



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 10 U.K.

CUSTODIAL SENTENCES

CHAPTER 7 E+W

MINIMUM SENTENCES FOR PARTICULAR OFFENCES

Minimum sentence for single offence

311 Minimum sentence for certain offences involving firearms that are prohibited weapons E+W

- (1) This section applies where—
 - (a) a person is convicted of an offence listed in Schedule 20 (certain offences involving firearms that are prohibited weapons), and
 - (b) the offender was aged 16 or over when the offence was committed.
- (2) The court must impose an appropriate custodial sentence for a term of at least the required minimum term unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender, and
 - (b) justify not doing so.
- (3) In this section “appropriate custodial sentence” means—
 - (a) in the case of a person who is aged under 18 when convicted, a sentence of detention under section 250;
 - (b) in the case of a person who is aged 18 or over but under 21 when convicted, a sentence of detention in a young offender institution (and includes, if the

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offence is an offence for which a person aged 21 or over would be liable to imprisonment for life, a sentence of custody for life);

- (c) in the case of a person who is aged 21 or over when convicted, a sentence of imprisonment.

(4) In this section “the required minimum term” means—

- (a) in the case of an offender who was aged under 18 when the offence was committed, 3 years;
- (b) in the case of an offender who was aged 18 or over when the offence was committed, 5 years.

But this is subject to subsection (5).

(5) In the case of an offence within paragraph 5 of Schedule 20, “the required minimum term” means—

- (a) in the case of an offender who was aged under 18 when convicted, 3 years;
- (b) in the case of an offender who was aged 18 or over when convicted, 5 years.

Modifications etc. (not altering text)

- C1** S. 311 power to apply (with modifications) conferred by 1988 c. 45, s. 1(4B) (as inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 94(3) (with Sch. 27); S.I. 2020/1236, reg. 2)
- C2** S. 311 applied (with modifications) by 2006 c. 52, s. 227 (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 para. 48(3) (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2)

Commencement Information

- I1** S. 311 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

312 Minimum sentence for offences of threatening with weapon or bladed article **E**

+W

(1) This section applies where a person aged 16 or over is convicted of an offence under—

- (a) section 1A of the Prevention of Crime Act 1953 (offence of threatening with offensive weapon in public), or
- (b) section 139AA of the Criminal Justice Act 1988 (offence of threatening with article with blade or point or offensive weapon).

(2) The court must impose an appropriate custodial sentence unless the court is of the opinion that there are particular circumstances which—

- (a) relate to the offence or to the offender, and
- (b) would make it unjust to do so in all the circumstances.

(3) In this section “appropriate custodial sentence” means—

- (a) in the case of a person who is aged 16 or over but under 18 when convicted, a detention and training order of at least 4 months;
- (b) in the case of a person who is aged 18 or over but under 21 when convicted, a sentence of detention in a young offender institution for a term of at least 6 months;
- (c) in the case of a person who is aged 21 or over when convicted, a sentence of imprisonment for a term of at least 6 months.

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Commencement Information

I2 S. 312 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Minimum sentence for repeat offences

313 Minimum sentence of 7 years for third class A drug trafficking offence **E+W**

- (1) This section applies where—
- (a) a person is convicted of a class A drug trafficking offence (“the index offence”) committed on or after 1 October 1997,
 - (b) when the index offence was committed, the offender—
 - (i) was aged 18 or over, and
 - (ii) had 2 other relevant drug convictions, and
 - (c) one of the offences to which those other relevant drug convictions related was committed after the offender had been convicted of the other.
- (2) The court must impose an appropriate custodial sentence for a term of at least 7 years unless the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (3) For the purposes of subsection (1), “relevant drug conviction” means—
- (a) a conviction in any part of the United Kingdom of a class A drug trafficking offence,
 - (b) a conviction in another member State of an offence committed on or after 16 August 2010 which would, if committed in the United Kingdom at the time of the conviction, have constituted a class A drug trafficking offence,
 - (c) a conviction of an offence under section 42 of the Armed Forces Act 2006 in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a class A drug trafficking offence,
 - (d) a conviction of an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 in respect of which the corresponding civil offence (within the meaning of the Act in question) is a class A drug trafficking offence, or
 - (e) a conviction of a member State service offence committed on or after 16 August 2010 which would have constituted a class A drug trafficking offence if committed in England and Wales at the time of conviction.
- (4) Where—
- (a) a person is charged with a class A drug trafficking offence (which, apart from this subsection, would be triable either way), and
 - (b) the circumstances are such that, if convicted of the offence, the person could be sentenced for it under subsection (2),
- the offence is to be triable only on indictment.
- (5) In this section “class A drug trafficking offence” means a drug trafficking offence committed in respect of a class A drug; and for this purpose—
- “class A drug” has the same meaning as in the Misuse of Drugs Act 1971;

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- “drug trafficking offence” means an offence which is specified in—
- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
 - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.
- (6) In this section “an appropriate custodial sentence” means—
- (a) in relation to an offender who is aged 21 or over when convicted of the index offence, a sentence of imprisonment;
 - (b) in relation to an offender who is aged under 21 when convicted of the index offence, a sentence of detention in a young offender institution (and includes, if the index offence is an offence for which a person aged 21 or over would be liable to imprisonment for life, a sentence of custody for life).

