



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

Modifications etc. (not altering text)

- C1** Pt. 12 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006](#) (c. 52), [ss. 183\(4\), 383](#) (as amended (1.4.2008) by [The Offender Management Act 2007](#) (Consequential Amendments) Order 2008 (S.I. 2008/912), [art. 3](#), [Sch. 1 para. 23\(2\)\(b\)](#)); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C2** Pt. 12 (ss. 142-305) modified (4.4.2005) by [The Criminal Justice Act 2003](#) (Sentencing) (Transitory Provisions) Order 2005 (S.I. 2005/643), [art. 3](#) (as amended (E.W.) (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (Consequential and Saving Provisions) Regulations 2012 (S.I. 2012/2824), [regs. 1, 3\(1\)](#) (with [reg. 3\(2\)](#)))

CHAPTER 1

GENERAL PROVISIONS ABOUT SENTENCING

Modifications etc. (not altering text)

- C3** Pt. 12 Ch. 1: power to amend conferred (30.11.2009) by [Criminal Justice and Immigration Act 2008](#) (c. 4), [ss. 4\(3\), 153](#); S.I. 2009/3074, [art. 2\(d\)](#)

Matters to be taken into account in sentencing

142 Purposes of sentencing

- (1) Any court dealing with an offender in respect of his offence must have regard to the following purposes of sentencing—

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- (a) the punishment of offenders,
 - (b) the reduction of crime (including its reduction by deterrence),
 - (c) the reform and rehabilitation of offenders,
 - (d) the protection of the public, and
 - (e) the making of reparation by offenders to persons affected by their offences.
- (2) Subsection (1) does not apply—
- (a) in relation to an offender who is aged under 18 at the time of conviction,
 - (b) to an offence the sentence for which is fixed by law,
 - (c) to an offence the sentence for which falls to be imposed [^{F1} under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public),] under section 51A(2) of the Firearms Act 1968 (c. 27) (minimum sentence for certain firearms offences), [^{F2} under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon),] under subsection (2) of section 110 or 111 of the Sentencing Act (required custodial sentences)^{F3}, under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon)]^{F4}, under section 224A of this Act (life sentence for second listed offence for certain dangerous offenders)] or under [^{F5}section 225(2) or 226(2)] of this Act [^{F6}(imprisonment or detention for life for certain dangerous offenders)], or
 - (d) in relation to the making under Part 3 of the Mental Health Act 1983 (c. 20) of a hospital order (with or without a restriction order), an interim hospital order, a hospital direction or a limitation direction.
- (3) In this Chapter “sentence”, in relation to an offence, includes any order made by a court when dealing with the offender in respect of his offence; and “sentencing” is to be construed accordingly.

Textual Amendments

- F1** Words in s. 142(2)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 16\(2\)](#); S.I. 2012/2770, art. 2(f)
- F2** Words in s. 142(2)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 16\(3\)](#); S.I. 2012/2770, art. 2(f)
- F3** Words in s. 142(2)(c) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 49, 66\(2\), Sch. 1 para. 9\(2\)](#); S.I. 2007/858, art. 2(g)
- F4** Words in s. 142(2)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 9\(a\)](#); S.I. 2012/2906, art. 2(q)
- F5** Words in s. 142(2)(c) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 148, 153, Sch. 26 para. 64](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)
- F6** Words in s. 142(2)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 9\(b\)](#); S.I. 2012/2906, art. 2(q)

Commencement Information

- I1** S. 142 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 7](#) (subject to art. 2(2), Sch. 2)

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PROSPECTIVE

^{F7} 142A Purposes etc. of sentencing: offenders under 18

Textual Amendments

F7 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

143 Determining the seriousness of an offence

- (1) In considering the seriousness of any offence, the court must consider the offender's culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably have caused.
- (2) In considering the seriousness of an offence ("the current offence") committed by an offender who has one or more previous convictions, the court must treat each previous conviction as an aggravating factor if (in the case of that conviction) the court considers that it can reasonably be so treated having regard, in particular, to—
 - (a) the nature of the offence to which the conviction relates and its relevance to the current offence, and
 - (b) the time that has elapsed since the conviction.
- (3) In considering the seriousness of any offence committed while the offender was on bail, the court must treat the fact that it was committed in those circumstances as an aggravating factor.
- (4) Any reference in subsection (2) to a previous conviction is to be read as a reference to—
 - (a) a previous conviction by a court in the United Kingdom,^{F8} . . .
 - ^{F9}(aa) a previous conviction by a court in another member State of a relevant offence under the law of that State,]
 - ^{F10}(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 ("conviction" here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).]
 - ^{F11}or
 - (c) a finding of guilt in respect of a member State service offence.]
- ^{F12}(5) Subsections (2) and (4) do not prevent^{F12} the court from treating—
 - (a) a previous conviction by a court outside both the United Kingdom and any other member State, or
 - (b) a previous conviction by a court in any member State (other than the United Kingdom) of an offence which is not a relevant offence,as an aggravating factor in any case where the court considers it appropriate to do so.
- (6) For the purposes of this section—

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- (a) an offence is “relevant” if the offence would constitute an offence under the law of any part of the United Kingdom if it were done in that part at the time of the conviction of the defendant for the current offence,
- (b) “member State service offence” means an offence which—
 - (i) was the subject of proceedings under the service law of a member State other than the United Kingdom, and
 - (ii) would constitute an offence under the law of any part of the United Kingdom, or a service offence (within the meaning of the Armed Forces Act 2006), if it were done in any part of the United Kingdom, by a member of Her Majesty's forces, at the time of the conviction of the defendant for the current offence,
- (c) “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006, and
- (d) “service law”, in relation to a member State other than the United Kingdom, means the law governing all or any of the naval, military or air forces of that State.]

Textual Amendments

- F8** Word in s. 143(4)(a) repealed (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 178, 182, Sch. 17 para. 6(2)(a), **Sch. 23 Pt. 5** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, **art. 3(c)(d)(iii)(f)(iii)**
- F9** S. 143(4)(aa) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 6(2)(a)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, **art. 3(a)(d)(iii)**
- F10** S. 143(4)(b) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 216**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F11** S. 143(4)(c) and word inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 6(2)(b)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, **art. 3(a)(d)(iii)**
- F12** S. 143(5)(6) substituted (15.8.2010) for s. 143(5) by Coroners and Justice Act 2009 (c. 25), ss. 144, 182, **Sch. 17 para. 6(3)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, **art. 3(a)(d)(iii)**

Modifications etc. (not altering text)

- C4** S. 143(3) modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations 2009 (S.I. 2009/2042), **regs. 4, 10**
- C5** S. 143(4) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(2)(3)(a), 205, **Sch. 1 para. 53(5)**

Commencement Information

- I2** S. 143 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

144 Reduction in sentences for guilty pleas

- (1) In determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court must take into account—
 - (a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and

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- (b) the circumstances in which this indication was given.
- (2) In the case of an offence the sentence for which falls to be imposed under [^{F13}a provision mentioned in subsection (3)], nothing in [^{F14}that provision] prevents the court, after taking into account any matter referred to in subsection (1) of this section, from imposing any sentence which is not less than 80 per cent of that specified in [^{F14}that provision].
- [^{F15}(3) The provisions referred to in subsection (2) are—
- section 1A(6)(a) of the Prevention of Crime Act 1953;
 - section 110(2) of the Sentencing Act;
 - section 111(2) of the Sentencing Act;
 - section 139AA(8)(a) of the Criminal Justice Act 1988.
- (4) In the case of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), nothing in that provision prevents the court from imposing any sentence that it considers appropriate after taking into account any matter referred to in subsection (1) of this section.
- (5) The provisions referred to in subsection (4) are—
- section 1A(6)(b) of the Prevention of Crime Act 1953;
 - section 139AA(8)(b) of the Criminal Justice Act 1988.]

Textual Amendments

- F13** Words in s. 144(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 18\(2\)\(a\)](#); S.I. 2012/2770, art. 2(f)
- F14** Words in s. 144(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 18\(2\)\(b\)](#); S.I. 2012/2770, art. 2(f)
- F15** S. 144(3)-(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 18\(3\)](#); S.I. 2012/2770, art. 2(f)

Commencement Information

- I3** S. 144 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 7](#) (subject to [art. 2\(2\), Sch. 2](#))

145 Increase in sentences for racial or religious aggravation

- (1) This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated assaults, criminal damage, public order offences and harassment etc).
- (2) If the offence was racially or religiously aggravated, the court—
- (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence was so aggravated.
- (3) Section 28 of the Crime and Disorder Act 1998 (meaning of “racially or religiously aggravated”) applies for the purposes of this section as it applies for the purposes of sections 29 to 32 of that Act.

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Commencement Information

- I4** S. 145 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

146 Increase in sentences for aggravation related to disability^{F16}, sexual orientation or transgender identity]

- (1) This section applies where the court is considering the seriousness of an offence committed in any of the circumstances mentioned in subsection (2).
- (2) Those circumstances are—
- (a) that, at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on—
- (i) the sexual orientation (or presumed sexual orientation) of the victim,
^{F17} ...
- (ii) a disability (or presumed disability) of the victim, or
^{F18}(iii) the victim being (or being presumed to be) transgender, or]
- (b) that the offence is motivated (wholly or partly)—
- (i) by hostility towards persons who are of a particular sexual orientation,
^{F19} ...
- (ii) by hostility towards persons who have a disability or a particular disability^{F20}, or
- (iii) by hostility towards persons who are transgender.]
- (3) The court—
- (a) must treat the fact that the offence was committed in any of those circumstances as an aggravating factor, and
- (b) must state in open court that the offence was committed in such circumstances.
- (4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that paragraph.
- (5) In this section “disability” means any physical or mental impairment.
- ^{F21}(6) In this section references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment.]

Textual Amendments

- F16** Words in s. 146 heading substituted (3.12.2012) by *Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*, **ss. 65(3)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F17** Word in s. 146(2)(a)(i) omitted (3.12.2012) by virtue of *Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*, **ss. 65(4)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F18** S. 146(2)(a)(iii) inserted (3.12.2012) by *Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*, **ss. 65(4)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F19** Word in s. 146(2)(b)(i) omitted (3.12.2012) by virtue of *Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)*, **ss. 65(5)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

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F20 S. 146(2)(b)(iii) and preceding word inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 65\(5\)\(b\)](#), 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

F21 S. 146(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 65\(6\)](#), 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

Commencement Information

I5 S. 146 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 7 (subject to [art. 2\(2\)](#), Sch. 2)

General restrictions on community sentences

147 Meaning of “community sentence” etc.

- (1) In this Part “community sentence” means a sentence which consists of or includes—
- (a) a community order (as defined by section 177), or
 - (b) ^{F22}
 - [^{F23}(c) a youth rehabilitation order.]
- (2) ^{F24}

Textual Amendments

F22 S. 147(1)(b) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 72(2)(a), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)](#) ([xxxi](#))

F23 S. 147(1)(c) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 72\(2\)\(b\)](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

F24 S. 147(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 72(3), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)

Commencement Information

I6 S. 147 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 7 (subject to [art. 2\(2\)](#), Sch. 2)

148 Restrictions on imposing community sentences

- (1) A court must not pass a community sentence on an offender unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence.
- (2) Where a court passes a community sentence ^{F25} . . . —
- (a) the particular requirement or requirements forming part of the community order [^{F26} or, as the case may be, youth rehabilitation order, comprised in the sentence] must be such as, in the opinion of the court, is, or taken together are, the most suitable for the offender, and
 - (b) the restrictions on liberty imposed by the order must be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

[^{F27}(2A) Subsection (2) is subject to [^{F28} section 177(2A) (community orders: punitive elements) and to] paragraph 3(4) of Schedule 1 to the Criminal Justice and

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Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance).]

^{F29}(3)

(4) Subsections (1) and (2)(b) have effect subject to section 151(2).

[^{F30}(5) The fact that by virtue of any provision of this section—

- (a) a community sentence may be passed in relation to an offence; or
- (b) particular restrictions on liberty may be imposed by a community order or youth rehabilitation order,

does not require a court to pass such a sentence or to impose those restrictions.]

Textual Amendments

- F25** Words in s. 148(2) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 73(2)(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)(u)(xxxi)**
- F26** Words in s. 148(2)(a) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 73(2)(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F27** S. 148(2A) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 73(3)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F28** Words in s. 148(2A) inserted (11.12.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 16 para. 3** (with Sch. 16 para. 4); S.I. 2013/2981, art. 2(d)
- F29** S. 148(3) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 73(4), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)(u)(xxxi)**
- F30** S. 148(5) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 10**, 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 1

Modifications etc. (not altering text)

- C6** S. 148(1) excluded (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 1, 153, **Sch. 1 para. 5(2)(b)**; S.I. 2009/3074, **art. 2(m)**
- C7** S. 148(2)(b) excluded (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 1, 153, **Sch. 1 para. 5(2)(b)**; S.I. 2009/3074, **art. 2(m)**

Commencement Information

- I7** S. 148 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

149 Passing of community sentence on offender remanded in custody

- (1) In determining the restrictions on liberty to be imposed by a community order or [^{F31}youth rehabilitation order] in respect of an offence, the court may have regard to any period for which the offender has been remanded in custody in connection with the offence or any other offence the charge for which was founded on the same facts or evidence.
- (2) In subsection (1) “remanded in custody” has the meaning given by section 242(2).

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Textual Amendments

- F31** Words in s. 149(1) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 74](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

Commencement Information

- I8** S. 149 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

150 Community sentence not available where sentence fixed by law etc.

[^{F32}(1)] The power to make a community order or [^{F33}youth rehabilitation order] is not exercisable in respect of an offence for which the sentence—

- (a) is fixed by law,
- (b) falls to be imposed under section 51A(2) of the Firearms Act 1968 (c. 27) (required custodial sentence for certain firearms offences),
- (c) falls to be imposed under section 110(2) or 111(2) of the Sentencing Act (requirement to impose custodial sentences for certain repeated offences committed by offenders aged 18 or over),^{F34} . . .
- [^{F35}(ca) falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (required custodial sentence in certain cases of using someone to mind a weapon),
- [^{F36}(cb) falls to be imposed under section 224A of this Act (life sentence for second listed offence for certain dangerous offenders),]or]
- (d) falls to be imposed under [^{F37}section 225(2) or 226(2) of this Act (requirement to impose sentence of imprisonment for life or detention for life)].

[^{F38}(2)] The power to make a community order is not exercisable in respect of an offence for which the sentence—

- (a) falls to be imposed under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public), or
- (b) falls to be imposed under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point in public or on school premises or with offensive weapon on school premises).]

Textual Amendments

- F32** S. 150(1): s. 150 renumbered as s. 150(1) (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 23\(1\)\(a\)](#); S.I. 2013/2981, [art. 2\(d\)](#)
- F33** Words in s. 150 substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 75](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F34** Word in s. 150(c) repealed (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 65, 66(2), [Sch. 1 para. 9\(3\)](#), [Sch. 5](#); S.I. 2007/858, [art. 2\(g\)\(m\)\(n\)\(xvii\)](#)
- F35** S. 150(ca) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(3\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F36** S. 150(cb) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 10](#); S.I. 2012/2906, [art. 2\(q\)](#)

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F37 Words in s. 150(d) substituted (14.7.2008) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 148, 153, **Sch. 26 para. 65**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)

F38 S. 150(2) inserted (11.12.2013) by *Crime and Courts Act 2013 (c. 22)*, s. 61(2), **Sch. 16 para. 23(1)(b)**; S.I. 2013/2981, art. 2(d)

Commencement Information

I9 S. 150 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

[^{F39}150A Community order available only for offences punishable with imprisonment or for persistent offenders previously fined

- (1) The power to make a community order is only exercisable in respect of an offence if—
 - (a) the offence is punishable with imprisonment; or
 - (b) in any other case, section 151(2) confers power to make such an order.
- (2) For the purposes of this section and section 151 an offence triable either way that was tried summarily is to be regarded as punishable with imprisonment only if it is so punishable by the sentencing court (and for this purpose section 148(1) is to be disregarded).]

Textual Amendments

F39 S. 150A inserted (14.7.2008) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 11(1), 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 2

PROSPECTIVE

^{F7}151 Community order or youth rehabilitation order for persistent offender previously fined

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Textual Amendments

F7 Ss. 142-154 repealed (1.12.2020) by *Sentencing Act 2020 (c. 17)*, s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

General restrictions on discretionary custodial sentences

152 General restrictions on imposing discretionary custodial sentences

- (1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one—
 - (a) fixed by law, or
 - (b) falling to be imposed [^{F40}under section 1A(5) of the Prevention of Crime Act 1953, under section 51A(2) of the Firearms Act 1968, under section 139AA(7) of the Criminal Justice Act 1988,] under [^{F41}section 110(2) or 111(2) of the

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Sentencing Act, under section 29(4) or (6) of the Violent Crime Reduction Act 2006] or under [F42section [F43224A,] 225(2) or 226(2)] of this Act.

- (2) The court must not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that neither a fine alone nor a community sentence can be justified for the offence.
- (3) Nothing in subsection (2) prevents the court from passing a custodial sentence on the offender if—
 - (a) he fails to express his willingness to comply with a requirement which is proposed by the court to be included in a community order and which requires an expression of such willingness, or
 - (b) he fails to comply with an order under section 161(2) (pre-sentence drug testing).

Textual Amendments

- F40** Words in s. 152(1)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 20](#); S.I. 2012/2770, art. 2(f)
- F41** Words in s. 152(1) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(4\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F42** Words in s. 152(1)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 66](#); S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)
- F43** Word in s. 152(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 11](#); S.I. 2012/2906, art. 2(q)

Commencement Information

- I10** S. 152 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

153 Length of discretionary custodial sentences: general provision

- (1) This section applies where a court passes a custodial sentence other than one fixed by law or F44... imposed under section [F45224A,] 225 or 226.
- (2) Subject to [F46section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988,] sections 110(2) and 111(2) of the Sentencing Act[F47, section 29(4) or (6) of the Violent Crime Reduction Act 2006] and sections [F48226A(4) and 226B(2)] of this Act, the custodial sentence must be for the shortest term (not exceeding the permitted maximum) that in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

Textual Amendments

- F44** Words in s. 153(1) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153, [Sch. 26 para. 67](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 50\(2\)\(c\)](#)
- F45** Words in s. 153(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 12](#); S.I. 2012/2906, art. 2(q)
- F46** Words in s. 153(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 21](#); S.I. 2012/2770, art. 2(f)

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- F47** Words in s. 153(2) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(5\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F48** Words in s. 153(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 21](#); S.I. 2012/2906, art. 2(s)

Commencement Information

- I11** S. 153 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

General limit on magistrates' court's power to impose imprisonment

F7 154 General limit on magistrates' court's power to impose imprisonment

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Textual Amendments

- F7** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

155 Consecutive terms of imprisonment

- (1) Section 133 of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment) is amended as follows.
- (2) In subsection (1), for [^{F49}“the words from “the longest” to “being imposed”] there is substituted “ 65 weeks ”.
- (3) Subsection (2) is omitted.
- (4) In subsection (3) for “the preceding subsections” there is substituted “ subsection (1) above ”.

Textual Amendments

- F49** Words in s. 155(2) substituted (14.7.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(2\)](#); S.I. 2022/816, regs. 1(2), 3(d)

Procedural requirements for imposing community sentences and discretionary custodial sentences

156 Pre-sentence reports and other requirements

- (1) In forming any such opinion as is mentioned in section 148(1) [^{F50}or (2)(b)], section 152(2) or section 153(2), [^{F51}or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders with intensive supervision and

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- surveillance or fostering),] a court must take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it, including any aggravating or mitigating factors.
- (2) In forming any such opinion as is mentioned in section 148(2)(a) ^{F52}... , the court may take into account any information about the offender which is before it.
- (3) Subject to subsection (4), a court must obtain and consider a pre-sentence report before—
- (a) in the case of a custodial sentence, forming any such opinion as is mentioned in section 152(2), section 153(2), section 225(1)(b), section 226(1)(b), ^{F53}section 226A(1)(b) or section 226B(1)(b)], or
 - (b) in the case of a community sentence, forming any such opinion as is mentioned in section 148(1) ^{F54}or (2)(b), or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008,] or any opinion as to the suitability for the offender of the particular requirement or requirements to be imposed by the community order ^{F55}or youth rehabilitation order].
- (4) Subsection (3) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.
- (5) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (4) unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- (6) No custodial sentence or community sentence is invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in subsection (3), but any court on an appeal against such a sentence—
- (a) must, subject to subsection (7), obtain a pre-sentence report if none was obtained by the court below, and
 - (b) must consider any such report obtained by it or by that court.
- (7) Subsection (6)(a) does not apply if the court is of the opinion—
- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report, or
 - (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.
- (8) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (7) unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- ^{F56}(9) References in subsections (1) and (3) to a court forming the opinions mentioned in sections 152(2) and 153(2) include a court forming those opinions for the purposes of section 224A(3).]

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[^{F57}(10) The reference in subsection (1) to a court forming the opinion mentioned in section 153(2) includes a court forming that opinion for the purposes of section 226A(6) or 226B(4).]

Textual Amendments

- F50** Words in s. 156(1) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(2\)\(a\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F51** Words in s. 156(1) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(2\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F52** Words in s. 156(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 77\(3\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F53** Words in s. 156(3)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 22\(2\)](#); S.I. 2012/2906, [art. 2\(s\)](#)
- F54** Words in s. 156(3)(b) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(4\)\(a\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F55** Words in s. 156(3)(b) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(4\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F56** S. 156(9) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 13](#); S.I. 2012/2906, [art. 2\(q\)](#)
- F57** S. 156(10) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 22\(3\)](#); S.I. 2012/2906, [art. 2\(s\)](#)

Commencement Information

- I12** S. 156 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

157 Additional requirements in case of mentally disordered offender

- (1) Subject to subsection (2), in any case where the offender is or appears to be mentally disordered, the court must obtain and consider a medical report before passing a custodial sentence other than one fixed by law.
- (2) Subsection (1) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a medical report.
- (3) Before passing a custodial sentence other than one fixed by law on an offender who is or appears to be mentally disordered, a court must consider—
 - (a) any information before it which relates to his mental condition (whether given in a medical report, a pre-sentence report or otherwise), and
 - (b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.
- (4) No custodial sentence which is passed in a case to which subsection (1) applies is invalidated by the failure of a court to comply with that subsection, but any court on an appeal against such a sentence—
 - (a) must obtain a medical report if none was obtained by the court below, and
 - (b) must consider any such report obtained by it or by that court.
- (5) In this section “mentally disordered”, in relation to any person, means suffering from a mental disorder within the meaning of the Mental Health Act 1983 (c. 20).

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- (6) In this section “medical report” means a report as to an offender’s mental condition made or submitted orally or in writing by a registered medical practitioner who is approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State [^{F58}, or by another person by virtue of section 12ZA or 12ZB of that Act,] as having special experience in the diagnosis or treatment of mental disorder.
- (7) Nothing in this section is to be taken to limit the generality of section 156.

Textual Amendments

F58 Words in s. 157(6) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 38(5)(d), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Commencement Information

I13 S. 157 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

158 Meaning of “pre-sentence report”

- (1) In this Part “pre-sentence report” means a report which—
- with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by an appropriate officer, and
 - contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.

[^{F59}(1A) Subject to any rules made under subsection (1)(b) and to subsection (1B), the court may accept a pre-sentence report given orally in open court.

- (1B) But a pre-sentence report that—
- relates to an offender aged under 18, and
 - is required to be obtained and considered before the court forms an opinion mentioned in section 156(3)(a),
- must be in writing.]

- (2) In subsection (1) “an appropriate officer” means—
- where the offender is aged 18 or over, an officer of a local probation board [^{F60} or an officer of a provider of probation services] , and
 - where the offender is aged under 18, an officer of a local probation board [^{F61}, an officer of a provider of probation services] , a social worker of a local authority ^{F62} . . . or a member of a youth offending team.

Textual Amendments

F59 S. 158(1A)(1B) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 12, 153; S.I. 2008/1586, art. 2(1), Sch. 1 para. 3

F60 Words in s. 158(2)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(2)(a)

F61 Words in s. 158(2)(b) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(2)(b)

F62 Words in s. 158(2)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67, Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(2)(h)

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Modifications etc. (not altering text)

- C8** S. 158(1) applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 257\(1\)-\(3\)](#), 383 (with [ss. 271\(1\)](#), 385); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

- I14** S. 158 wholly in force at 4.4.2005; s. 158 not in force at Royal Assent, see s. 336(3); s. 158(1)(b) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 158 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Disclosure of pre-sentence reports etc

159 Disclosure of pre-sentence reports

- (1) This section applies where the court obtains a pre-sentence report, other than a report given orally in open court.
- (2) Subject to subsections (3) and (4), the court must give a copy of the report—
 - (a) to the offender or his [^{F63}legal representative] ,
 - (b) if the offender is aged under 18, to any parent or guardian of his who is present in court, and
 - (c) to the prosecutor, that is to say, the person having the conduct of the proceedings in respect of the offence.
- (3) If the offender is aged under 18 and it appears to the court that the disclosure to the offender or to any parent or guardian of his of any information contained in the report would be likely to create a risk of significant harm to the offender, a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.
- (4) If the prosecutor is not of a description prescribed by order made by the Secretary of State, a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for him to be given it.
- (5) No information obtained by virtue of subsection (2)(c) may be used or disclosed otherwise than for the purpose of—
 - (a) determining whether representations as to matters contained in the report need to be made to the court, or
 - (b) making such representations to the court.
- (6) In relation to an offender aged under 18 for whom a local authority have parental responsibility and who—
 - (a) is in their care, or
 - (b) is provided with accommodation by them in the exercise of any social services functions,
 references in this section to his parent or guardian are to be read as references to that authority.
- (7) In this section and section 160—

“harm” has the same meaning as in section 31 of the Children Act 1989 (c. 41);

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“local authority” and “parental responsibility” have the same meanings as in that Act;

“social services functions”, in relation to a local authority, has the meaning given by section 1A of the Local Authority Social Services Act 1970 (c. 42).

Textual Amendments

F63 Words in s. 159(2)(a) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 147](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

Modifications etc. (not altering text)

C9 S. 159(1)-(3)(5) applied (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. [257\(4\)](#), 383 (with ss. 271(1), 385); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

I15 S. 159 wholly in force at 4.4.2005; s. 159 not in force at Royal Assent, see s. 336(3); s. 159(4) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 159 in force at 4.4.2005 in so far as not already in force by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

160 Other reports of local probation boards [^{F64}, providers of probation services] and members of youth offending teams

- (1) This section applies where—
 - (a) a report by an officer of a local probation board [^{F65}, an officer of a provider of probation services] or a member of a youth offending team is made to any court (other than a youth court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, and
 - (b) the report is not a pre-sentence report.
- (2) Subject to subsection (3), the court must give a copy of the report—
 - (a) to the offender or his [^{F66}legal representative] , and
 - (b) if the offender is aged under 18, to any parent or guardian of his who is present in court.
- (3) If the offender is aged under 18 and it appears to the court that the disclosure to the offender or to any parent or guardian of his of any information contained in the report would be likely to create a risk of significant harm to the offender, a complete copy of the report need not be given to the offender, or as the case may be, to that parent or guardian.
- (4) In relation to an offender aged under 18 for whom a local authority have parental responsibility and who—
 - (a) is in their care, or
 - (b) is provided with accommodation by them in the exercise of any social services functions,

references in this section to his parent or guardian are to be read as references to that authority.

