



# Sentencing Act 2020

## 2020 CHAPTER 17

### SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

#### PART 4 **E+W**

##### EXERCISE OF COURT'S DISCRETION

#### CHAPTER 2 **E+W**

##### SENTENCING GUIDELINES

### 59 Sentencing guidelines: general duty of court **E+W**

- (1) Every court—
- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender's case, and
  - (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,
- unless the court is satisfied that it would be contrary to the interests of justice to do so.
- (2) The duty imposed by subsection (1) is subject to—
- (a) section 125(1) (fine must reflect seriousness of offence);
  - (b) section 179(2) (restriction on youth rehabilitation order);
  - (c) section 186(3) and (6) (restrictions on choice of requirements of youth rehabilitation order);
  - (d) section 204(2) (restriction on community order);
  - (e) section 208(3) and (6) (restrictions on choice of requirements of community order);
  - (f) section 230 (threshold for imposing discretionary custodial sentence);
  - (g) section 231 (custodial sentence must be for shortest term commensurate with seriousness of offence);

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- [<sup>F1</sup>(ga) sections 268B and 282B (requirement to impose serious terrorism sentence);]
  - (h) sections 273 and 283 (life sentence for second listed offence for certain dangerous offenders);
  - (i) section 321 and Schedule 21 (determination of minimum term in relation to mandatory life sentence);
  - (j) the provisions mentioned in section 399(c) (mandatory minimum sentences).
- (3) Nothing in this section or section 60 or 61 is to be taken as restricting any power (whether under the Mental Health Act 1983 or otherwise) which enables a court to deal with an offender suffering from a mental disorder in the manner it considers to be most appropriate in all the circumstances.

#### Textual Amendments

**F1** S. 59(2)(ga) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 11(3)

#### Commencement Information

**I1** S. 59 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

## 60 Sentencing guidelines: determination of sentence E+W

- (1) This section applies where—
  - (a) a court is deciding what sentence to impose on an offender for an offence, and
  - (b) offence-specific guidelines have been issued in relation to the offence.
- (2) The principal guidelines duty includes a duty to impose on the offender, in accordance with the offence-specific guidelines, a sentence which is within the offence range.
- (3) Subsection (2) is subject to—
  - (a) section 73 (reduction in sentences for guilty pleas),
  - (b) sections 74, 387 and 388 (assistance by offenders: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered to be given) by the offender to the prosecutor or investigator of an offence, and
  - (c) any rule of law as to the totality of sentences.
- (4) If the offence-specific guidelines describe different seriousness categories—
  - (a) the principal guidelines duty also includes a duty to decide which of the categories most resembles the offender's case in order to identify the sentencing starting point in the offence range, but
  - (b) nothing in this section imposes on the court a separate duty to impose a sentence which is within the category range.
- (5) Subsection (4) does not apply if the court is of the opinion that, for the purpose of identifying the sentence within the offence range which is the appropriate starting point, none of the categories sufficiently resembles the offender's case.
- (6) Subsections (2) and (4) (except as applied by section 61) are subject to any power a court has to impose an extended sentence.

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**Commencement Information**

**I2** S. 60 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

**61 Sentencing guidelines: extended sentences [<sup>F2</sup>, serious terrorism sentences] and life sentences **E+W****

*Extended sentence: determination of appropriate custodial term*

- (1) Subsection (2) applies where a court is considering whether to impose an extended sentence for an offence.
- (2) In determining the appropriate custodial term for the purposes of section 256(2), 268(2) or 281(2) (extended sentence for certain violent, sexual or terrorism offences), section 60 applies to the court as it applies to a court in determining the sentence for an offence.

*[<sup>F3</sup>Serious terrorism sentence: determination of appropriate custodial term*

- (2A) Subsection (2B) applies where a court is required to impose a serious terrorism sentence for an offence.
- (2B) In determining the appropriate custodial term for the purposes of section 268C(2)(b) or 282C(2)(b) (serious terrorism sentences: appropriate custodial term exceeding 14-year minimum), section 60 applies to the court as it applies to a court in determining the sentence for an offence.]

*Life sentence for second listed offence: determination of sentence condition*

- (3) Subsection (4) applies where a court is considering whether to impose a sentence under section 273 or 283 (life sentence for second listed offence) for an offence.
- (4) In determining, for the purpose of deciding whether the sentence condition in section 273(4) or 283(4) is met, the sentence that it would have passed as mentioned in that condition, section 60 applies to the court as it applies to a court in determining the sentence for an offence.

*Notional determinate term for non-fixed life sentence*

- (5) Subsection (6) applies where a court imposes a non-fixed life sentence for an offence.
- (6) Section 60 applies to the court in determining [<sup>F4</sup>the notional determinate sentence within the meaning of] section 323 (minimum term order for non-fixed life sentence).

<sup>F5</sup>(7) .....

- (8) In this section “non-fixed life sentence” means—
  - (a) a sentence of imprisonment for life (other than a sentence fixed by law),
  - (b) a sentence of detention for life under section 250, or
  - (c) a sentence of custody for life under section 272.

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### Textual Amendments

- F2** Words in s. 61 heading inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v), [Sch. 13 para. 11\(4\)\(a\)](#)
- F3** S. 61(2A)(2B) and heading inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v), [Sch. 13 para. 11\(4\)\(b\)](#)
- F4** Words in s. 61(6) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(3\)\(a\)\(i\)](#), 208(1); S.I. 2022/520, reg. 5(n)
- F5** S. 61(7) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(3\)\(a\)\(ii\)](#), 208(1); S.I. 2022/520, reg. 5(n)

### Commencement Information

- I3** S. 61 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

## 62 Sentencing guidelines duties: interpretation E+W

(1) In this Chapter—

“mental disorder”, in relation to a person, has the same meaning as in the Mental Health Act 1983;

“the principal guidelines duty” means the duty, imposed by section 59(1)(a), of a court, in sentencing an offender, to follow any sentencing guidelines which are relevant to the offender's case;

“offence-specific guidelines” means any sentencing guidelines issued in relation to a particular offence which are structured in the way described in section 121(2) to (5) of the Coroners and Justice Act 2009 (and “the offence-specific guidelines”, in relation to an offence, means, if any such guidelines have been issued in relation to the offence, those guidelines);

“the sentencing starting point”, in relation to the offence range, has the meaning given by section 121(10) of the Coroners and Justice Act 2009.

(2) For the purposes of this Chapter—

- (a) references to the following are to be read in accordance with section 121 of the Coroners and Justice Act 2009 (sentencing ranges)—
- the offence range;
  - the category range;
  - the starting point;
  - the appropriate starting point;
- (b) offence-specific guidelines describe different seriousness categories if they describe different categories of case in accordance with subsection (2) of that section.

### Commencement Information

- I4** S. 62 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**Changes to legislation:**

Sentencing Act 2020, CHAPTER 2 is up to date with all changes known to be in force on or before 22 June 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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)