SCHEDULES

SCHEDULE 1

Section 40

FURTHER PROVISION ABOUT REMAND UNDER SECTION 40

Introductory

1 This Schedule applies where a court has power to remand a person ("P") under section 40.

Remand in custody or on bail

2 (1) The court may remand P in custody or on bail.

(2) If remanded in custody, P is to be committed to custody to be brought before the court—

(a) at the end of the period of remand, or

(b) at such earlier time as the court may require.

(3) The court may remand P on bail—

(a) by taking from P a recognizance (with or without sureties) conditioned as provided in paragraph 3, or

(b) by fixing the amount of the recognizances with a view to their being taken subsequently in accordance with paragraph 7 and, in the meantime, committing P to custody as mentioned in sub-paragraph (2).

(4) Where P is brought before the court after remand, the court may further remand P.

3 (1) Where P is remanded on bail, the court may direct that P's recognizance be conditioned for P's appearance—

(a) before the court at the end of the period of remand, or

(b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.

(2) Where a recognizance is conditioned for P's appearance as mentioned in sub-paragraph (1)(b), the fixing of a time for P next to appear is to be treated as a remand.

(3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand P afresh.

4 (1) The court may not remand P for a period exceeding eight clear days unless—

(a) the court adjourns proceedings for the purpose mentioned in paragraph 5(1), or

(b) P is remanded on bail and both P and the person who applied for the warrant under section 40 consent.

This is subject to paragraph 6.

(2) Where the court has power to remand P in custody, P may be committed to the custody of a constable if the remand is for a period not exceeding three clear days.

Remand for medical examination and report

5 (1) If the court has reason to suspect that a medical report will be required, the power to remand a person under section 40 may be exercised for the purpose of enabling a medical examination to take place and a report to be made.

(2) If the person is remanded in custody for that purpose, the adjournment may not be for more than 3 weeks at a time.

(3) If the person is remanded on bail for that purpose, the adjournment may not be for more than 4 weeks at a time.

(4) Sub-paragraph (5) applies if there is reason to suspect that a person who has been arrested under a warrant issued on an application made under section 40 is suffering from mental disorder within the meaning of the Mental Health Act 1983.

(5) The court has the same power to make an order under section 35 of that Act (remand to hospital for report on accused's mental condition) as the Crown Court has under that section in the case of an accused person (within the meaning of that section).

Further remand

6 (1) If the court is satisfied that a person ("P") who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the end of the period of remand, the court may further remand P in P's absence.

(2) The power under sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging the person's recognizance and those of any sureties for the person to a later time.

(3) Where a person ("P") remanded on bail is bound to appear before the court at any time and the court has no power to remand P under sub-paragraph (1), the court may (in P's absence) enlarge P's recognizance and those of any sureties for P to a later time.

(4) The enlargement of P's recognizance is to be treated as a further remand.

(5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

Postponement of taking of recognizance

7 Where under paragraph 2(3)(b) the court fixes the amount in which the principal and the sureties, if any, are to be bound, the recognizance may afterwards be taken by a person prescribed by rules of court, with the same consequences as if it had been entered into before the court.

Requirements imposed on remand on bail

8 The court may, when remanding a person on bail in accordance with this Schedule, require the person to comply, before release on bail or later, with any requirements

that appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

SCHEDULE 2

Section 70

STRANGULATION OR SUFFOCATION: CONSEQUENTIAL AMENDMENTS

Police and Criminal Evidence Act 1984

1 In section 65A of the Police and Criminal Evidence Act 1984 (qualifying offences for the purposes of Part 5 of that Act), in subsection (2), after paragraph (r) insert—

"(ra) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Housing Act 1985

2 In Schedule 2A to the Housing Act 1985 (absolute ground for possession for anti-social behaviour: serious offences), after paragraph 14 insert—

"14A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Criminal Justice and Public Order Act 1994

3 In Part 1 of Schedule 7A to the Criminal Justice and Public Order Act 1994 (offences in England and Wales for which cross-border powers of arrest available), for paragraph 24 substitute—

"24 An offence under either of the following provisions of the Serious Crime Act 2015—

(a) section 45 (participating in activities of organised crime group);

(b) section 75A (strangulation or suffocation)."

Crime and Disorder Act 1998

4 (1) Section 29 of the Crime and Disorder Act 1998 (racially or religiously aggravated assaults) is amended as follows.

(2) In subsection (1), after paragraph (b) (but before the "or" following it) insert—

"(ba) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);".

(3) In subsection (2), for "or (b)" substitute ", (b) or (ba)".

Youth Justice and Criminal Evidence Act 1999

5 (1) Schedule 1A to the Youth Justice and Criminal Evidence Act 1999 (proceedings in which witnesses are automatically eligible for assistance on grounds of fear or distress about testifying) is amended as follows.

