Draft Order laid before Parliament under section 330(5) of the Criminal Justice Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice Act 2003 (Mandatory Life Sentence: Determination of Minimum Term) Order 2009

Made - - - -	***
Coming into force - -	***

The Secretary of State, in exercise of the powers conferred by sections 269(6) and 330(4)(b) of the Criminal Justice Act 2003(**a**), and having consulted the Sentencing Guidelines Council in accordance with section 269(7) of that Act, makes the following Order.

A draft of this Order was laid before Parliament in accordance with section 330(5) of the Criminal Justice Act 2003 and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Criminal Justice Act 2003 (Mandatory Life Sentence: Determination of Minimum Term) Order 2009 and shall come into force at the end of the period of one month beginning with the date on which it is made.

Amendment of Schedule 21 to the Criminal Justice Act 2003

2.—(1) Schedule 21 (determination of minimum term in relation to mandatory life sentence) to the Criminal Justice Act 2003(**b**) is amended as follows.

(2) After paragraph 5, insert—

"**5A.**—(1) If—

(a) the case does not fall within paragraph 4(1) or 5(1),

(b) the offence falls within sub-paragraph (2), and

(c) the offender was aged 18 or over when the offender committed the offence,

the offence is normally to be regarded as sufficiently serious for the appropriate starting point, in determining the minimum term, to be 25 years.

(**a**) 2003 c.44

(**b**) Schedule 21 has been amended by section 75 of the Counter-Terrorism Act 2008 (c.28) and paragraph 236 of Schedule 16 to the Armed Forces Act 2006 (c. 52).

(2) The offence falls within this sub-paragraph if the offender took a knife or other weapon to the scene intending to—

(a) commit any offence, or

(b) have it available to use as a weapon,

and used that knife or other weapon in committing the murder."

(3) In paragraph 6, for "within paragraph 4(1) or 5(1)" substitute "within paragraph 4(1), 5(1) or 5A(1)".

(4) In paragraph 10, for "and 5(2)" substitute ", 5(2) and 5A(2)".

Transitional provision

3. The amendments made by article 2 do not apply in relation to a life sentence imposed for an offence of murder committed before the day on which this Order comes into force.

Signed by the authority of the Secretary of State

Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 21 to the Criminal Justice Act 2003 (c.44) (minimum terms for mandatory life sentence) to create a new starting point for courts when considering the minimum term to impose on an offender who is convicted of murder using a knife or other weapon.

Where an offender aged 18 or over takes a knife or other weapon to the scene of the crime with the intention of using it to commit any offence or to use it as a weapon and does use it in committing the murder, the offence will normally attract a starting point of 25 years when a court is considering the appropriate minimum term.

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