

## SCHEDULE 2

Article 2(3)

### Transitional and Saving Provisions

#### Restrictions on imposing community order

1. The coming into force of section 11(1) of the 2008 Act is of no effect in relation to any person who is sentenced to a community order within the meaning of section 177(1) of the 2003 Act before 14 July 2008.

#### Dangerous offenders

2. The coming into force of sections 13 to 18 and 25 of, Schedule 5 and paragraph 71 of Schedule 26 to, the 2008 Act (and the related entries in Schedule 28 (Repeals) to that Act) is of no effect in relation to any person sentenced under any of sections 225(2), 226(3), 227(4) or 228(5) of the 2003 Act before 14 July 2008.

#### Recall

3. The coming into force of sections 29 and 30 of the 2008 Act is of no effect in relation to any person who is recalled under section 254(1) of the 2003 Act before 14 July 2008.

#### Appeals in criminal cases

4.—(1) The amendments made by paragraph 6 of Schedule 8 to the 2008 Act (Powers of Court to substitute different sentence) and the related entry in Schedule 28 to that Act apply in relation to an appeal under Part 1 of the 1968 Act if the proceedings on appeal begin on or after 14 July 2008.

(2) For the purposes of this paragraph, the proceedings on appeal begin—

- (a) if the Criminal Cases Review Commission refer the case to the Court of Appeal under Part 2 of the Criminal Appeal Act 1995(6), on the date the reference is made;
- (b) in any other case, on the date the notice of appeal or, as the case may be, notice of application for leave to appeal, is served on the Crown Court officer.

(3) In this paragraph, the reference to service on the Crown Court officer is to be read in accordance with the Criminal Procedure Rules 2005(7).

5. The amendments made by paragraphs 7 to 9 of Schedule 8 to the 2008 Act (Interim hospital orders) and the related entries in Schedule 28 to that Act apply in relation to an interim hospital order made by the Court of Appeal under Part 1 of the 1968 Act on or after 14 July 2008.

6. The amendment made by paragraph 12 of Schedule 8 to the 2008 Act (Appeals against procedural directions) and the related entry in Schedule 28 to that Act apply in relation to a procedural direction given by a single judge under Part 1 of the 1968 Act on or after 14 July 2008 or, as the case may be, to a refusal by a single judge on or after that date to give such a procedural direction.

7. The amendments made by paragraph 13 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal to Supreme Court) apply where an appeal lies to the Supreme Court under Part 2

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(1) Section 177 was commenced for certain purposes by [S.I. 2005/950](#) as amended by [S.I. 2007/391](#).

(2) Section 225 has been modified by [S.I. 2005/643](#) and is amended by section 13 of the 2008 Act.

(3) Section 226 is amended by section 14 of the 2008 Act.

(4) Section 227 has been modified by [S.I. 2005/643](#) and is amended by section 15 of the 2008 Act.

(5) Section 228 is amended by section 16 of the 2008 Act.

(6) [1995 c.35](#)

(7) [S.I. 2005/384](#); relevant amending instruments are [S.I. 2007/699](#) and [2007/2317](#).

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of the 1968 Act if the date of the decision of the Court of Appeal from which the appeal lies is on or after 14 July 2008.

**8.—(1)** The amendments made by paragraph 18 of Schedule 8 to the 2008 Act (Powers of court to substitute different sentence) apply in relation to an appeal under Part 1 of the 1980 Act if the proceedings on appeal begin on or after 14 July 2008.

(2) For the purposes of this paragraph, the proceedings on appeal begin—

- (a) if the appellant appeals with leave of the Court of Appeal, on the date the application for leave is served on the proper officer,
- (b) if leave to appeal is not required, on the date the notice of appeal is served on the proper officer,
- (c) if the judge of the court of trial grants a certificate that the case is fit for appeal—
  - (i) on the date the application for the certificate is made to the court of trial or lodged with the proper officer, or
  - (ii) in a case where a certificate is granted without any application being made, on the date the certificate is granted, or
- (d) if the Criminal Cases Review Commission refer the case to the Court of Appeal under Part 2 of the Criminal Appeal Act 1995, on the date the reference is made.

(3) In this paragraph, “proper officer” has the same meaning as in the Criminal Appeal (Northern Ireland) Rules 1968<sup>(8)</sup>.

**9.** The amendments made by paragraphs 19 to 21 of Schedule 8 to the 2008 Act (Interim hospital orders) and the related entry in Schedule 28 to that Act apply in relation to an interim hospital order made by the Court of Appeal on or after 14 July 2008.

**10.** The amendments made by paragraph 24 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal to Supreme Court) apply where an appeal lies to the Supreme Court under Part 2 of the 1980 Act if the date of the decision of the Court of Appeal from which the appeal lies is on or after 14 July 2008.

**11.** The amendments made by paragraph 26 of Schedule 8 to the 2008 Act (Detention of defendant pending appeal from High Court to Supreme Court) apply where an appeal lies to the Supreme Court under section 1 of the Administration of Justice Act 1960<sup>(9)</sup> if the date of the decision of the court below from which the appeal lies is on or after 14 July 2008.

**12.** The amendments made by paragraph 27 of Schedule 8 to the 2008 Act (Variation of sentences by Crown Court) and the related entries in Schedule 28 to that Act apply in relation to a sentence imposed, or other order made, by the Crown Court on or after 14 July 2008.

**13.** The amendments made by paragraph 28 of Schedule 8 to the 2008 Act (Variation of sentences by Crown Court) and the related entry in Schedule 28 to that Act apply in relation to a sentence imposed, or other order made, by the Crown Court on or after 14 July 2008.

**14.** References to the Supreme Court in paragraphs 7, 10 and 11 of this Schedule are to be read as references to the House of Lords until the coming into force of the following provisions of Schedule 9 to the Constitutional Reform Act 2005<sup>(10)</sup>, namely—

- (a) as regards paragraph 7, of paragraph 16(6) of that Schedule,

<sup>(8)</sup> S.R. & O. (N.I.) 1968/218

<sup>(9)</sup> 1960 c.65. Section 1 was repealed as it applies to Northern Ireland by Schedule 7 to the Judicature (Northern Ireland) Act 1978. Section 1 was amended by Schedule 7 to the 1968 Act and by section 63(1) of the Access to Justice Act 1999. Section 1 will be further amended and repealed in part by section 40(4) of, paragraph 13(1) and (2) of Schedule 9 to, and Schedule 18 to the Constitutional Reform Act 2005 (c.4), from a date to be appointed.

<sup>(10)</sup> 2005 c.4

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- (b) as regards paragraph 10, of paragraph 33(6) of that Schedule, and
- (c) as regards paragraph 11, of paragraph 13(5) of that Schedule.