

## SCHEDULES

### SCHEDULE 17

#### TRANSITIONAL PROVISIONS

##### *Young offenders*

- 1 (1) Where an offender has before the commencement of sections 1 to 15 above been committed for sentence to the Crown Court under section 37 of the Magistrates' Courts Act 1980 but has not been dealt with by the Crown Court before the commencement of those sections, he shall be deemed to have been committed for sentence under section 37 of that Act as amended by this Act.
- (2) A court to which it falls to determine for the purposes of any enactment how a previous court could or might have dealt with an offender, shall if the offender is under 21 years of age make that determination as if sections 1 to 15 above had been in force when the offender was dealt with by the previous court and the powers conferred by them had accordingly been available to that court when dealing with him instead of the powers which were in fact available to it.
- 2 (1) Subject to sub-paragraph (2) below, an order for detention in a detention centre for a term which has not expired at the commencement of sections 1 to 15 above shall be treated for all purposes of detention, release and supervision as if it had been made under section 4 above.
- (2) Where an order for detention of an offender in a detention centre was made before the commencement of sections 1 to 15 above and the term for which he was ordered to be so detained has not expired at the commencement of those sections, nothing in sub-paragraph (1) above shall prevent his detention in such a centre after that date.
- 3 (1) Subject to sub-paragraph (2) below, where at the commencement of sections 1 to 15 above an offender is detained in a detention centre by reason of his having been recalled under paragraph 2 of Schedule 1 to the Criminal Justice Act 1961 (recall for breach of supervision requirement), he shall be treated as if the order recalling him had been a detention centre order made on the same date for 30 days or, if the maximum period for which he was liable to recall was less than 30 days, for that period.
- (2) If at the commencement of sections 1 to 15 above an offender has been in custody by virtue of an order under the said paragraph 2 for 30 days or more, he shall be released on the commencement of those sections.
- (3) Nothing in this paragraph shall render an offender liable to a period of supervision on release from a detention centre additional to any such period to which he is liable by virtue of paragraph 1 of Schedule 1 to the Criminal Justice Act 1961 immediately before the commencement of sections 1 to 15 above.
- 4 An offender who was sentenced to Borstal training on a date before the commencement of sections 1 to 15 above and whose sentence has not expired at the commencement of those sections shall be treated for all purposes of detention,

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- release and supervision as if his sentence had been a youth custody sentence for a term of 12 months.
- 5 (1) A custodial order to which this sub-paragraph applies shall be treated as a youth custody sentence for all purposes of detention, release and supervision of the offender in respect of whom it was made.
- (2) Sub-paragraph (1) above applies to a custodial order specifying a maximum period of detention which has not expired at the commencement of sections 1 to 15 above—
- (a) if the maximum period of detention which it specifies is more than 4 months ;
  - or
  - (b) if—
    - (i) the maximum period is 4 months or less ; and
    - (ii) the offender is female.
- (3) A custodial order to which this sub-paragraph applies shall be treated as a detention centre order for all purposes of detention, release and supervision of the offender.
- (4) Sub-paragraph (3) above applies to a custodial order made in respect of a male offender and specifying a maximum period of detention of 4 months or less which has not expired at the commencement of sections 1 to 15 above.
- (5) In this paragraph " custodial order " means an order—
- (a) under section 71AA of the Army Act 1955, section 71AA of the Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957 ; or
  - (b) under paragraph 10 of Schedule 5A to the Army Act 1955, Schedule 5A to the Air Force Act 1955 or Schedule 4A to the Naval Discipline Act 1957.
- 6 (1) Subject to sub-paragraph (3) below, where at the commencement of sections 1 to 15 above an offender is detained in a borstal institution by reason of his having been recalled under section 45(4) of the Prison Act 1952 (recall for breach of supervision requirement) he shall be treated as if the order recalling him had been a sentence of youth custody for a term of thirty days commencing from the date on which he was taken into custody.
- (2) Subject to sub-paragraph (3) below, where at the commencement of sections 1 to 15 above an offender is detained in a borstal institution by reason of his having been returned to such an institution under section 12 of the Criminal Justice Act 1961 (return to borstal institution on re-conviction), he shall be treated as if the order returning him to the institution had been an order made on the same date sentencing him to youth custody for a term of thirty days.
- (3) If at the commencement of sections 1 to 15 above an offender has been in custody by virtue of an order referred to in sub-paragraph (1) or (2) above for thirty days or more, he shall be released on the commencement of those sections.
- (4) Nothing in this paragraph shall render an offender who is released after being detained by virtue of an order referred to in sub-paragraph (1) or (2) above liable to a period of supervision additional to any such period to which he was liable by virtue of section 45 of the Prison Act 1952 immediately before the commencement of sections 1 to 15 above.
- 7 (1) This paragraph applies to any offender who at the commencement of sections 1 to 15 above is serving a sentence of imprisonment which was passed on him when he was under 21 years of age.

