

SCHEDULES

SCHEDULE 17

TREATMENT OF CONVICTIONS IN OTHER MEMBER STATES ETC

Required custodial sentences for certain offences

- 10 (1) Chapter 3 of Part 5 of the [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#) is amended as follows.
- (2) In section 110 (minimum sentence of 7 years for third class A drug trafficking offence)—
- (a) in subsection (1)(b), for “been convicted” to the end substitute “2 relevant drug convictions; and”, and
 - (b) after subsection (2) insert—
 - “(2A) For the purposes of subsection (1)—
 - (a) a “relevant drug conviction” means—
 - (i) a conviction in any part of the United Kingdom of a class A drug trafficking offence, or
 - (ii) a conviction in another member State of an offence which was committed after the relevant date and would, if done in the United Kingdom at the time of the conviction, have constituted a class A drug trafficking offence; and
 - (b) “the relevant date” means the date on which this subsection comes into force.”
- (3) In section 111 (minimum of 3 years for third domestic burglary)—
- (a) in subsection (1)—
 - (i) in paragraph (b), for “been convicted” to the end substitute “2 relevant domestic burglary convictions; and”, and
 - (ii) in paragraph (c), for “30th November 1999” substitute “the relevant date”, and
 - (b) after subsection (2) insert—
 - “(2A) For the purposes of subsection (1)—
 - (a) a “relevant domestic burglary conviction” means—
 - (i) a conviction in England and Wales of a domestic burglary, or
 - (ii) a conviction in any other part of the United Kingdom or any other member State of an offence which would, if done in England and Wales at the time of the conviction, have constituted domestic burglary;

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- (b) “the relevant date”, in relation to a relevant domestic burglary conviction, means—
 - (i) in respect of a conviction in England and Wales, 30 November 1999, and
 - (ii) in any other case, the day on which this subsection comes into force.”
- (4) In section 113 (certificates of conviction for the purposes of Chapter 3)—
 - (a) after subsection (1) insert—
 - “(1A) Where—
 - (a) a person is convicted—
 - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
 - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
 - (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
 - (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the person has been convicted of such an offence on that date, and
 - (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, the fact that the person has been convicted of such an offence on that date,”
 - the certificate is evidence, for the purposes of the relevant section of this Chapter, that the person was convicted of such an offence on that date.”,
 - (b) after subsection (2) insert—
 - “(2A) Where—
 - (a) a person is convicted—
 - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
 - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
 - (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
 - (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
 - (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, that the offence was committed on a particular day or over, or at some time during, a particular period,”

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the certificate is evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on that day or over, or at some time during, that period.”, and

(c) in subsection (3)—

(i) at the beginning of the definitions insert—

““proper officer” means the clerk of the court, that clerk’s deputy or any other person having custody of the court record;”, and

(ii) omit “and” at the end of the definition of “class A drug trafficking offence” and “domestic burglary”, and after those definitions insert—

““corresponding drug trafficking offence” means an offence within section 110(2A)(a)(ii);

“corresponding domestic burglary offence” means an offence within section 111(2A)(a)(ii); and”.

(5) In section 114 (offences under service law) (as substituted by Schedule 16 to the [Armed Forces Act 2006 \(c. 52\)](#))—

(a) after subsection (1) insert—

“(1A) Where—

(a) a person has at any time been found guilty of a member State service offence committed after the relevant date, and

(b) the corresponding UK offence was a class A drug trafficking offence or a domestic burglary,

the relevant section of this Chapter and subsection (1) above shall have effect as if the person had at that time been convicted in England and Wales of that corresponding UK offence.

(1B) For the purposes of subsection (1A)—

(a) “member State service offence” means an offence which—

(i) was the subject of proceedings under the service law of a member State other than the United Kingdom, and

(ii) at the time it was done would have constituted an offence under the law of any part of the United Kingdom, or an offence under section 42 of the Armed Forces Act 2006, if it had been done in any part of the United Kingdom by a member of Her Majesty’s forces (“the corresponding UK offence”);

(b) “relevant date” means—

(i) where the corresponding UK offence was a class A drug trafficking offence, the relevant date referred to in section 110(2A)(b), and

(ii) where the corresponding UK offence was a domestic burglary, the relevant date referred to in section 111(2A)(b)(ii);

(c) “Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006;

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- (d) “service law”, in relation to a member State other than the United Kingdom, means the law governing all or any of the naval, military or air forces of that State.”, and”
 - (b) after subsection (3) insert—
 - “(4) Where—
 - (a) the corresponding UK offence is an offence under section 42 of the Armed Forces Act 2006 by reason of section 43, 45, 46 or 47 of that Act (attempting, conspiring to commit, inciting, aiding, abetting, counselling or procuring criminal conduct); and
 - (b) the act to which it relates (“the contemplated act”) is not an act that is (or that if done would have been) punishable by the law of England and Wales;
- for the purposes of subsections (1A) and (1B) it must be assumed that the contemplated act amounted to the offence under the law of England and Wales that it would have amounted to if it had been the equivalent act in England or Wales.”