Session—
- (a) either a Senator of the College of Justice or a sheriff principal (who is to preside),
 - (b) a person who is, and has been for at least 10 years—
 - (i) an advocate, or
 - (ii) a solicitor, and
 - (c) one other person who is not an advocate or a solicitor.
- 17 The Scottish Ministers may, by regulations—
- (a) make provision—
 - (i) enabling the tribunal, at any time during an investigation, to suspend a member from the Parole Board, and
 - (ii) as to the effect and duration of a suspension,
 - (b) make further provision about the tribunal as the Scottish Ministers consider necessary or expedient, including provision about the procedure to be followed by and before it.

Remuneration, allowances and other expenses

- 18 Members of the Parole Board are to be paid such—
- (a) remuneration, and
 - (b) expenses,
- as the Scottish Ministers may determine.

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- 19 The expenses of the Parole Board under paragraph 18 and any other expenses incurred by the Parole Board in carrying out its functions are to be defrayed by the Scottish Ministers.

Reporting and planning

- 20 The Parole Board must, as soon as practicable after the end of the reporting year, send to the Scottish Ministers a report on the performance of the Parole Board's functions during that year.
- 21 The Parole Board must, as soon as practicable after the beginning of each planning period, send to the Scottish Ministers a plan in relation to that planning period—
- (a) providing details as to how the Parole Board intends to carry out its functions,
 - (b) setting out performance objectives and targets in relation to its functions.
- 22 (1) The reporting year of the Parole Board is—
- (a) the period beginning with the day on which section 1(1) comes into force and ending with 31st March next following that day, and
 - (b) each successive period of 12 months ending with 31st March.
- (2) The planning period of the Parole Board is—
- (a) the period beginning with the day on which section 1(1) comes into force and ending with the third occurrence of 31st March following that day, and
 - (b) each successive period of 3 years ending with 31st March in the third year.
- 23 The Scottish Ministers must lay a copy of—
- (a) a report sent to them under paragraph 20,
 - (b) a plan sent to them under paragraph 21,
- before the Scottish Parliament.

SCHEDULE 2

(introduced by section 52)

PRISONERS SERVING MORE THAN ONE SENTENCE: APPLICATION OF PART 2

Multiple custody-only sentences

- 1 (1) This paragraph applies where a prisoner—
- (a) is serving, or liable to serve, two or more custody-only sentences, and
 - (b) is not serving, or liable to serve, any other sentence of imprisonment.
- (2) Part 2 applies subject to the following modifications.
- (3) In sections 5 and 34(1), references to the prisoner's sentence are to be read as references to the custody-only sentence which expires after the expiry of the other custody-only sentence (or sentences) imposed on the prisoner.

Multiple custody and community sentences

- 2 (1) This paragraph applies where a prisoner—
- (a) is serving, or liable to serve, two or more custody and community sentences,
- and

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- (b) is not serving, or liable to serve, any other sentence of imprisonment.
- (2) Part 2 applies subject to the following modifications.
- (3) In sections 10 to 13, 18 and 47, references to the custody part of the prisoner’s custody and community sentence are to be read as references to the custody part which expires after the expiry of the other custody part (or parts) specified in relation to the prisoner.
- (4) In section 14—
 - (a) subsection (9) does not apply, and
 - (b) “three-quarter point”, in relation to each of the sentences imposed on the prisoner, means the day on which the prisoner will have served at least three-quarters of each of those sentences.
- (5) In section 19(1), the reference to the prisoner’s having served three-quarters of the prisoner’s sentence is to be read as a reference to the prisoner’s having served at least three-quarters of each sentence imposed on the prisoner.
- (6) In sections 34(2) and 43, references to the expiry of the prisoner’s sentence are to be read as references to the expiry of the sentence which expires after the expiry of the other custody and community sentence (or sentences) imposed on the prisoner.
- (7) In section 47(4)(a)(i), the reference to the prisoner’s sentence is to be read as a reference to the longer (or longest) of the sentences imposed on the prisoner.
- (8) This paragraph is subject to paragraph 7.