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- (2) The Secretary of State may from time to time direct that an offender to whom this paragraph applies is to be detained—
- (a) in a youth custody centre ; or
  - (b) in a remand centre.
- (3) An offender to whom this paragraph applies shall be treated for the purposes of release and supervision as if he had been sentenced on the date when the sentence of imprisonment was imposed to an equal term of youth custody.
- 8       Where at the commencement of sections 1 to 15 above an offender is serving a sentence of life imprisonment which was passed on him while he was under 21 years of age, he shall be treated for all purposes as if he had been sentenced to custody for life on the date when the sentence of life imprisonment was imposed.
- 9       Rules under section 47 of the Prison Act 1952 may provide that any awards for an offence against discipline made before the commencement of sections 1 to 15 above shall continue to have effect, subject to such modifications as the Secretary of State may consider appropriate in relation to any particular description of award.
- 10   (1) Where under section 23(1)(a) or (b) of the Powers of Criminal Courts Act 1973 a court orders that a suspended sentence shall take effect and the offender has not attained the age of 21 at the time when the order is made, the order shall be treated for all purposes as a detention centre order or a youth custody sentence.
- (2) The question whether an order under sub-paragraph (1) above is to be treated as a detention centre order or a youth custody sentence shall be determined—
- (a) by reference to the length of the term which the offender is required to serve under that order; or
  - (b) where the offender is subject to any other term with which that term is wholly or partly concurrent or upon which that term is ordered under section 23(2) of the Powers of Criminal Courts Act 1973 to run consecutively, by reference to the total length of the term which he is required to serve.
- (3) Sections 1 to 15 above shall have effect for the purposes of this paragraph as they have effect when an offender falls to be sentenced for an offence.
- 11   A person who immediately before the commencement of sections 1 to 15 above is under supervision by virtue of paragraph 1 of Schedule 1 to the Criminal Justice Act 1961 (supervision of a person released from a detention centre) shall be treated—
- (a) as if he were under supervision by virtue of section 15 above ; and
  - (b) as if the requirements specified in the notice given to him under that paragraph had been specified in a notice given under subsection (10) of that section ;
- and the supervision period for the purposes of that section shall end at the end of the period of three months from his release or on the commencement of sections 1 to 15 above, whichever is the later.
- 12   A person who immediately before the commencement of sections 1 to 15 above is subject to supervision by virtue of section 45 of the Prison Act 1952 (supervision of a person released from a Borstal institution) shall be treated—
- (a) as if he were under supervision by virtue of section 15 above ; and
  - (b) as if the requirements specified in the notice given to him under section 45(3) of the Prison Act 1952 had been specified in a notice given under section 15(10) above;

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and the supervision period for the purposes of that section shall end at the end of the period of twelve months from the date he was sentenced to borstal training or on the commencement of sections 1 to 15 above, whichever is the later.

13 A person who immediately before the commencement of sections 1 to 15 above is subject to a licence under section 60(3)(b) of the Criminal Justice Act 1967 (release on licence of a person serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed) or is subject to supervision by virtue of section 63(1) of that Act (supervision of a person released from prison after serving a sentence of imprisonment for a term of less than 18 months who was under the age of 21 when the sentence was passed) shall be treated—

- (a) as if he were under supervision by virtue of section 15 above ; and
- (b) as if the conditions specified in the licence or, as the case may be, the requirements specified in the notice given to him under paragraph 1 of Schedule 1 to the Criminal Justice Act 1961, had been specified in a notice given under section 15(10) above.

14 (1) Where—

- (a) a person has been released from prison, a Borstal institution or a detention centre before the commencement of sections 1 to 15 above ; and
- (b) he is subject to supervision or to a licence, by virtue of any of the enactments specified in sub-paragraph (2) below; and
- (c) the Secretary of State has recalled him by virtue of any of the enactments specified in sub-paragraph (3) below but he is not yet in custody in consequence of his recall at the commencement of sections 1 to 15 above.

he shall be detained—

- (i) in a prison or a youth custody centre as the Secretary of State may direct, if he was recalled to prison ;
- (ii) in a youth custody centre, if he was recalled to a Borstal institution ; and
- (iii) in a detention centre, if he was recalled to such a centre,

for a period of 30 days or for the maximum period for which he was liable to be recalled, whichever is the shorter.

(2) The enactments referred to in sub-paragraph (1)(6) above are—

- (a) section 45(1) of the Prison Act 1952 (supervision of a person released from a Borstal institution);
- (b) paragraph 1 of Schedule 1 to the Criminal Justice Act 1961 (supervision of a person released from a detention centre);
- (c) section 60(3)(b) of the Criminal Justice Act 1967 (release on licence of a person serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed); and
- (d) section 63 of that Act (supervision of a person serving a sentence of imprisonment for a term of less than 18 months who was under the age of 21 when the sentence was passed).

(3) The enactments referred to in sub-paragraph (1)(c) above are—

- (a) section 45(4) of the Prison Act 1952 (recall of persons supervised under that section);

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- (b) paragraph 2 of Schedule 1 to the Criminal Justice Act 1961 (recall of persons released under that Schedule and under section 63 of the Criminal Justice Act 1967); and
    - (c) section 62(1) of the Criminal Justice Act 1967 (recall of persons released under section 60 or 61 of that Act).
  - (4) Detention under sub-paragraph (1) above does not prejudice the continuation of the supervision period to which a person is subject by virtue of paragraph 11, 12 or 13 above.
- 15      Until the commencement of sections 1 to 15 above, if a person—
- (a) is serving a sentence of imprisonment for a term of 18 months or more who was under the age of 21 when the sentence was passed ; and
  - (b) is to be released from prison in pursuance of an order under section 32 above,
- his release shall be a release on licence under section 60 of the Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.