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Textual Amendments

- F64** Words in s. 160 inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, **Sch. 1 para. 19(3)(a)**
- F65** Words in s. 160(1)(a) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, **Sch. 1 para. 19(3)(b)**
- F66** Words in s. 160(2)(a) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, **Sch. 21 para. 148** (with ss. 29, 192, 193); S.I. 2009/3250, **art. 2(h)** (with art. 9)

Commencement Information

- I16** S. 160 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

Pre-sentence drug testing

161 Pre-sentence drug testing

- (1) Where a person ^{F67} . . . is convicted of an offence and the court is considering passing a community sentence or a suspended sentence, it may make an order under subsection (2) for the purpose of ascertaining whether the offender has any specified Class A drug in his body.
- (2) The order requires the offender to provide, in accordance with the order, samples of any description specified in the order.
- (3) Where the offender has not attained the age of 17, the order must provide for the samples to be provided in the presence of an appropriate adult.
- (4) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.
- (5) In subsection (4) “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.
- (6) The court may not make an order under subsection (2) unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (7) ^{F68}
- (8) In this section—
 - “appropriate adult”, in relation to a person under the age of 17, means—
 - (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
 - (b) a social worker of a local authority ^{F69} . . . , or
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;
 - “specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000 (c. 43).

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Textual Amendments

- F67** Words in s. 161(1) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 78\(a\)](#), {[Sch. 28 para. Pt. 1](#)} (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F68** S. 161(7) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 78\(b\)](#), {[Sch. 28 para. Pt. 1](#)} (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F69** Words in s. 161(8)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); S.I. 2005/394, [art. 2\(2\)\(g\)](#); S.I. 2006/885, [art. 2\(2\)\(h\)](#)

^{F70}Surcharges

Textual Amendments

- F70** Ss. 161A, 161B and cross-heading inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 14\(1\)](#), 59, 60 (with [Sch. 12 para. 7](#)); S.I. 2007/602, [art. 2\(a\)](#)

161A Court's duty to order payment of surcharge

- (1) A court when dealing with a person for one or more offences must also (subject to subsections (2) and (3)) order him to pay a surcharge.
- (2) Subsection (1) does not apply in such cases as may be prescribed by an order made by the Secretary of State.
- (3) Where a court dealing with an offender considers—
- that it would be appropriate to make a compensation order [^{F71}or an unlawful profit order (or both)] , but
 - that he has insufficient means to pay both the surcharge and appropriate compensation [^{F72}or both the surcharge and an appropriate amount under the unlawful profit order (or the surcharge, appropriate compensation and an appropriate amount under the unlawful profit order)] ,
- the court must reduce the surcharge accordingly (if necessary to nil).
- (4) For the purposes of this section a court does not “deal with” a person if it—
- discharges him absolutely, or
 - makes an order under the Mental Health Act 1983 in respect of him.

[^{F73}(5) In this section “unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.]

Textual Amendments

- F71** Words in s. 161A(3)(a) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(2\)\(a\)](#); S.I. 2013/2622, [art. 2](#); S.I. 2013/2861, [art. 2](#)
- F72** Words in s. 161A(3)(b) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(2\)\(b\)](#); S.I. 2013/2622, [art. 2](#); S.I. 2013/2861, [art. 2](#)
- F73** S. 161A(5) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(3\)](#); S.I. 2013/2622, [art. 2](#); S.I. 2013/2861, [art. 2](#)

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Modifications etc. (not altering text)

- C10** S. 161A(1) excluded (1.10.2012) by [The Criminal Justice Act 2003 \(Surcharge\) Order 2012 \(S.I. 2012/1696\)](#), arts. 1(1), 2
- C11** S. 161A(1) excluded (1.4.2007) by [The Criminal Justice Act 2003 \(Surcharge\) Order 2007 \(S.I. 2007/707\)](#), art. 2
- C12** S. 161A(1) excluded (1.4.2007) by [The Criminal Justice Act 2003 \(Surcharge\)\(No 2\) Order 2007 \(S.I. 2007/1079\)](#), {art. 3}

161B Amount of surcharge

- (1) The surcharge payable under section 161A is such amount as the Secretary of State may specify by order.
- (2) An order under this section may provide for the amount to depend on—
 - (a) the offence or offences committed,
 - (b) how the offender is otherwise dealt with (including, where the offender is fined, the amount of the fine),
 - (c) the age of the offender.

This is not to be read as limiting section 330(3) (power to make different provision for different purposes etc).]

Fines

162 Powers to order statement as to offender’s financial circumstances

- (1) Where an individual has been convicted of an offence, the court may, before sentencing him, make a financial circumstances order with respect to him.
- (2) Where a magistrates' court has been notified in accordance with section 12(4) of the Magistrates' Courts Act 1980 (c. 43) that an individual desires to plead guilty without appearing before the court, the court may make a financial circumstances order with respect to him.
- (3) In this section “a financial circumstances order” means, in relation to any individual, an order requiring him to give to the court, within such period as may be specified in the order, such a statement of his [^{F74}assets and other] financial circumstances as the court may require.
- (4) An individual who without reasonable excuse fails to comply with a financial circumstances order is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) If an individual, in furnishing any statement in pursuance of a financial circumstances order—
 - (a) makes a statement which he knows to be false in a material particular,
 - (b) recklessly furnishes a statement which is false in a material particular, or
 - (c) knowingly fails to disclose any material fact,
 he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Proceedings in respect of an offence under subsection (5) may, notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43) (limitation of

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time), be commenced at any time within two years from the date of the commission of the offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.

Textual Amendments

F74 Words in s. 162(3) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 24](#); [S.I. 2013/2981](#), art. 2(d)

Commencement Information

I17 S. 162 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

163 General power of Crown Court to fine offender convicted on indictment

Where a person is convicted on indictment of any offence, other than an offence for which the sentence is fixed by law or falls to be imposed under section 110(2) or 111(2) of the Sentencing Act or under [^{F75}section [^{F76}224A,] 225(2) or 226(2)] of this Act, the court, if not precluded from sentencing an offender by its exercise of some other power, may impose a fine instead of or in addition to dealing with him in any other way in which the court has power to deal with him, subject however to any enactment requiring the offender to be dealt with in a particular way.

Textual Amendments

F75 Words in s. 163 substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 68](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)

F76 Words in s. 163 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 14](#); [S.I. 2012/2906](#), art. 2(q)

Commencement Information

I18 S. 163 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

164 Fixing of fines

- (1) Before fixing the amount of any fine to be imposed on an offender who is an individual, a court must inquire into his financial circumstances.
- (2) The amount of any fine fixed by a court must be such as, in the opinion of the court, reflects the seriousness of the offence.
- (3) In fixing the amount of any fine to be imposed on an offender (whether an individual or other person), a court must take into account the circumstances of the case including, among other things, the financial circumstances of the offender so far as they are known, or appear, to the court.
- (4) Subsection (3) applies whether taking into account the financial circumstances of the offender has the effect of increasing or reducing the amount of the fine.

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[^{F77}(4A) In applying subsection (3), a court must not reduce the amount of a fine on account of any surcharge it orders the offender to pay under section 161A, except to the extent that he has insufficient means to pay both.]

(5) Where—

- (a) an offender has been convicted in his absence in pursuance of section 11 or 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused), or
- (b) an offender—
 - (i) has failed to furnish a statement of his financial circumstances in response to a request which is an official request for the purposes of section 20A of the Criminal Justice Act 1991 (c. 53) (offence of making false statement as to financial circumstances),
 - (ii) has failed to comply with an order under section 162(1), or
 - (iii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

and the court considers that it has insufficient information to make a proper determination of the financial circumstances of the offender, it may make such determination as it thinks fit.

Textual Amendments

F77 S. 164(4A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 14\(2\)](#), [59](#), [60](#) (with [Sch. 12 para. 7](#)); [S.I. 2007/602](#), [art. 2\(a\)](#)

Commencement Information

I19 S. 164 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

165 Remission of fines

- (1) This section applies where a court has, in fixing the amount of a fine, determined the offender's financial circumstances under section 164(5).
- (2) If, on subsequently inquiring into the offender's financial circumstances, the court is satisfied that had it had the results of that inquiry when sentencing the offender it would—
 - (a) have fixed a smaller amount, or
 - (b) not have fined him,
 it may remit the whole or part of the fine.
- (3) Where under this section the court remits the whole or part of a fine after a term of imprisonment has been fixed under section 139 of the Sentencing Act (powers of Crown Court in relation to fines) or section 82(5) of the Magistrates' Courts Act 1980 (magistrates' powers in relation to default) it must reduce the term by the corresponding proportion.
- (4) In calculating any reduction required by subsection (3), any fraction of a day is to be ignored.

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Commencement Information

I20 S. 165 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to **art. 2(2)**, Sch. 2)

Savings for power to mitigate etc

166 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders

(1) Nothing in—

- (a) section 148 [^{F78}or (2B)](imposing community sentences),
- (b) section 152, 153 or 157 (imposing custodial sentences),
- (c) section 156 (pre-sentence reports and other requirements),
- (d) section 164 (fixing of fines),
- [^{F79}(e) paragraph 3 of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance), or
- (f) paragraph 4 of Schedule 1 to that Act (youth rehabilitation order with fostering),]

prevents a court from mitigating an offender’s sentence by taking into account any such matters as, in the opinion of the court, are relevant in mitigation of sentence.

(2) Section 152(2) does not prevent a court, after taking into account such matters, from passing a community sentence even though it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that a community sentence could not normally be justified for the offence.

(3) Nothing in the sections mentioned in subsection (1)(a) to [^{F80}(f)] prevents a court—

- (a) from mitigating any penalty included in an offender’s sentence by taking into account any other penalty included in that sentence, and
- (b) in the case of an offender who is convicted of one or more other offences, from mitigating his sentence by applying any rule of law as to the totality of sentences.

(4) Subsections (2) and (3) are without prejudice to the generality of subsection (1).

(5) Nothing in the sections mentioned in subsection (1)(a) to [^{F81}(f)] is to be taken—

- (a) as requiring a court to pass a custodial sentence, or any particular custodial sentence, on a mentally disordered offender, or
- (b) as restricting any power (whether under the Mental Health Act 1983 (c. 20) or otherwise) which enables a court to deal with such an offender in the manner it considers to be most appropriate in all the circumstances.

(6) In subsection (5) “mentally disordered”, in relation to a person, means suffering from a mental disorder within the meaning of the Mental Health Act 1983.

Textual Amendments

F78 Words in s. 166(1)(a) inserted (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, ss. 6, 153, **Sch. 4 para. 76(7)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**

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- F79** S. 166(1)(e)(f) added (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 79(2)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F80** Word in s. 166(3) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 79(3)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F81** Word in s. 166(5) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 79(3)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**

Commencement Information

- I21** S. 166 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

Sentencing and allocation guidelines

167 The Sentencing Guidelines Council

F82

Textual Amendments

- F82** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

168 Sentencing Guidelines Council: supplementary provisions

F83

Textual Amendments

- F83** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

169 The Sentencing Advisory Panel

F84

Textual Amendments

- F84** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

170 Guidelines relating to sentencing and allocation

F85

Textual Amendments

- F85** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

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171 Functions of Sentencing Advisory Panel in relation to guidelines

F86
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Textual Amendments

F86 Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

172 Duty of court to have regard to sentencing guidelines

F87
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Textual Amendments

F87 Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#) (with art. 7(2))

173 Annual report by Council

F88
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Textual Amendments

F88 Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); [S.I. 2010/816](#), [art. 2](#), [Sch. paras. 15, 22\(b\)](#)

Duty of court to explain sentence

[^{F89}174 Duty to give reasons for and to explain effect of sentence

- (1) A court passing sentence on an offender has the duties in subsections (2) and (3).
- (2) The court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- (3) The court must explain to the offender in ordinary language—
 - (a) the effect of the sentence,
 - (b) the effects of non-compliance with any order that the offender is required to comply with and that forms part of the sentence,
 - (c) any power of the court to vary or review any order that forms part of the sentence, and
 - (d) the effects of failure to pay a fine, if the sentence consists of or includes a fine.
- (4) Criminal Procedure Rules may—
 - (a) prescribe cases in which either duty does not apply, and
 - (b) make provision about how an explanation under subsection (3) is to be given.
- (5) Subsections (6) to (8) are particular duties of the court in complying with the duty in subsection (2).

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- (6) The court must identify any definitive sentencing guidelines relevant to the offender's case and—
- (a) explain how the court discharged any duty imposed on it by section 125 of the Coroners and Justice Act 2009 (duty to follow guidelines unless satisfied it would be contrary to the interests of justice to do so);
 - (b) where the court was satisfied it would be contrary to the interests of justice to follow the guidelines, state why.
- (7) Where, as a result of taking into account any matter referred to in section 144(1) (guilty pleas), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, the court must state that fact.
- (8) Where the offender is under 18 and the court imposes a sentence that may only be imposed in the offender's case if the court is of the opinion mentioned in—
- (a) section 1(4)(a) to (c) of the Criminal Justice and Immigration Act 2008 and section 148(1) of this Act (youth rehabilitation order with intensive supervision and surveillance or with fostering), or
 - (b) section 152(2) of this Act (discretionary custodial sentence),
- the court must state why it is of that opinion.
- (9) In this section “definitive sentencing guidelines” means sentencing guidelines issued by the Sentencing Council for England and Wales under section 120 of the Coroners and Justice Act 2009 as definitive guidelines, as revised by any subsequent guidelines so issued.]

Textual Amendments

F89 S. 174 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 64\(2\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#)

Publication of information by Secretary of State

175 Duty to publish information about sentencing

In section 95 of the Criminal Justice Act 1991 (c. 53) (information for financial and other purposes) in subsection (1) before the “or” at the end of paragraph (a) there is inserted—

- “(aa) enabling such persons to become aware of the relative effectiveness of different sentences—
- (i) in preventing re-offending, and
 - (ii) in promoting public confidence in the criminal justice system;”.

Commencement Information

I22 S. 175 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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Interpretation of Chapter

176 Interpretation of Chapter 1

In this Chapter—

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“sentence” and “sentencing” are to be read in accordance with section 142(3);

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[^{F92}“youth rehabilitation order” has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008;

“youth rehabilitation order with fostering” has the meaning given by paragraph 4 of Schedule 1 to that Act;

“youth rehabilitation order with intensive supervision and surveillance” has the meaning given by paragraph 3 of Schedule 1 to that Act.]

Textual Amendments

F90 S. 176: definitions of "allocation guidelines", "the Council" and "the Panel", "sentence" and "sentencing", "sentencing guidelines", "youth community order" repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); S.I. 2010/816, [art. 2](#), Sch. paras. 15, 22(b)(iv)

F91 S. 176: definition of "youth community order" repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 81(a), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)

F92 S. 176: definitions of "youth rehabilitation order", "youth rehabilitation order with fostering" and "youth rehabilitation order with intensive supervision and surveillance" added (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 81\(b\)](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

Commencement Information

I23 S. 176 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, [art. 2\(1\)\(2\)](#) (subject to art. 2(3)-(6))

CHAPTER 2

COMMUNITY ORDERS: OFFENDERS AGED 16 OR OVER

177 Community orders

(1) Where a person aged [^{F93}18] or over is convicted of an offence, the court by or before which he is convicted may make an order (in this Part referred to as a “community order”) imposing on him any one or more of the following requirements—

- (a) an unpaid work requirement (as defined by section 199),
- (b) an activity requirement (as defined by section 201),
- (c) a programme requirement (as defined by section 202),

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- (d) a prohibited activity requirement (as defined by section 203),
 - (e) a curfew requirement (as defined by section 204),
 - (f) an exclusion requirement (as defined by section 205),
 - (g) a residence requirement (as defined by section 206),
 - [^{F94}(ga) a foreign travel prohibition requirement (as defined by section 206A),]
 - (h) a mental health treatment requirement (as defined by section 207),
 - (i) a drug rehabilitation requirement (as defined by section 209),
 - (j) an alcohol treatment requirement (as defined by section 212),
 - (k) a supervision requirement (as defined by section 213), and
 - (l) in a case where the offender is aged under 25, an attendance centre requirement (as defined by section 214).
- (2) Subsection (1) has effect subject to sections 150 and 218 and to the following provisions of Chapter 4 relating to particular requirements—
- (a) section 199(3) (unpaid work requirement),
 - (b) section 201(3) and (4) (activity requirement),
 - [^{F95}(c)
 - (d) section 203(2) (prohibited activity requirement),
 - (e) section 207(3) (mental health treatment requirement),
 - (f) section 209(2) (drug rehabilitation requirement), and
 - (g) section 212(2) and (3) (alcohol treatment requirement).
- [^{F96}(2A) Where the court makes a community order, the court must—
- (a) include in the order at least one requirement imposed for the purpose of punishment, or
 - (b) impose a fine for the offence in respect of which the community order is made, or
 - (c) comply with both of paragraphs (a) and (b).
- (2B) Subsection (2A) does not apply where there are exceptional circumstances which—
- (a) relate to the offence or to the offender,
 - (b) would make it unjust in all the circumstances for the court to comply with subsection (2A)(a) in the particular case, and
 - (c) would make it unjust in all the circumstances for the court to impose a fine for the offence concerned.]
- (3) Where the court makes a community order imposing a curfew requirement or an exclusion requirement, the court must also impose an electronic monitoring requirement (as defined by section 215) unless—
- (a) it is prevented from doing so by section 215(2) or 218(4), or
 - (b) in the particular circumstances of the case, it considers it inappropriate to do so.
- (4) Where the court makes a community order imposing an unpaid work requirement, an activity requirement, a programme requirement, a prohibited activity requirement, a residence requirement, [^{F97}a foreign travel prohibition requirement,] a mental health treatment requirement, a drug rehabilitation requirement, an alcohol treatment requirement, a supervision requirement or an attendance centre requirement, the court may also impose an electronic monitoring requirement unless prevented from doing so by section 215(2) or 218(4).

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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- (5) A community order must specify a date [^{F98}(“the end date”)], not more than three years after the date of the order, by which all the requirements in it must have been complied with^{F99}...
- [^{F100}(5A) If a community order imposes two or more different requirements falling within subsection (1), the order may also specify a date by which each of those requirements must have been complied with; and the last of those dates must be the same as the end date.
- (5B) Subject to section 200(3) (duration of community order imposing unpaid work requirement), a community order ceases to be in force on the end date.]
- (6) Before making a community order imposing two or more different requirements falling within subsection (1), the court must consider whether, in the circumstances of the case, the requirements are compatible with each other.

Textual Amendments

- F93** Word in s. 177(1) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6, 153, Sch. 4 para. 82](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F94** S. 177(1)(ga) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 72\(1\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#) (with [art. 3](#))
- F95** S. 177(2)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 70\(1\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#)
- F96** S. 177(2A)(2B) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 2](#) (with [Sch. 16 para. 4](#)); S.I. 2013/2981, [art. 2\(d\)](#)
- F97** Words in s. 177(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 72\(2\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#) (with [art. 3](#))
- F98** Words in s. 177(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 66\(1\)\(a\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#)
- F99** Words in s. 177(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 66\(1\)\(b\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#)
- F100** S. 177(5A)(5B) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 66\(2\), 151\(1\)](#); S.I. 2012/2906, [art. 2\(a\)](#)

Modifications etc. (not altering text)

- C13** S. 177(2A)(2B) modified by 2006 c. 52, s. 182(3A) (as inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 33\(2\)](#) (with [Sch. 16 para. 35](#)); S.I. 2013/2981, [art. 2\(e\)](#))
- C14** S. 177(3)-(6) modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 178\(3\)\(4\), 383](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C15** S. 177(5)(6) extended (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 182\(4\)-\(6\), 383](#) (subject to s. 183) (as amended (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 33\(3\)](#) (with [Sch. 16 para. 35](#)); S.I. 2013/2981, [art. 2\(e\)](#)); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I24** S. 177 wholly in force at 4.4.2009; s. 177 not in force at Royal Assent, see s. 336(3); s. 177 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950, art. 2, Sch. 1 para. 8](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391, art. 2](#))

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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178 Power to provide for court review of community orders

- (1) The Secretary of State may by order—
- (a) enable or require a court making a community order to provide for the community order to be reviewed periodically by that or another court,
 - (b) enable a court to amend a community order so as to include or remove a provision for review by a court, and
 - (c) make provision as to the timing and conduct of reviews and as to the powers of the court on a review.
- (2) An order under this section may, in particular, make provision in relation to community orders corresponding to any provision made by sections 191 and 192 in relation to suspended sentence orders.
- (3) An order under this section may repeal or amend any provision of this Part.

Modifications etc. (not altering text)

- C16** S. 178 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(3\)\(4\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

179 Breach, revocation or amendment of community order

Schedule 8 (which relates to failures to comply with the requirements of community orders and to the revocation or amendment of such orders) shall have effect.

Commencement Information

- I25** S. 179 wholly in force at 4.4.2009; s. 179 not in force at Royal Assent, see s. 336(3); s. 179 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 8](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

180 Transfer of community orders to Scotland or Northern Ireland

Schedule 9 (transfer of community orders to Scotland or Northern Ireland) shall have effect.

Commencement Information

- I26** S. 180 wholly in force at 4.4.2009; s. 180 not in force at Royal Assent, see s. 336(3); s. 180 in force for certain purposes at 4.4.2005 and otherwise in force at 4.4.2009 by [S.I. 2005/950](#), [art. 2](#), [Sch. 1 para. 8](#) (subject to [Sch. 2](#)) (as amended by [S.I. 2007/391](#), [art. 2](#))

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CHAPTER 3

[^{F101}SUSPENDED SENTENCE ORDERS]

Textual Amendments

F101 Pt. 12 Ch. 3 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 3** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

Prison sentences of less than 12 months

^{F102}**181 Prison sentences of less than 12 months**

.....

Textual Amendments

F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 89(1)(a)**, 151(1); S.I. 2012/2906, art. 2(a)

^{F102}**182 Licence conditions**

.....

Textual Amendments

F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 89(1)(a)**, 151(1); S.I. 2012/2906, art. 2(a)

Intermittent custody

^{F102}**183 Intermittent custody**

.....

Textual Amendments

F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 89(1)(a)**, 151(1); S.I. 2012/2906, art. 2(a)

^{F102}**184 Restrictions on power to make intermittent custody order**

.....

*Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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Textual Amendments
F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

F102 185 Intermittent custody: licence conditions

.....

Textual Amendments
F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

F102 186 Further provisions relating to intermittent custody

.....

Textual Amendments
F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

Further provision about custody plus orders and intermittent custody orders

F102 187 Revocation or amendment of order

.....

Textual Amendments
F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

F102 188 Transfer of custody plus orders and intermittent custody orders to Scotland or Northern Ireland

.....

Textual Amendments
F102 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

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Suspended sentences

189 Suspended sentences of imprisonment

- [^{F103}(1) If a court passes a sentence of imprisonment for a term of least 14 days but not more than 2 years, it may make an order providing that the sentence of imprisonment is not to take effect unless—
- (a) during a period specified in the order for the purposes of this paragraph (“the operational period”) the offender commits another offence in the United Kingdom (whether or not punishable with imprisonment), and
 - (b) a court having power to do so subsequently orders under paragraph 8 of Schedule 12 that the original sentence is to take effect.
- (1A) An order under subsection (1) may also provide that the offender must comply during a period specified in the order for the purposes of this subsection (“the supervision period”) with one or more requirements falling within section 190(1) and specified in the order.
- (1B) Where an order under subsection (1) contains provision under subsection (1A), it must provide that the sentence of imprisonment will also take effect if—
- (a) during the supervision period the offender fails to comply with a requirement imposed under subsection (1A), and
 - (b) a court having power to do so subsequently orders under paragraph 8 of Schedule 12 that the original sentence is to take effect.]

(2) Where two or more sentences imposed on the same occasion are to be served consecutively, the power conferred by subsection (1) is not exercisable in relation to any of them unless the aggregate of the terms of the sentences [^{F104}does not exceed 2 years].

(3) The supervision period [^{F105}(if any)] and the operational period must each be a period of not less than six months and not more than two years beginning with the date of the order.

(4) [^{F106}Where an order under subsection (1) imposes one or more community requirements,] the supervision period must not end later than the operational period.

(5) A court which passes a suspended sentence on any person for an offence may not impose a community sentence in his case in respect of that offence or any other offence of which he is convicted by or before the court or for which he is dealt with by the court.

(6) Subject to any provision to the contrary contained in the Criminal Justice Act 1967 (c. 80), the Sentencing Act or any other enactment passed or instrument made under any enactment after 31st December 1967, a suspended sentence which has not taken effect under paragraph 8 of Schedule 12 is to be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments.

(7) In this Part—

 - (a) “suspended sentence order” means an order under subsection (1),
 - (b) “suspended sentence” means a sentence to which a suspended sentence order relates, and
 - (c) “community requirement”, in relation to a suspended sentence order, means a requirement imposed under subsection [^{F107}(1A)].

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Textual Amendments

- F103** S. 189(1)-(1B) substituted for s. 189(1) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 68\(1\)](#), [151\(1\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(a)
- F104** Words in s. 189(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 68\(2\)](#), [151\(1\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(a)
- F105** Words in s. 189(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 68\(3\)](#), [151\(1\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(a)
- F106** Words in s. 189(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 68\(4\)](#), [151\(1\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(a)
- F107** Words in s. 189(7)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 68\(5\)](#), [151\(1\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(a)

Modifications etc. (not altering text)

- C17** S. 189 modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 196\(1\)](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C18** S. 189 modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 9 para. 20](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- C19** S. 189(1) modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 200\(2\)\(5\)](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I27** S. 189 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

190 Imposition of requirements by suspended sentence order

- (1) The requirements falling within this subsection are—
- (a) an unpaid work requirement (as defined by section 199),
 - (b) an activity requirement (as defined by section 201),
 - (c) a programme requirement (as defined by section 202),
 - (d) a prohibited activity requirement (as defined by section 203),
 - (e) a curfew requirement (as defined by section 204),
 - (f) an exclusion requirement (as defined by section 205),
 - (g) a residence requirement (as defined by section 206),
 - ^{F108}(ga) a foreign travel prohibition requirement (as defined by section 206A),]
 - (h) a mental health treatment requirement (as defined by section 207),
 - (i) a drug rehabilitation requirement (as defined by section 209),
 - (j) an alcohol treatment requirement (as defined by section 212),
 - (k) a supervision requirement (as defined by section 213), and
 - (l) in a case where the offender is aged under 25, an attendance centre requirement (as defined by section 214).
- (2) Section [^{F109}189(1A)] has effect subject to section 218 and to the following provisions of Chapter 4 relating to particular requirements—
- (a) section 199(3) (unpaid work requirement),
 - (b) section 201(3) and (4) (activity requirement),

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- ^{F110}(c)
- (d) section 203(2) (prohibited activity requirement),
- (e) section 207(3) (mental health treatment requirement),
- (f) section 209(2) (drug rehabilitation requirement), and
- (g) section 212(2) and (3) (alcohol treatment requirement).
- (3) Where the court makes a suspended sentence order imposing a curfew requirement or an exclusion requirement, it must also impose an electronic monitoring requirement (as defined by section 215) unless—
- (a) the court is prevented from doing so by section 215(2) or 218(4), or
- (b) in the particular circumstances of the case, it considers it inappropriate to do so.
- (4) Where the court makes a suspended sentence order imposing an unpaid work requirement, an activity requirement, a programme requirement, a prohibited activity requirement, a residence requirement, [^{F111}a foreign travel prohibition requirement,] a mental health treatment requirement, a drug rehabilitation requirement, an alcohol treatment requirement, a supervision requirement or an attendance centre requirement, the court may also impose an electronic monitoring requirement unless the court is prevented from doing so by section 215(2) or 218(4).
- (5) Before making a suspended sentence order imposing two or more different requirements falling within subsection (1), the court must consider whether, in the circumstances of the case, the requirements are compatible with each other.

