

*Status: Point in time view as at 08/02/2000.*

**Changes to legislation:** Crime and Disorder Act 1998, Cross Heading: Criminal Justice Act 1982 (c.48) is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 7

#### PRE-CONSOLIDATION AMENDMENTS: POWERS OF CRIMINAL COURTS

##### Commencement Information

- II** Sch. 7 wholly in force; Sch. 7 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### *Criminal Justice Act 1982 (c.48)*

- 33 In section 3(1) of the 1982 Act (restriction on imposing custodial sentences on persons under 21 not legally represented)—
- (a) in paragraph (a), the words “under section 1A above” shall cease to have effect;
  - (b) in paragraph (c), for the words “section 8(2)” there shall be substituted the words “ section 8(1) or (2) ”; and
  - (c) in paragraph (d), for the words “section 53(2)” there shall be substituted the words “ section 53(1) or (3) ”.
- 34 (1) In subsection (3) of section 13 of the 1982 Act (conversion of sentence of detention in a young offender institution to sentence of imprisonment), for the words “section 15 below” there shall be substituted the words “ section 65 of the <sup>M1</sup>Criminal Justice Act 1991 (supervision of young offenders after release) ”.
- (2) In subsection (6) of that section, for the words “section 8(2)” there shall be substituted the words “ section 8(1) or (2) ”.

##### Marginal Citations

- M1** 1991 c.53.

- 35 In subsection (2) of section 16 of the 1982 Act (meaning of “attendance centre”), for the words from “of orders made” to the end there shall be substituted the words “ of orders made under section 17 below. ”
- 36 (1) In subsection (1) of section 17 of the 1982 Act (attendance centre orders), for the words “Subject to subsections (3) and (4) below,” there shall be substituted the words “ Where a person under 21 years of age is convicted by or before a court of an

*Status: Point in time view as at 08/02/2000.*

**Changes to legislation:** *Crime and Disorder Act 1998, Cross Heading: Criminal Justice Act 1982 (c.48) is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

offence punishable with imprisonment (not being an offence the sentence for which is fixed by law or falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M2</sup>Crime (Sentences) Act 1997), or”.

(2) In that subsection, for paragraph (a) there shall be substituted the following paragraph—

“(a) would have power, but for section 1 above, to commit a person under 21 years of age to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone, or”.

(3) In that subsection, in paragraph (b), for the words “any such person” there shall be substituted the words “ a person under 21 years of age ” and after that paragraph there shall be inserted the following paragraph—

“(bb) has power to deal with a person under 16 years of age under that Part of that Schedule for failure to comply with any of the requirements of a curfew order, or”.

(4) After that subsection there shall be inserted the following subsection—

“(1A) For the purposes of subsection (1) above—

- (a) the reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders; and
- (b) a sentence falls to be imposed under section 2(2), 3(2) or 4(2) of the <sup>M3</sup>Crime (Sentences) Act 1997 if it is required by that provision and the court is not of the opinion there mentioned.”

(5) For subsection (8) of that section there shall be substituted the following subsection—

“(8) The times at which an offender is required to attend at an attendance centre shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the <sup>M4</sup>Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

#### Marginal Citations

**M2** 1997 c.43.

**M3** 1997 c.43.

**M4** 1991 c.53.

37 (1) In section 18 of the 1982 Act (discharge and variation of attendance centre orders), for subsection (4A) there shall be substituted the following subsections—

“(4A) Any power conferred by this section—

*Status: Point in time view as at 08/02/2000.*

**Changes to legislation:** *Crime and Disorder Act 1998, Cross Heading: Criminal Justice Act 1982 (c.48) is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) on a magistrates' court to discharge an attendance centre order made by such a court, or
- (b) on the Crown Court to discharge an attendance centre order made by the Crown Court,

includes power to deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.

(4B) A person sentenced by a magistrates' court under subsection (4A) above for an offence may appeal to the Crown Court against the sentence."

(2) Subsection (7) of that section shall cease to have effect.

(3) In that section, after subsection (9) there shall be added the following subsections—

"(10) Where an offender has been ordered to attend at an attendance centre in default of the payment of a sum of money or for such a failure or abstention as is mentioned in section 17(1)(a) above, subsection (4A) above shall have effect in relation to the order as if the words “, for the offence in respect of which the order was made,” and “for that offence” were omitted.

(11) Where an attendance centre order has been made on appeal, for the purposes of this section it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and subsection (4A) above shall have effect in relation to an attendance centre order made on appeal as if the words “if the order had not been made” were omitted."

**Modifications etc. (not altering text)**

C1 Sch. 7 para. 37(2)(3) excluded (19.9.1998) by S.I. 1998/2327, art. 6(3)

38 (1) In subsection (1) of section 19 of the 1982 Act (breaches of attendance centre orders or attendance centre rules), for the words “has been made” there shall be substituted the words “is in force”.

(2) In subsection (5) of that section, after the word “failed” there shall be inserted the words “without reasonable excuse”.

(3) After subsection (7) of that section there shall be added the following subsections—

"(8) Where an offender has been ordered to attend at an attendance centre in default of the payment of a sum of money or for such a failure or abstention as is mentioned in section 17(1)(a) above, subsections (3) and (5) above shall have effect in relation to the order as if the words “, for the offence in respect of which the order was made,” and “for that offence” were omitted.

*Status: Point in time view as at 08/02/2000.*

**Changes to legislation:** *Crime and Disorder Act 1998, Cross Heading: Criminal Justice Act 1982 (c.48) is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(9) Where an attendance centre order has been made on appeal, for the purposes of this section it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and, in relation to an attendance centre order made on appeal, subsection (3)

(a) above shall have effect as if the words “if the order had not been made” were omitted and subsection (5) above shall have effect as if the words “if it had not made the order” were omitted.”

**Modifications etc. (not altering text)**

**C2** Sch. 7 para. 38(3) excluded (19.9.1998) by S.I. 1998/2327, art. 6(3)

**Status:**

Point in time view as at 08/02/2000.

**Changes to legislation:**

Crime and Disorder Act 1998, Cross Heading: Criminal Justice Act 1982 (c.48) is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.