

**Status:** Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)

## SCHEDULES

### SCHEDULE 2 U.K.

#### SENTENCING CONSOLIDATION: PRE-CONSOLIDATION AMENDMENTS

VALID FROM 01/12/2020

### PART 3 E+W

#### AMENDMENTS OF THE CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

- 104 The Criminal Justice and Immigration Act 2008 is amended as follows.
- 105 In section 1 (youth rehabilitation orders), in subsection (4)(b), after “conviction” insert “ and the offence was committed before the date appointed under section 100(2)(b)(ii) of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training order for offender aged under 12) ”.
- 106 (1) Section 4 (meaning of “responsible officer”) is amended as follows.
- (2) In subsection (2)(b)—
- (a) omit “an officer of a local probation board appointed for or assigned to the local justice area for the time being so specified or (as the case may be)”;
- (b) for “so specified” (in the second place it occurs) substitute “ specified in the order ”.
- (3) In subsection (3)(b), omit sub-paragraph (ii) (and the word “or” immediately before it).
- (4) After subsection (4) insert—
- “(5) Provision that may be made by an order under subsection (3) includes provision that has effect in relation to a youth rehabilitation order made in respect of an offence (whenever committed) of which an offender is convicted after the order comes into force.”
- 107 (1) Section 5 (responsible officer and offender: duties in relation to the other) is amended as follows.
- (2) In subsection (1), for “has effect” substitute “ is in force ”.
- (3) In subsection (3), for “youth rehabilitation order” substitute “ court order ”.
- 108 (1) Section 7 (youth rehabilitation orders: interpretation) is amended as follows.
- (2) In subsection (1), omit the definitions of—
- (a) “local authority”;
- (b) “local probation board”.

*Status: Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.*

**Changes to legislation:** *There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)*

- (3) After subsection (1) insert—
- “(1A) In this Part, any reference to a local authority in relation to—
- (a) accommodation provided by or on behalf of a local authority (including any reference to a local authority which is to receive a person aged under 18), or
- (b) placing a person aged under 18 with a local authority foster parent, has the same meaning as in the Children Act 1989 (see section 105 of that Act).
- (1B) In this Part, in relation to a youth offending team—
- (a) any reference to a local authority has the same meaning as in Part 3 of the Crime and Disorder Act 1998 (see section 42 of that Act), and
- (b) any reference to the area of that local authority is to be read in accordance with section 42(2) of that Act.”
- (4) In subsection (2)—
- (a) for “the Secretary of State or a local authority”, in the first place it occurs, substitute “ or the Secretary of State ”;
- (b) omit “or a local authority” in the second place it occurs.
- 109 (1) Section 11 (restriction on power to make a community order) is amended as follows.
- (2) In subsection (4)(b), in the paragraph (a) to be substituted in section 151(1) of the Criminal Justice Act 2003, for “16” substitute “ 18 ”.
- (3) In subsection (5), in paragraph (b) of the subsection (1A) to be inserted into section 151 of that Act, for “16” substitute “ 18 ”.
- 110 (1) Schedule 1 (further provision about youth rehabilitation orders) is amended as follows.
- (2) In paragraph 8 (activity requirement: further provisions)—
- (a) in sub-paragraph (3)(a) omit “, an officer of a local probation board”;
- (b) in sub-paragraph (4), for “involve” substitute “ require ”.
- (3) In paragraph 10 (unpaid work requirement), in sub-paragraph (4) omit “, an officer of a local probation board”.
- (4) In paragraph 11 (programme requirement)—
- (a) omit sub-paragraph (3)(a)(ii) (but not the “or” at the end);
- (b) in sub-paragraph (4), for “involve” substitute “ require ”.
- (5) In paragraph 12 (attendance centre requirement), in sub-paragraph (3)(a), omit the “and” at the end of sub-paragraph (ii) and after that sub-paragraph (but not as part of it) insert—
- “(and the notice has not been withdrawn), and”.
- (6) In paragraph 13 (prohibited activity requirement), in sub-paragraph (2) omit paragraph (b) (but not the “or” at the end).
- (7) In paragraph 14 (curfew requirement), in sub-paragraph (4)—
- (a) for “the place” substitute “ each place ”;