Textual Amendments

- F108** S. 190(1)(ga) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 72\(3\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#) (with [art. 3](#))
- F109** Words in s. 190(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 9 para. 4](#) (with [s. 68\(7\)](#)); S.I. 2012/2906, [art. 2\(g\)](#)
- F110** S. 190(2)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 70\(2\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#)
- F111** Words in s. 190(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 72\(4\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#) (with [art. 3](#))

Modifications etc. (not altering text)

- C20** S. 190 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 196\(1\)](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C21** Ss. 190-192 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I28** S. 190 wholly in force at 4.4.2005, see [s. 336\(3\)](#) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

191 Power to provide for review of suspended sentence order

- (1) A suspended sentence order [^{F112}that imposes one or more community requirements] may—

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- (a) provide for the order to be reviewed periodically at specified intervals,
 - (b) provide for each review to be made, subject to section 192(4), at a hearing held for the purpose by the court responsible for the order (a “review hearing”),
 - (c) require the offender to attend each review hearing, and
 - (d) provide for the responsible officer to make to the court responsible for the order, before each review, a report on the offender’s progress in complying with the community requirements of the order.
- (2) Subsection (1) does not apply in the case of an order imposing a drug rehabilitation requirement (provision for such a requirement to be subject to review being made by section 210).
- (3) In this section references to the court responsible for a suspended sentence order are references—
- (a) where a court is specified in the order in accordance with subsection (4), to that court;
 - (b) in any other case, to the court by which the order is made.
- (4) Where the area specified in a suspended sentence order made by a magistrates' court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purpose of subsection (3) a magistrates' court which acts for the area specified in the order.
- (5) Where a suspended sentence order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, it is to be taken for the purposes of subsection (3)(b) to have been made by the Crown Court.

Textual Amendments

F112 Words in s. 191(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 9 para. 5](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

Modifications etc. (not altering text)

C22 Ss. 190-192 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201, 383](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

C23 S. 191 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 203\(1\), 383](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

I29 S. 191 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

192 Periodic reviews of suspended sentence order

- (1) At a review hearing (within the meaning of subsection (1) of section 191) the court may, after considering the responsible officer’s report referred to in that subsection, amend the community requirements of the suspended sentence order, or any provision of the order which relates to those requirements.
- (2) The court—

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- (a) may not amend the community requirements of the order so as to impose a requirement of a different kind unless the offender expresses his willingness to comply with that requirement,
 - (b) may not amend a mental health treatment requirement, a drug rehabilitation requirement or an alcohol treatment requirement unless the offender expresses his willingness to comply with the requirement as amended,
 - (c) may amend the supervision period only if the period as amended complies with section 189(3) and (4),
 - (d) may not amend the operational period of the suspended sentence, and
 - (e) except with the consent of the offender, may not amend the order while an appeal against the order is pending.
- (3) For the purposes of subsection (2)(a)—
- (a) a community requirement falling within any paragraph of section 190(1) is of the same kind as any other community requirement falling within that paragraph, and
 - (b) an electronic monitoring requirement is a community requirement of the same kind as any requirement falling within section 190(1) to which it relates.
- (4) If before a review hearing is held at any review the court, after considering the responsible officer's report, is of the opinion that the offender's progress in complying with the community requirements of the order is satisfactory, it may order that no review hearing is to be held at that review; and if before a review hearing is held at any review, or at a review hearing, the court, after considering that report, is of that opinion, it may amend the suspended sentence order so as to provide for each subsequent review to be held without a hearing.
- (5) If at a review held without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.
- (6) If at a review hearing the court is of the opinion that the offender has without reasonable excuse failed to comply with any of the community requirements of the order, the court may adjourn the hearing for the purpose of dealing with the case under paragraph 8 of Schedule 12.
- (7) At a review hearing the court may amend the suspended sentence order so as to vary the intervals specified under section 191(1).
- (8) In this section any reference to the court, in relation to a review without a hearing, is to be read—
- (a) in the case of the Crown Court, as a reference to a judge of the court, and
 - (b) in the case of a magistrates' court, as a reference to a justice of the peace^{F113}

Textual Amendments

F113 Words in s. 192(8)(b) omitted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I.2005/886\)](#), art. 2, [Sch. para. 101](#)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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Modifications etc. (not altering text)

- C24** Ss. 190-192 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201, 383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

- I30** S. 192 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

193 Breach, revocation or amendment of suspended sentence order, and effect of further conviction

Schedule 12 (which relates to the breach, revocation or amendment of the community requirements of suspended sentence orders, and to the effect of any further conviction) shall have effect.

Commencement Information

- I31** S. 193 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

194 Transfer of suspended sentence orders to Scotland or Northern Ireland

Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland) shall have effect.

Commencement Information

- I32** S. 194 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 9](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Interpretation of Chapter

195 Interpretation of Chapter 3

In this Chapter—

F114

F114

F114

[^{F115}“the operational period”, in relation to a suspended sentence, has the meaning given by section 189(1)(a);]

“sentence of imprisonment” does not include a committal for contempt of court or any kindred offence.

[^{F116}“the supervision period”, in relation to a suspended sentence, has the meaning given by section 189(1A).]

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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Textual Amendments

- F114** Words in s. 195 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 13](#); S.I. 2012/2906, art. 2(h)
- F115** Words in s. 195 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 9 para. 6\(2\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F116** Words in s. 195 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 9 para. 6\(3\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

Commencement Information

- I33** S. 195 wholly in force at 4.4.2005; s. 195 not in force at Royal Assent, see s. 336(3); s. 195 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 195 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 10](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

CHAPTER 4

FURTHER PROVISIONS ABOUT ORDERS UNDER CHAPTERS 2 AND 3

Modifications etc. (not altering text)

- C25** Pt. 12 Ch. 4 applied (with modifications) (8.12.2008) by [Children Act 1989 \(c. 41\)](#), [Sch. A1 paras. 1-3](#) (as inserted by the [Children and Adoption Act 2006 \(c. 20\)](#), ss. 4(2), 17, [Sch. 1](#)); S.I. 2008/2870, [art. 2\(2\)\(c\)](#)
- C26** Pt. 12 Ch. 4 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(3\)\(4\)](#), [196\(1\)](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- Pt. 12 Ch. 4 extended (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 182\(4\)-\(6\)](#), 383 (subject to s. 183) (as amended (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 33\(3\)](#) (with [Sch. 16 para. 35](#)); S.I. 2013/2981, art. 2(e)); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C27** Pt. 12 Ch. 4 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Introductory

196 Meaning of “relevant order” ^{F117}etc]

(1) In this Chapter “relevant order” means—

- (a) a community order, ^{F118}or
- ^{F119}(b)
- (c) a suspended sentence order, ^{F120}...
- ^{F120}(d)

^{F121}(1A) In this Chapter “suspended sentence order” means a suspended sentence order that imposes one or more community requirements.]

^{F122}(2)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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Textual Amendments

- F117** Word in s. 196 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 7\(2\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F118** Word in s. 196(1)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 14\(2\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F119** S. 196(1)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 14\(2\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F120** S. 196(1)(d) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 14\(2\)\(c\)](#); S.I. 2012/2906, art. 2(h)
- F121** S. 196(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 7\(3\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F122** S. 196(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 14\(3\)](#); S.I. 2012/2906, art. 2(h)

Commencement Information

- I34** S. 196 partly in force; s. 196 not in force at Royal Assent, see s. 336(3); s. 196(1)(d)(2) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 196(1)(a)(c) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 11](#) (subject to [art. 2\(2\), Sch. 2](#))

197 Meaning of “the responsible officer”

- (1) For the purposes of this Part, “the responsible officer”, in relation to an offender to whom a relevant order relates, means—
- (a) in a case where the order—
 - (i) imposes a curfew requirement or an exclusion requirement but no other requirement mentioned in section 177(1) or, as the case requires, section ^{F123}... 190(1), and
 - (ii) imposes an electronic monitoring requirement,
 the person who under section 215(3) is responsible for the electronic monitoring required by the order;
 - (b) in a case where ^{F124}... the only requirement imposed by the order is an attendance centre requirement, the officer in charge of the attendance centre in question;
 - (c) in any other case, the qualifying officer who, as respects the offender, is for the time being responsible for discharging the functions conferred by this Part on the responsible officer.
- (2) The following are qualifying officers for the purposes of subsection (1)(c)—
- [^{F125}(a) in a case where the offender is aged under 18 at the time when the relevant order is made—
 - (i) an officer of a local probation board appointed for or assigned to the local justice area for the time being specified in the order or, (as the case may be) an officer of a provider of probation services acting in the local justice area for the time being specified in the order
 - (ii) a member of a youth offending team established by a local authority for the time being specified in the order.]
 - (b) in any other case, an officer of a local probation board appointed for or assigned to the [^{F126}local justice area] for the time being specified in the order

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[^{F127}, or (as the case may be) an officer of a provider of probation services acting in the local justice area for the time being specified in the order] .

- (3) The Secretary of State may by order—
- (a) amend subsections (1) and (2), and
 - (b) make any other amendments of this Part that appear to him to be necessary or expedient in consequence of any amendment made by virtue of paragraph (a).
- (4) An order under subsection (3) may, in particular, provide for the court to determine which of two or more descriptions of “responsible officer” is to apply in relation to any relevant order.

Textual Amendments

- F123** Words in s. 197(1)(a)(i) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 15](#); S.I. 2012/2906, art. 2(h)
- F124** Words in s. 197(1)(b) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 83](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F125** S. 197(2)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(5\)\(a\)](#)
- F126** Words in s. 197(2)(a)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 102](#)
- F127** Words in s. 197(2)(b) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(5\)\(b\)](#)

Modifications etc. (not altering text)

- C28** S. 197(1)(2) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. [183\(1\)](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I35** S. 197 partly in force; s. 197 not in force at Royal Assent, see s. 336(3); s. 197 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 197(3)(4) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 197 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 2 para. 12](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

198 Duties of responsible officer

- (1) Where a relevant order has effect, it is the duty of the responsible officer—
- (a) to make any arrangements that are necessary in connection with the requirements imposed by the order,
 - (b) to promote the offender’s compliance with those requirements, and
 - (c) where appropriate, to take steps to enforce those requirements.
- (2) In this section “responsible officer” does not include a person falling within section 197(1)(a).

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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Commencement Information

- I36** S. 198 wholly in force at 4.4.2005; s.198 not in force at Royal Assent, see s. 336(3); s. 198 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 198 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 12** (subject to **art. 2(2), Sch. 2**)

Requirements available in case of all offenders

199 Unpaid work requirement

- (1) In this Part “unpaid work requirement”, in relation to a relevant order, means a requirement that the offender must perform unpaid work in accordance with section 200.
- (2) The number of hours which a person may be required to work under an unpaid work requirement must be specified in the relevant order and must be in the aggregate—
 - (a) not less than 40, and
 - (b) not more than 300.
- (3) A court may not impose an unpaid work requirement in respect of an offender unless after hearing (if the courts thinks necessary) an [^{F128}officer of a local probation board or an officer of a provider of probation services] , the court is satisfied that the offender is a suitable person to perform work under such a requirement.
- (4) ^{F129}
- (5) Where the court makes relevant orders in respect of two or more offences of which the offender has been convicted on the same occasion and includes unpaid work requirements in each of them, the court may direct that the hours of work specified in any of those requirements is to be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent does not exceed the maximum specified in subsection (2)(b).

Textual Amendments

- F128** Words in s. 199(3) substituted (30.11.2009) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 6, 153, **Sch. 4 para. 84(a)** (with *Sch. 27 paras. 1, 5*); S.I. 2009/3074, **art. 2(p)(xiii)**
- F129** S. 199(4) repealed (30.11.2009) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 6, 149, 153, *Sch. 4 para. 84(b), Sch. 28 Pt. 1* (with *Sch. 27 paras. 1, 5*); S.I. 2009/3074, **art. 2(p)(xiii)(u)(xxxi)**

Commencement Information

- I37** S. 199 wholly in force at 4.4.2005; s. 199 not in force at Royal Assent, see s. 336(3); s. 199 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 199 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 13** (subject to **art. 2(2), Sch. 2**)

200 Obligations of person subject to unpaid work requirement

- (1) An offender in respect of whom an unpaid work requirement of a relevant order is in force must perform for the number of hours specified in the order such work at such times as he may be instructed by the responsible officer.

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- (2) Subject to paragraph 20 of Schedule 8 and paragraph 18 of Schedule 12 (power to extend order), the work required to be performed under an unpaid work requirement of a community order or a suspended sentence order must be performed during a period of twelve months.
- (3) Unless revoked, a community order imposing an unpaid work requirement remains in force until the offender has worked under it for the number of hours specified in it.
- (4) Where an unpaid work requirement is imposed by a suspended sentence order, the supervision period as defined by section [F130 189(1A)] continues until the offender has worked under the order for the number of hours specified in the order, but does not continue beyond the end of the operational period as defined by section [F131 189(1)(a)].

Textual Amendments

F130 Word in s. 200(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 8\(a\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

F131 Word in s. 200(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 8\(b\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

Commencement Information

I38 S. 200 wholly in force at 4.4.2005; s. 200 not in force at Royal Assent, see s. 336(3); s. 200(1) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2, Sch.](#); s. 200 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\), Sch. 1 para. 13](#) (subject to [art. 2\(2\), Sch. 2](#))

201 Activity requirement

- (1) In this Part “activity requirement”, in relation to a relevant order, means a requirement that the offender must do either or both of the following—
 - (a) present himself to a person or persons specified in the relevant order at a place or places so specified on such number of days as may be so specified;
 - (b) participate in activities specified in the order on such number of days as may be so specified.
- (2) The specified activities may consist of or include activities whose purpose is that of reparation, such as activities involving contact between offenders and persons affected by their offences.
- (3) A court may not include an activity requirement in a relevant order unless—
 - (a) it has consulted[F132 an officer of a local probation board or an officer of a provider of probation services] and
 - (b) it is satisfied that it is feasible to secure compliance with the requirement.
- (4) A court may not include an activity requirement in a relevant order if compliance with that requirement would involve the co-operation of a person other than the offender and the offender’s responsible officer, unless that other person consents to its inclusion.
- (5) The aggregate of the number of days specified under subsection (1)(a) and (b) must not exceed 60.
- (6) A requirement such as is mentioned in subsection (1)(a) operates to require the offender—

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- (a) in accordance with instructions given by his responsible officer, to present himself at a place or places on the number of days specified in the order, and
 - (b) while at any place, to comply with instructions given by, or under the authority of, the person in charge of that place.
- (7) A place specified under subsection (1)(a) must be—
- (a) a community rehabilitation centre, or
 - [^{F133}(b) a place that has been approved as providing facilities suitable for persons subject to activity requirements—
 - (i) where the premises are situated in the area of a local probation board, by that board, or
 - (ii) in any other case, by a provider of probation services authorised to do so by arrangements under section 3 of the Offender Management Act 2007.]
- (8) Where the place specified under subsection (1)(a) is a community rehabilitation centre, the reference in subsection (6)(a) to the offender presenting himself at the specified place includes a reference to him presenting himself elsewhere than at the centre for the purpose of participating in activities in accordance with instructions given by, or under the authority of, the person in charge of the centre.
- (9) A requirement to participate in activities operates to require the offender—
- (a) in accordance with instructions given by his responsible officer, to participate in activities on the number of days specified in the order, and
 - (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (10) In this section “community rehabilitation centre” means premises—
- (a) at which non-residential facilities are provided for use in connection with the rehabilitation of offenders, and
 - (b) which are for the time being approved by the Secretary of State as providing facilities suitable for persons subject to relevant orders.

Textual Amendments

F132 Words in s. 201(3)(a) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 85](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(xiii\)](#)

F133 S. 201(7)(b) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(7\)\(b\)](#)

Modifications etc. (not altering text)

C29 S. 201(7) modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. [183\(2\)](#), [383](#) (as substituted (1.4.2008) by [S.I. 2008/912](#), art. 3, [Sch. 1 para. 23\(2\)\(a\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

I39 S. 201 wholly in force at 4.4.2005; s. 201 not in force at Royal Assent, see s. 336(3); s. 201 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 201 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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202 Programme requirement

- (1) In this Part “programme requirement”, in relation to a relevant order, means a requirement that the offender must participate [^{F134}in accordance with this section] in an accredited programme [^{F135}on the number of days specified in the order.]
- (2) In this Part “accredited programme” means a programme that is for the time being accredited by the [^{F136}Secretary of State for the purposes of this section] .
- (3) In this section—
 - (a) “programme” means a systematic set of activities, and
 - ^{F137}(b)
- ^{F138}(4)
- ^{F138}(5)
- (6) A [^{F139}programme requirement] operates to require the offender—
 - (a) in accordance with instructions given by the responsible officer, to participate in the accredited programme [^{F140}that is from time to time specified by the responsible officer at the place that is so specified] on the number of days specified in the order, and
 - (b) while at that place, to comply with instructions given by, or under the authority of, the person in charge of the programme.
- [^{F141}(7) A place specified [^{F142}by a responsible officer] must be a place that has been approved as providing facilities suitable for persons subject to programme requirements—
 - (a) where the premises are situated in the area of a local probation board, by that board, or
 - (b) in any other case, by a provider of probation services authorised to do so by arrangements under section 3 of the Offender Management Act 2007.]

Textual Amendments

- F134** Words in s. 202(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(4)(a), 151(1); S.I. 2012/2906, art. 2(a)
- F135** Words in s. 202(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(4)(b), 151(1); S.I. 2012/2906, art. 2(a)
- F136** Words in s. 202(2) substituted (1.5.2008) by Offender Management Act 2007 (c. 21), ss. 31(1)(a), 41(1); S.I. 2007/3001, art. 3(a)
- F137** S. 202(3)(b) repealed (1.5.2008) by Offender Management Act 2007 (c. 21), ss. 31(1)(b), 41(1), Sch. 5 Pt. 3; S.I. 2007/3001, art. 3(a)(c)
- F138** S. 202(4)(5) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(5), 151(1); S.I. 2012/2906, art. 2(a); S.I. 2012/2906, art. 2(a)
- F139** Words in s. 202(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(6)(a), 151(1); S.I. 2012/2906, art. 2(a)
- F140** Words in s. 202(6)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(6)(b), 151(1); S.I. 2012/2906, art. 2(a)
- F141** S. 202(7) substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(8)(b)
- F142** Words in s. 202(7) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 70(7), 151(1); S.I. 2012/2906, art. 2(a)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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Modifications etc. (not altering text)

C30 S. 202(7) modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 183\(2\), 383](#) (as substituted (1.4.2008) by [S.I. 2008/912, art. 3, Sch. 1 para. 23\(2\)\(a\)](#)); [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

Commencement Information

I40 S. 202 wholly in force at 4.4.2005; s. 202 not in force at Royal Assent, see s. 336(3); s. 202 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 202(3)(b) in force at 7.3.2005 by [S.I. 2005/373, art. 2](#); s. 202 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 2 para. 13](#) (subject to [art. 2\(2\), Sch. 2](#))

203 Prohibited activity requirement

- (1) In this Part “prohibited activity requirement”, in relation to a relevant order, means a requirement that the offender must refrain from participating in activities specified in the order—
 - (a) on a day or days so specified, or
 - (b) during a period so specified.
- (2) A court may not include a prohibited activity requirement in a relevant order unless it has consulted^[F143] an officer of a local probation board or an officer of a provider of probation services]
- (3) The requirements that may by virtue of this section be included in a relevant order include a requirement that the offender does not possess, use or carry a firearm within the meaning of the Firearms Act 1968 (c. 27).

Textual Amendments

F143 Words in s. 203(2) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 6, 153, Sch. 4 para. 87](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074, art. 2\(p\)\(xiii\)](#)

Commencement Information

I41 S. 203 wholly in force at 4.4.2005; s. 203 not in force at Royal Assent, see s. 336(3); s. 203 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 203 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 2 para. 13](#) (subject to [art. 2\(2\), Sch. 2](#))

204 Curfew requirement

- (1) In this Part “curfew requirement”, in relation to a relevant order, means a requirement that the offender must remain, for periods specified in the relevant order, at a place so specified.
- (2) A relevant order imposing a curfew requirement may specify different places or different periods for different days, but may not specify periods which amount to less than two hours or more than ^[F144]sixteen] hours in any day.
- (3) A community order or suspended sentence order which imposes a curfew requirement may not specify periods which fall outside the period of ^[F145]twelve] months beginning with the day on which it is made.

^{F146}(4)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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F146(5)

- (6) Before making a relevant order imposing a curfew requirement, the court must obtain and consider information about the place proposed to be specified in the order (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).

Textual Amendments

- F144** Word in s. 204(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 71\(2\)](#), [151\(1\)](#); [S.I. 2012/2906](#), [art. 2\(a\)](#) (with [art. 3](#))
- F145** Word in s. 204(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 71\(3\)](#), [151\(1\)](#); [S.I. 2012/2906](#), [art. 2\(a\)](#) (with [art. 3](#))
- F146** S. 204(4)(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 10 para. 17](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)

Commencement Information

- I42** S. 204 partly in force; s. 204 not in force at Royal Assent, see [s. 336\(3\)](#); s. 204(1)(2)(5)(6) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 204(1)-(3)(6) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

205 Exclusion requirement

- (1) In this Part “exclusion requirement”, in relation to a relevant order, means a provision prohibiting the offender from entering a place specified in the order for a period so specified.
- (2) Where the relevant order is a community order, the period specified must not be more than two years.
- (3) An exclusion requirement—
- (a) may provide for the prohibition to operate only during the periods specified in the order, and
 - (b) may specify different places for different periods or days.
- (4) In this section “place” includes an area.

Commencement Information

- I43** S. 205 wholly in force at 4.4.2005; s. 205 not in force at Royal Assent, see [s. 336\(3\)](#); s. 205(1)(3)(4) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 205 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

206 Residence requirement

- (1) In this Part, “residence requirement”, in relation to a community order or a suspended sentence order, means a requirement that, during a period specified in the relevant order, the offender must reside at a place specified in the order.

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- (2) If the order so provides, a residence requirement does not prohibit the offender from residing, with the prior approval of the responsible officer, at a place other than that specified in the order.
- (3) Before making a community order or suspended sentence order containing a residence requirement, the court must consider the home surroundings of the offender.
- (4) A court may not specify a hostel or other institution as the place where an offender must reside, except on the recommendation of an officer of a local probation board [^{F147} or an officer of a provider of probation services] .

Textual Amendments

F147 Words in s. 206(4) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(10\)](#)

Modifications etc. (not altering text)

C31 S. 206(1) modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, [Sch. 6 para. 3\(1\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

C32 S. 206(2)-(4) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, [Sch. 6 para. 3\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

I44 S. 206 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[^{F148}206A Foreign travel prohibition requirement

- (1) In this Part “foreign travel prohibition requirement”, in relation to a relevant order, means a requirement prohibiting the offender from travelling, on a day or days specified in the order, or for a period so specified—
 - (a) to any country or territory outside the British Islands specified or described in the order,
 - (b) to any country or territory outside the British Islands other than a country or territory specified or described in the order, or
 - (c) to any country or territory outside the British Islands.
- (2) A day specified under subsection (1) may not fall outside the period of 12 months beginning with the day on which the relevant order is made.
- (3) A period specified under that subsection may not exceed 12 months beginning with the day on which the relevant order is made.]

Textual Amendments

F148 S. 206A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 72(5), 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

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207 Mental health treatment requirement

- (1) In this Part, “mental health treatment requirement”, in relation to a community order or suspended sentence order, means a requirement that the offender must submit, during a period or periods specified in the order, to treatment by or under the direction of a registered medical practitioner or a ^[F149]registered psychologist] (or both, for different periods) with a view to the improvement of the offender’s mental condition.
- (2) The treatment required must be such one of the following kinds of treatment as may be specified in the relevant order—
 - (a) treatment as a resident patient in ^[F150]a] care home within the meaning of the Care Standards Act 2000 (c. 14) ^[F151], an independent hospital] or a hospital within the meaning of the Mental Health Act 1983 (c. 20), but not in hospital premises where high security psychiatric services within the meaning of that Act are provided;
 - (b) treatment as a non-resident patient at such institution or place as may be specified in the order;
 - (c) treatment by or under the direction of such registered medical practitioner or ^[F149]registered psychologist] (or both) as may be so specified;but the nature of the treatment is not to be specified in the order except as mentioned in paragraph (a), (b) or (c).
- (3) A court may not by virtue of this section include a mental health treatment requirement in a relevant order unless—
 - (a) the court is satisfied ^{F152}... that the mental condition of the offender—
 - (i) is such as requires and may be susceptible to treatment, but
 - (ii) is not such as to warrant the making of a hospital order or guardianship order within the meaning of ^[F153]the Mental Health Act 1983];
 - (b) the court is also satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient); and
 - (c) the offender has expressed his willingness to comply with such a requirement.
- (4) While the offender is under treatment as a resident patient in pursuance of a mental health requirement of a relevant order, his responsible officer shall carry out the supervision of the offender to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

^[F154](4A) In subsection (2) “independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.]

^{F155}(5)

^[F156](6) In this section and section 208, “ registered psychologist ” means a person registered in the part of the register maintained under ^[F157]the Health and Social Work Professions Order 2001] which relates to practitioner psychologists.]

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Textual Amendments

- F149** Words in s. 207(1)(2)(c) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), arts. 1(9), 4(2), [Sch. 5 para. 7\(a\)\(i\)](#); S.I. 2009/1357, [art. 2\(1\)\(d\)](#)
- F150** Word in s. 207(2)(a) substituted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), [art. 14\(a\)\(i\)](#)
- F151** Words in s. 207(2)(a) inserted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), [art. 14\(a\)\(ii\)](#)
- F152** Words in s. 207(3)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 73\(2\)\(a\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#)
- F153** Words in s. 207(3)(a)(ii) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 73\(2\)\(b\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#)
- F154** S. 207(4A) inserted (1.10.2010) by [The Health and Social Care Act 2008 \(Consequential Amendments No.2\) Order 2010 \(S.I. 2010/813\)](#), [art. 14\(b\)](#)
- F155** S. 207(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 73\(3\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#)
- F156** S. 207(6) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), arts. 1(9), 4(2), [Sch. 5 para. 7\(b\)](#); S.I. 2009/1357, [art. 2\(1\)\(d\)](#)
- F157** Words in s. 207(6) substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 213\(8\)\(b\)](#), 306(4) (with s. 230(6)); S.I. 2012/1319, [art. 2\(4\)](#)

Modifications etc. (not altering text)

- C33** S. 207(3)(a)(ii) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(5\)](#), [183\(1\)](#), [202](#), 383; S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C34** S. 207(3)(c) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 182\(3\)](#), 383, [Sch. 6 para. 4\(1\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I45** S. 207 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

208 Mental health treatment at place other than that specified in order

- (1) Where the medical practitioner or [^{F158}registered psychologist] by whom or under whose direction an offender is being treated for his mental condition in pursuance of a mental health treatment requirement is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
- (a) is not specified in the relevant order, and
 - (b) is one in or at which the treatment of the offender will be given by or under the direction of a registered medical practitioner or chartered psychologist,
- he may, with the consent of the offender, make arrangements for him to be treated accordingly.
- (2) Such arrangements as are mentioned in subsection (1) may provide for the offender to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the relevant order.

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- (3) Where any such arrangements as are mentioned in subsection (1) are made for the treatment of an offender—
- (a) the medical practitioner or [^{F158}registered psychologist] by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and
 - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the relevant order.

