

19.4a *Law changes between conviction and sentence*

R v Docherty 2014 EWCA Crim 1197 D pleaded to wounding with intent when IPP was in force. He was sentenced to IPP after the law had been repealed. This applied the relevant commencement order which made the conviction the determining date. The defence argued that Articles 5 and 14 and the international norm of '*lex mitior*' (if the law relevant to the offence of the accused has been amended, the less severe law should be applied), meant the Judge should have imposed a 2003 extended sentence. The defence also said that it was arbitrary as if he had pleaded not guilty he would not have been liable to IPP. Held. IPP was clearly suited to this case. Reliance on Article 14 failed because a prisoner did not amount to 'other status' in the article, *R (Clift) v Secretary of State for Home Dept* 2006 UKHL 64. The method of introducing the legislation was legitimate. If *lex mitior* applied in the UK, it didn't apply here as both before and after the date of legislative change a life sentence was available and it was a real possibility that D would have received a life sentence. The sentence was lawful.

19.6 *Date(s) for the offence straddles the date the penalty was increased*

See also: *R v Johnson* 2014 EWCA Crim 1442 (Child cruelty case. Indictment dates for sample offences, 1982-1998, 1983-1999 and 1984-2000. Maximum increased in 1988. Because of the way the case was left to the jury old maximum applied.)