(2) After paragraph 29 insert—

"Serious Crime Act 2015

29A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation) in a case where it is alleged that—

(a) the accused was carrying a firearm or knife at any time during the commission of the offence, and

(b) a person other than the accused knew or believed at any time during the commission of the offence that the accused was carrying a firearm or knife."

(3) In paragraph 30, after "paragraphs 1 to 8" insert "and 29A".

Sexual Offences Act 2003

6 In Schedule 5 to the Sexual Offences Act 2003 (cases where sexual harm prevention orders may be made), after paragraph 63B insert—

"63C An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Criminal Justice Act 2003

7 In Part 1 of Schedule 15 to the Criminal Justice Act 2003 (violent offences specified for purposes of certain custodial sentences), before paragraph 63G insert—

"63FA An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Domestic Violence, Crime and Victims Act 2004

8 In section 6A of the Domestic Violence, Crime and Victims Act 2004 (evidence and procedure in cases of serious physical harm: England and Wales), in subsection (2), at the end insert—

"(c) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Children Act 2004

9 In section 58 of the Children Act 2004 (reasonable punishment: England), in subsection (2), after paragraph (c) insert—

"(d) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Criminal Justice and Immigration Act 2008

10 In section 98 of the Criminal Justice and Immigration Act 2008 (violent offender orders), in subsection (3), after paragraph (d) insert—

"(da) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);".

Modern Slavery Act 2015

11 In Schedule 4 to the Modern Slavery Act 2015 (offences to which defence for slavery or trafficking victims under section 45 of that Act does not apply), after paragraph 35 insert—

"Serious Crime Act 2015

35A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

Sentencing Act 2020

12 (1) The Sentencing Act 2020 is amended as follows.

(2) In section 67 (assaults on emergency workers), in subsection (3), after paragraph (a) insert—

"(aa) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);".

(3) In Part 1 of Schedule 18 (violent offences for which extended sentence of imprisonment available), after paragraph 25 insert—

"Serious Crime Act 2015

25A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation)."

SCHEDULE 3

Section 74

AMENDMENTS RELATING TO OFFENCES COMMITTED OUTSIDE THE UK

PART 1

ENGLAND AND WALES

Protection from Harassment Act 1997

1 In the Protection from Harassment Act 1997, after section 4A insert—

"**4B Offences under sections 4 and 4A committed outside the United Kingdom**

(1) If—

(a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,

(b) the course of conduct would constitute an offence under section 4 or 4A if it occurred in England and Wales, and

(c) the person is a United Kingdom national or is habitually resident in England and Wales,

the person is guilty in England and Wales of that offence.

(2) In this section—

"country" includes territory;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

Sexual Offences Act 2003

2 (1) The Sexual Offences Act 2003 is amended as follows.

(2) In section 72 (offences outside the United Kingdom)—

(a) in subsections (1)(b) and (2)(c), for "section" substitute "subsection";

(b) in subsection (3)(c), for "section" substitute "subsection";

(c) in subsection (10), for "this section applies" substitute "subsections (1) to (3) apply".

(3) In Schedule 2 (sexual offences to which section 72 applies)—

(a) in the heading, for "section 72" substitute "section 72(1) to (3)";

(b) in paragraph 1, in the opening words, for "section 72 applies" substitute "subsections (1), (2) and (3) of section 72 apply";

(c) after paragraph 1 insert—

"1A In relation to England and Wales, subsections (1) and (2) of section 72 also apply to an offence under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.";

(d) in paragraph 3, after "paragraph 1" insert "or 1A".

Serious Crime Act 2015

3 In the Serious Crime Act 2015, after section 76 (controlling or coercive behaviour in an intimate or family relationship) insert—

"**76A Offences under section 76 committed outside the United Kingdom**

(1) If—

(a) a person's behaviour consists of or includes behaviour in a country outside the United Kingdom,

(b) the behaviour would constitute an offence under section 76 if it occurred in England and Wales, and

(c) the person is a United Kingdom national or is habitually resident in England and Wales,

the person is guilty in England and Wales of that offence.

(2) In this section—

"country" includes territory;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

PART 2

SCOTLAND

Criminal Procedure (Scotland) Act 1995

4 (1) Section 11 of the Criminal Procedure (Scotland) Act 1995 (certain offences committed outside Scotland) is amended as follows.

(2) In subsections (1) and (2), for "British citizen or British subject" substitute "relevant person".