Textual Amendments

F158 Words in s. 208(1)(3)(a) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), arts. 1(9), 4(2), [Sch. 5 para. 7\(a\)\(ii\)](#); S.I. 2009/1357, [art. 2\(1\)\(d\)](#)

Modifications etc. (not altering text)

C35 S. 208(1) modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, [Sch. 6 para. 4\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

I46 S. 208 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

209 Drug rehabilitation requirement

- (1) In this Part “drug rehabilitation requirement”, in relation to a community order or suspended sentence order, means a requirement that during a period specified in the order (“the treatment and testing period”) the offender—
- (a) must submit to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs, and
 - (b) for the purpose of ascertaining whether he has any drug in his body during that period, must provide samples of such description as may be so determined, at such times or in such circumstances as may (subject to the provisions of the order) be determined by the responsible officer or by the person specified as the person by or under whose direction the treatment is to be provided.
- (2) A court may not impose a drug rehabilitation requirement unless—
- (a) it is satisfied—
 - (i) that the offender is dependent on, or has a propensity to misuse, drugs, and
 - (ii) that his dependency or propensity is such as requires and may be susceptible to treatment,
 - (b) it is also satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident),

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- (c) the requirement has been recommended to the court as being suitable for the offender [^{F159}by an officer of a local probation board or an officer of a provider of probation services, and]
- (d) the offender expresses his willingness to comply with the requirement.

^{F160}(3)

- (4) The required treatment for any particular period must be—
 - (a) treatment as a resident in such institution or place as may be specified in the order, or
 - (b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;
 but the nature of the treatment is not to be specified in the order except as mentioned in paragraph (a) or (b) above.
- (5) The function of making a determination as to the provision of samples under provision included in the community order or suspended sentence order by virtue of subsection (1)(b) is to be exercised in accordance with guidance given from time to time by the Secretary of State.
- (6) A community order or suspended sentence order imposing a drug rehabilitation requirement must provide that the results of tests carried out on any samples provided by the offender in pursuance of the requirement to a person other than the responsible officer are to be communicated to the responsible officer.
- (7) In this section “drug” means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971 (c. 38).

Textual Amendments

- F159** Words in s. 209(2)(c) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 88](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F160** S. 209(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 74\(1\)](#), 151(1); S.I. 2012/2906, [art. 2\(a\)](#)

Modifications etc. (not altering text)

- C36** S. 209(1) modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, [Sch. 6 para. 5\(1\)\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C37** S. 206(2)(d) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, [Sch. 6 para. 5\(3\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

- I47** S. 209 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

210 Drug rehabilitation requirement: provision for review by court

- (1) A community order or suspended sentence order imposing a drug rehabilitation requirement may (and must if the treatment and testing period is more than 12 months)

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- (a) provide for the requirement to be reviewed periodically at intervals of not less than one month,
 - (b) provide for each review of the requirement to be made, subject to section 211(6), at a hearing held for the purpose by the court responsible for the order (a “review hearing”),
 - (c) require the offender to attend each review hearing,
 - (d) provide for the responsible officer to make to the court responsible for the order, before each review, a report in writing on the offender’s progress under the requirement, and
 - (e) provide for each such report to include the test results communicated to the responsible officer under section 209(6) or otherwise and the views of the treatment provider as to the treatment and testing of the offender.
- (2) In this section references to the court responsible for a community order or suspended sentence order imposing a drug rehabilitation requirement are references—
- (a) where a court is specified in the order in accordance with subsection (3), to that court;
 - (b) in any other case, to the court by which the order is made.
- (3) Where the area specified in a community order or suspended sentence order which is made by a magistrates' court and imposes a drug rehabilitation requirement is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purposes of subsection (2) a magistrates' court which acts for the area specified in the order.
- (4) Where a community order or suspended sentence order imposing a drug rehabilitation requirement has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of subsection (2)(b) it shall be taken to have been made by the Crown Court.

Modifications etc. (not altering text)

C38 S. 210 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006](#) (c. 52), [ss. 179\(1\), 203\(2\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

C39 S. 210 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006](#) (c. 52), [ss. 183\(1\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

I48 S. 210 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

211 Periodic review of drug rehabilitation requirement

- (1) At a review hearing (within the meaning given by subsection (1) of section 210) the court may, after considering the responsible officer’s report referred to in that subsection, amend the community order or suspended sentence order, so far as it relates to the drug rehabilitation requirement.
- (2) The court—

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- (a) may not amend the drug rehabilitation requirement unless the offender expresses his willingness to comply with the requirement as amended, [^{F161}and]
 - ^{F162}(b)
 - (c) except with the consent of the offender, may not amend any requirement or provision of the order while an appeal against the order is pending.
- (3) If the offender fails to express his willingness to comply with the drug rehabilitation requirement as proposed to be amended by the court, the court may—
- (a) revoke the community order, or the suspended sentence order and the suspended sentence to which it relates, and
 - (b) deal with him, for the offence in respect of which the order was made, in any way 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.
- (4) In dealing with the offender under subsection (3)(b), the court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the order, and
 - (b) may impose a custodial sentence (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 152(2).
- ^{F163}(5)
- (6) If at a review hearing (as defined by section 210(1)(b)) the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the requirement is satisfactory, the court may so amend the order as to provide for each subsequent review to be made by the court without a hearing.
- (7) If at a review without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the requirement is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.
- (8) At that hearing the court, after considering that report, may—
- (a) exercise the powers conferred by this section as if the hearing were a review hearing, and
 - (b) so amend the order as to provide for each subsequent review to be made at a review hearing.
- (9) In this section any reference to the court, in relation to a review without a hearing, is to be read—
- (a) in the case of the Crown Court, as a reference to a judge of the court;
 - (b) in the case of a magistrates' court, as a reference to a justice of the peace ^{F164}

Textual Amendments

F161 Word in s. 211(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 74\(2\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

F162 S. 211(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 74\(2\)\(b\)](#), 151(1); S.I. 2012/2906, art. 2(a)

F163 S. 211(5) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 89, [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxx\)](#)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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F164 Words in s. 211(9)(b) omitted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 101](#)

Modifications etc. (not altering text)

C40 S. 211 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 179\(2\), 203\(3\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#) (as amended (temp.) (24.4.2009 for certain purposes, otherwise 31.10.2009) by [S.I. 2009/1059](#), arts. 1(3), 206, [Sch. 2 paras. 3\(b\)\(c\)](#), {14(3)(b)(c)})

C41 S. 211 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 183\(1\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

I49 S. 211 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

212 Alcohol treatment requirement

- (1) In this Part “alcohol treatment requirement”, in relation to a community order or suspended sentence order, means a requirement that the offender must submit during a period specified in the order to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the offender’s dependency on alcohol.
- (2) A court may not impose an alcohol treatment requirement in respect of an offender unless it is satisfied—
 - (a) that he is dependent on alcohol,
 - (b) that his dependency is such as requires and may be susceptible to treatment, and
 - (c) that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).
- (3) A court may not impose an alcohol treatment requirement unless the offender expresses his willingness to comply with its requirements.

^{F165}(4)

- (5) The treatment required by an alcohol treatment requirement for any particular period must be—
 - (a) treatment as a resident in such institution or place as may be specified in the order,
 - (b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified, or
 - (c) treatment by or under the direction of such person having the necessary qualification or experience as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

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Textual Amendments
F165 S. 212(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 75\(1\)](#), [151\(1\)](#); S.I. 2012/2906, art. 2(a)

Commencement Information
I50 S. 212 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

213 Supervision requirement

- (1) In this Part “supervision requirement”, in relation to a relevant order, means a requirement that, during the relevant period, the offender must attend appointments with the responsible officer or another person determined by the responsible officer, at such time and place as may be determined by the officer.
- (2) The purpose for which a supervision requirement may be imposed is that of promoting the offender’s rehabilitation.
- (3) In subsection (1) “the relevant period” means—
 - (a) in relation to a community order, the period for which the community order remains in force,
 - ^{F166}(b)
 - ^{F166}(c)
 - (d) in relation to a suspended sentence order, the supervision period as defined by section [^{F167}189(1A)].

Textual Amendments
F166 S. 213(3)(b)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 10 para. 18](#); S.I. 2012/2906, art. 2(h)

F167 Words in s. 213(3)(d) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 9 para. 9](#) (with s. [68\(7\)](#)); S.I. 2012/2906, art. 2(g)

Commencement Information
I51 S. 213 partly in force; s. 213 not in force at Royal Assent, see s. 336(3); s. 213(1)(2)(3)(c) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 213(1)-(3)(a)(d) in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 13](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Requirements available only in case of offenders aged under 25

214 Attendance centre requirement

- (1) In this Part “attendance centre requirement”, in relation to a relevant order, means a requirement that the offender must attend at an attendance centre specified in the relevant order for such number of hours as may be so specified.
- (2) The aggregate number of hours for which the offender may be required to attend at an attendance centre must not be less than 12 or more than 36.

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- (3) The court may not impose an attendance centre requirement unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the offender concerned, having regard to the means of access available to him and any other circumstances.
- (4) The first time at which the offender is required to attend at the attendance centre is a time notified to the offender by the responsible officer.
- (5) The subsequent hours are to be fixed by the officer in charge of the centre, having regard to the offender's circumstances.
- (6) An offender may not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.
- [^{F168}(7) A requirement to attend at an attendance centre for any period on any occasion operates as a requirement, during that period, to engage in occupation, or receive instruction, under the supervision of and in accordance with instructions given by, or under the authority of, the officer in charge of the centre, whether at the centre or elsewhere.]

Textual Amendments

F168 S. 214(7) added (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 90](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(xiii\)](#)

Commencement Information

I52 S. 214 wholly in force at 4.4.2005; s. 214 not in force at Royal Assent, see s. 336(3); s. 214 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 214 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 14](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Electronic monitoring

215 Electronic monitoring requirement

- (1) In this Part “electronic monitoring requirement”, in relation to a relevant order, means a requirement for securing the electronic monitoring of the offender's compliance with other requirements imposed by the order during a period specified in the order, or determined by the responsible officer in accordance with the relevant order.
- (2) Where—
 - (a) it is proposed to include in a relevant order a requirement for securing electronic monitoring in accordance with this section, but
 - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,the requirement may not be included in the order without that person's consent.
- (3) A relevant order which includes an electronic monitoring requirement must include provision for making a person responsible for the monitoring; and a person who is made so responsible must be of a description specified in an order made by the Secretary of State.

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- (4) Where an electronic monitoring requirement is required to take effect during a period determined by the responsible officer in accordance with the relevant order, the responsible officer must, before the beginning of that period, notify—
 - (a) the offender,
 - (b) the person responsible for the monitoring, and
 - (c) any person falling within subsection (2)(b),
 of the time when the period is to begin.

Modifications etc. (not altering text)

C42 S. 215 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 183\(1\), 383; S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

Commencement Information

I53 S. 215 wholly in force at 4.4.2005; s. 215 not in force at Royal Assent, see s. 336(3); s. 215 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 215(3) in force at 7.3.2005 by [S.I. 2005/373, art. 2](#); s. 215 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 15](#) (subject to [art. 2\(2\), Sch. 2](#))

Provisions applying to relevant orders generally

216 [^{F169}Local justice area] to be specified in relevant order

- (1) A community order or suspended sentence order must specify the [^{F170}local justice area] in which the offender resides or will reside.

^{F171}(2)

Textual Amendments

F169 Words in s. 216 heading substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 2, Sch. para. 103](#)

F170 Words in s. 216(1)(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 2, Sch. para. 103](#)

F171 S. 216(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 19; S.I. 2012/2906, art. 2\(h\)](#)

Modifications etc. (not altering text)

C43 S. 216 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 183\(1\), 383; S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)

Commencement Information

I54 S. 216 partly in force; s. 216 not in force at Royal Assent, see s. 336(3); s. 216(2)(b) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 216(1) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 16](#) (subject to [art. 2\(2\), Sch. 2](#))

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217 Requirement to avoid conflict with religious beliefs, etc

- (1) The court must ensure, as far as practicable, that any requirement imposed by a relevant order is such as to avoid—
 - (a) any conflict with the offender’s religious beliefs or with the requirements of any other relevant order to which he may be subject; and
 - (b) any interference with the times, if any, at which he normally works or attends [^{F172}any] educational establishment.
- (2) The responsible officer in relation to an offender to whom a relevant order relates must ensure, as far as practicable, that any instruction given or requirement imposed by him in pursuance of the order is such as to avoid the conflict or interference mentioned in subsection (1).
- (3) The Secretary of State may by order provide that subsection (1) or (2) is to have effect with such additional restrictions as may be specified in the order.

Textual Amendments

F172 Words in s. 217(1)(b) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 91](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(xiii\)](#)

Commencement Information

I55 S. 217 wholly in force 4.4.2005; s. 217 not in force at Royal Assent, see s. 336(3); s. 217 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 217(3) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 217 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 16](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

218 Availability of arrangements in local area

- (1) A court may not include an unpaid work requirement in a relevant order unless the court is satisfied that provision for the offender to work under such a requirement can be made under the arrangements for persons to perform work under such a requirement which exist in the [^{F173}local justice area] in which he resides or will reside.
- (2) A court may not include an activity requirement in a relevant order unless the court is satisfied that provision for the offender to participate in the activities proposed to be specified in the order can be made under the arrangements for persons to participate in such activities which exist in the [^{F173}local justice area] in which he resides or will reside.
- (3) A court may not include an attendance centre requirement in a relevant order in respect of an offender unless the court has been notified by the Secretary of State that an attendance centre is available for persons of his description.
- (4) A court may not include an electronic monitoring requirement in a relevant order in respect of an offender unless the court—
 - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas mentioned in subsections (5) to (7), and
 - (b) is satisfied that the necessary provision can be made under those arrangements.

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- (5) In the case of a relevant order containing a curfew requirement or an exclusion requirement, the relevant area for the purposes of subsection (4) is the area in which the place proposed to be specified in the order is situated.
- (6) In the case of a relevant order containing an attendance centre requirement, the relevant area for the purposes of subsection (4) is the area in which the attendance centre proposed to be specified in the order is situated.
- (7) In the case of any other relevant order, the relevant area for the purposes of subsection (4) is the [F173]local justice area] proposed to be specified in the order.
- (8) In subsection (5) “place”, in relation to an exclusion requirement, has the same meaning as in section 205.

Textual Amendments

F173 Words in s. 218(1)(2)(7) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 104](#)

Modifications etc. (not altering text)

C44 S. 218 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 183\(1\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

I56 S. 218 wholly in force at 4.4.2005; s. 218 not in force at Royal Assent, see s. 336(3); s. 218 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 218 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 16](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

219 Provision of copies of relevant orders

- (1) The court by which any relevant order is made must forthwith provide copies of the order—
 - (a) to the offender,
 - (b) if the offender is aged 18 or over, to an officer of a local probation board assigned to the court [F174] or an officer of a provider of probation services acting at the court] ,
 - (c) if the offender is aged 16 or 17, to an officer of a local probation board assigned to the court [F175] , an officer of a provider of probation services acting at the court] or to a member of a youth offending team assigned to the court, and
 - (d) where the order specifies a [F176]local justice area in which] the court making the order does not act, to the local probation board acting for that area [F177] , or (as the case may be) a provider of probation services acting in that area] .
- (2) Where a relevant order imposes any requirement specified in the first column of Schedule 14, the court by which the order is made must also forthwith provide the person specified in relation to that requirement in the second column of that Schedule with a copy of so much of the order as relates to that requirement.
- (3) Where a relevant order specifies a [F178]local justice area in which] the court making the order does not act, the court making the order must provide to the magistrates’s court [F179]acting in that area]—

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- (a) a copy of the order, and
- (b) such documents and information relating to the case as it considers likely to be of assistance to a court [F179 acting in that area] in the exercise of its functions in relation to the order.

Textual Amendments

- F174** Words in s. 219(1)(b) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(12\)\(a\)](#)
- F175** Words in s. 219(1)(c) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(12\)\(b\)](#)
- F176** Words in s. 219(1)(d) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 105\(a\)](#)
- F177** Words in s. 219(1)(d) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(12\)\(c\)](#)
- F178** Words in s. 219(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 105\(b\)](#)
- F179** Words in s. 219(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 105\(b\)](#)

Modifications etc. (not altering text)

- C45** S. 219(3) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(5\), 197\(4\), 202, 383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

- I57** S. 219 wholly in force at 4.4.2005; s. 219 not in force at Royal Assent, see s. 336(3); s. 219(1)(a)(b)(d)(2)(3) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 219 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 2 para. 16](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

220 Duty of offender to keep in touch with responsible officer

- (1) An offender in respect of whom a community order or a suspended sentence order is in force—
 - (a) must keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer, and
 - (b) must notify him of any change of address.
- (2) The obligation imposed by subsection (1) is enforceable as if it were a requirement imposed by the order.

Commencement Information

- I58** S. 220 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 16](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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Powers of Secretary of State

221 Provision of attendance centres

- (1) The Secretary of State may continue to provide attendance centres.
- (2) In this Part “attendance centre” means a place at which offenders aged under 25 may be required to attend and be given under supervision appropriate occupation or instruction in pursuance of—
 - (a) attendance centre requirements of relevant orders, or
 - [^{F180}(aa) attendance centre requirements of youth rehabilitation orders, within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008,]
 - (b) attendance centre orders under section 60 of the Sentencing Act.
 - [^{F181}(c) default orders under section 300 of this Act, or
 - (d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008.]
- (3) For the purpose of providing attendance centres, the Secretary of State may make arrangements with any local authority or [^{F182}local policing body] for the use of premises of [^{F183}that authority or body].

Textual Amendments

- F180** S. 221(2)(aa) inserted (30.11.2009) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 6, 153, **Sch. 4 para. 92(b)** (with *Sch. 27 paras. 1, 5*); S.I. 2009/3074, **art. 2(p)(xiv)**
- F181** S. 221(2)(c)(d) inserted (14.7.2008) by *Criminal Justice and Immigration Act 2008 (c. 4)*, ss. 148, 153, **Sch. 26 para. 2(2)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F182** Words in s. 221(3) substituted (16.1.2012) by *Police Reform and Social Responsibility Act 2011 (c. 13)*, s. 157(1), **Sch. 16 para. 313(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F183** Words in s. 221(3) substituted (16.1.2012) by *Police Reform and Social Responsibility Act 2011 (c. 13)*, s. 157(1), **Sch. 16 para. 313(b)**; S.I. 2011/3019, art. 3, Sch. 1

Commencement Information

- I59** S. 221 wholly in force at 4.4.2005; s. 221 not in force at Royal Assent, see s. 336(3); s. 221 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 221 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 17 (subject to **art. 2(2), Sch. 2**)

222 Rules

- (1) The Secretary of State may make rules for regulating—
 - (a) the supervision of persons who are subject to relevant orders,
 - (b) without prejudice to the generality of paragraph (a), the functions of responsible officers in relation to offenders subject to relevant orders,
 - (c) the arrangements to be made by local probation boards [^{F184}or providers of probation services] for persons subject to unpaid work requirements to perform work and the performance of such work,
 - (d) the provision and carrying on of attendance centres and community rehabilitation centres,
 - (e) the attendance of persons subject to activity requirements or attendance centre requirements [^{F185}, or to attendance centre requirements imposed by youth rehabilitation orders under Part 1 of the Criminal Justice and Immigration

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Act 2008,] at the places at which they are required to attend, including hours of attendance, reckoning days of attendance and the keeping of attendance records,

- (f) electronic monitoring in pursuance of an electronic monitoring requirement, and
 - (g) without prejudice to the generality of paragraph (f), the functions of persons made responsible for securing electronic monitoring in pursuance of such a requirement.
- (2) Rules under subsection (1)(c) may, in particular, make provision—
- (a) limiting the number of hours of work to be done by a person on any one day,
 - (b) as to the reckoning of hours worked and the keeping of work records, and
 - (c) for the payment of travelling and other expenses in connection with the performance of work.

Textual Amendments

F184 Words in s. 222(1)(c) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), [art. 3](#), [Sch. 1 para. 19\(13\)](#)

F185 Words in s. 222(1)(e) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 6, 153](#), [Sch. 4 para. 93](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(xv\)](#)

Commencement Information

I60 S. 222 wholly in force at 7.3.2005; s. 222 not in force at Royal Assent, see s. 336(3); s. 222 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 222 in force in so far as not already in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#)

223 Power to amend limits

- (1) The Secretary of State may by order amend—
- (a) subsection (2) of section 199 (unpaid work requirement), or
 - (b) subsection (2) of section 204 (curfew requirement),
- by substituting, for the maximum number of hours for the time being specified in that subsection, such other number of hours as may be specified in the order.
- (2) The Secretary of State may by order amend any of the provisions mentioned in subsection (3) by substituting, for any period for the time being specified in the provision, such other period as may be specified in the order.
- (3) Those provisions are—
- (a) section 204(3) (curfew requirement);
 - (b) section 205(2) (exclusion requirement);
 - ^{F186}(c)
 - ^{F187}(d)

Textual Amendments

F186 S. 223(3)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 74\(3\)](#), [151\(1\)](#); [S.I. 2012/2906](#), [art. 2\(a\)](#)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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F187 S. 223(3)(d) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 75(2)**, 151(1); S.I. 2012/2906, art. 2(a)

Modifications etc. (not altering text)

C46 S. 223 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 182(3), 383, **Sch. 6 para. 8**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Commencement Information

I61 S. 223 wholly in force at 7.3.2005; s. 223 not in force at Royal Assent, see s. 336(3); s. 223(1)(2)(3)(a) (b) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 223 in force in so far as not already in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**

CHAPTER 5

DANGEROUS OFFENDERS

[^{F188}Interpretation]

Textual Amendments

F188 Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 15**; S.I. 2012/2906, art. 2(q)

224 Meaning of “specified offence” etc.

- (1) An offence is a “specified offence” for the purposes of this Chapter if it is a specified violent offence or a specified sexual offence.
- (2) An offence is a “serious offence” for the purposes of this Chapter if and only if—
 - (a) it is a specified offence, and
 - (b) it is, apart from section [^{F189}224A], punishable in the case of a person aged 18 or over by—
 - (i) imprisonment for life, or
 - (ii) imprisonment for a determinate period of ten years or more.

- (3) In this Chapter—

^{F190}

“serious harm” means death or serious personal injury, whether physical or psychological;

“specified violent offence” means an offence specified in Part 1 of Schedule 15;

“specified sexual offence” means an offence specified in Part 2 of that Schedule.

Textual Amendments

F189 Word in s. 224(2)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 16**; S.I. 2012/2906, art. 2(q)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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F190 S. 224(3): the definition of "relevant offence" is repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153, Sch. 26 para. 69, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(a)

Commencement Information

I62 S. 224 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 18 (subject to [art. 2\(2\)](#), Sch. 2)

[^{F191}Life sentences]

Textual Amendments

F191 Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 17](#); S.I. 2012/2906, [art. 2\(q\)](#)

[^{F192}224A] Life sentence for second listed offence

- (1) This section applies where—
 - (a) a person aged 18 or over is convicted of an offence listed in Part 1 of Schedule 15B,
 - (b) the offence was committed after this section comes into force, and
 - (c) the sentence condition and the previous offence condition are met.
- (2) The court must impose a sentence of imprisonment for life unless the court is of the opinion that there are particular circumstances which—
 - (a) relate to the offence, to the previous offence referred to in subsection (4) or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (3) The sentence condition is that, but for this section, the court would, in compliance with sections 152(2) and 153(2), impose a sentence of imprisonment for 10 years or more, disregarding any extension period imposed under section 226A.
- (4) The previous offence condition is that —
 - (a) at the time the offence was committed, the offender had been convicted of an offence listed in Schedule 15B (“the previous offence”), and
 - (b) a relevant life sentence or a relevant sentence of imprisonment or detention for a determinate period was imposed on the offender for the previous offence.
- (5) A life sentence is relevant for the purposes of subsection (4)(b) if—
 - (a) the offender was not eligible for release during the first 5 years of the sentence, or
 - (b) the offender would not have been eligible for release during that period but for the reduction of the period of ineligibility to take account of a relevant pre-sentence period.
- (6) An extended sentence imposed under this Act (including one imposed as a result of the Armed Forces Act 2006) is relevant for the purposes of subsection (4)(b) if the appropriate custodial term imposed was 10 years or more.

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- (7) Any other extended sentence is relevant for the purposes of subsection (4)(b) if the custodial term imposed was 10 years or more.
- (8) Any other sentence of imprisonment or detention for a determinate period is relevant for the purposes of subsection (4)(b) if it was for a period of 10 years or more.
- (9) An extended sentence or other sentence of imprisonment or detention is also relevant if it would have been relevant under subsection (7) or (8) but for the reduction of the sentence, or any part of the sentence, to take account of a relevant pre-sentence period.
- (10) For the purposes of subsections (4) to (9)—
- “extended sentence” means—
- (a) a sentence imposed under section 85 of the Sentencing Act or under section 226A, 226B, 227 or 228 of this Act (including one imposed as a result of section 219A, 220, 221A or 222 of the Armed Forces Act 2006), or
- (b) an equivalent sentence imposed under the law of Scotland, Northern Ireland or a member State (other than the United Kingdom);
- “life sentence” means—
- (a) a life sentence as defined in section 34 of the Crime (Sentences) Act 1997, or
- (b) an equivalent sentence imposed under the law of Scotland, Northern Ireland or a member State (other than the United Kingdom);
- “relevant pre-sentence period”, in relation to the previous offence referred to in subsection (4), means any period which the offender spent in custody or on bail before the sentence for that offence was imposed;
- “sentence of imprisonment or detention” includes any sentence of a period in custody (however expressed).
- (11) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.]

Textual Amendments

F192 S. 224A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 122](#), 151(1); S.I. 2012/2906, art. 2(e)

Modifications etc. (not altering text)

C47 S. 224A(2) modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 24\(2\)\(a\)](#); S.I. 2012/2906, art. 2(q)

C48 S. 224A(3) modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 24\(2\)\(b\)](#); S.I. 2012/2906, art. 2(q)

225 Life sentence^{F193} ... for serious offences

- (1) This section applies where—
- (a) a person aged 18 or over is convicted of a serious offence committed after the commencement of this section, and
- (b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by him of further specified offences.

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- (2) If—
- (a) the offence is one in respect of which the offender would apart from this section be liable to imprisonment for life, and
 - (b) the court considers that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of a sentence of imprisonment for life,
- the court must impose a sentence of imprisonment for life.

- ^{F194}(3)
- ^{F194}(3A)
- ^{F194}(3B)
- ^{F194}(3C)
- ^{F194}(4)

- (5) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

Textual Amendments

- F193** Words in s. 225 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 23**; S.I. 2012/2906, art. 2(s)
- F194** S. 225(3)-(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 123(a)**, 151(1); S.I. 2012/2906, art. 2(e) (with art. 6)

Modifications etc. (not altering text)

- C49** S. 225 applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 219**, 383 (with s. 385) (as amended (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 145, 153, **Sch. 25 para. 13**; S.I. 2009/1028, **art. 2**); S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Commencement Information

- I63** S. 225 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 18 (subject to art. 2(2), Sch. 2)

226 Detention for life ^{F195}... for serious offences committed by those under 18

- (1) This section applies where—
- (a) a person aged under 18 is convicted of a serious offence committed after the commencement of this section, and
 - (b) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by him of further specified offences.
- (2) If—
- (a) the offence is one in respect of which the offender would apart from this section be liable to a sentence of detention for life under section 91 of the Sentencing Act, and

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- (b) the court considers that the seriousness of the offence, or of the offence and one or more offences associated with it, is such as to justify the imposition of a sentence of detention for life,

the court must impose a sentence of detention for life under that section.