**Status:** Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)

- (b) for “in the order” substitute “ under sub-paragraph (1) ”.
- (8) In paragraph 16 (residence requirement), omit sub-paragraph (7)(b).
- (9) In paragraph 18 (fostering requirement), in sub-paragraph (7), at the end insert “ (and the notice has not been withdrawn) ”.
- (10) In paragraph 20 (mental health treatment requirement), in sub-paragraph (2)(a)—
  - (a) omit the words after “Mental Health Act 1983 (c. 20)” in sub-paragraph (iv);
  - (b) after that sub-paragraph (iv) (but not as part of it) insert “ but not in hospital premises where high security psychiatric services (within the meaning of the Mental Health Act 1983) are provided ”.
- (11) In paragraph 22 (drug treatment requirement), in sub-paragraph (4)—
  - (a) in paragraph (a), at the end insert “ (and the notice has not been withdrawn) ”;
  - (b) in paragraph (c), omit “ , an officer of a local probation board”.
- (12) In paragraph 23 (drug testing requirement), in sub-paragraph (3)(a), at the end insert “ (and the notice has not been withdrawn) ”.
- (13) In paragraph 24 (intoxicating substance treatment requirement), in sub-paragraph (4)(b), omit “ , an officer of a local probation board”.
- (14) In paragraph 26 (electronic monitoring requirement), in sub-paragraph (6)(a), omit the “and” at the end of sub-paragraph (ii) and after that sub-paragraph (but not as part of it) insert—
  - “(and the notice has not been withdrawn in relation to any of those areas), and”.
- (15) In paragraph 27 (power to amend limits), at the end insert—
  - “(5) Provision that may be made by an order under this paragraph includes provision that has effect in relation to an offence (whenever committed) of which a person is convicted after the order comes into force.”
- (16) In paragraph 29 (compatibility of requirements, requirement to avoid conflict with religious beliefs, etc)—
  - (a) in sub-paragraph (1) omit—
    - (i) paragraph (b), and
    - (ii) in the words after paragraph (b), “or orders”;
  - (b) in sub-paragraph (3)(c) for “youth rehabilitation order” substitute “ court order ”.
- (17) In paragraph 30 (date of taking effect and other existing orders), in sub-paragraph (1), for “on”, in the first place it occurs, substitute “ at the beginning of”.
- (18) In paragraph 31 (concurrent and consecutive orders)—
  - (a) in sub-paragraph (1)—
    - (i) for “who has been convicted of” substitute “ for ”;
    - (ii) omit “associated”;
  - (b) in sub-paragraph (3), after “(1)” insert “ , (1A) ”.

*Status: Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)*

- (19) In paragraph 32 (date for compliance with requirements to be specified in order), in sub-paragraph (4), for “on” substitute “ at the end of”.
- (20) In paragraph 34 (provision of copies of orders)—
- (a) before sub-paragraph (1) insert—
 

“(A1) This paragraph applies on the making by a court of a youth rehabilitation order.”;
  - (b) in sub-paragraph (1)(c), for “of a local probation board assigned to the court or to” substitute “ who is acting at the court and is ”;
  - (c) in sub-paragraph (2), for paragraphs (a) and (b) substitute “is made by a court, other than a magistrates' court which acts in the local justice area specified in the order”;
  - (d) in sub-paragraph (3)(b), omit “the local probation board acting for that area or (as the case may be)”.
- (21) In paragraph 35 (power to provide for court review of orders), in sub-paragraph (3) omit paragraph (b) (and the word “or” immediately before it).
- (22) In paragraph 36 (order made by Crown Court: direction in relation to further proceedings), in sub-paragraph (1), after “youth rehabilitation order” insert “otherwise than on appeal from a magistrates' court”.
- 111 (1) Schedule 2 (breach, revocation or amendment of youth rehabilitation orders) is amended as follows.
- (2) In paragraph 2 (orders made on appeal), in paragraph (b), omit “the criminal division of”.
  - (3) In paragraph 6 (powers of magistrates' court), in sub-paragraph (2)—
    - (a) in paragraph (b), for “which could have been included in the order when it was made—” substitute “ which, if the court had just convicted the offender of the offence in respect of which the order was made, the court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)— ”;
    - (b) in paragraph (c), for the words after “could” substitute “ deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence). ”
  - (4) In paragraph 7 (power of magistrates' court to refer offender to Crown Court)—
    - (a) in sub-paragraph (1)(b), omit “would (apart from that sub-paragraph) be required, or”;
    - (b) in sub-paragraph (2)(a), for “in” substitute “ to ”.
  - (5) In paragraph 8 (powers of Crown Court), in sub-paragraph (2)—
    - (a) in paragraph (b), for “which could have been included in the order when it was made—” substitute “ which, if the offender had just been convicted on indictment of the offence in respect of which the order was made, the Crown Court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence)— ”;
    - (b) in paragraph (c), for the words after “Crown Court” substitute “, or, if the youth rehabilitation order was made by the Crown Court in circumstances where its powers to deal with the offender for the offence were those

**Status:** Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)

(however expressed) which would have been exercisable by a magistrates' court on convicting the offender of the offence, a magistrates' court, could deal with the offender for that offence if the offender had just been convicted by or before it of the offence (but were the same age as when in fact convicted of the offence)".