(3) After subsection (2) insert—

"(2A) Any relevant person who in a country outside the United Kingdom does any act which—

(a) constitutes an offence under the law in force in that country, and

(b) if done in Scotland would constitute the crime of assault,

is guilty of the same crime and subject to the same punishment as if the act had been done in Scotland.

(2B) For the purposes of subsection (2A)(a), an act punishable under the law in force in the country is an offence under that law however it is described in that law.

(2C) The condition specified in subsection (2A)(a) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice—

(a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,

(b) setting out the grounds for the accused's opinion, and

(c) requiring the prosecutor to prove that the condition is satisfied.

(2D) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (2C).

(2E) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.

(2F) For the purposes of subsections (1) to (2B)—

"country" includes territory;

"relevant person" means a person who is a United Kingdom national or is habitually resident in Scotland;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
(b) a person who under the British Nationality Act 1981 is a British subject, or
(c) a British protected person within the meaning of that Act."

Sexual Offences (Scotland) Act 2009 (asp 9)

5 (1) The Sexual Offences (Scotland) Act 2009 is amended as follows.

(2) After section 54C insert—

"**54D Offences committed outside the United Kingdom: adult victims**

(1) If—
(a) a person who is a UK national does an act in a country outside the United Kingdom, and
(b) the act, if done in Scotland, would constitute an offence to which this subsection applies,
then the person commits that offence.

(2) If—
(a) a person who is habitually resident in Scotland does an act in a country outside the United Kingdom,
(b) the act constitutes an offence under the law in force in that country, and
(c) the act, if done in Scotland, would constitute an offence to which this subsection applies,
then the person commits that offence.

(3) The offences to which subsections (1) and (2) apply are offences under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.

(4) For the purposes of subsection (2)(b), an act punishable under the law in force in the country is an offence under that law however it is described in that law.

(5) The condition specified in subsection (2)(b) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice—
(a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
(b) setting out the grounds for the accused's opinion, and
(c) requiring the prosecutor to prove that the condition is satisfied.

(6) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (5).

(7) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.

(8) A person may be prosecuted, tried and punished for an offence by virtue of this section—

(a) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or

(b) in such sheriff court district as the Lord Advocate may determine,

as if the offence had been committed in that district; and the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed in that district.

(9) In this section—

"country" includes territory;

"sheriff court district" is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);

"UK national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

(3) In the heading of section 55, at the end insert ": child victims".

(4) For the heading of section 56 substitute "Section 55: continuity of law".

Criminal Justice and Licensing (Scotland) Act 2010 (asp 13)

6 In the Criminal Justice and Licensing (Scotland) Act 2010, after section 39 insert—

"**39A Offence of stalking committed outside the United Kingdom**

(1) If—

(a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,

(b) the course of conduct would constitute the offence of stalking if it occurred in Scotland, and

(c) the person is a United Kingdom national or is habitually resident in Scotland,

then the person commits that offence.

(2) If a person's course of conduct consists entirely of conduct in a country outside the United Kingdom—

(a) the person may be prosecuted, tried and punished for an offence of stalking by virtue of this section—

(i) in any sheriff court district in Scotland in which the person is apprehended or is in custody, or

(ii) in such sheriff court district as the Lord Advocate may determine,

as if the offence had been committed entirely in that district, and

(b) the offence is, for all purposes incidental to or consequential on trial or punishment, to be deemed to have been committed entirely in that district.

(3) In this section—

"country" includes territory;

"sheriff court district" is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation);

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

PART 3

NORTHERN IRELAND

Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9))

7 In the Protection from Harassment (Northern Ireland) Order 1997, after Article 6 insert—

Offences under Article 6 committed outside the United Kingdom

"6A (1) If—

(a) a person's course of conduct consists of or includes conduct in a country outside the United Kingdom,

(b) the course of conduct would constitute an offence under Article 6 if it occurred in Northern Ireland, and

(c) the person is a United Kingdom national or is resident in Northern Ireland,

the person is guilty in Northern Ireland of that offence.

(2) In this Article—

"country" includes territory;

"United Kingdom national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981 is a British subject, or

(c) a British protected person within the meaning of that Act."

Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))

8 In Article 76 of the Sexual Offences (Northern Ireland) Order 2008 (offences outside the United Kingdom)—

(a) in paragraphs (1)(b) and (2)(c), for "Article" substitute "paragraph";

(b) in paragraph (3)(c), for "Article" substitute "paragraph";

(c) in paragraph (10), for "this Article applies" substitute "paragraphs (1), (2) and (3) apply";

(d) after paragraph (10) insert—

"(10A) Paragraphs (1) and (2) also apply to an offence under any provision of Part 2 where the victim of the offence was 18 or over at the time of the offence.";

(e) in paragraphs (11) and (12), after "paragraph (10)" insert "or (10A)".