^{F196}(3)

^{F196}(3A)

^{F196}(4)

- (5) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

Textual Amendments

F195 Words in s. 226 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 24**; S.I. 2012/2906, art. 2(s)

F196 S. 226(3)-(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 123(b)**, 151(1); S.I. 2012/2906, art. 2(e) (with art. 6)

Modifications etc. (not altering text)

C50 S. 226 applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 221**, 383 (with s. 385) (as amended (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 145, 153, **Sch. 25 para. 15**; S.I. 2009/1028, **art. 2(b)**) and as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 7**; S.I. 2012/2906, **art. 2(t)** (with art. 6)); S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

Commencement Information

I64 S. 226 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 18** (subject to **art. 2(2)**, **Sch. 2**)

[^{F197}Extended sentences]

Textual Amendments

F197 Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 18**; S.I. 2012/2906, art. 2(q)

[^{F198}226A]Extended sentence for certain violent or sexual offences: persons 18 or over

- (1) This section applies where—
- a person aged 18 or over is convicted of a specified offence (whether the offence was committed before or after this section comes into force),
 - the court considers that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences,
 - the court is not required by section 224A or 225(2) to impose a sentence of imprisonment for life, and
 - condition A or B is met.

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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- (2) Condition A is that, at the time the offence was committed, the offender had been convicted of an offence listed in Schedule 15B.
- (3) Condition B is that, if the court were to impose an extended sentence of imprisonment, the term that it would specify as the appropriate custodial term would be at least 4 years.
- (4) The court may impose an extended sentence of imprisonment on the offender.
- (5) An extended sentence of imprisonment is a sentence of imprisonment the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period (the “extension period”) for which the offender is to be subject to a licence.
- (6) The appropriate custodial term is the term of imprisonment that would (apart from this section) be imposed in compliance with section 153(2).
- (7) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences, subject to subsections (8) and (9).
- (8) The extension period must not exceed—
 - (a) 5 years in the case of a specified violent offence, and
 - (b) 8 years in the case of a specified sexual offence.
- (9) The term of an extended sentence of imprisonment imposed under this section in respect of an offence must not exceed the term that, at the time the offence was committed, was the maximum term permitted for the offence.
- (10) In subsections (1)(a) and (8), references to a specified offence, a specified violent offence and a specified sexual offence include an offence that—
 - (a) was abolished before 4 April 2005, and
 - (b) would have constituted such an offence if committed on the day on which the offender was convicted of the offence.
- (11) Where the offence mentioned in subsection (1)(a) was committed before 4 April 2005—
 - (a) subsection (1)(c) has effect as if the words “by section 224A or 225(2)” were omitted, and
 - (b) subsection (6) has effect as if the words “in compliance with section 153(2)” were omitted.

Textual Amendments

F198 Ss. 226A, 226B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 124, 151(1)**; S.I. 2012/2906, art. 2(e)

Modifications etc. (not altering text)

C51 S. 226A modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), **Sch. 21 para. 36(2)**; S.I. 2012/2906, art. 2(s)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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C52 Ss. 226A(4)-(9) applied (with modifications) by Armed Forces Act 2006 (c. 52), s. 219A(4)(5) (as inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 5](#); S.I. 2012/2906, art. 2(t))

226B Extended sentence for certain violent or sexual offences: persons under 18

- (1) This section applies where—
 - (a) a person aged under 18 is convicted of a specified offence (whether the offence was committed before or after this section comes into force),
 - (b) the court considers that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences,
 - (c) the court is not required by section 226(2) to impose a sentence of detention for life under section 91 of the Sentencing Act, and
 - (d) if the court were to impose an extended sentence of detention, the term that it would specify as the appropriate custodial term would be at least 4 years.
- (2) The court may impose an extended sentence of detention on the offender.
- (3) An extended sentence of detention is a sentence of detention the term of which is equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period (the “extension period”) for which the offender is to be subject to a licence.
- (4) The appropriate custodial term is the term of detention that would (apart from this section) be imposed in compliance with section 153(2).
- (5) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences, subject to subsections (6) and (7).
- (6) The extension period must not exceed—
 - (a) 5 years in the case of a specified violent offence, and
 - (b) 8 years in the case of a specified sexual offence.
- (7) The term of an extended sentence of detention imposed under this section in respect of an offence may not exceed the term that, at the time the offence was committed, was the maximum term of imprisonment permitted for the offence in the case of a person aged 18 or over.
- (8) In subsections (1)(a) and (6), references to a specified offence, a specified violent offence and a specified sexual offence include an offence that—
 - (a) was abolished before 4 April 2005, and
 - (b) would have constituted such an offence if committed on the day on which the offender was convicted of the offence.
- (9) Where the offence mentioned in subsection (1)(a) was committed before 4 April 2005—
 - (a) subsection (1) has effect as if paragraph (c) were omitted, and
 - (b) subsection (4) has effect as if the words “in compliance with section 153(2)” were omitted.]

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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Textual Amendments

F198 Ss. 226A, 226B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 124](#), 151(1); S.I. 2012/2906, art. 2(e)

Modifications etc. (not altering text)

C53 S. 226B modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 36\(3\)](#); S.I. 2012/2906, art. 2(s)

C54 Ss. 226B(2)-(7) applied (with modifications) by [Armed Forces Act 2006 \(c. 52\)](#), s. 221A(2)-(7) (as inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 9](#); S.I. 2012/2906, art. 2(t))

^{F199}227 Extended sentence for certain violent or sexual offences: persons 18 or over

.....

Textual Amendments

F199 S. 227 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 123\(c\)](#), 151(1); S.I. 2012/2906, art. 2(e) (with art. 6)

^{F200}228 Extended sentence for certain violent or sexual offences: persons under 18

.....

Textual Amendments

F200 S. 228 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 123\(d\)](#), 151(1); S.I. 2012/2906, art. 2(e) (with art. 6)

229 The assessment of dangerousness

- (1) This section applies where—
 - (a) a person has been convicted of a specified offence, and
 - (b) it falls to a court to assess under any of sections 225 to 228 whether there is a significant risk to members of the public of serious harm occasioned by the commission by him of further such offences.
- (2) ^{F201} . . . , the court in making the assessment referred to in subsection (1)(b)—
 - (a) must take into account all such information as is available to it about the nature and circumstances of the offence,
 - [^{F202}(aa) may take into account all such information as is available to it about the nature and circumstances of any other offences of which the offender has been convicted by a court anywhere in the world,]
 - (b) may take into account any information which is before it about any pattern of behaviour of which [^{F203}any of the offences mentioned in paragraph (a) or (aa)] forms part, and
 - (c) may take into account any information about the offender which is before it.

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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[^{F204}(2A) The reference in subsection (2)(aa) to a conviction by a court includes a reference to—

- [^{F205}(a) a conviction of an offence in any service disciplinary proceedings, and]
- (b) a conviction of a service offence within the meaning of the Armed Forces Act 2006 (“conviction” here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).]

[^{F206}(2B) For the purposes of subsection (2A)(a) “service disciplinary proceedings” means—

- (a) any proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (whether before a court-martial or any other court or person authorised under any of those Acts to award a punishment in respect of any offence), and

- (b) any proceedings before a Standing Civilian Court;

and “conviction” includes the recording of a finding that a charge in respect of the offence has been proved.]

(3) ^{F207}

(4) ^{F208}

Textual Amendments

F201 Words in s. 229(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 17(2)(a), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 8, 50(2)(c)

F202 Words in s. 229(2)(aa) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 17\(2\)\(b\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 8

F203 Words in s. 229(2)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 17\(2\)\(c\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 8

F204 S. 229(2A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 17\(3\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 8

F205 S. 229(2A)(a) substituted (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177, 182, [Sch. 21 para. 95\(2\)](#) (with s. 180, Sch. 21 para. 47)

F206 S. 229(2B) inserted (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177, 182, [Sch. 21 para. 95\(3\)](#) (with s. 180, Sch. 21 para. 47)

F207 S. 229(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 17(4), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c)

F208 S. 229(4) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 17(4), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c)

Modifications etc. (not altering text)

C55 S. 229(2)(2A) applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 223\(2\)\(3\)](#), 383 (with s. 385) (as amended (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 145, Sch. 25 para. 17; S.I. 2009/1028, [art. 2](#)); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#); S.I. 2009/1028, [art. 2\(b\)](#)

C56 S. 229(2A)(b) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(7\)](#)

Commencement Information

I65 S. 229 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 18 (subject to [art. 2\(2\)](#), Sch. 2)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
Changes to legislation: Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 04 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)

230 Imprisonment or detention for public protection: release on licence

Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection) shall have effect.

Commencement Information

I66 S. 230 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 18 (subject to art. 2(2), Sch. 2)

[^{F209}Supplementary]

Textual Amendments

F209 Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 19 para. 19; S.I. 2012/2906, art. 2(q)

231 Appeals where previous convictions set aside

[^{F210}(A1) Subsection (2) applies where—

- (a) a sentence has been imposed on a person under section 224A,
- (b) a previous conviction of that person has been subsequently set aside on appeal, and
- (c) without that conviction, the previous offence condition in section 224A(4) would not have been met.]

[^{F211}(1) [^{F212}Subsection (2) also] applies where—

- (a) a sentence has been imposed on any person under section 225(3)[^{F213}, 226A] or 227(2),
- (b) the condition in section 225(3A) or (as the case may be) [^{F214}226A(2) or] 227(2A) was met but the condition in section 225(3B) or (as the case may be) [^{F215}226A(3) or] 227(2B) was not, and
- (c) any previous conviction of his without which the condition in section 225(3A) or (as the case may be) [^{F216}226A(2) or] 227(2A) would not have been met has been subsequently set aside on appeal.]

(2) Notwithstanding anything in section 18 of the Criminal Appeal Act 1968 (c. 19), notice of appeal against the sentence may be given at any time within 28 days from the date on which the previous conviction was set aside.

[^{F217}(3) Subsection (4) applies where—

- (a) a sentence has been imposed on a person under section 224A,
- (b) a previous sentence imposed on that person has been subsequently modified on appeal, and
- (c) taking account of that modification, the previous offence condition in section 224A(4) would not have been met.

(4) Notwithstanding anything in section 18 of the Criminal Appeal Act 1968, notice of appeal against the sentence mentioned in subsection (3)(a) may be given at any time within 28 days from the date on which the previous sentence was modified.]

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Textual Amendments

- F210** S. 231(A1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 20\(2\)](#); S.I. 2012/2906, art. 2(q)
- F211** S. 231(1) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 18\(1\), 153; S.I. 2008/1586, art. 2\(1\), Sch. 1 para. 9](#)
- F212** Words in s. 231(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 20\(3\)](#); S.I. 2012/2906, art. 2(q)
- F213** Words in s. 231(1)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 25\(a\)](#); S.I. 2012/2906, art. 2(s)
- F214** Words in s. 231(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 25\(b\)\(i\)](#); S.I. 2012/2906, art. 2(s)
- F215** Words in s. 231(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 25\(b\)\(ii\)](#); S.I. 2012/2906, art. 2(s)
- F216** Words in s. 231(1)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 25\(c\)](#); S.I. 2012/2906, art. 2(s)
- F217** S. 231(3)(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 20\(4\)](#); S.I. 2012/2906, art. 2(q)

Commencement Information

- I67** S. 231 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 18](#) (subject to [art. 2\(2\), Sch. 2](#))

^{F218}232 Certificates of convictions for purposes of sections 225 and 227

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Textual Amendments

- F218** S. 232 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 26](#); S.I. 2012/2906, art. 2(s)

[^{F219}232A] Certificates of conviction

Where—

- (a) on any date after the commencement of Schedule 15B a person is convicted in England and Wales of an offence listed in that Schedule, and
- (b) the court by or before which the person is so convicted states in open court that the person has been convicted of such an offence on that date, and
- (c) that court subsequently certifies that fact,

that certificate is evidence, for the purposes of section 224A, that the person was convicted of such an offence on that date.]

Textual Amendments

- F219** S. 232A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 21](#); S.I. 2012/2906, art. 2(q)

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233 Offences under service law

F220

Textual Amendments

F220 S. 233 repealed (23.3.2010) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153, [Sch. 26 para. 70](#), {[Sch. 28 para. Pt. 2](#)}; [S.I. 2010/712](#), [art. 2\(c\)\(f\)](#)

234 Determination of day when offence committed

F221

Textual Amendments

F221 S. 234 repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 18(3), 149, 153, {[Sch. 28 para. Pt. 2](#)}; [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 paras. 9, 50\(2\)\(c\)](#)

235 Detention under sections 226^{F222}, 226B] and 228

A person sentenced to be detained under section 226^{F223}, 226B] or 228 is liable to be detained in such place, and under such conditions, as may be determined by the Secretary of State or by such other person as may be authorised by him for the purpose.

Textual Amendments

F222 Words in s. 235 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 28](#); [S.I. 2012/2906](#), [art. 2\(s\)](#)

F223 Words in s. 235 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 27](#); [S.I. 2012/2906](#), [art. 2\(s\)](#)

Modifications etc. (not altering text)

C57 S. 235 applied by [Armed Forces Act 2006 \(c. 52\)](#), [s. 224](#) (as substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 29](#); [S.I. 2012/2906](#), [art. 2\(t\)](#))

Commencement Information

I68 S. 235 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 18](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

236 Conversion of sentences of detention into sentences of imprisonment

For section 99 of the Sentencing Act (conversion of sentence of detention and custody into sentence of imprisonment) there is substituted—

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“Conversion of sentence of detention to sentence of imprisonment

99 Conversion of sentence of detention to sentence of imprisonment

- (1) Subject to the following provisions of this section, where an offender has been sentenced by a relevant sentence of detention to a term of detention and either—
 - (a) he has attained the age of 21, or
 - (b) he has attained the age of 18 and has been reported to the Secretary of State by the board of visitors of the institution in which he is detained as exercising a bad influence on the other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates, the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.
- (2) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of detention imposed under the relevant sentence of detention which he has already served shall be deemed to have been a portion of a term of imprisonment.
- (3) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 the offender shall be treated as if he had been sentenced under section 225 of that Act; and where the Secretary of State gives such a direction in relation to an offender serving an extended sentence of detention under section 228 of that Act the offender shall be treated as if he had been sentenced under section 227 of that Act.
- (4) Rules under section 47 of the Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a relevant sentence of detention shall continue to have effect after a direction under subsection (1) has been given in relation to him.
- (5) In this section “relevant sentence of detention” means—
 - (a) a sentence of detention under section 90 or 91 above,
 - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003, or
 - (c) an extended sentence of detention under section 228 of that Act.”

Commencement Information

I69 S. 236 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 18](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.
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CHAPTER 6

[^{F224} RELEASE, LICENCES AND RECALL]

Textual Amendments

F224 Pt. 12 Ch. 6 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 16**; S.I. 2012/2906, art. 2(l)

Modifications etc. (not altering text)

C58 Pt. 12 Ch. 6 applied to any person serving a sentence for an offence committed before 4 April 2005 (whenever that sentence was or is imposed) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 121(1), 151(1)**; S.I. 2012/2906, art. 2(d)

Preliminary

237 Meaning of “fixed-term prisoner” [^{F225} etc]

(1) In this Chapter “fixed-term prisoner” means—

- (a) a person serving a sentence of imprisonment for a determinate term, or
- (b) a person serving a determinate sentence of detention under section 91 [^{F226} or 96] of the Sentencing Act or under section [^{F227}226A, 226B,]^[^{F228}227 or] 228 of this Act.

[^{F229}(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
- (b) references to a sentence of detention under section 91 of the Sentencing Act include a sentence of detention under section 209 of the Armed Forces Act 2006;
- [^{F230}(ba) references to a sentence under section 226A of this Act include a sentence under that section passed as a result of section 219A of the Armed Forces Act 2006;
- (bb) references to a sentence under section 226B of this Act include a sentence under that section passed as a result of section 221A of the Armed Forces Act 2006;]
- (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006 [^{F231}or section 240A]; and
- (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act.

(1C) Nothing in subsection (1B) has the effect that [^{F232}section 240ZA] or 265 (provision equivalent to which is made by the Armed Forces Act 2006) [^{F233}or section 240A] applies to a service court.]

(2) In this Chapter, unless the context otherwise requires, “prisoner” includes a person serving a sentence falling within subsection (1)(b); and “prison” includes any place where a person serving such a sentence is liable to be detained.

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

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[^{F234}(3) In this Chapter, references to a sentence of detention under section 96 of the Sentencing Act or section [^{F235}226A or] 227 of this Act are references to a sentence of detention in a young offender institution.]

Textual Amendments

- F225** Word in s. 237 heading inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 219](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F226** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(2\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F227** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 2\(2\)](#); S.I. 2012/2906, [art. 2\(r\)](#)
- F228** Words in s. 237(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(2\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F229** S. 237(1B)(1C) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 219](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F230** S. 237(1B)(ba)(bb) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 21](#); S.I. 2012/2906, [art. 2\(t\)](#)
- F231** Words in s. 237(1B) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 21\(2\)](#), 153; S.I. 2009/2606, [art. 3\(a\)](#)
- F232** Words in s. 237(1C) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(2\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F233** Words in s. 237(1C) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(2\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F234** S. 237(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(3\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, [art. 2\(d\)](#)
- F235** Words in s. 237(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 2\(3\)](#); S.I. 2012/2906, [art. 2\(r\)](#)

Modifications etc. (not altering text)

- C59** S. 237(1B) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(3), 205, [Sch. 1 para. 53\(8\)](#)

Commencement Information

- I70** S. 237 wholly in force at 4.4.2005; s. 237 not in force at Royal Assent, see s. 336(3); s. 237 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 237 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Power of court to recommend licence conditions

238 Power of court to recommend licence conditions for certain prisoners

- (1) A court which sentences an offender to a term of imprisonment of twelve months or more in respect of any offence may, when passing sentence, recommend to the Secretary of State particular conditions which in its view should be included in any licence granted to the offender under this Chapter on his release from prison.
- (2) In exercising his powers under section 250(4)(b) in respect of an offender, the Secretary of State must have regard to any recommendation under subsection (1).

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- (3) A recommendation under subsection (1) is not to be treated for any purpose as part of the sentence passed on the offender.
- (4) This section does not apply in relation to a sentence of detention under section 91 of the Sentencing Act or section [F²³⁶226B] of this Act.

Textual Amendments

F236 Word in s. 238(4) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 20 para. 3](#); S.I. 2012/2906, art. 2(r)

Modifications etc. (not altering text)

C60 S. 238(1) modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 262, 383 \(with s. 271\(1\)\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

Commencement Information

I71 S. 238 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

239 The Parole Board

- (1) The Parole Board is to continue to be, by that name, a body corporate and as such is—
 - (a) to be constituted in accordance with this Chapter, and
 - (b) to have the functions conferred on it by this Chapter in respect of fixed-term prisoners and by Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) (in this Chapter referred to as “the 1997 Act”) in respect of life prisoners within the meaning of that Chapter.
- (2) It is the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is to do with the early release or recall of prisoners.
- (3) The Board must, in dealing with cases as respects which it makes recommendations under this Chapter or under Chapter 2 of Part 2 of the 1997 Act, consider—
 - (a) any documents given to it by the Secretary of State, and
 - (b) any other oral or written information obtained by it;and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and must consider the report of the interview made by that member.
- (4) The Board must deal with cases as respects which it gives directions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4), the Secretary of State may make rules with respect to the proceedings of the Board, including proceedings authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.
- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Chapter or under

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Chapter 2 of Part 2 of the 1997 Act; and in giving any such directions the Secretary of State must have regard to—

- (a) the need to protect the public from serious harm from offenders, and
- (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.

(7) Schedule 19 shall have effect with respect to the Board.

Commencement Information

I72 S. 239 wholly in force at 4.4.2005; s. 239 not in force at Royal Assent, see s. 336(3); s. 239 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 239(5)(6) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 239 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Effect of remand in custody [^{F237} or on bail subject to certain types of condition]

Textual Amendments

F237 Words in s. 240 cross-heading inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), [ss. 21\(3\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 1](#) (subject to [arts. 3](#), 4)

^{F238}240 Crediting of periods of remand in custody: terms of imprisonment and detention

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Textual Amendments

F238 S. 240 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 108\(1\)](#), 151(1) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)

[^{F239}240Z] Time remanded in custody to count as time served: terms of imprisonment and detention

- (1) This section applies where—
 - (a) an offender is serving a term of imprisonment in respect of an offence, and
 - (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.
- (2) It is immaterial for that purpose whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).
- (3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.

But this is subject to subsections (4) to (6).

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- (4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.
- (5) A day counts as time served—
 - (a) in relation to only one sentence, and
 - (b) only once in relation to that sentence.
- (6) A day is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).
- (7) For the purposes of this section a suspended sentence—
 - (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
 - (b) is to be treated as being imposed by the order under which it takes effect.
- (8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.
- (9) For the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender's “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if—
 - (a) the sentences were passed on the same occasion, or
 - (b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.
- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—
 - (a) detention pursuant to any custodial sentence;
 - (b) committal in default of payment of any sum of money;
 - (c) committal for want of sufficient distress to satisfy any sum of money;
 - (d) committal for failure to do or abstain from doing anything required to be done or left undone.
- (11) This section applies to a determinate sentence of detention under section 91 or 96 of the Sentencing Act or section [F240226A, 226B,] 227 or 228 of this Act as it applies to an equivalent sentence of imprisonment.]

Textual Amendments

F239 S. 240ZA inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 108(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F240 Words in s. 240ZA(11) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), **Sch. 20 para. 4**; S.I. 2012/2906, art. 2(r)

[F241240A[F242] **Time remanded on bail to count towards time served**]: terms of imprisonment and detention

- (1) This section applies where—

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- (a) a court sentences an offender to imprisonment for a term in respect of an offence ^{F243} ... ,
 - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
 - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).
- (2) Subject to [^{F244}subsections (3A) and (3B)], the court must direct that the credit period is to count as time served by the offender as part of the sentence.
- [^{F245}(3) The credit period is calculated by taking the following steps.
- Step 1* Add—
- (a) the day on which the offender's bail was first subject to the relevant conditions (and for this purpose a condition is not prevented from being a relevant condition by the fact that it does not apply for the whole of the day in question), and
 - (b) the number of other days on which the offender's bail was subject to those conditions (but exclude the last of those days if the offender spends the last part of it in custody).
- Step 2* Deduct the number of days on which the offender, whilst on bail subject to the relevant conditions, was also—
- (a) subject to any requirement imposed for the purpose of securing the electronic monitoring of the offender's compliance with a curfew requirement, or
 - (b) on temporary release under rules made under section 47 of the Prison Act 1952.
- Step 3* From the remainder, deduct the number of days during that remainder on which the offender has broken either or both of the relevant conditions.
- Step 4* Divide the result by 2.
- Step 5* If necessary, round up to the nearest whole number.
- (3A) A day of the credit period counts as time served—
- (a) in relation to only one sentence, and
 - (b) only once in relation to that sentence.
- (3B) A day of the credit period is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).]
- (8) Where the court gives a direction under subsection (2) ^{F246} ... it shall state in open court—
- (a) the number of days on which the offender was subject to the relevant conditions, and
 - [^{F247}(b) the number of days (if any) which it deducted under each of steps 2 and 3.]
- ^{F248}(9)
- ^{F248}(10)
- (11) [^{F249}Subsections (7) to (9) and (11) of section 240ZA] apply for the purposes of this section as they apply for the purposes of that section but as if—
- (a) in subsection (7)—

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- (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
 - (ii) in paragraph (a) after “Schedule 12” there were inserted or section 119(1)(a) or (b) of the Sentencing Act; and
- (b) [^{F250}in subsection (9) the references to subsections (3) and (5) of section 240ZA are] to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted or Part 2 of the Criminal Justice Act 1991.

(12) In this section—

[^{F251}“curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;]

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; ^{F252}...

^{F252}]

Textual Amendments

- F241** S. 240A inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 21(4)**, 153; S.I. 2008/2712, **art. 2**, Sch. para. 1 (subject to arts. 3, 4)
- F242** Words in s. 240A heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(8)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F243** Words in s. 240A(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 16 para. 14**; S.I. 2012/2906, art. 2(n)
- F244** Words in s. 240A(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F245** S. 240A(3)-(3B) substituted for s. 240A(3)-(8) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(3)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F246** Words in s. 240A(8) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(4)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F247** S. 240A(8)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F248** S. 240A(9)(10) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F249** Words in s. 240A(11) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(6)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F250** Words in s. 240A(11)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(6)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F251** Words in s. 240A(12) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(7)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F252** Words in s. 240A(12) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 109(7)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

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Modifications etc. (not altering text)

- C61** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 2](#)
- C62** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 3](#)
- C63** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 4](#)

241 Effect of [^{F253}section 240ZA or direction under section 240A] on release on licence

- (1) In determining for the purposes of this Chapter ^{F254}... whether a person [^{F255}to whom section 240ZA applies or a direction under section 240A relates]—
- (a) has served, or would (but for his release) have served, a particular proportion of his sentence, or
- (b) has served a particular period,
- the number of days [^{F256}specified in section 240ZA or in the direction under section 240A] are to be treated as having been served by him as part of that sentence or period.

[^{F257}(1A) In subsection (1) the reference to [^{F258}section 240ZA includes] section 246 of the Armed Forces Act 2006.]

^{F259}(2)

Textual Amendments

- F253** Words in s. 241 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(6\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F254** Words in s. 241(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 20\(a\)](#); S.I. 2012/2906, art. 2(h)
- F255** Words in s. 241(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(4\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F256** Words in s. 241(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(4\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F257** S. 241(1A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c.52\)](#), [ss. 378\(1\)](#), 383, [Sch. 16 para. 220](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F258** Words in s. 241(1A) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(5\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F259** S. 241(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 20\(b\)](#); S.I. 2012/2906, art. 2(h)

Modifications etc. (not altering text)

- C64** S. 241 modified (26.1.2004) by [The Intermittent Custody \(Transitory Provisions\) Order 2003 \(S.I. 2003/3283\)](#), [art. 3](#)

Commencement Information

- I73** S. 241 wholly in force 4.4.2005; s. 241 not in force at Royal Assent, see s. 336(3); s. 241 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 241 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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242 Interpretation of [F260sections 240ZA][F261, 240A] and 241

- (1) For the purposes of [F260sections 240ZA][F261, 240A] and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted—

““sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money, other than one adjudged to be paid on a conviction,”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

- (2) References in [F260sections 240ZA] and 241 to an offender’s being remanded in custody are references to his being—
- (a) remanded in or committed to custody by order of a court,
 - (b) remanded [F262to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012], or
 - (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

F263(3)

Textual Amendments

F260 Words in s. 242 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(7), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

F261 Words in s. 242 inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 21(6), 153**; S.I. 2008/2712, **art. 2, Sch. para. 1** (subject to arts. 3, 4)

F262 Words in s. 242(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 51(a)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

F263 S. 242(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 12 para. 51(b)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))

Modifications etc. (not altering text)

C65 S. 242(2) applied (1.12.2008) by [The Criminal Justice Act 1988 \(c. 33\)](#), s. 133B(8) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 61(7), 153**; S.I. 2008/2993, **art. 2** (subject to art. 3))

Commencement Information

I74 S. 242 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to [art. 2\(2\), Sch. 2](#))

243 Persons extradited to the United Kingdom

- (1) A fixed-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed [F264or he received that sentence]—
 - (i) after having been extradited to the United Kingdom, and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and

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(b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a).

[^{F265}(2) In the case of an extradited prisoner, the court must specify in open court the number of days for which the prisoner was kept in custody while awaiting extradition.