- (6) In paragraph 10 (power to amend amounts of fines), for sub-paragraph (4) substitute—

“(4) Provision that may be made by an order under sub-paragraph (1) (a “fine amendment order”) includes provision that has effect in relation to a youth rehabilitation order made in respect of an offence (whenever committed) of which the offender was convicted after the fine amendment order comes into force.”

- (7) In paragraph 11 (revocation of order with or without re-sentencing: powers of appropriate court)—

- (a) in sub-paragraph (2)(b)(ii) for the words after “could” substitute “ deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence) ”;
- (b) in sub-paragraph (6), omit “by the offender”.

- (8) In paragraph 12 (revocation of order with or without re-sentencing: powers of Crown Court)—

- (a) in sub-paragraph (2)(b)(ii), for the words after “could” substitute “ deal with the offender for that offence if the offender had just been convicted before it of the offence (but were the same age as when in fact convicted of the offence) ”;
- (b) after sub-paragraph (2) insert—

“(2A) If the youth rehabilitation order was made—

- (a) by a magistrates' court, or
- (b) by the Crown Court in circumstances where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates' court on convicting the offender of the offence,

the power of the Crown Court under sub-paragraph (2)(b)(ii) is power to deal with the offender in any way in which a magistrates' court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”;

- (c) in sub-paragraph (5) omit “by the offender”.

- (9) In paragraph 13 (amendment by appropriate court), in sub-paragraph (4)(b), for “which could have been included in the order when it was made” substitute “ which, if the court had just convicted the offender of the offence in respect of which the order was made, the court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence) ”.

- (10) In paragraph 14 (amendment by Crown Court), in sub-paragraph (4)(b), for “which could have been included in the order when it was made” substitute “ which, if the offender had just been convicted before it of the offence in respect of which the

*Status: Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)*

order was made, the Crown Court could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence).”

(11) In paragraph 16 (exercise of powers under paragraph 13(4) or 14(4): further provisions)—

- (a) in sub-paragraph (4)(b), for the words after “could” substitute “ deal with the offender for that offence if the offender had just been convicted by or before it of the offence (but were the same age as when in fact convicted of the offence) ”;
- (b) after sub-paragraph (4) insert—

“(4A) Where—

- (a) it falls to the Crown Court to exercise the power in sub-paragraph (4)(b), and
- (b) the Crown Court made the youth rehabilitation order in circumstances where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates' court on convicting the offender of the offence,

the power of the Crown Court under sub-paragraph (4)(b) is power to deal with the offender in any way in which a magistrates' court could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”

(12) In paragraph 17 (extension of unpaid work requirement), in paragraph (b) after “appropriate court” insert “ (within the meaning of paragraph 16A) ”.

(13) In paragraph 18 (powers of magistrates' court following subsequent conviction)—

- (a) in sub-paragraph (4), for the words after “could” substitute “ deal with the offender if the offender had just been convicted by it of that offence (but were the same age as when in fact convicted of the offence) ”;
- (b) in sub-paragraph (9)(a), for “in” substitute “ to ”;
- (c) in sub-paragraph (11)(a), for “in” substitute “ to ”.

(14) In paragraph 19 (powers of Crown Court following subsequent conviction)—

- (a) in sub-paragraph (3), for the words after “could” substitute “ deal with the offender for that offence if the offender had just been convicted before it of that offence (but were the same age as when in fact convicted of that offence) ”;
- (b) after that sub-paragraph insert—

“(3A) If the youth rehabilitation order was made—

- (a) by a magistrates' court, or
- (b) by the Crown Court in circumstances where its powers to deal with the offender for the offence were those (however expressed) which would have been exercisable by a magistrates' court on convicting the offender of the offence,

the power of the Crown Court under sub-paragraph (3) is power to deal with the offender in any way in which a magistrates' court



**Status:** Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)

could deal with the offender if it had just convicted the offender of the offence (but as if the offender were the same age as when in fact convicted).”

(15) In paragraph 20 (appearance of offender before court)—

(a) in sub-paragraph (2)—

(i) for “make an order” substitute “ exercise those powers only to make an order doing one or more of the following ”;

(ii) in paragraph (b), omit “, or reducing the duration of,”;

(iii) after that paragraph insert—

“(ba) replacing a requirement of a youth rehabilitation order with one of a shorter duration;”

(b) after that sub-paragraph insert—

“(3) This paragraph also does not apply where a court proposes to exercise its powers under Part 5 of this Schedule where the offender is before the court.”

(16) In paragraph 21 (warrants)—

(a) in sub-paragraph (2)(b), for “a magistrates' court” substitute “a youth court (or, if the offender is 18 or over, a magistrates' court other than a youth court)”;

(b) in sub-paragraph (9), omit paragraph (b) (and the word “and” immediately before it).