Modifications etc. (not altering text)

- C3** S. 313 applied by [2006 c. 52, s. 225](#) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 46](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))
- C4** S. 313(2) excluded by [2006 c. 52, s. 239\(5\)](#) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 25 para. 54\(b\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

Commencement Information

- I3** S. 313 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

314 Minimum sentence of 3 years for third domestic burglary **E+W**

- (1) This section applies where—
- (a) a person is convicted of a domestic burglary (“the index offence”) committed on or after 1 December 1999,
 - (b) when the index offence was committed—
 - (i) the offender was aged 18 or over, and
 - (ii) had 2 other relevant domestic burglary convictions, and
 - (c) one of the burglaries to which those other relevant domestic burglary convictions relate was committed after the person had been convicted of the other.
- (2) The court must impose an appropriate custodial sentence for a term of at least 3 years unless the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (3) For the purposes of subsection (1), “relevant domestic burglary conviction” means—
- (a) a conviction in England and Wales of a domestic burglary committed on or after 1 December 1999,
 - (b) a conviction in another part of the United Kingdom or another member State of an offence committed on or after 16 August 2010 which would have constituted an offence of domestic burglary, if committed in England and Wales at the time of the conviction,
 - (c) a conviction of an offence under section 42 of the Armed Forces Act 2006 in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence of domestic burglary,

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- (d) a conviction of an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 committed on or after 1 December 1999 in respect of which the corresponding civil offence (within the meaning of the Act in question) is an offence of domestic burglary, or
 - (e) a conviction of a member State service offence committed on or after 16 August 2010 which would have constituted an offence of domestic burglary if committed in England and Wales at the time of conviction.
- (4) Where—
- (a) a person is charged with a domestic burglary which, apart from this subsection, would be triable either way, and
 - (b) the circumstances are such that, if convicted of the burglary, the person could be sentenced for it under subsection (2),
- the burglary is to be triable only on indictment.
- (5) In this section “domestic burglary” means a burglary committed in respect of a building or part of a building which is a dwelling.
- (6) In this section “an appropriate custodial sentence” means—
- (a) in relation to a person who is aged 21 or over when convicted of the index offence, a sentence of imprisonment;
 - (b) in relation to a person who is aged under 21 when convicted of the index offence, a sentence of detention in a young offender institution.

Modifications etc. (not altering text)

- C5** S. 314 applied by 2006 c. 52, s. 226 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), Sch. 25 para. 47 (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))
- C6** S. 314(2) excluded by 2006 c. 52, s. 239(5) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), Sch. 25 para. 54(b) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

Commencement Information

- I4** S. 314 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

315 Minimum sentence for repeat offence involving weapon or bladed article **E+W**

- (1) This section applies where—
- (a) an offender is convicted of an offence (the “index offence”) under—
 - (i) section 1(1) of the Prevention of Crime Act 1953 (carrying offensive weapon without lawful authority or reasonable excuse),
 - (ii) section 139(1) of the Criminal Justice Act 1988 (having article with blade or point in public place), or
 - (iii) section 139A(1) or (2) of that Act (having article with blade or point or offensive weapon on education premises),
 - (b) the offence was committed on or after 17 July 2015, and
 - (c) when the offence was committed, the offender—
 - (i) was aged at least 16, and
 - (ii) had at least one relevant conviction.

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- (2) The court must impose an appropriate custodial sentence unless the court is of the opinion that there are particular circumstances which—
- (a) relate to the offence, to the previous offence or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (3) In subsection (2) “appropriate custodial sentence” means—
- (a) in the case of a person aged under 18 when convicted of the index offence, a detention and training order of at least 4 months;
 - (b) in the case of a person aged 18 or over but under 21 when convicted of the index offence, a sentence of detention in a young offender institution for a term of at least 6 months;
 - (c) in the case of a person aged 21 or over when convicted of the index offence, a sentence of imprisonment for a term of at least 6 months.
- (4) In this section, “relevant conviction” means—
- (a) a conviction of a relevant offence,
 - (b) a conviction in another part of the United Kingdom or another member State of a civilian offence which would have constituted a relevant offence if committed in England and Wales at the time of the conviction (whenever the offence was in fact committed),
 - (c) a conviction of an offence under section 42 of the Armed Forces Act 2006 in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction of an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, or
 - (e) a conviction of a member State service offence which would have constituted a relevant offence if committed in England and Wales at the time of conviction (whenever the offence was in fact committed).
- (5) In this section, “relevant offence” means an offence under—
- (a) section 1 or 1A of the Prevention of Crime Act 1953 (offences involving offensive weapons), or
 - (b) section 139, 139A or 139AA of the Criminal Justice Act 1988 (offences involving article with blade or point or offensive weapon).