(2A) Section 240ZA applies to days specified under subsection (2) as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.]

^{F266}(3)

Textual Amendments

F264 Words in s. 243(1) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 31**; S.I. 2006/3364, **art. 2**

F265 S. 243(2)(2A) substituted for s. 243(2) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. **110(8)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

F266 S. 243(3) repealed (27.7.2004) by [The Extradition Act 2003 \(Repeals\) Order 2004 \(S.I. 2004/1897\)](#), **art. 3**

Modifications etc. (not altering text)

C66 S. 243 applied (15.1.2007) by [Powers of Criminal Courts \(Sentencing\) Act 2000 \(c. 6\)](#), s. 101(12A) (as inserted by [Police and Justice Act 2006 \(c. 48\)](#), ss. 42, 53, **Sch. 13 para. 32**; S.I. 2006/3364, **art. 2**)

Commencement Information

I75 S. 243 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

[^{F267}Unconditional release

Textual Amendments

F267 S. 243A and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. **111(1)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

243A Duty to release prisoners serving less than 12 months

- (1) This section applies to a fixed-term prisoner who is serving a sentence which is for a term of less than twelve months.
- (2) As soon as a prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release that person unconditionally.
- (3) For the purposes of this section “the requisite custodial period” is—
 - (a) in relation to a person serving a sentence of imprisonment for a term of less than twelve months or a determinate sentence of detention under section 91 or 96 of the Sentencing Act for such a term, one-half of the sentence, and
 - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).

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- (4) This section is subject to—
- (a) section 256B (supervision of young offenders after release), and
 - (b) paragraph 8 of Schedule 20B (transitional cases).]

Modifications etc. (not altering text)

- C67** S. 243A applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a), 9(2)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 2](#); S.I. 2012/2906, art. 2(1))
- C68** S. 243A excluded by International Criminal Court Act 2001 (c. 17), Sch. 7 para. 3(1) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 4](#); S.I. 2012/2906, art. 2(1))

Release on licence

244 Duty to release prisoners

- (1) As soon as a fixed-term prisoner, other than a prisoner to whom section ^{F268}243A^{F269}, 246A] or] 247 applies, has served the requisite custodial period ^{F270}for the purposes of this section], it is the duty of the Secretary of State to release him on licence under this section.
- ^{F271}(1A) Subsection (1) does not apply if the prisoner has been released on licence under section 246 and recalled under section 254 (provision for the release of such persons being made by sections 255B and 255C).]
- ^{F272}(2)
- (3) ^{F273}For the purposes of this section] “the requisite custodial period” means—
- (a) in relation to a person serving a sentence of imprisonment for a term of twelve months or more or ^{F274}a] determinate sentence of detention under section 91 ^{F275}or 96] of the Sentencing Act ^{F276}for such a term], one-half of his sentence,
 - ^{F277}(b)
 - ^{F277}(c)
 - (d) in relation to a person serving two or more concurrent or consecutive sentences ^{F278}... , the period determined under sections 263(2) and 264(2).
- ^{F279}(4) This section is subject to paragraphs 5, 6, 8, 25 and 28 of Schedule 20B (transitional cases).]

Textual Amendments

- F268** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(1)
- F269** Word in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 125\(2\)](#), 151(1); S.I. 2012/2906, art. 2(e)
- F270** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 6\(2\)\(b\)](#); S.I. 2012/2906, art. 2(1)
- F271** S. 244(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(2\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

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- F272** S. 244(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(2)**; S.I. 2012/2906, art. 2(h)
- F273** Words in s. 244(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 6(3)(a)**; S.I. 2012/2906, art. 2(l)
- F274** Word in s. 244(3)(a) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 6(3)(b)(i)**; S.I. 2012/2906, art. 2(l)
- F275** Words in s. 244(3)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(4), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F276** Words in s. 244(3)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 6(3)(b)(ii)**; S.I. 2012/2906, art. 2(l)
- F277** S. 244(3)(b)(c) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(3)(a)**; S.I. 2012/2906, art. 2(h); S.I. 2012/2906, art. 2(h)
- F278** Words in s. 244(3)(d) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 21(3)(b)**; S.I. 2012/2906, art. 2(h)
- F279** S. 244(4) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 2**; S.I. 2012/2906, art. 2(o)

Commencement Information

- I76** S. 244 partly in force; s. 244 not in force at Royal Assent, see s. 336(3); s. 244(1)(2)(3)(c)(d) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 244(1)(2)(3)(a)(d) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

F280 245 Restrictions on operation of section 244(1) in relation to intermittent custody prisoners

.....

Textual Amendments

- F280** S. 245 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 22**; S.I. 2012/2906, art. 2(h)

246 Power to release prisoners on licence before required to do so

- (1) Subject to subsections (2) to (4), the Secretary of State may—
 - (a) release on licence under this section a fixed-term prisoner^{F281} ... at any time during the period of 135 days ending with the day on which the prisoner will have served the requisite custodial period,^{F282} ...
 - ^{F282}(b)
- (2) Subsection (1)(a) does not apply in relation to a prisoner unless—
 - (a) the length of the requisite custodial period is at least 6 weeks, [^{F283}and
 - (b) he has served—
 - (i) at least 4 weeks of that period, and
 - (ii) at least one-half of that period.]
- ^{F284}(3)
- (4) Subsection (1) does not apply where—
 - (a) the sentence is imposed under section [^{F285}226A,] 227 or 228,
 - [^{F286}(aa) the sentence is for a term of 4 years or more,]

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- (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
- (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
- (d) the sentence was imposed by virtue of paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 in a case where the prisoner has failed to comply with a curfew requirement of a community order,
- (e) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42),
- (f) the prisoner is liable to removal from the United Kingdom,
- (g) the prisoner has been released on licence under this section [^{F287}at any time], and has been recalled to prison under section 255(1)(a) [^{F288}(and the revocation has not been cancelled under section 255(3))],
- (h) the prisoner has been released on licence under section 248 during the currency of the sentence, and has been recalled to prison under section 254, ^{F289} ...
- [^{F290}(ha) the prisoner has at any time been returned to prison under section 40 of the Criminal Justice Act 1991 or section 116 of the Sentencing Act, or]
- (i) in the case of a prisoner [^{F291}to whom section 240ZA applies or a direction under section 240A relates], the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days ^{F292}

[^{F293}(4ZA) Where subsection (4)(aa) applies to a prisoner who is serving two or more terms of imprisonment, the reference to the term of the sentence is—

- (a) if the terms are partly concurrent, a reference to the period which begins when the first term begins and ends when the last term ends;
- (b) if the terms are to be served consecutively, a reference to the aggregate of the terms.]

[^{F294}(4A) In subsection (4)—

- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
- (b) the reference in paragraph (i) to [^{F295}section 240ZA includes] section 246 of that Act.]

(5) The Secretary of State may by order—

- (a) amend the number of days for the time being specified in subsection (1)(a) ^{F296} ... or (4)(i),
- (b) amend the number of weeks for the time being specified in subsection (2)(a) or (b)(i), and
- (c) amend the fraction for the time being specified in subsection (2)(b)(ii) ^{F297}

(6) In this section—

^{F298}
“the requisite custodial period” in relation to a person serving any sentence ^{F299} ... , has the meaning given by [^{F300}paragraph (a) or (b) of section 243A(3) or (as the case may be)] paragraph (a) ^{F299} ... or (d) of section 244(3);
^{F301}

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[^{F302cc}term of imprisonment” includes a determinate sentence of detention under section 91 or 96 of the Sentencing Act or under section [^{F303}226A, 226B,] 227 or 228 of this Act.]

Textual Amendments

- F281** Words in s. 246(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(2\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F282** S. 246(1)(b) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(2\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F283** S. 246(2)(b) and word substituted (14.7.2008) for s. 246(2)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 24](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 11
- F284** S. 246(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(3\)](#); S.I. 2012/2906, art. 2(h)
- F285** Words in s. 246(4)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 5\(2\)](#); S.I. 2012/2906, art. 2(r)
- F286** S. 246(4)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(2\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F287** Words in s. 246(4)(g) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(3\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F288** Words in s. 246(4)(g) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(3\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F289** Word in s. 246(4)(h) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(4\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F290** S. 246(4)(ha) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(4\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F291** Words in s. 246(4)(i) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(9\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F292** Words in s. 246(4)(i) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(4\)](#); S.I. 2012/2906, art. 2(h)
- F293** S. 246(4ZA) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(5\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F294** S. 246(4A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), 383, [Sch. 16 para. 221](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F295** Words in s. 246(4A)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(9\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F296** Words in s. 246(5)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(5\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F297** Words in s. 246(5)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(5\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F298** Words in s. 246(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(6\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F299** Words in s. 246(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(6\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F300** Words in s. 246(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 7](#); S.I. 2012/2906, art. 2(l)
- F301** Words in s. 246(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 23\(6\)\(c\)](#); S.I. 2012/2906, art. 2(h)
- F302** Words in s. 246(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 112\(6\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

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F303 Words in s. 246(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 20 para. 5\(3\)](#); S.I. 2012/2906, art. 2(r)

Commencement Information

I77 S. 246 wholly in force at 4.4.2005; s. 246 not in force at Royal Assent, see s. 336(3); s. 246(1)(b)(3)(4)(b)-(i)(5)(6) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 246(5) in force at 7.3.2005 by [S.I. 2005/373, art. 2](#); s. 246 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

[^{F304}246A] **Release on licence of prisoners serving extended sentence under section 226A or 226B**

- (1) This section applies to a prisoner (“P”) who is serving an extended sentence imposed under section 226A or 226B.
- (2) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the requisite custodial period for the purposes of this section unless either or both of the following conditions are met—
 - (a) the appropriate custodial term is 10 years or more;
 - (b) the sentence was imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.
- (3) If either or both of those conditions are met, it is the duty of the Secretary of State to release P on licence in accordance with subsections (4) to (7).
- (4) The Secretary of State must refer P's case to the Board—
 - (a) as soon as P has served the requisite custodial period, and
 - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as—
 - (a) P has served the requisite custodial period, and
 - (b) the Board has directed P's release under this section.
- (6) The Board must not give a direction under subsection (5) unless—
 - (a) the Secretary of State has referred P's case to the Board, and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that P should be confined.
- (7) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by section 255C).
- (8) For the purposes of this section—

“appropriate custodial term” means the term determined as such by the court under section 226A or 226B (as appropriate);

“the requisite custodial period” means—

 - (a) in relation to a person serving one sentence, two-thirds of the appropriate custodial term, and

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- (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).]

Textual Amendments

F304 S. 246A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 125\(3\)](#), 151(1); S.I. 2012/2906, art. 2(e)

247 Release on licence of prisoner serving extended sentence under section 227 or 228

- (1) This section applies to a prisoner who is serving an extended sentence imposed under section 227 or 228.
- (2) As soon as—
 - (a) a prisoner to whom this section applies has served one-half of the appropriate custodial term, ^{F305} . . .
 - (b) ^{F306}
 it is the duty of the Secretary of State to release him on licence.
- (3) ^{F307}
- (4) ^{F308}
- (5) ^{F309}
- (6) ^{F310}
- (7) In this section “the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228.
- [^{F311}(8) In its application to a person serving a sentence imposed before 14 July 2008, this section is subject to the modifications set out in paragraph 15 of Schedule 20B (transitional cases).]

Textual Amendments

F305 Word at the end of s. 247(2)(a) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(2\)\(a\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F306 S. 247(2)(b) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(2\)\(b\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F307 S. 247(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F308 S. 247(4) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F309 S. 247(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F310 S. 247(6) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 25\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

F311 S. 247(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 17 para. 3](#); S.I. 2012/2906, art. 2(o)

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Commencement Information

I78 S. 247 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

248 Power to release prisoners on compassionate grounds

(1) The Secretary of State may at any time release a fixed-term prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.

^{F312}(2)

Textual Amendments

F312 S. 248(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(2)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

I79 S. 248 wholly in force at 4.4.2005; s. 248 not in force at Royal Assent, see s. 336(3); s. 248(1) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 248 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

249 Duration of licence

(1) Subject to [^{F313}subsection (3)], where a fixed-term prisoner [^{F314}other than one to whom section 243A applies,] is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force for the remainder of his sentence.

[^{F315}(1A) Where a prisoner to whom section 243A applies is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force until the date on which, but for the release, the prisoner would have served one-half of the sentence.

This is subject to subsection (3).]

^{F316}(2)

(3) [^{F317}Subsections (1) and (1A) have] effect subject to sections 263(2) (concurrent terms) and 264(3) ^{F318}... (consecutive terms) ^{F319}... .

^{F320}(4)

[^{F321}(5) This section is subject to paragraphs 17, 19 and 26 of Schedule 20B (transitional cases).]

Textual Amendments

F313 Words in s. 249(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 24(a)**; S.I. 2012/2906, art. 2(h)

F314 Words in s. 249(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 8(2)**; S.I. 2012/2906, art. 2(l)

F315 S. 249(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 8(3)**; S.I. 2012/2906, art. 2(l)

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- F316** S. 249(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 24\(b\)](#); S.I. 2012/2906, art. 2(h)
- F317** Words in s. 249(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 8\(4\)\(a\)](#); S.I. 2012/2906, art. 2(l)
- F318** Words in s. 249(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 8\(4\)\(b\)](#); S.I. 2012/2906, art. 2(l)
- F319** Words in s. 249(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 24\(c\)](#); S.I. 2012/2906, art. 2(h)
- F320** S. 249(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 24\(d\)](#); S.I. 2012/2906, art. 2(h)
- F321** S. 249(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 17 para. 4](#); S.I. 2012/2906, art. 2(o)

Commencement Information

- I80** S. 249 wholly in force at 4.4.2005; s. 249 not in force at Royal Assent, see s. 336(3); s. 249 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 249 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\)](#) Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

250 Licence conditions

- (1) In this section—
 - (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this section as standard conditions, and
 - (b) “prescribed” means prescribed by the Secretary of State by order.

^{F322}(2)

^{F323}(2A)

^{F324}(3)

- (4) Any licence under this Chapter in respect of a prisoner serving a sentence of imprisonment ^{F325}... (including ^{F325}... a sentence imposed under section [^{F326}226A or] 227) or any sentence of detention under section 91 [^{F327}or 96] of the Sentencing Act or section [^{F328}226A, 226B,][^{F329}227 or] 228 of this Act—

- (a) must include the standard conditions, and
- (b) may include—
 - (i) any condition authorised by section 62 or 64 of the Criminal Justice and Court Services Act 2000 [^{F330}or section 28 of the Offender Management Act 2007], and
 - (ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

- (5) A licence under section 246 must also include a curfew condition complying with section 253.

[^{F331}(5A) In respect of a prisoner serving an extended sentence imposed under section 226A or 226B whose release is directed by the Board under section 246A(5), a licence under—

- (a) section 246A(5) (initial release), or
- (b) section 255C (release after recall),

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may not include conditions referred to in subsection (4)(b)(ii) unless the Board directs the Secretary of State to include them.]

^{F332}(6)

(7) The preceding provisions of this section have effect subject to section 263(3) (concurrent terms) , [^{F333} and section 264(3) (consecutive terms)].

(8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—

- (a) the protection of the public,
- (b) the prevention of re-offending, and
- (c) securing the successful re-integration of the prisoner into the community.

Textual Amendments

- F322** S. 250(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F323** S. 250(2A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F324** S. 250(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F325** Words in s. 250(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 9](#); S.I. 2012/2906, art. 2(l)
- F326** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(r)
- F327** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(5\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F328** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 6\(2\)\(b\)](#); S.I. 2012/2906, art. 2(r)
- F329** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(5\)\(b\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F330** Words in s. 250(4)(b)(i) inserted (temp. from 19.1.2009 until 31.3.2012 for certain purposes, otherwise prosp.) by [Offender Management Act 2007 \(c. 21\)](#), [ss. 28\(5\)](#), 41(1); S.I. 2009/32, [arts. 3\(a\)](#), 4, 5
- F331** S. 250(5A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 6\(3\)](#); S.I. 2012/2906, art. 2(r)
- F332** S. 250(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F333** Words in s. 250(7) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(b\)](#); S.I. 2012/2906, art. 2(h)

Commencement Information

- I81** S. 250 partly in force; s. 250 not in force at Royal Assent, see s. 336(3); s. 250(1)-(3)(5)-(8) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 250(1)(2)(b)(ii)(4)(b)(ii)(8) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 250(1)(4)-(7) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 04 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)

^{F334}**251 Licence conditions on re-release of prisoner serving sentence of less than 12 months**

.....

Textual Amendments

F334 S. 251 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 26](#); S.I. 2012/2906, art. 2(h)

Commencement Information

I82 S. 251 partly in force; s. 251 not in force at Royal Assent, see s. 336(3); s. 251 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

252 Duty to comply with licence conditions

[^{F335}(1)] A person subject to a licence under this Chapter must comply with such conditions as may for the time being be specified in the licence.

[^{F336}(2) But where—

(a) the licence relates to a sentence of imprisonment passed by a service court,
[^{F337}and]

^{F338}(b)

(c) the person is residing outside the British Islands,

the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.]

Textual Amendments

F335 S. 252 renumbered (28.3.2009 for certain purposes, otherwise 31.10.2009) as s. 252(1) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(1\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

F336 S. 252(2) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

F337 Word in s. 252(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(a\)](#); S.I. 2012/2906, art. 2(h)

F338 S. 252(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(b\)](#); S.I. 2012/2906, art. 2(h)

Commencement Information

I83 S. 252 wholly in force at 4.4.2005; s. 252 not in force at Royal Assent, see s. 336(3); s. 252 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 252 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, {art. 2(1)}, [Sch. 1 para. 19](#) (subject to art. 2(2), [Sch. 2](#))

253 Curfew condition to be included in licence under section 246^{F339}, 255B or 255C]

(1) For the purposes of this Chapter, a curfew condition is a condition which—

(a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be

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- premises approved by the Secretary of State under [^{F340}section 13 of the Offender Management Act 2007 (c.21)], and
- (b) includes requirements for securing the electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but may not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released [^{F341}unconditionally under section 243A or] on licence under section 244.
- ^{F342}(4)
- (5) The curfew condition must include provision for making a person responsible for monitoring the released person's whereabouts during the periods for the time being specified in the condition; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) Nothing in this section is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales.

Textual Amendments

- F339** Words in s. 253 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 114(3), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F340** Words in s. 253(1)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, **Sch. 1 para. 19(14)**
- F341** Words in s. 253(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 10**; S.I. 2012/2906, art. 2(l)
- F342** S. 253(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 28**; S.I. 2012/2906, art. 2(h)

Commencement Information

- I84** S. 253 wholly in force at 4.4.2005; s. 253 not in force at Royal Assent, see s. 336(3); s. 253 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2, Sch.**; s. 253(5) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 253 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 19** (subject to [art. 2\(2\)](#), [Sch. 2](#))

Recall after release

254 Recall of prisoners while on licence

- (1) The Secretary of State may, in the case of any prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.
- (2) A person recalled to prison under subsection (1)—
- (a) may make representations in writing with respect to his recall, and
- (b) on his return to prison, must be informed of the reasons for his recall and of his right to make representations.

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- [^{F343}(2A) The Secretary of State, after considering any representations under subsection (2)(a) or any other matters, may cancel a revocation under this section.
- (2B) The Secretary of State may cancel a revocation under subsection (2A) only if satisfied that the person recalled has complied with all the conditions specified in the licence.
- (2C) Where the revocation of a person's licence is cancelled under subsection (2A), the person is to be treated as if the recall under subsection (1) had not happened.]
- ^{F344}(3)
- ^{F344}(4)
- ^{F344}(5)
- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.
- (7) Nothing in [^{F345}this section] applies in relation to a person recalled under section 255.

Textual Amendments

- F343** S. 254(2A)-(2C) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 113\(1\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)
- F344** S. 254(3)-(5) repealed (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 29\(1\)\(a\)](#), [149](#), [153](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 paras. 15](#), [50\(2\)\(c\)](#) (subject to [Sch. 2 para. 3](#)); [S.I. 2009/2606](#), [art. 3\(c\)](#)
- F345** Words in s. 254(7) substituted (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 29\(1\)\(b\)](#), [153](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 15](#) (subject to [Sch. 2 para. 3](#)); [S.I. 2009/2606](#) {[art. 3\(c\)](#)}

Commencement Information

- I85** S. 254 wholly in force at 4.4.2005; s. 254 not in force at Royal Assent, see s. 336(3); s. 254 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 254 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by [S.I. 2005/2122](#), [art. 2](#)))

255 Recall of prisoners released early under section 246

- (1) If it appears to the Secretary of State, as regards a person released on licence under section 246—
- (a) that he has failed to comply with any condition included in his licence, or
 - (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in his licence,
- the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison under this section.
- (2) A person whose licence under section 246 is revoked under this section—
- (a) may make representations in writing with respect to the revocation, and
 - (b) on his return to prison, must be informed of the reasons for the revocation and of his right to make representations.

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- (3) The Secretary of State, after considering any representations under [^{F346}subsection (2)(a)] or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person’s licence is cancelled under subsection (3), the person is to be treated for the purposes of section 246 as if he had not been recalled to prison under this section.
- (5) On the revocation of a person’s licence under section 246, he is liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

Textual Amendments

F346 Words in s. 255(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 113\(2\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)

Commencement Information

I86 S. 255 wholly in force at 4.4.2005; s. 255 not in force at Royal Assent, see s. 336(3); s. 255 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 255 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[^{F347}Further release after recall]

Textual Amendments

F347 S. 255A-255C and crossheading substituted for s. 255A-255D (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(1\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)

^{F347}**255 Further release after recall: introductory**

- (1) This section applies for the purpose of identifying which of sections 255B and 255C governs the further release of a person who has been recalled under section 254.
- (2) The Secretary of State must, on recalling a person other than an extended sentence prisoner, consider whether the person is suitable for automatic release.
- (3) For this purpose “automatic release” means release at the end of the period of 28 days beginning with the date on which the person returns to custody.
- (4) A person is suitable for automatic release only if the Secretary of State is satisfied that the person will not present a risk of serious harm to members of the public if released at the end of that period.
- (5) The person must be dealt with—
 - (a) in accordance with section 255B if suitable for automatic release;
 - (b) in accordance with section 255C otherwise.
- (6) For the purposes of this section, a person returns to custody when that person, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.
- (7) An “extended sentence prisoner” is a prisoner serving an extended sentence imposed under—

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- (a) section [^{F348}226A, 226B,] 227 or 228 of this Act, or
 - (b) section 85 of the Sentencing Act;
- and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to the Sentencing Act) a reference to section 58 of the Crime and Disorder Act 1998.]

Textual Amendments

F348 Words in s. 255A(7)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 20 para. 7**; S.I. 2012/2906, art. 2(r)

[^{F347}255A] **Automatic release**

- (1) A prisoner who is suitable for automatic release (“P”) must—
 - (a) on return to prison, be informed that he or she will be released under this section (subject to subsections (8) and (9)), and
 - (b) at the end of the 28 day period mentioned in section 255A(3), be released by the Secretary of State on licence under this Chapter (unless P is released before that date under subsection (2) or (5)).
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
- (4) If P makes representations under section 254(2) before the end of that period, the Secretary of State must refer P's case to the Board on the making of those representations.
- (5) Where on a reference under subsection (4) the Board directs P's immediate release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
 - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsections (1)(b) and (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) Subsection (9) applies if, after P has been informed that he or she will be released under this section, the Secretary of State receives further information about P (whether or not relating to any time before P was recalled).
- (9) If the Secretary of State determines, having regard to that and any other relevant information, that P is not suitable for automatic release—
 - (a) the Secretary of State must inform P that he or she will not be released under this section, and

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- (b) section 255C applies to P as if the Secretary of State had determined, on P's recall, that P was not suitable for automatic release.]

[^{F347}255C Specified offence prisoners and those not suitable for automatic release

- (1) This section applies to a prisoner (“P”) who—
 - (a) is an extended sentence prisoner, or
 - (b) is not considered to be suitable for automatic release.
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.
- (4) The Secretary of State must refer P's case to the Board—
 - (a) if P makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which P returns to custody, on the making of those representations, or
 - (b) if, at the end of that period, P has not been released under subsection (2) and has not made such representations, at that time.
- (5) Where on a reference under subsection (4) the Board directs P's immediate release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
 - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsection (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) For the purposes of this section, P returns to custody when P, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.]

256 [^{F349}Review by the Board]

- (1) Where on a reference under [^{F350}section 255B(4) or 255C(4)] in relation to any person, the Board does not [^{F351}direct] his immediate release on licence under this Chapter, the Board must either—
 - (a) fix a date for the person's release on licence, or
 - [^{F352}(b) determine the reference by making no [^{F353}direction] as to his release.]
- (2) Any date fixed under subsection (1)(a) ^{F354} . . . must not be later than the first anniversary of the date on which the decision is taken.

^{F355}(3)

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- (4) Where the Board has fixed a date under subsection (1)(a), it is the duty of the Secretary of State to release him on licence on that date.

^{F356}(5)

Textual Amendments

- F349** S. 256 heading substituted (14.7.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(5\)](#), 153; [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F350** Words in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(4\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F351** Word in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(3\)\(a\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F352** S. 256(1)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(2\)](#), 153; [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F353** Word in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(3\)\(b\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F354** Words in s. 256(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c)
- F355** S. 256(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(4\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c) (subject to Sch. 2 para. 3)
- F356** S. 256(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(4\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c)

Commencement Information

- I87** S. 256 wholly in force at 4.4.2005; s. 256 not in force at Royal Assent, see s. 336(3); s. 256 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), Sch.; s. 256 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

^{F357}256A Further review

- (1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.
- (2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).
- (4) On a reference under subsection (1) or (2), the Board must determine the reference by—
- (a) [^{F358}directing] the person's immediate release on licence under this Chapter,
 - (b) fixing a date for his release on licence, or
 - (c) making no [^{F359}direction] as to his release.
- (5) The Secretary of State—
- (a) where the Board makes a [^{F360}direction] under subsection (4)(a) for the person's immediate release on licence, must give effect to the [^{F360}direction]; and

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- (b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date.]

Textual Amendments

- F357** S. 256A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 30\(6\), 153](#); S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 16](#) (subject to [Sch. 2 para. 3](#))
- F358** Word in s. 256A(4)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 116\(4\)\(a\), 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F359** Word in s. 256A(4)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 116\(4\)\(b\), 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F360** Words in s. 256A(5) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 116\(4\)\(c\), 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

[^{F361}Supervision of young offenders after release

Textual Amendments

- F361** Ss. 256B, 256C and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 115, 151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

256B Supervision of young offenders after release

- (1) This section applies where a person (“the offender”) is released under this Chapter from one of the following terms if the term is for less than 12 months—
- a term of detention in a young offender institution;
 - a term of detention under section 91 of the Sentencing Act;
 - a term of detention under section 209 of the Armed Forces Act 2006.
- (2) The offender is to be under the supervision of—
- an officer of a provider of probation services,
 - a social worker of a local authority, or
 - if the offender is under the age of 18 years at the date of release, a member of the youth offending team.
- (3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.
- (4) Where the supervision is to be provided by—
- a social worker of a local authority, or
 - a member of a youth offending team,
- the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.
- (5) The supervision period begins on the offender's release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).