(17) For paragraph 23 (restrictions on imposition of intensive supervision and surveillance or fostering) substitute—

“23 Paragraphs 6(2)(b), 8(2)(b), 13(4)(b) and 14(4)(b) have effect in relation to the imposition of any requirement under any of those paragraphs subject to any provision that applies to the court in making a youth rehabilitation order as if the court were imposing that requirement on making the order.”

(18) In paragraph 24 (provision of copies of orders etc)—

(a) in sub-paragraph (1)—

(i) in the opening words omit “the proper officer of”;

(ii) in paragraph (c)(i), omit “the local probation board acting for that area or (as the case may be)”;

(b) in sub-paragraph (2)—

(i) omit “the proper officer of”;

(ii) for “the officer” substitute “ the court ”;

(c) omit sub-paragraph (3).

(19) In paragraph 25 (power to amend maximum period of fostering requirement)—

(a) the existing paragraph becomes sub-paragraph (1);

(b) after that sub-paragraph insert—

“(2) Provision that may be made by an order under this paragraph includes provision that has effect in relation to an offence (whenever committed) of which an offender is convicted after the order comes into force.”

*Status: Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)*

- 112 (1) Schedule 3 (transfer of youth rehabilitation orders to Northern Ireland) is amended as follows.
- (2) In paragraph 1 (making of youth rehabilitation order where offender resides or will reside in Northern Ireland), in sub-paragraph (5)(a), for the words after “requirement” substitute “ in Northern Ireland ”.
- (3) In paragraph 2 (amendment of youth rehabilitation order where offender resides or proposes to reside in Northern Ireland), in sub-paragraph (5)(a), for the words after “requirement” substitute “ in Northern Ireland ”.
- (4) In paragraph 3 (further provisions regarding the making or amending of youth rehabilitation orders under paragraph 1 or 2), omit paragraph (a).
- (5) In paragraph 4 (further provisions applying where court makes or amends order under Part 1 of Schedule 3)—
- (a) in sub-paragraph (1) (matters to be explained to offender), before paragraph (a) insert—
- “(za) the effect of paragraph 9,”;
- (b) in sub-paragraph (2) (notices), after “must” insert “ forthwith ”.
- (6) In paragraph 5 (modifications to Part 1)—
- (a) in sub-paragraph (2)(d), omit “18(7),” and “fostering requirement,”;
- (b) in sub-paragraph (5), for the words after “have effect as” substitute “ references to the Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.)) ”;
- (c) in sub-paragraph (6A), for “the Education and Library Board specified under that paragraph” substitute “ the Education Authority established under section 1 of the Education Act (Northern Ireland) 2014 (c. 12 (N.I.)) ”.
- (7) In paragraph 8 (interpretation), in the definition of “home court”, for paragraph (a) substitute—
- “(a) a court of summary jurisdiction in Northern Ireland, or”.
- (8) In paragraph 11 (direction by Crown Court in Northern Ireland that proceedings in Northern Ireland be before a court of summary jurisdiction), for the words after “before” substitute “ a court of summary jurisdiction ”.
- (9) In paragraph 12 (powers of the home court in respect of the youth rehabilitation order), in paragraph (c), for “the court which made the order could have specified” substitute “ if the offender had just been convicted by or before it of the offence in respect of which the order was made, a court in England and Wales could include in a youth rehabilitation order in respect of that offence (if the offender were the same age as when in fact convicted of the offence) ”.
- (10) In paragraph 13 (powers of home court in respect of the youth rehabilitation order), in sub-paragraph (2), for “a lay magistrate acting for the petty sessions district for the time being specified in the order” substitute “ a lay magistrate in Northern Ireland ”.
- (11) In paragraph 16 (powers of court in England or Wales before which the offender is required to appear), in sub-paragraph (1), at the beginning insert “ Where the offender resides in Northern Ireland, ”.



**Status:** Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3. (See end of Document for details)

---

- (12) In paragraph 17 (power to amend provisions of Schedule 3 in consequence of changes to the law in Northern Ireland), after sub-paragraph (2) insert—
- “(3) Provision that may be made by an order under this paragraph includes provision that has effect in relation to a court dealing with an offender for an offence (whenever committed) who is convicted after the order comes into force.”
- 113 (1) Schedule 4 (youth rehabilitation orders: consequential amendments) is amended as follows.
- (2) Omit paragraph 54 (which amends section 74 of the Powers of Criminal Courts (Sentencing) Act 2000).
- (3) In paragraph 73 (which amends section 148 of the Criminal Justice Act 2003), at the end insert—
- “(5) In subsection (4), after “151(2)” insert “ and (2B) ”.”

**Status:**

Point in time view as at 08/06/2020. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Sentencing (Pre-consolidation Amendments) Act 2020, PART 3.