



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 5

#### DANGEROUS OFFENDERS

#### **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 225, 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—
  - “relevant offence” has the meaning given by section 229(4);
  - “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.

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*Status: This is the original version (as it was originally enacted).*

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## **225 Life sentence or imprisonment for public protection 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.
- (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.
- (3) In a case not falling within subsection (2), the court must impose a sentence of imprisonment for public protection.
- (4) A sentence of imprisonment for public protection is a sentence of imprisonment for an indeterminate period, subject to the provisions of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) as to the release of prisoners and duration of licences.
- (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.

## **226 Detention for life or detention for public protection 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
  - (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.
- (3) If, in a case not falling within subsection (2), the court considers that an extended sentence under section 228 would not be adequate for the purpose of protecting the public from serious harm occasioned by the commission by the offender of further specified offences, the court must impose a sentence of detention for public protection.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A sentence of detention for public protection is a sentence of detention for an indeterminate period, subject to the provisions of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) as to the release of prisoners and duration of licences.
- (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.

## **227 Extended sentence for certain violent or sexual offences: persons 18 or over**

- (1) This section applies where—
  - (a) a person aged 18 or over is convicted of a specified offence, other than a serious offence, committed after the commencement of this section, and
  - (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.
- (2) The court must impose on the offender an extended sentence of imprisonment, that is to say, 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 and which is 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 him of further specified offences.
- (3) In subsection (2) “the appropriate custodial term” means a term of imprisonment (not exceeding the maximum term permitted for the offence) which—
  - (a) is the term that would (apart from this section) be imposed in compliance with section 153(2), or
  - (b) where the term that would be so imposed is a term of less than 12 months, is a term of 12 months.
- (4) The extension period must not exceed—
  - (a) five years in the case of a specified violent offence, and
  - (b) eight years in the case of a specified sexual offence.
- (5) The term of an extended sentence of imprisonment passed under this section in respect of an offence must not exceed the maximum term permitted for the offence.

## **228 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 committed after the commencement of this section, and
  - (b) the court considers—
    - (i) 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, and
    - (ii) where the specified offence is a serious offence, that the case is not one in which the court is required by section 226(2) to impose a sentence of detention for life under section 91 of the Sentencing Act

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or by section 226(3) to impose a sentence of detention for public protection.

- (2) The court must impose on the offender an extended sentence of detention, that is to say, 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 and which is 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 him of further specified offences.
- (3) In subsection (2) “the appropriate custodial term” means such term as the court considers appropriate, which—
  - (a) must be at least 12 months, and
  - (b) must not exceed the maximum term of imprisonment permitted for the offence.
- (4) The extension period must not exceed—
  - (a) five years in the case of a specified violent offence, and
  - (b) eight years in the case of a specified sexual offence.
- (5) The term of an extended sentence of detention passed under this section in respect of an offence must not exceed the maximum term of imprisonment permitted for the offence.
- (6) Any reference in this section to the maximum term of imprisonment permitted for an offence is a reference to the maximum term of imprisonment that is, apart from section 225, permitted for the offence in the case of a person aged 18 or over.

## **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) If at the time when that offence was committed the offender had not been convicted in any part of the United Kingdom of any relevant offence or was aged under 18, 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,
  - (b) may take into account any information which is before it about any pattern of behaviour of which the offence forms part, and
  - (c) may take into account any information about the offender which is before it.
- (3) If at the time when that offence was committed the offender was aged 18 or over and had been convicted in any part of the United Kingdom of one or more relevant offences, the court must assume that there is such a risk as is mentioned in subsection (1)(b) unless, after taking into account—
  - (a) all such information as is available to it about the nature and circumstances of each of the offences,

- (b) where appropriate, any information which is before it about any pattern of behaviour of which any of the offences forms part, and
  - (c) any information about the offender which is before it,
- the court considers that it would be unreasonable to conclude that there is such a risk.

(4) In this Chapter “relevant offence” means—

- (a) a specified offence,
- (b) an offence specified in Schedule 16 (offences under the law of Scotland), or
- (c) an offence specified in Schedule 17 (offences under the law of Northern Ireland).

### **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.

### **231 Appeals where previous convictions set aside**

(1) This section applies where—

- (a) a sentence has been imposed on any person under section 225 or 227, and
- (b) any previous conviction of his without which the court would not have been required to make the assumption mentioned in section 229(3) 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.

### **232 Certificates of convictions for purposes of section 229**

Where—

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

that certificate shall be evidence, for the purposes of section 229, that he was convicted of such an offence on that date.

### **233 Offences under service law**

Where—

- (a) a person has at any time been convicted of an offence under section 70 of the [Army Act 1955 \(3 & 4 Eliz. 2 c. 18\)](#), section 70 of the [Air Force Act 1955 \(3 & 4 Eliz. 2 c. 19\)](#) or section 42 of the [Naval Discipline Act 1957 \(c. 53\)](#), and
- (b) the corresponding civil offence (within the meaning of that Act) was a relevant offence,

section 229 shall have effect as if he had at that time been convicted in England and Wales of the corresponding civil offence.

**234 Determination of day when offence committed**

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 section 229 to have been committed on the last of those days.

**235 Detention under sections 226 and 228**

A person sentenced to be detained under section 226 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.

**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—

*“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

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(c) an extended sentence of detention under section 228 of that Act.”