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- (6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (7) The requirements that may be specified in a notice under subsection (6) include—
- (a) requirements for securing the electronic monitoring of the offender's compliance with any other requirements specified in the notice;
 - (b) requirements for securing the electronic monitoring of the offender's whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);
 - (c) in the circumstances mentioned in subsection (8), requirements to provide, when instructed to do so by an officer of a provider of probation services or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the offender has any specified Class A drug in his or her body.
- (8) The circumstances referred to in subsection (7)(c) are that—
- (a) the offender has attained the age of 18 years;
 - (b) the offender's term of detention was imposed for a trigger offence; and
 - (c) the requirements to provide samples are being imposed for the purpose of determining whether the offender is complying with any other requirements specified in the notice.
- (9) The function of giving such an instruction as is mentioned in subsection (7)(c) must be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (7) and the provision of samples in pursuance of such an instruction.
- (10) In this section—
- “specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000;
- “trigger offence”—
- (a) has the same meaning as in that Part, unless paragraph (b) applies;
 - (b) if the offender's term of detention was imposed for an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), means such an offence as respects which the corresponding offence under the law of England and Wales is a trigger offence within the meaning of that Part.

256C Breach of supervision requirements

- (1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
 - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the offender to appear or be brought—
- (a) before a court acting for the local justice area in which the offender resides, or

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- (b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.
- (3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.
- (4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—
 - (a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or
 - (b) impose on the offender a fine not exceeding level 3 on the standard scale.
- (5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.
- (6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).
- (8) In this section “court” means—
 - (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
 - (b) if the offender is under the age of 18 years at the date of release, a youth court.]

Additional days

257 Additional days for disciplinary offences

- (1) Prison rules, that is to say, rules made under section 47 of the Prison Act 1952 (c. 52), may include provision for the award of additional days—
 - (a) to fixed-term prisoners, or
 - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a fixed-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
 - (a) any period which he must serve before becoming entitled to or eligible for release under this Chapter,
 - (b) any period which he must serve before he can be removed from prison under section 260, and
 - (c) any period for which a licence granted to him under this Chapter remains in force,is extended by the aggregate of those additional days.

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Commencement Information

- I88** S. 257 partly in force; s. 257 not in force at Royal Assent, see s. 336(3); s. 257 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 257(1) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 257(1)(2)(a)(b) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))
- I89** S. 257(2)(c) in force at 3.12.2012 for specified purposes by [S.I. 2012/2905](#), [art. 2](#)

Fine defaulters and contemnors

258 Early release of fine defaulters and contemnors

- (1) This section applies in relation to a person committed to prison—
- (a) in default of payment of a sum adjudged to be paid by a conviction, or
 - (b) for contempt of court or any kindred offence.
- (2) As soon as a person to whom this section applies has served one-half of the term for which he was committed, it is the duty of the Secretary of State to release him unconditionally.

[^{F362}(2A) Subsection (2) is subject to paragraph 35 of Schedule 20B (transitional cases).]

- (3) Where a person to whom this section applies is also serving one or more sentences of imprisonment, nothing in this section [^{F363}or in paragraph 35 of Schedule 20B] requires the Secretary of State to release him until he is also required to release him in respect of that sentence or each of those sentences.

[^{F364}(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of the Sentencing Act or under section [^{F365}226A, 226B,] 227 or 228 of this Act.]

- (4) The Secretary of State may at any time release unconditionally a person to whom this section applies if he is satisfied that exceptional circumstances exist which justify the person's release on compassionate grounds.

Textual Amendments

- F362** S. 258(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(2\)](#); [S.I. 2012/2906](#), art. 2(o)
- F363** Words in s. 258(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(3\)](#); [S.I. 2012/2906](#), art. 2(o)
- F364** S. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(6\)](#), 151(1) (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)
- F365** Words in s. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 8](#); [S.I. 2012/2906](#), art. 2(r)

Modifications etc. (not altering text)

- C69** S. 258 extended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(2\)](#), 151(1); [S.I. 2012/2906](#), art. 2(d)

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Commencement Information

I90 S. 258 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), Sch. 2)

Persons liable to removal from the United Kingdom

259 Persons liable to removal from the United Kingdom

For the purposes of this Chapter a person is liable to removal from the United Kingdom if—

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) and has been notified of a decision to make a deportation order against him,
- (b) he is liable to deportation under section 3(6) of that Act,
- (c) he has been notified of a decision to refuse him leave to enter the United Kingdom,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).

Commencement Information

I91 S. 259 wholly in force at 4.4.2005; s. 259 not in force at Royal Assent, see s. 336(3); s. 259 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), Sch.; s. 259 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), Sch. 2)

PROSPECTIVE

^{F366}259A Persons eligible for removal from the United Kingdom

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
- (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
- (3) The person must not be one who is liable to removal from the United Kingdom.]

Textual Amendments

F366 S. 259A inserted (prosp.) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(2\)](#), 153

260 Early removal of prisoners liable to removal from United Kingdom

- (1) [^{F367}subsection (2)], where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove him from prison under this section at

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any time during the period of [^{F368}270] days ending with the day on which the prisoner will have served the requisite custodial period.

[^{F369}(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period.]

[^{F370}(2A) If a fixed-term prisoner serving an extended sentence imposed under section 226A or 226B—

- (a) is liable to removal from the United Kingdom, and
- (b) has not been removed from prison under this section during the period mentioned in subsection (1),

the Secretary of State may remove the prisoner from prison under this section at any time after the end of that period.

(2B) Subsection (2A) applies whether or not the Board has directed the prisoner's release under section 246A.]

^{F371}(3)

^{F372}(3A)

- (4) A prisoner removed from prison under this section—
 - (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
 - (i) Schedule 2 or 3 to the Immigration Act 1971, or
 - (ii) section 10 of the Immigration and Asylum Act 1999 (c. 33), and
 - (b) so long as remaining in the United Kingdom, remains liable to be detained in pursuance of his sentence until he has served the requisite custodial period.

(5) So long as a prisoner removed from prison under this section remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section [^{F373}243A,] 244 [^{F374}, 246A] [^{F375}, 247] or 248 is exercisable in relation to him as if he were in prison.

- (6) The Secretary of State may by order—
 - (a) amend the number of days for the time being specified in subsection (1) ^{F376} ... ,
 - ^{F377}(b)
 - (c) amend the fraction for the time being specified in [^{F378}subsection (2)].

[^{F379}(7) In this section “requisite custodial period” —

- [^{F380}(za) in relation to a prisoner serving an extended sentence imposed under section 226A or 226B, has the meaning given by paragraph (a) or (b) of the definition in section 246A(8);]
- (a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);
- (b) in any other case, has the meaning given by [^{F381}paragraph (a) or (b) of section 243A(3) or (as the case may be)] paragraph (a) ^{F382} ... or (d) of section 244(3).]

[^{F383}(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.]

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Textual Amendments

- F367** Words in s. 260(1) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(4\)\(a\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 5](#) (subject to [arts. 3, 4](#))
- F368** Word in s. 260(1) substituted (7.4.2008) by [The Early Removal of Fixed-Term Prisoners \(Amendment of Eligibility Period\) Order 2008 \(S.I. 2008/978\)](#), [art. 2](#)
- F369** S. 260(2) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(5\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 5](#) (subject to [arts. 3, 4](#))
- F370** S. 260(2A)(2B) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 20 para. 9\(2\)](#); [S.I. 2012/2906](#), [art. 2\(r\)](#)
- F371** S. 260(3) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(6\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/2712](#), [art. 2](#), [Sch. paras. 5, 19\(2\)\(b\)](#) (subject to [arts. 3, 4](#))
- F372** S. 260(3A) repealed (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(6\)](#), 149, 153(7), [Sch. 28 Pt. 2](#); [S.I. 2009/2606](#), [art. 3\(j\)\(i\)](#)
- F373** Words in s. 260(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 11\(a\)](#); [S.I. 2012/2906](#), [art. 2\(l\)](#)
- F374** Words in s. 260(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 20 para. 9\(3\)](#); [S.I. 2012/2906](#), [art. 2\(r\)](#)
- F375** Words in s. 260(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(5\)](#), 151(1) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)
- F376** Words in s. 260(6)(a) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(8\)\(a\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/2712](#), [art. 2](#), [Sch. paras. 5, 19\(2\)\(b\)](#) (subject to [arts. 3, 4](#))
- F377** S. 260(6)(b) repealed (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(8\)\(b\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/2712](#), [art. 2](#), [Sch. paras. 5, 19\(2\)\(b\)](#) (subject to [arts. 3, 4](#))
- F378** Words in s. 260(6)(c) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(8\)\(c\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 5](#) (subject to [arts. 3, 4](#))
- F379** S. 260(7) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 34\(9\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 5](#) (subject to [arts. 3, 4](#))
- F380** S. 260(7)(za) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 20 para. 9\(4\)](#); [S.I. 2012/2906](#), [art. 2\(r\)](#)
- F381** Words in s. 260(7) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 11\(b\)](#); [S.I. 2012/2906](#), [art. 2\(l\)](#)
- F382** Words in s. 260(7) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 10 para. 29](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)
- F383** S. 260(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 17 para. 6](#); [S.I. 2012/2906](#), [art. 2\(o\)](#)

Commencement Information

- I92** S. 260 wholly in force at 4.4.2005; s. 260 not in force at Royal Assent, see [s. 336\(3\)](#); s. 260(6) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 260 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

261 Re-entry into United Kingdom of offender removed from prison early

- (1) This section applies in relation to a person who, after being removed from prison under section 260, has been removed from the United Kingdom before he has served the requisite custodial period.
- (2) If a person to whom this section applies enters the United Kingdom at any time before his sentence expiry date, he is liable to be detained in pursuance of his sentence from the time of his entry into the United Kingdom until whichever is the earlier of the following—

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- (a) the end of a period (“the further custodial period”) beginning with that time and equal in length to the outstanding custodial period, and
 - (b) his sentence expiry date.
- (3) A person who is liable to be detained by virtue of subsection (2) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (c. 52) (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2) does not prevent the further removal from the United Kingdom of a person falling within that subsection.
- (5) Where, in the case of a person returned to prison by virtue of subsection (2), the further custodial period ends before the sentence expiry date, ^{F384}—
- (a) if the person is serving an extended sentence imposed under section 227 or 228, section 247 has effect in relation to that person as if the reference to one-half of the appropriate custodial term were a reference to the further custodial period;
 - (b) in any other case, ^{F385}section 243A^{F386}, 244 or 246A] (as the case may be)] has effect in relation to him as if the reference to the requisite custodial period were a reference to the further custodial period.
- (6) In this section—
- “further custodial period” has the meaning given by subsection (2)(a);
 - “outstanding custodial period”, in relation to a person to whom this section applies, means the period beginning with the date of his removal from the United Kingdom and ending with the date on which he would, but for his removal, have served the requisite custodial period;
 - “requisite custodial period” ^{F387}—
- (za) ^{F388}in relation to a prisoner serving an extended sentence imposed under section 226A or 226B, has the meaning given by paragraph (a) or (b) of the definition in section 246A(8);]
 - (b) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);
 - (c) in any other case,] has the meaning given by ^{F389}paragraph (a) or (b) of section 243A(3) or (as the case may be)] ^{F390}paragraph (a) ... or (d) of section 244(3);
- “sentence expiry date”, in relation to a person to whom this section applies, means the date on which, but for his ^{F391}release from prison and] removal from the United Kingdom, he would have ^{F392}served the whole of the sentence].

Textual Amendments

- F384** Words in s. 261(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(6\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F385** Words in s. 261(5) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 12\(2\)](#); S.I. 2012/2906, art. 2(l)
- F386** Words in s. 261(5)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 20 para. 10\(2\)](#); S.I. 2012/2906, art. 2(r)
- F387** Words in s. 261(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(7\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

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- F388** S. 261(6)(za) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 10(3)**; S.I. 2012/2906, art. 2(r)
- F389** Words in s. 261(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 12(3)(a)**; S.I. 2012/2906, art. 2(l)
- F390** Words in s. 261(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 30**; S.I. 2012/2906, art. 2(h)
- F391** Words in s. 261(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 12(3)(b)(i)**; S.I. 2012/2906, art. 2(l)
- F392** Words in s. 261(6) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 12(3)(b)(ii)**; S.I. 2012/2906, art. 2(l)

Commencement Information

- I93** S. 261 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

^{F393}262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991

.....

Textual Amendments

- F393** S. 262 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 16 para. 16**; S.I. 2012/2906, art. 2(n)

Consecutive or concurrent terms

263 Concurrent terms

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced ^{F394}. . . to two or more terms of imprisonment which are wholly or partly concurrent, and
 - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (2) Where this section applies—
- (a) nothing in this Chapter requires the Secretary of State to release the offender in respect of any of the terms unless and until he is required to release him in respect of each of the others,
 - ^{F395}(aa) the offender's release is to be unconditional if section 243A so requires in respect of each of the sentences (and in any other case is to be on licence),
 - (b) [^{F396}section 246] does not authorise the Secretary of State to release him on licence under that section in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others [^{F397}to which that section applies],
 - (c) on and after his release under this Chapter [^{F398}(unless that release is unconditional)] the offender is to be on licence [^{F399}—

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- (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
- (ii) subject to such conditions as are] required by this Chapter in respect of any of the sentences.

^{F400}(3)

(4) In this section “term of imprisonment” includes a determinate sentence of detention under section 91 [^{F401}or 96] of the Sentencing Act or under section [^{F402}226A, 226B,][^{F403}227 or] 228 of this Act.

[^{F404}(5) This section is subject to paragraphs 21, 31 and 32 of Schedule 20B (transitional cases).]

Textual Amendments

- F394** Words in s. 263(1)(a) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006 (c. 52)**, ss. 378, 383, Sch. 16 para. 226, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F395** S. 263(2)(aa) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(a)**; S.I. 2012/2906, art. 2(l)
- F396** Words in s. 263(2)(b) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. **116(8)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F397** Words in s. 263(2)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(b)**; S.I. 2012/2906, art. 2(l)
- F398** Words in s. 263(2)(c) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 14 para. 13(c)**; S.I. 2012/2906, art. 2(l)
- F399** Words in s. 263(2)(c) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. **116(9)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F400** S. 263(3) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 10 para. 31**; S.I. 2012/2906, art. 2(h)
- F401** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. **117(7)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F402** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 20 para. 11**; S.I. 2012/2906, art. 2(r)
- F403** Words in s. 263(4) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. **117(7)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F404** S. 263(5) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 17 para. 7**; S.I. 2012/2906, art. 2(o)

Commencement Information

- I94** S. 263 wholly in force at 4.4.2005; s. 263 not in force at Royal Assent, see s. 336(3); s. 263 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 263 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

264 Consecutive terms

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other, and
 - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at

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- any time during the period beginning with the first and ending with the last of those occasions, ^{F405} ...
- ^{F405}(c)
- (2) Nothing in this Chapter requires the Secretary of State to release the offender ^{F406} ... until he has served a period equal in length to the aggregate of the length of the custodial periods in relation to each of the terms of imprisonment.
- (3) Where [^{F407}the aggregate length of the terms of imprisonment is 12 months or more], the offender is, on and after his release under this Chapter, to be on licence—
- (a) until he would, but for his release, have served a term equal in length to the aggregate length of the terms of imprisonment, and
- (b) subject to such conditions as are required by this Chapter in respect of each of those terms of imprisonment.
- [^{F408}(3A) Where the aggregate length of the terms of imprisonment is less than 12 months, the offender's release under this Chapter is to be unconditional.]
- ^{F409}(4)
- ^{F409}(5)
- (6) In this section—
- (a) “custodial period”—
- [^{F410}(zi) in relation to an extended sentence imposed under section 226A or 226B, means two-thirds of the appropriate custodial term determined by the court under that section,]
- (i) in relation to an extended sentence imposed under section 227 or 228, means [^{F411}one-half of] the appropriate custodial term determined under that section,
- (ii) in relation to [^{F412}any other sentence] , means one-half of [^{F413}the sentence], ^{F414} ...
- ^{F414}(iii)
- ^{F415}(b)
- (7) This section applies to a determinate sentence of detention under section 91 [^{F416}or 96] of the Sentencing Act or under section [^{F417}226A, 226B,][^{F418}227 or] 228 of this Act as it applies to a term of imprisonment ^{F419} ...
- [^{F420}(8) This section is subject to paragraphs 21, 22, 31, 32 and 33 of Schedule 20B (transitional cases).]

Textual Amendments

- F405** S. 264(1)(c) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 32\(2\)](#); S.I. 2012/2906, art. 2(h)
- F406** Words in s. 264(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 14\(a\)](#); S.I. 2012/2906, art. 2(l)
- F407** Words in s. 264(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 14\(b\)](#); S.I. 2012/2906, art. 2(l)
- F408** S. 264(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 14\(c\)](#); S.I. 2012/2906, art. 2(l)
- F409** S. 264(4)(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 14\(d\)](#); S.I. 2012/2906, art. 2(l)

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- F410** S. 264(6)(a)(zi) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 12(2)**; S.I. 2012/2906, art. 2(r)
- F411** Words in s. 264(6)(a)(i) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 71**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a) (subject to art. 2(3), Sch. 2 para. 2)
- F412** Words in s. 264(6)(a)(ii) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(e)(i)**; S.I. 2012/2906, art. 2(l)
- F413** Words in s. 264(6)(a)(ii) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(e)(ii)**; S.I. 2012/2906, art. 2(l)
- F414** S. 264(6)(a)(iii) and preceding word omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 32(3)(a)**; S.I. 2012/2906, art. 2(h)
- F415** S. 264(6)(b) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 32(3)(b)**; S.I. 2012/2906, art. 2(h)
- F416** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F417** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 12(3)**; S.I. 2012/2906, art. 2(r)
- F418** Words in s. 264(7) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(8)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F419** Words in s. 264(7) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 14(f)**; S.I. 2012/2906, art. 2(l)
- F420** S. 264(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 8**; S.I. 2012/2906, art. 2(o)

Commencement Information

- I95** S. 264 partly in force; s. 264 not in force at Royal Assent, see s. 336(3); s. 264 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 264(1)-(3)(6)(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

F421 ~~264A~~ **Consecutive terms: intermittent custody**

.....

Textual Amendments

- F421** S. 264A omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 33**; S.I. 2012/2906, art. 2(h)

Restriction on consecutive sentences for released prisoners

265 Restriction on consecutive sentences for released prisoners

- (1) A court sentencing a person to a term of imprisonment may not order or direct that the term is to commence on the expiry of any other sentence of imprisonment from which he has been released
 - [^{F422}(a) under this Chapter; or
 - (b) under Part 2 of the Criminal Justice Act 1991.]

^{F423}(1A)

^{F424}(1B)

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(2) In this section “sentence of imprisonment” includes a sentence of detention under section 91 [F425 or 96] of the Sentencing Act or section [F426 226A, 226B,][F427 227 or] 228 of this Act, and “term of imprisonment” is to be read accordingly.

Textual Amendments

- F422** Words in s. 265(1) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 20\(4\)\(a\), 153](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 10
- F423** S. 265(1A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 16 para. 17](#); S.I. 2012/2906, art. 2(n)
- F424** S. 265(1B) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 34](#); S.I. 2012/2906, art. 2(h)
- F425** Words in s. 265(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 117\(9\)\(a\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F426** Words in s. 265(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 20 para. 13](#); S.I. 2012/2906, art. 2(r)
- F427** Words in s. 265(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 117\(9\)\(b\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Commencement Information

- I96** S. 265 wholly in force at 4.4.2005; s. 265 not in force at Royal Assent, see s. 336(3); s. 265 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 265 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to saving in [art. 2\(2\), Sch. 2 para. 14](#)) (which saving fell (14.7.2008) by virtue of the amendment of [S.I. 2005/950, Sch. 2 para. 14](#) by 2008 (c. 4), ss. 148, 153, {Sch. 26 para. 78}); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(s)

PROSPECTIVE

Drug testing requirements

F428 266 Release on licence etc: drug testing requirements

Textual Amendments

- F428** S. 266 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 118\(2\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

Supplemental

267 Alteration by order of relevant proportion of sentence

The Secretary of State may by order provide that any reference in [F429 section 243A(3) (a),] section 244(3)(a), section 247(2) or section 264(6)(a)(ii) to a particular proportion of a prisoner’s sentence is to be read as a reference to such other proportion of a prisoner’s sentence as may be specified in the order.

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Textual Amendments
F429 Words in s. 267 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 15](#); S.I. 2012/2906, art. 2(l)

[^{F430}267A Application of Chapter 6 to pre-4 April 2005 cases

Schedule 20A (which modifies certain provisions of this Chapter as they apply to persons serving a sentence for an offence committed before 4 April 2005) has effect.]

Textual Amendments
F430 S. 267A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 2](#); S.I. 2012/2906, art. 2(n)

Modifications etc. (not altering text)
C70 S. 267A applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

[^{F431}267B Modification of Chapter 6 in certain transitional cases

Schedule 20B (which modifies this Chapter so as to restate, with minor amendments, the effect of transitional provisions relating to the coming into force of this Chapter) has effect.]

Textual Amendments
F431 S. 267B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 9](#); S.I. 2012/2906, art. 2(o)

Modifications etc. (not altering text)
C71 S. 267B applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

268 Interpretation of Chapter 6

In this Chapter—

- “the 1997 Act” means the Crime (Sentences) Act 1997 (c. 43);
- “the Board” means the Parole Board;
- “fixed-term prisoner” has the meaning given by section 237(1) [^{F432}(as extended by section 237(1B))];
- ^{F433}
- “prison” and “prisoner” are to be read in accordance with section 237(2);
- ^{F433}
- ^{F433}

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Textual Amendments

- F432** S. 268: words in definition of "fixed-term prisoner" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 227](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F433** Definitions in s. 268 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 35](#); [S.I. 2012/2906](#), [art. 2\(h\)](#)

Commencement Information

- I97** S. 268 wholly in force at 4.4.2005; s. 268 not in force at Royal Assent, see s. 336(3); s. 268 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 268 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

CHAPTER 7

EFFECT OF LIFE SENTENCE

269 Determination of minimum term in relation to mandatory life sentence

- (1) This section applies where after the commencement of this section a court passes a life sentence in circumstances where the sentence is fixed by law.
- (2) The court must, unless it makes an order under subsection (4), order that the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (referred to in this Chapter as "the early release provisions") are to apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence is to be such as the court considers appropriate taking into account—
 - (a) the seriousness of the offence, or of the combination of the offence and any one or more offences associated with it, and
 - (b) the effect of [^{F434}section 240ZA (crediting periods of remand in custody) or of any direction which it would have given under section 240A (crediting periods of remand on certain types of bail)] if it had sentenced him to a term of imprisonment.

[^{F435}(3A) The reference in subsection (3)(b) to section 240ZA includes section 246 of the Armed Forces Act 2006 (crediting periods in service custody).]

- (4) If the offender was 21 or over when he committed the offence and the court is of the opinion that, because of the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2), the court must order that the early release provisions are not to apply to the offender.
- (5) In considering under subsection (3) or (4) the seriousness of an offence (or of the combination of an offence and one or more offences associated with it), the court must have regard to—
 - (a) the general principles set out in Schedule 21, and
 - (b) any guidelines relating to offences in general which are relevant to the case and are not incompatible with the provisions of Schedule 21.

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- (6) The [^{F436}Lord Chancellor] may by order amend Schedule 21.
- (7) Before making an order under subsection (6), the [^{F437}Lord Chancellor must consult the Sentencing Council for England and Wales].

Textual Amendments

- F434** Words in s. 269(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(10)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F435** S. 269(3A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(10)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F436** Words in s. 269(6) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177, 182, **Sch. 21 para. 85(a)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 14(b), 20(b) (with art. 7(4))
- F437** Words in s. 269(7) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 177, 182, **Sch. 21 para. 85(b)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 14(b), 20(b) (with art. 7(4))

270 Duty to give reasons

- [^{F438}(1) Subsection (2) applies where a court makes an order under section 269(2) or (4).]
- (2) [^{F439}In complying with the duty under section 174(2) to state its reasons for deciding on the order made,] the court must, in particular—
- (a) state which of the starting points in Schedule 21 it has chosen and its reasons for doing so, and
 - (b) state its reasons for any departure from that starting point.

Textual Amendments

- F438** S. 270(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 64(3)(a)**, 151(1); S.I. 2012/2906, art. 2(a)
- F439** Words in s. 270(2) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 64(3)(b)**, 151(1); S.I. 2012/2906, art. 2(a)

Modifications etc. (not altering text)

- C72** S. 270 excluded (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 73(7)**, 178; S.I. 2006/378, **art. 5(1)**
- C73** S. 270 applied (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 74(14)**, 178; S.I. 2005/378, **art. 5(1)** (with art. 5(2))

271 Appeals

- (1) In section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence following conviction on indictment), after subsection (1) there is inserted—
- “(1A) In subsection (1) of this section, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”
- (2) In section 8 of the Courts-Martial (Appeals) Act 1968 (c. 20) (right of appeal from court-martial to Courts-Martial Appeal Court) after subsection (1) there is inserted—

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“(1ZA) In subsection (1) above, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

272 Review of minimum term on a reference by Attorney General

(1) In section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) after subsection (3) there is inserted—

“(3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Court of Appeal shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.”.

(2) ^{F440}

(3) ^{F440}

Textual Amendments

F440 S. 272(2)(3) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 229, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

273 Life prisoners transferred to England and Wales

(1) The Secretary of State must refer the case of any transferred life prisoner to the High Court for the making of one or more relevant orders.

(2) In subsection (1) “transferred life prisoner” means a person—

(a) on whom a court in a country or territory outside the British Islands has imposed one or more sentences of imprisonment or detention for an indeterminate period, and

(b) who has been transferred to England and Wales after the commencement of this section in pursuance of—

(i) an order made by the Secretary of State under section 2 of the Colonial Prisoners Removal Act 1884 (c. 31), or

(ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984 (c. 47),

there to serve his sentence or sentences or the remainder of his sentence or sentences.

(3) In subsection (1) “a relevant order” means—

(a) in the case of an offence which appears to the court to be an offence for which, if it had been committed in England and Wales, the sentence would have been fixed by law, an order under subsection (2) or (4) of section 269, and

(b) in any other case, an order under subsection (2) or (4) of section 82A of the Sentencing Act.

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- (4) In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (meaning of “life prisoner” in Chapter 2 of Part 2 of that Act) at the end there is inserted “and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003”.
- [^{F441}(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).]

Textual Amendments

F441 S. 273(5) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 73](#); S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)

274 Further provisions about references relating to transferred life prisoners

- (1) A reference to the High Court under section 273 is to be determined by a single judge of that court without an oral hearing.
- (2) In relation to a reference under that section, any reference to “the court” in subsections (2) to (5) of section 269, in Schedule 21 or in section 82A(2) to (4) of the Sentencing Act is to be read as a reference to the High Court.
- (3) A person in respect of whom a reference has been made under section 273 may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the High Court on the reference.
- (4) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [^{F442}Supreme Court] from decision of High Court in a criminal cause or matter) and section 18(1) (a) of the Supreme Court Act 1981 (c. 54) (exclusion of appeal from High Court to Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which subsection (3) applies.
- (5) The jurisdiction conferred on the Court of Appeal by subsection (3) is to be exercised by the criminal division of that court.
- (6) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of Court of Appeal) does not prevent an appeal to the [^{F442}Supreme Court] under this section.
- (7) In relation to appeals to the Court of Appeal or the [^{F442}Supreme Court] under this section, the Secretary of State may make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968 (subject to any specified modifications).

Textual Amendments

F442 Words in s. 274 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(5\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Status: Point in time view as at 11/12/2013. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 04 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)

275 Duty to release certain life prisoners

(1) Section 28 of the Crime (Sentences) Act 1997 (c. 43) (duty to release certain life prisoners) is amended as follows.

(2) For subsection (1A) there is substituted—

“(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner’s sentence is a reference to the part of the sentence specified in the order.”