Commencement Information

I5 S. 315 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

316 Appeals where previous convictions set aside E+W

- (1) This section applies where—
- (a) a sentence has been imposed on an offender under subsection (2) of any of the following sections—
 - (i) section 313,
 - (ii) section 314, or
 - (iii) section 315,

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- (b) a previous conviction of the offender is subsequently set aside on appeal, and
 - (c) without the previous conviction the section would not have applied.
- (2) Notice of appeal against the sentence may be given at any time within 28 days from the day on which the previous conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968).

Modifications etc. (not altering text)

C7 S. 316 applied (with modifications) by 2007 c. ii, s. 8(8) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 265](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#))

Commencement Information

I6 S. 316 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

317 Certificates of conviction for purposes of sections 313 and 314 **E+W**

- (1) This section applies where an offender is convicted—
- (a) in England and Wales of—
 - (i) a class A drug trafficking offence, or
 - (ii) a domestic burglary,
 - (b) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
 - (c) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
 - (d) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence.
- (2) A certificate, given in accordance with subsection (3), of either or both of the following—
- (a) that the offender was convicted of that offence on the date of the conviction;
 - (b) that the offence was committed on a particular day, or over, or at some time during, a particular period,
- is evidence for the purposes of section 313 or 314 of the facts so certified.
- (3) A certificate is given in accordance with this subsection if it is—
- (a) given—
 - (i) by the court by or before which the offender was convicted of the offence, and
 - (ii) in the case of a court in the United Kingdom, after the court has stated in open court the facts certified by it, and
 - (b) in the case of a certificate given by a court outside the United Kingdom, signed by the proper officer of the court.
- (4) In this section—
- “proper officer” means the clerk of the court, that clerk’s deputy or any other person having custody of the court record;
 - “class A drug trafficking offence” and “domestic burglary” have the same meanings as in sections 313 and 314 respectively;

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“corresponding drug trafficking offence” means an offence within section 313(3)(b);

“corresponding domestic burglary offence” means an offence within section 314(3)(b).

Commencement Information

I7 S. 317 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

318 Offences under service law **E+W**

(1) In sections 313 to 315 and this section—

“civilian offence” means an offence other than—

- (a) an offence under section 42 of the Armed Forces Act 2006,
- (b) an offence under section 70 of the Army Act 1995, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957, or
- (c) a member State service offence;

“conviction” includes—

- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction, and
- (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;

“member State service offence” means an offence which was the subject of proceedings under the law of a member State other than the United Kingdom governing all or any of the naval, military or air forces of that State.

(2) For the purposes of section 313(3)(c) and (e) (class A drug trafficking which is an offence under section 42 of Armed Forces Act 2006 and corresponding member State service offences), where the offence was committed in a way described in paragraph 10 of Schedule 2 to the Proceeds of Crime Act 2002 (attempting, conspiring, encouraging, assisting, aiding, abetting, etc) in relation to an act that, if done in England and Wales, would have constituted another offence listed in paragraph 1 of that Schedule, it must be assumed that that act was done (or would have been done) in England and Wales.

(3) For the purposes of—

- (a) section 314(3)(c) and (e) (domestic burglary convictions under section 42 of Armed Forces Act 2006 or corresponding member State service offences), and
- (b) section 315(4)(c) and (d) (relevant weapons offences under that section or corresponding offences under previous legislation relating to the armed forces),

where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.

Commencement Information

I8 S. 318 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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Minimum sentences: supplementary

319 Mandatory sentence requirement not to affect power to impose fine **E+W**

Nothing in this Chapter which requires the court to impose a particular term of imprisonment or other custodial sentence is to be taken to prevent the court from exercising any power to impose a fine in addition to the custodial sentence.

Commencement Information

I9 S. 319 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

320 Determination of day when offence committed **E+W**

Where an offence is found to have been committed—

- (a) over a period of 2 or more days, or
- (b) at some time during a period of 2 or more days,

it is to be taken for the purposes of sections 311, 313, 314 and 315 to have been committed on the last of those days.

Commencement Information

I10 S. 320 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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