



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 3

REMANDS OF CHILDREN OTHERWISE THAN ON BAIL

Remands to youth detention accommodation

99 Second set of conditions for a remand to youth detention accommodation

- (1) For the purposes of section 91(4)(a), the second set of conditions for a remand to youth detention accommodation is met in relation to a child if each of the following is met in relation to the child—
 - (a) the age condition (see subsection (2)),
 - (b) the sentencing condition (see subsection (3)),
 - (c) the offence condition (see subsection (4)),
 - (d) the first or second history condition or both (see subsections (5) and (6)),
 - (e) the necessity condition (see subsection (7)), and
 - (f) the first or second legal representation condition (see subsections (8) and (9)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The sentencing condition is that it appears to the court that there is a real prospect that the child will be sentenced to a custodial sentence for the offence mentioned in section 91(1) or one or more of those offences.

Status: This is the original version (as it was originally enacted).

- (4) The offence condition is that the offence mentioned in section 91(1), or one or more of those offences, is an imprisonable offence.
- (5) The first history condition is that—
 - (a) the child has a recent history of absconding while subject to a custodial remand, and
 - (b) the offence mentioned in section 91(1), or one or more of those offences, is alleged to be or has been found to have been committed while the child was remanded to local authority accommodation or youth detention accommodation.
- (6) The second history condition is that the offence or offences mentioned in section 91(1), together with any other imprisonable offences of which the child has been convicted in any proceedings, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (7) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
 - (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences.
- (8) The first legal representation condition is that the child is legally represented before the court.
- (9) The second legal representation condition is that the child is not legally represented before the court and—
 - (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child’s conduct, or
 - (ii) because it appeared that the child’s financial resources were such that the child was not eligible for such representation,
 - (b) the child applied for such representation and the application was refused because it appeared that the child’s financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.
- (10) In this Chapter “custodial sentence” means a sentence or order mentioned in section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2000.
- (11) The reference in subsection (5)(b) to a child being remanded to local authority accommodation or youth detention accommodation includes—
 - (a) a child being remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969, and
 - (b) a child being remanded to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948.