Combinations of custody-only and custody and community sentences

- 3 (1) This paragraph applies where a prisoner—
 - (a) is serving, or liable to serve, at least one custody-only sentence and at least one custody and community sentence, and
 - (b) is not serving, or liable to serve, any other sentence of imprisonment.
- (2) Part 2 applies subject to the following modifications.
- (3) Sections 5 and 34(1) do not apply.
- (4) In sections 10 to 13, 18 and 47, references to the custody part are to be read as references to the custody-only sentence or, as the case may be, the custody part of the custody and community sentence which expires after the expiry of—
 - (a) any other custody-only sentence (or sentences) imposed on the prisoner, and
 - (b) the custody part of any other custody and community sentence (or sentences) so imposed.
- (5) In section 14—
 - (a) subsection (9) does not apply, and
 - (b) “three-quarter point”, in relation to each of the sentences imposed on the prisoner, means the day on which the prisoner will have served—
 - (i) at least three-quarters of the custody and community sentence (or sentences), and
 - (ii) the custody-only sentence (or sentences).
- (6) In section 19(1), the reference to the prisoner’s having served three-quarters of the prisoner’s sentence is to be read as a reference to the prisoner’s having served—

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- (a) at least three-quarters of the custody and community sentence (or sentences) imposed on the prisoner, and
 - (b) the custody-only sentence (or sentences) so imposed.
- (7) In sections 34(2) and 43, references to the expiry of the prisoner's sentence are to be read as references to the expiry of the sentence which expires after the expiry of the other sentence (or sentences) imposed on the prisoner.
- (8) In section 47(4)(a)(i), the reference to the prisoner's sentence is to be read as a reference—
- (a) where one custody and community sentence is imposed on the prisoner, to that sentence,
 - (b) where two or more such sentences are so imposed, to the longer (or longest) of them.
- (9) This paragraph is subject to paragraph 7.

Multiple life sentences

- 4 (1) This paragraph applies where a prisoner—
- (a) is serving, or liable to serve, two or more life sentences, and
 - (b) is not serving, or liable to serve, any other sentence of imprisonment.
- (2) Part 2 applies subject to the following modifications.
- (3) In sections 20 to 23, references to the punishment part are to be read as references to the punishment part which expires after the expiry of the other punishment part (or parts) imposed on the prisoner.

Combinations of life sentences and other sentences

- 5 (1) This paragraph applies where a prisoner is serving, or liable to serve, at least one life sentence and any of the following—
- (a) a custody-only sentence,
 - (b) two or more custody-only sentences,
 - (c) a custody and community sentence,
 - (d) two or more custody and community sentences.
- (2) Part 2 applies subject to the following modifications.
- (3) Sections 5, 9 to 19, 30, 31, 34(1) and (2), 43 and 47 to 49 do not apply.
- (4) In sections 20 to 23, references to the punishment part are to be read as references to the custody-only sentence, the custody part of the custody and community sentence or, as the case may be, the punishment part of the life sentence which expires after the expiry of—
- (a) any other custody-only sentence (or sentences) imposed on the prisoner,
 - (b) the custody part of any other custody and community sentence (or sentences) so imposed, and
 - (c) the punishment part of any other life sentence (or sentences) so imposed.

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Single licence for released prisoner serving multiple sentences

- 6 (1) This paragraph applies where—
- (a) paragraph 2, 3, 4 or 5 applies to a prisoner, and
 - (b) the prisoner is released on licence by virtue of section 11(2), 13(2)(a), 19(1), 23(2)(a), 27(1) or 42(4)(a).
- (2) The prisoner must be released on a single licence as respects both (or all) sentences of imprisonment imposed on the prisoner.
- (3) References in Part 2 to the prisoner’s licence are to be read as references to that single licence.

Special case: extended sentences

- 7 (1) Where a custody and community sentence imposed on a prisoner is an extended sentence, the modifications in paragraphs 2(4), (5) and (7) and 3(5), (6)(a) and (8) are to be read subject to sub-paragraph (2).
- (2) In the case of the extended sentence, references in those paragraphs to the prisoner’s sentence are references to the confinement term of the prisoner’s sentence.
- (3) In this paragraph the expressions “extended sentence” and “the confinement term” are to be construed in accordance with section 210A(2) of the 1995 Act.

