
DRAFT STATUTORY INSTRUMENT

2023 No.

CRIMINAL LAW, ENGLAND AND WALES

SENTENCING

**The Sentencing Act 2020 (Amendment of Schedule 21)
Regulations 2023**

Made - - - - - ***

Coming into force ***

The Lord Chancellor makes these Regulations in exercise of the powers conferred by paragraph 19(1) of Schedule 23 to the Sentencing Act 2020(a) (“the Act”).

The Lord Chancellor has consulted with the Sentencing Council in accordance with paragraph 19(2) of Schedule 23 to the Act.

In accordance with section 407(7) of the Act and paragraph 19(4) of Schedule 23 to the Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1. These Regulations may be cited as the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 and come into force on [***].
2. These Regulations extend to England and Wales.
3. In these Regulations, “the Act” means the Sentencing Act 2020(b).

Aggravating factors

4. In paragraph 9 of Schedule 21 to the Act (determination of minimum term in relation to mandatory life sentence for murder etc)—

(a) after paragraph (b), insert—

“(ba) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact that the offender had repeatedly or continuously engaged in behaviour towards the

(a) 2020 c. 17
(b) 2020 c. 17

victim that was controlling or coercive and, at the time of the behaviour, the offender and the victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015(a);”;

(b) in paragraph (f), omit “and”; and

(c) after paragraph (f), insert—

“(fa) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the use of violence significantly greater than that which was necessary to cause death, and”.

Mitigating factors

5. In paragraph 10 of Schedule 21 to the Act (determination of minimum term in relation to mandatory life sentence for murder etc), after paragraph (c) insert—

“(ca) where the offence was committed on or after the day on which the Sentencing Act 2020 (Amendment of Schedule 21) Regulations 2023 came into force, the fact that the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the victim and the offender were personally connected within the meaning of section 76 of the Serious Crime Act 2015(b);”.

Date

Lord Chancellor
Ministry of Justice

(a) 2015 c. 9 (as amended by section 68 of the Domestic Abuse Act 2021 (c. 17))
(b) 2015 c. 9 (as amended by section 68 of the Domestic Abuse Act 2021 (c. 17))

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend paragraphs 9 and 10 of Schedule 21 to the Sentencing Act 2020. They create two additional statutory aggravating factors, and one additional statutory mitigating factor, in the determination of the minimum term in relation to mandatory life sentences for murder. The new aggravating factors apply where: (1) the offender had repeatedly or continuously engaged in behaviour towards the victim that was controlling or coercive and, at the time of the behaviour, the offender and victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015; and (2) the offender used violence significantly greater than that which was necessary to cause death (sometimes referred to as “overkill”). The new mitigating factor applies where the victim had repeatedly or continuously engaged in behaviour towards the offender that was controlling or coercive and, at the time of the behaviour, the offender and victim were personally connected within the meaning of section 76 of the Serious Crime Act 2015. These new statutory aggravating factors and this new statutory mitigating factor only apply to offences committed on or after the day on which these Regulations come into force.

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