(3) In subsection (1B)(a)—

- (a) for the words from the beginning to “applies” there is substituted “this section does not apply to him”, and
- (b) for the words from “such an order” to “appropriate stage” there is substituted “a minimum term order has been made in respect of each of those sentences”.

(4) After subsection (8) there is inserted—

“(8A) In this section “minimum term order” means an order under—

- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
- (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence).”.

276 Mandatory life sentences: transitional cases

Schedule 22 (which relates to the effect in transitional cases of mandatory life sentences) shall have effect.

277 Interpretation of Chapter 7

In this Chapter—

“court” includes [^{F443}the Court Martial];

[^{F444}“guidelines” means sentencing guidelines issued by the Sentencing Council for England and Wales as definitive guidelines under section 120 of the Coroners and Justice Act 2009, as revised by any subsequent guidelines so issued;]

“life sentence” means—

- (a) a sentence of imprisonment for life,
- (b) a sentence of detention during Her Majesty’s pleasure, or
- (c) a sentence of custody for life passed before the commencement of section 61(1) of the Criminal Justice and Court Services Act 2000 (c. 43) (which abolishes that sentence).

Textual Amendments

F443 S. 277: words in definition of “court” substituted (28.3.2009 for certain purposes, and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 230](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

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F444 S. 277: definition of "guidelines" substituted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177, 182, [Sch. 21 para. 86](#) (with s. 180); S.I. 2010/816, [art. 2](#), [Sch. paras. 14\(b\), 20\(b\)](#) (with [art. 7\(4\)](#))

CHAPTER 8

OTHER PROVISIONS ABOUT SENTENCING

Deferment of sentence

278 Deferment of sentence

Schedule 23 (deferment of sentence) shall have effect.

Commencement Information

I98 S. 278 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 20](#) (subject to [art. 2\(2\), Sch. 2](#))

Power to include drug treatment and testing requirement in certain orders in respect of young offenders

279 Drug treatment and testing requirement in action plan order or supervision order

F445

Textual Amendments

F445 S. 279 repealed (31.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 94, Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1 and 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xv\)](#)

Commencement Information

I99 S. 279 partly in force; s. 279 not in force at Royal Assent, see s. 336(3); s. 279 in force for certain purposes at 1.12.2004 by [S.I. 2004/3033, art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)\(4\)](#))

Alteration of penalties for offences

PROSPECTIVE

280 Alteration of penalties for specified summary offences

- (1) The summary offences listed in Schedule 25 are no longer punishable with imprisonment.
- (2) Schedule 26 (which contains amendments increasing the maximum term of imprisonment for certain summary offences from 4 months or less to 51 weeks) shall have effect.

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- (3) This section does not affect the penalty for any offence committed before the commencement of this section.

VALID FROM 14/07/2022

281 Alteration of penalties for other summary offences

- (1) Subsection (2) applies to any summary offence which—
- is an offence under a relevant enactment,
 - is punishable with a maximum term of imprisonment of five months or less, and
 - is not listed in Schedule 25 or Schedule 26.
- (2) The Secretary of State may by order amend any relevant enactment so as to—
- provide that any summary offence to which this subsection applies is no longer punishable with imprisonment, or
 - increase to 51 weeks the maximum term of imprisonment to which a person is liable on conviction of the offence.
- (3) An order under subsection (2) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.
- (4) Subsection (5) applies to any summary offence which—
- is an offence under a relevant enactment, and
 - is punishable with a maximum term of imprisonment of six months.
- (5) The maximum term of imprisonment to which a person is liable on conviction of an offence to which this subsection applies is, by virtue of this subsection, 51 weeks (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (6) Neither of the following—
- an order under subsection (2), or
 - subsection (5),
- affects the penalty for any offence committed before the commencement of that order or subsection (as the case may be).
- (7) In this section and section 282 “relevant enactment” means any enactment contained in—
- an Act passed before or in the same Session as this Act, or
 - any subordinate legislation made before the passing of this Act.
- (8) In subsection (7) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

Modifications etc. (not altering text)

C74 S. 281 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\)](#), ss. 10(3), 40

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C75 S. 281(5) modified (16.12.2010) by [The National Assembly for Wales Referendum \(Assembly Act Provisions\) \(Referendum Question, Date of Referendum Etc.\) Order 2010 \(S.I. 2010/2837\)](#), arts. 1(2), [Sch. 4 para. 1\(6\)](#)

VALID FROM 02/05/2022

282 Increase in maximum term that may be imposed on summary conviction of offence triable either way

- (1) In section 32 of the Magistrates' Courts Act 1980 (c. 43) (penalties on summary conviction for offences triable either way) in subsection (1) (offences listed in Schedule 1 to that Act) for “not exceeding 6 months” there is substituted “ not exceeding 12 months ”.
- (2) Subsection (3) applies to any offence triable either way which—
 - (a) is an offence under a relevant enactment,
 - (b) is punishable with imprisonment on summary conviction, and
 - (c) is not listed in Schedule 1 to the Magistrates' Courts Act 1980.
- (3) The maximum term of imprisonment to which a person is liable on summary conviction of an offence to which this subsection applies is by virtue of this subsection 12 months (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (4) Nothing in this section affects the penalty for any offence committed before the commencement of this section.

Modifications etc. (not altering text)

- C76** S. 282 applied (prosp.) by [Horse Race Betting and Olympic Lottery Act 2004 \(c. 25\)](#), [ss. 10\(3\)](#), 60
- C77** S. 282(3) modified (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), [ss. 56\(4\)](#), 66(2)(c)

VALID FROM 02/05/2022

283 Enabling powers: power to alter maximum penalties

- (1) The Secretary of State may by order, in accordance with subsection (2) or (3), amend any relevant enactment which confers a power (however framed or worded) by subordinate legislation to make a person—
 - (a) as regards a summary offence, liable on conviction to a term of imprisonment;
 - (b) as regards an offence triable either way, liable on summary conviction to a term of imprisonment.
- (2) An order made by virtue of paragraph (a) of subsection (1) may amend the relevant enactment in question so as to—
 - (a) restrict the power so that a person may no longer be made liable on conviction of a summary offence to a term of imprisonment, or

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- (b) increase to 51 weeks the maximum term of imprisonment to which a person may be made liable on conviction of a summary offence under the power.
- (3) An order made by virtue of paragraph (b) of that subsection may amend the relevant enactment in question so as to increase the maximum term of imprisonment to which a person may be made liable on summary conviction of an offence under the power to 12 months.
- (4) Schedule 27 (which amends the maximum penalties which may be imposed by virtue of certain enabling powers) shall have effect.
- (5) The power conferred by subsection (1) shall not apply to the enactments amended under Schedule 27.
- (6) An order under subsection (1) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.
- (7) None of the following—
 - (a) an order under subsection (1), or
 - (b) Schedule 27,affects the penalty for any offence committed before the commencement of that order or Schedule (as the case may be).
- (8) In subsection (1) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (9) In this section “relevant enactment” means any enactment contained in an Act passed before or in the same Session as this Act.

284 Increase in penalties for drug-related offences

- (1) Schedule 28 (increase in penalties for certain drug-related offences) shall have effect.
- (2) That Schedule does not affect the penalty for any offence committed before the commencement of that Schedule.

285 Increase in penalties for certain driving-related offences

- (1) In section 12A of the Theft Act 1968 (c. 60) (aggravated vehicle-taking), in subsection (4), for “five years” there is substituted “fourteen years”.
- (2) Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences) is amended in accordance with subsections (3) and (4).
- (3) In the entry relating to section 1 of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving), in column 4, for “10 years” there is substituted “14 years”.
- (4) In the entry relating to section 3A of that Act (causing death by careless driving when under influence of drink or drugs), in column 4, for “10 years” there is substituted “14 years”.
- (5) Part I of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)) (prosecution and punishment of offences) is amended in accordance with subsections (6) and (7).

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- (6) In the entry relating to Article 9 of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)) (causing death or grievous bodily injury by dangerous driving), in column 4, for “10 years” there is substituted “ 14 years ”.
- (7) In the entry relating to Article 14 of that Order (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs), in column 4, for “10 years” there is substituted “ 14 years ”.
- (8) This section does not affect the penalty for any offence committed before the commencement of this section.

286 Increase in penalties for offences under section 174 of Road Traffic Act 1988

- (1) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences), in the entry relating to section 174 of the Road Traffic Act 1988 (c. 52) (false statements and withholding material information), for columns (3) and (4) there is substituted—

“(a) Summarily	(a) 6 months or the statutory maximum or both
(b) On indictment	(b) 2 years or a fine or both.”

- (2) Section 282(3) (increase in maximum term that may be imposed on summary conviction of offence triable either way) has effect in relation to the entry amended by subsection (1) as it has effect in relation to any other enactment contained in an Act passed before this Act.
- (3) This section does not apply in relation to any offence committed before the commencement of this section.

Firearms offences

287 Minimum sentence for certain firearms offences

After section 51 of the Firearms Act 1968 (c. 27) there is inserted the following section—

“51A Minimum sentence for certain offences under s. 5

- (1) This section applies where—
 - (a) an individual is convicted of—
 - (i) an offence under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of this Act, or
 - (ii) an offence under section 5(1A)(a) of this Act, and
 - (b) the offence was committed after the commencement of this section and at a time when he was aged 16 or over.
- (2) The court shall impose an appropriate custodial sentence (or order for detention) for a term of at least the required minimum term (with or without a

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fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

- (3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (4) In this section “appropriate custodial sentence (or order for detention)” means—
- (a) in relation to England and Wales—
 - (i) in the case of an offender who is aged 18 or over when convicted, a sentence of imprisonment, and
 - (ii) in the case of an offender who is aged under 18 at that time, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) in relation to Scotland—
 - (i) in the case of an offender who is aged 21 or over when convicted, a sentence of imprisonment,
 - (ii) in the case of an offender who is aged under 21 at that time (not being an offender mentioned in sub-paragraph (iii)), a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995, and
 - (iii) in the case of an offender who is aged under 18 at that time and is subject to a supervision requirement, an order for detention under section 44, or sentence of detention under section 208, of that Act.
- (5) In this section “the required minimum term” means—
- (a) in relation to England and Wales—
 - (i) in the case of an offender who was aged 18 or over when he committed the offence, five years, and
 - (ii) in the case of an offender who was under 18 at that time, three years, and
 - (b) in relation to Scotland—
 - (i) in the case of an offender who was aged 21 or over when he committed the offence, five years, and
 - (ii) in the case of an offender who was aged under 21 at that time, three years.”

288 Certain firearms offences to be triable only on indictment

In Part 1 of Schedule 6 to the Firearms Act 1968 (c. 27) (prosecution and punishment of offences) for the entries relating to offences under section 5(1) (possessing or distributing prohibited weapons or ammunition) and section 5(1A) (possessing or distributing other prohibited weapons) there is substituted—

“Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c)	Possessing or distributing prohibited weapons or ammunition.	On indictment	10 years or a fine, or both.
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Section 5(1)(b)	Possessing or distributing prohibited weapon designed for discharge of noxious liquid etc.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine or both.
Section 5(1A)(a)	Possessing or distributing firearm disguised as other object.	On indictment	10 years or a fine, or both.
Section 5(1A)(b), (c), (d), (e), (f) or (g)	Possessing or distributing other prohibited weapons.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine, or both.”

289 Power to sentence young offender to detention in respect of certain firearms offences: England and Wales

(1) Section 91 of the Sentencing Act (offenders under 18 convicted of certain serious offences: power to detain for specified period) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted on indictment of an offence—
 - (i) under subsection (1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of section 5 of the Firearms Act 1968 (prohibited weapons),
or
 - (ii) under subsection (1A)(a) of that section,
- (b) the offence was committed after the commencement of section 51A of that Act and at a time when he was aged 16 or over, and
- (c) the court is of the opinion mentioned in section 51A(2) of that Act (exceptional circumstances which justify its not imposing required custodial sentence).”

(3) After subsection (4) there is inserted—

“(5) Where subsection (2) of section 51A of the Firearms Act 1968 requires the imposition of a sentence of detention under this section for a term of at least the required minimum term (within the meaning of that section), the court shall sentence the offender to be detained for such period, of at least that term but not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 or over, as may be specified in the sentence.”

290 Power to sentence young offender to detention in respect of certain firearms offences: Scotland

(1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.

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(2) In section 49(3) (children’s hearing for purpose of obtaining advice as to treatment of child), at the end there is added “ except that where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968 it shall itself dispose of the case ”.

(3) In section 208 (detention of children convicted on indictment), the existing provisions become subsection (1); and after that subsection there is added—

“(2) Subsection (1) does not apply where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968.”.

291 Power by order to exclude application of minimum sentence to those under 18

(1) The Secretary of State may by order—

(a) amend section 51A(1)(b) of the Firearms Act 1968 (c. 27) by substituting for the word “16” the word “18”,

[^{F446}(aa) amend section 29(3)(a) of the Violent Crime Reduction Act 2006 by substituting for the word “16” the word 18,]

(b) repeal section 91(1A)(c) and (5) of the Sentencing Act,

(c) amend subsection (3) of section 49 of the Criminal Procedure (Scotland) Act 1995 by repealing the exception to that subsection,

(d) repeal section 208(2) of that Act, and

(e) make such other provision as he considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraphs (a) to (d).

(2) The provision that may be made by virtue of subsection (1)(e) includes, in particular, provision amending or repealing any provision of an Act (whenever passed), including any provision of this Act.

Textual Amendments

F446 S. 291(1)(aa) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(7\)](#); [S.I. 2007/858](#), [art. 2\(g\)](#)

292 Sentencing for firearms offences in Northern Ireland

^{F447}

Textual Amendments

F447 S. 292 repealed (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), arts. 1, 82(2), [Sch. 8](#) (with [art. 81](#)); [S.R. 2005/4](#), [art. 3](#) (with arts. 4-7)

293 Increase in penalty for offences relating to importation or exportation of certain firearms

(1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.

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(2) In section 50 (penalty for improper importation of goods), for subsection (5A) there is substituted—

“(5A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
 - (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
 - (c) any such offence committed in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981,
- subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”

(3) In section 68 (offences in relation to exportation of prohibited or restricted goods) for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
 - (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
 - (c) any such offence committed in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981,
- subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”

(4) In section 170 (penalty for fraudulent evasion of duty, etc), for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or

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- (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,
subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”
- (5) This section does not affect the penalty for any offence committed before the commencement of this section.

Offenders transferred to mental hospital

294 Duration of directions under Mental Health Act 1983 in relation to offenders

- (1) Section 50 of the Mental Health Act 1983 (c. 20) (further provisions as to prisoners under sentence) is amended as follows.
- (2) In subsection (1), for “the expiration of that person’s sentence” there is substituted “ his release date ”.
- (3) For subsections (2) and (3) there is substituted—
- “(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.
- (3) In this section, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if the transfer direction had not been given; and in determining that day there shall be disregarded—
- (a) any powers that would be exercisable by the Parole Board if he were detained in such a prison or other institution, and
- (b) any practice of the Secretary of State in relation to the early release under discretionary powers of persons detained in such a prison or other institution.”.

295 Access to Parole Board for certain patients serving prison sentences

In section 74 of the Mental Health Act 1983 (restricted patients subject to restriction directions) after subsection (5) there is inserted—

- “(5A) Where the tribunal have made a recommendation under subsection (1)(b) above in the case of a patient who is subject to a restriction direction or a limitation direction—
- (a) the fact that the restriction direction or limitation direction remains in force does not prevent the making of any application or reference to the Parole Board by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to the Parole Board, and
- (b) if the Parole Board make a direction or recommendation by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if he had not been removed to

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hospital, the restriction direction or limitation direction shall cease to have effect at the time when he would become entitled to be so released.”

296 Duration of directions under Mental Health (Northern Ireland) Order 1986 in relation to offenders

(1) Article 56 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4)) (further provisions as to prisoners under sentence) is amended as follows.

(2) In paragraph (1), for “the expiration of that person’s sentence” there is substituted “his release date”.

(3) For paragraphs (2) and (3) there is substituted—

“(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.

(3) In this Article, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given; and in determining that day any powers that would be exercisable by the Sentence Review Commissioners or the Life Sentence Review Commissioners if he were detained in such a prison or juvenile justice centre shall be disregarded.”

297 Access to Sentence Review Commissioners and Life Sentence Review Commissioners for certain Northern Ireland patients

In Article 79 of the Mental Health (Northern Ireland) Order 1986 (restricted patients subject to restriction directions) after paragraph (5) there is inserted—

“(5A) Where the tribunal have made a recommendation under paragraph (1)(b) in the case of a patient who is subject to a restriction direction—

(a) the fact that the restriction direction remains in force does not prevent—

(i) the making of any application or reference to the Life Sentence Review Commissioners by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to those Commissioners, or

(ii) the making of any application by him to the Sentence Review Commissioners, and

(b) if—

(i) the Life Sentence Review Commissioners give a direction by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given, or

(ii) the Sentence Review Commissioners grant a declaration by virtue of which he would become so entitled,

the restriction direction shall cease to have effect at the time at which he would become so entitled.”

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PROSPECTIVE

Term of detention and training order

^{F448}**298 Term of detention and training order**

.....

Textual Amendments

F448 S. 298 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Disqualification from working with children

299 Disqualification from working with children

Schedule 30 (which contains amendments of Part 2 of the Criminal Justice and Court Services Act 2000 (c. 43) relating to disqualification orders under that Part) shall have effect.

Fine defaulters

300 Power to impose unpaid work requirement [^{F449}curfew requirement or attendance centre requirement] on fine defaulter

- (1) Subsection (2) applies in any case where, in respect of a person aged 16 or over, a magistrates' court—
 - (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
 - (b) would, but for section 89 of the Sentencing Act (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—
 - (a) an unpaid work requirement (as defined by section 199), or
 - (b) a curfew requirement (as defined by section 204)^{F450}, or
 - (c) in a case where the person is aged under 25, an attendance centre requirement (as defined by section 214)]
- (3) In this Part “default order” means an order under subsection (2).
- (4) Subsections (3) and (4) of section 177 (which relate to electronic monitoring) have effect in relation to a default order as they have effect in relation to a community order.

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- (5) Where a magistrates' court has power to make a default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.
- (6) Schedule 8 (breach, revocation or amendment of community order), Schedule 9 (transfer of community orders to Scotland or Northern Ireland) and Chapter 4 (further provisions about orders under Chapters 2 and 3) have effect in relation to default orders as they have effect in relation to community orders, but subject to the modifications contained in Schedule 31.
- (7) Where a default order has been made for default in paying any sum—
 - (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect, and
 - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

Textual Amendments

F449 Words in s. 300 heading inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 40(2)**, 153 (with [Sch. 27 para. 13\(2\)](#)); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 20

F450 S. 300(2)(c) and word inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 40(3)**, 153 (with [Sch. 27 para. 13\(2\)](#)); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 20

Modifications etc. (not altering text)

C78 S. 300 restricted (prosp.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 56-58**, 173

Commencement Information

I100 S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**

301 Fine defaulters: driving disqualification

- (1) Subsection (2) applies in any case where a magistrates' court—
 - (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
 - (b) would, but for section 89 of the Sentencing Act (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders), order the person in default to be disqualified, for such period not exceeding twelve months as it thinks fit, for holding or obtaining a driving licence.
- (3) Where an order has been made under subsection (2) for default in paying any sum—

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- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect, and
 - (b) on payment of part of the sum to any such person, the total number of weeks or months to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (4) In calculating any reduction required by subsection (3)(b) any fraction of a week or month is to be disregarded.
- (5) The Secretary of State may by order amend subsection (2) by substituting, for the period there specified, such other period as may be specified in the order.
- (6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
- (a) any such licence held by him together with its counterpart; or
 - (b) in the case where he holds a Community licence (within the meaning of Part 3 of the Road Traffic Act 1988 (c. 52)), his Community licence and its counterpart (if any).
- (7) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
 - “counterpart”—
 - (a) in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act; and
 - (b) in relation to a Community licence, has the meaning given by section 99B of that Act.

Commencement Information

1101 S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by S.I. 2005/373, art. 2

CHAPTER 9

SUPPLEMENTARY

302 Execution of process between England and Wales and Scotland

Section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) (execution of process of English and Welsh courts in Scotland) applies to any process issued by a magistrates' court under—

- paragraph 7(2) or (4), 13(6) or 25(1) of Schedule 8,
- paragraph 12 of Schedule 9,
- ^{F451} ..., or
- paragraph 6(2) or (4), 12(1) or 20(1) of Schedule 12,

as it applies to process issued under the Magistrates' Courts Act 1980 by a magistrates' court.

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Textual Amendments

F451 Words in s. 302 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 36](#); S.I. 2012/2906, art. 2(h)

Commencement Information

I102 S. 302 wholly in force at 4.4.2005; s. 302 not in force at Royal Assent, see s. 336(3); s. 302 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 302 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 21](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

303 Sentencing: repeals

The following enactments (which are superseded by the provisions of this Part) shall cease to have effect—

- (a) Part 2 of the Criminal Justice Act 1991 (c. 53) (early release of prisoners),
- (b) in the Crime (Sentences) Act 1997 (c. 43)—
 - (i) section 29 (power of Secretary of State to release life prisoners to whom section 28 of that Act does not apply),
 - (ii) section 33 (transferred prisoners), and
 - (iii) sections 35 and 40 (fine defaulters),
- (c) sections 80 and 81 of the Crime and Disorder Act 1998 (c. 37) (sentencing guidelines), and
- (d) in the Sentencing Act—
 - (i) Chapter 3 of Part 4 (community orders available only where offender 16 or over),
 - (ii) section 85 (sexual or violent offences: extension of custodial term for licence purposes),
 - (iii) sections 87 and 88 (remand in custody),
 - (iv) section 109 (life sentence for second serious offence), and
 - (v) Chapter 5 of Part 5 (suspended sentences).

Commencement Information

I103 S. 303 partly in force; s. 303(b)(i)(ii) in force at 18.12.2003 see s. 336(2); s. 303(a)(c)(d) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 22](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

304 Amendments relating to sentencing

Schedule 32 (which contains amendments related to the provisions of this Part) shall have effect.

Commencement Information

I104 S. 304 partly in force; s. 304 in force for certain purposes at 18.12.2003, see s. 336(2); s. 304 in force for certain purposes at 22.1.2004 by [S.I. 2004/81](#), [art. 3](#); s. 304 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 304 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 23](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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305 Interpretation of Part 12

(1) In this Part, except where the contrary intention appears—

- “accredited programme” has the meaning given by section 202(2);
- “activity requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 201;
- “alcohol treatment requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 212;
- “the appropriate officer of the court” means, in relation to a magistrates' court, the clerk of the court;
- “associated”, in relation to offences, is to be read in accordance with section 161(1) of the Sentencing Act;
- “attendance centre” has the meaning given by section 221(2);
- “attendance centre requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 214;
- “community order” has the meaning given by section 177(1);
- “community requirement”, in relation to a suspended sentence order, has the meaning given by section 189(7);
- “community sentence” has the meaning given by section 147(1);
- “court” (without more), except in Chapter 7, does not include a service court^{F453}, but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006;]
- “curfew requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 204;
- “custodial sentence” has the meaning given by section 76 of the Sentencing Act;
^{F454}
- “default order” has the meaning given by section 300(3);
- “drug rehabilitation requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 209;
- “electronic monitoring requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 215;
- “exclusion requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 205;
- [^{F455}“foreign travel prohibition requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 206A;]
- “guardian” has the same meaning as in the Children and Young Persons Act 1933 (c. 12);
^{F456}
- “licence” means a licence under Chapter 6;
- “local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43);
- “mental health treatment requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 207;
- “pre-sentence report” has the meaning given by section 158(1);
- “programme requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 202;
- “prohibited activity requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 203;

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“residence requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 206;

“responsible officer”, in relation to an offender to whom a community order,^{F457} ... or a suspended sentence order relates, has the meaning given by section 197;

“sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money,
- (b) for want of sufficient distress to satisfy any sum of money, or
- (c) for failure to do or abstain from doing anything required to be done or left undone ,

and references to sentencing an offender to imprisonment are to be read accordingly;

“the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

[^{F458}“service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;]

“supervision requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 213;

“suspended sentence” and “suspended sentence order” have the meaning given by section 189(7);

“unpaid work requirement”, in relation to a community order,^{F452} ... or suspended sentence order, has the meaning given by section 199;

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

- (2) For the purposes of any provision of this Part which requires the determination of the age of a person by the court or the Secretary of State, his age is to be taken to be that which it appears to the court or (as the case may be) the Secretary of State to be after considering any available evidence.
- (3) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.
- (4) For the purposes of this Part—
 - [^{F459}(za) a sentence falls to be imposed under subsection (5) of section 1A of the Prevention of Crime Act 1953 if it is required by that subsection and the court is not of the opinion there mentioned,]
 - (a) a sentence falls to be imposed under subsection (2) of section 51A of the Firearms Act 1968 (c. 27) if it is required by that subsection and the court is not of the opinion there mentioned,
 - [^{F460}(aa) a sentence falls to be imposed under subsection (7) of section 139AA of the Criminal Justice Act 1988 if it is required by that subsection and the court is not of the opinion there mentioned,]

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- (b) a sentence falls to be imposed under section 110(2) or 111(2) of the Sentencing Act if it is required by that provision and the court is not of the opinion there mentioned,
- [^{F461}(ba) a sentence falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 if it is required by that provision and the court is not of the opinion there mentioned,]
- [^{F462}(bb) a sentence falls to be imposed under section 224A if the court is obliged by that section to pass a sentence of imprisonment for life,]
- [^{F463}(c) a sentence falls to be imposed under subsection (2) of section 225 if the court is obliged to pass a sentence of imprisonment for life under that subsection;
- (d) a sentence falls to be imposed under subsection (2) of section 226 if the court is obliged to pass a sentence of detention for life under that subsection;]
- ^{F464}(e)

Textual Amendments

- F452** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(c\)](#); S.I. 2012/2906, art. 2(h)
- F453** S. 305(1): words in definition of "court" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 231\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F454** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(a\)](#); S.I. 2012/2906, art. 2(h)
- F455** Words in s. 305(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 72\(6\)](#), 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F456** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(b\)](#); S.I. 2012/2906, art. 2(h)
- F457** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(d\)](#); S.I. 2012/2906, art. 2(h)
- F458** S. 305(1): definition of "service court" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for definitions of "service court" and "service disciplinary proceedings" by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 231\(b\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F459** S. 305(4)(za) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 22\(2\)](#); S.I. 2012/2770, art. 2(f)
- F460** S. 305(4)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 22\(3\)](#); S.I. 2012/2770, art. 2(f)
- F461** S. 305(4)(ba) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(8\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F462** S. 305(4)(bb) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 22](#); S.I. 2012/2906, art. 2(q)
- F463** S. 305(4)(c)(d) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 72\(a\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(a)
- F464** S. 305(4)(e) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153, [Sch. 26 para. 72\(b\)](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 48(a), 50(2)(c)

Modifications etc. (not altering text)

- C79** S. 305(4)(bb) modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 24\(3\)](#); S.I. 2012/2906, art. 2(q)
- C80** S. 305(4)(c) modified (14.7.2008) by [The Criminal Justice and Immigration Act 2008 \(Transitory Provisions\) Order 2008 \(S.I. 2008/1587\)](#), [art. 2\(4\)](#)

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Commencement Information

I105 S. 305 wholly in force at 4.4.2005; s. 305 not in force at Royal Assent, see s. 336(3); s. 305(1)-(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 305 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 24 (subject to **art. 2(2)**, Sch. 2)

Status:

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Changes to legislation:

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