SCHEDULE 3

(introduced by section 53)

SENTENCES FRAMED TO RUN CONSECUTIVELY

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

- 1 (1) This paragraph applies where—
- (a) a prisoner is serving, or liable to serve, at least one sentence of imprisonment (the “previous sentence”), and
 - (b) the court imposes a further sentence of imprisonment for an offence (the “further sentence”).
- (2) The court may, when imposing the further sentence on a prisoner serving, or liable to serve, one previous sentence, frame the further sentence to take effect immediately on the expiry of the relevant period of the previous sentence.
- (3) The court may, when imposing the further sentence on a prisoner serving, or liable to serve, two or more previous sentences, frame the further sentence to take effect immediately on the expiry of the relevant period of whichever previous sentence the court considers appropriate.
- (4) The relevant period, in relation to a sentence of imprisonment, is—
- (a) in the case of a custody-only sentence, that sentence,
 - (b) in the case of a custody and community sentence, the custody part of that sentence,
 - (c) in the case of a life sentence, the punishment part of that sentence.

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

- 2 (1) This paragraph applies where—
- (a) it falls to the court to sentence a person who is subject to a previous sentence, and
 - (b) a punishment part or, as the case may be, custody part requires to be specified in respect of the previous sentence but has not been so specified.
- (2) The court must not sentence the person until such time as the punishment part or, as the case may be, custody part—
- (a) is specified, or
 - (b) no longer requires to be specified,
- in respect of the previous sentence.

Effect of sentences framed to take effect consecutively

- 3 (1) This paragraph applies where—
- (a) the court imposes a custody-only sentence as a further sentence,
 - (b) the court frames the sentence to take effect in accordance with paragraph 1(2) or (3), and
 - (c) the prisoner's previous sentence (or one of the prisoner's previous sentences) is a custody and community sentence.
- (2) In determining the date on which the previous sentence expires, no account is to be taken of the period of confinement served under the further sentence.

- 4 (1) This paragraph applies where—
- (a) the court imposes a custody and community sentence as a further sentence,
 - (b) the court frames the sentence to take effect in accordance with paragraph 1(2) or (3), and
 - (c) the prisoner's previous sentence (or one of the prisoner's previous sentences) is a custody and community sentence.
- (2) In determining the date on which the previous sentence expires, no account is to be taken of the period of confinement served under the custody part of the further sentence.
- (3) In determining the date on which the further sentence expires, no account is to be taken of the balance of the previous sentence.
- (4) The balance of the previous sentence is the term of the sentence less the custody part of the sentence.

Effect of sentences framed to take effect consecutively on extension periods

- 5 (1) In paragraph 3, if the previous sentence is an extended sentence, the reference in sub-paragraph (2) of that paragraph to the date when the previous sentence is due to expire is to be read as a reference to the date when the confinement term of that sentence is due to expire.
- (2) In paragraph 4, if the previous sentence is an extended sentence—
- (a) the reference in sub-paragraph (2) of that paragraph to the date when the previous sentence is due to expire is to be read as a reference to the date when the confinement term of that sentence is due to expire,

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- (b) the extension period of the previous sentence is to commence immediately after the date on which the further sentence expires in accordance with subparagraph (3) of that paragraph.
- (3) In paragraph 4, if the further sentence is an extended sentence, the reference in subparagraph (3) of that paragraph to the date when the further sentence expires is to be read as a reference to the date when the confinement term of that sentence expires.
- (4) Subject to section 210A(3) of the 1995 Act and to any direction by the court which imposes the further sentence, where both the further sentence and the previous sentence are extended sentences—
 - (a) the references in paragraph 4(2) and (3) to the dates when those sentences expire are to be read as references to the dates when the confinement terms of those sentences expire,
 - (b) the extension periods of the sentences must be aggregated, and
 - (c) that aggregated extension period is to commence immediately after the date on which the further sentence expires in accordance with paragraph 4(3).
- (5) In this paragraph the expressions “extended sentence”, “the confinement term” and “the extension period” are to be construed in accordance with section 210A(2) of the 1995 Act.

Application of schedule where previous sentence imposed by court outwith Scotland

- 6 The Scottish Ministers may by order make provision for or in connection with the application of this schedule (subject to modifications specified in the order) where a previous sentence is passed by a court in any part of the United Kingdom outwith Scotland.

