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# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

#### CHAPTER 8

##### OTHER PROVISIONS ABOUT SENTENCING

##### *Deferment of sentence*

#### **278 Deferment of sentence**

Schedule 23 (deferment of sentence) shall have effect.

#### **Commencement Information**

- II** 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**

Schedule 24 (which enables a requirement as to drug treatment and testing to be included in an action plan order or a supervision order) shall have effect.

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### Commencement Information

- I2** 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.
- (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—
  - (a) is an offence under a relevant enactment,
  - (b) is punishable with a maximum term of imprisonment of five months or less, and
  - (c) is not listed in Schedule 25 or Schedule 26.
- (2) The Secretary of State may by order amend any relevant enactment so as to—
  - (a) provide that any summary offence to which this subsection applies is no longer punishable with imprisonment, or
  - (b) 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—
  - (a) is an offence under a relevant enactment, and
  - (b) 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).

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- (6) Neither of the following—
- (a) an order under subsection (2), or
  - (b) 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—
- (a) an Act passed before or in the same Session as this Act, or
  - (b) 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)**

- C1 S. 281 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\)](#), **ss. 10(3)**, 40
- C2 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)**

- C3 S. 282 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\)](#), **ss. 10(3)**, 60
- C4 S. 282(3) modified (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), **ss. 56(4)**, 66(2)(c)

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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
  - (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.

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## **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).
- (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—

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

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- (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.

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### *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 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

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- (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—

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“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.
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.”

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## **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

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- (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.
- (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”,
  - (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.



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## 292 Sentencing for firearms offences in Northern Ireland

F1 .....

### Textual Amendments

F1 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.
- (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”.

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(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
- (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.”.

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## **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 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—

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- (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.”.

PROSPECTIVE

*Term of detention and training order*

**F<sup>2</sup>298 Term of detention and training order**

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**Textual Amendments**

- F2** 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 or curfew 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

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- 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).
- (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.
- (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.

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

**C5** S. 300 restricted (prosp.) by [Education and Skills Act 2008 \(c. 25\)](#), **ss. 56-58**, 173

**Commencement Information**

**I3** 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

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- (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—
    - (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.

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**Commencement Information**

**14** 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](#)

**Status:**

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