SCHEDULE 4

(introduced by section 66(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

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

- 1 (1) Section 167 of the 1995 Act (forms of finding and sentence in summary proceedings) is amended as follows.
- (2) In subsection (7)—
 - (a) paragraph (a) and the word “or” immediately following it are repealed,
 - (b) for the words “previous sentence for a term or order” substitute “period mentioned in subsection (7D) below”, and
 - (c) for the words “later conviction or order” substitute “order mentioned in paragraph (b) of this subsection”.
- (3) After subsection (7C), insert—
 - “(7D) The periods are—
 - (a) any previous custody-only sentence,
 - (b) the custody part of any previous custody and community sentence,

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- (c) any previous sentence for a term passed by a court in any part of the United Kingdom outwith Scotland,
following on conviction or any previous order for committal in default of payment of any sum of money or for contempt of court.
- (7E) In subsection (7D) above, “custody and community sentence”, “custody-only sentence” and “custody part” have the meanings given by section 4(1) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17).”.
- 2 In section 204A of the 1995 Act (restriction on consecutive sentences for released prisoners), for the words from “at” to the end of the section substitute “on licence by virtue of Part 2 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17).”.
- 3 (1) Section 210A of the 1995 Act (extended sentences for sex and violent offenders) is amended as follows.
- (2) In subsection (1)(b), before “licence” insert “community”.
- (3) In subsection (2)—
- (a) in paragraph (a), for “custodial” substitute “confinement”,
- (b) in paragraph (b), before “licence” insert “community”.
- (4) In subsection (6), for “custodial” substitute “confinement”.
- (5) In subsection (10), for the words from ““licence”” to “1993” substitute—
- ““community licence” has the same meaning as in Part 2 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17);
- “relevant officer”, in relation to a local authority, means an officer of that authority employed by them in the discharge of their functions under section 27(1) of the Social Work (Scotland) Act 1968 (supervision and care of persons put on probation or released from prison etc.);”.

Criminal Justice (Scotland) Act 2003 (asp 7)

- 4 (1) Section 40 of the Criminal Justice (Scotland) Act 2003 (remote monitoring of released prisoners) is amended as follows.
- (2) In subsection (1), for the words from “licence” to the end of paragraph (b) substitute “community licence or life licence under Part 2 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)”.
- (3) In subsection (3)—
- (a) for “specify” substitute “include”, and
- (b) for “specified” substitute “included”.
- (4) In subsection (8), for paragraphs (a) and (b) substitute—
- “(a) section 30 of the Custodial Sentences and Weapons (Scotland) Act 2007 (community licences: Scottish Ministers to include only licence conditions specified by Parole Board), or
- (b) section 32(2) of that Act (life licences: Scottish Ministers to include only licence conditions specified by Parole Board).”.

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Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10)

- 5 (1) The Police, Public Order and Criminal Justice (Scotland) Act 2006 is amended as follows.
- (2) In section 91 (assistance by offender: reduction in sentence), in subsection (8)(b), for “section 2 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)” substitute “section 20(3) of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)”.
- (3) In section 92 (assistance by offender: review of sentence), in subsection (5), for the words from “(whether” to the end of the subsection substitute “on licence under Part 2 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) is to be treated as still serving the sentence for so long as the licence remains in force.”
- (4) In section 94 (section 92: further provision), in subsection (3)(b)—
- (a) for “or unconditionally under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)” substitute “under Part 2 of the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)”, and
 - (b) the words from “before” to “full” are repealed.

SCHEDULE 5

(introduced by section 66(2))

REPEALS

| <i>Enactment</i> | <i>Extent of repeal</i> |
|---|--|
| Criminal Justice Act 1988 (c. 33) | Section 141(3). |
| Prisons (Scotland) Act 1989 (c. 45) | In section 39, subsections (7), (7A) and (7B). |
| Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) | Part 1. |
| Criminal Procedure (Scotland) Act 1995 (c. 46) | In section 167, subsections (7A) to (7C). Section 204B. |
| Crime and Disorder Act 1998 (c. 37) | In Schedule 8, paragraph 71. |

SCHEDULE 6

(introduced by section 66(3))

TRANSITORY AMENDMENTS OF THE PRISONERS AND
CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993

- 1 Until their repeal by this Act, sections 1 and 9 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) have effect as follows.
- 2 In section 1 (release of short-term and long-term prisoners), in subsection (3), for paragraphs (a) and (b) substitute “shall,”.
- 3 In section 9 (persons liable to removal from the United Kingdom), subsection (1) is repealed.