



# Criminal Justice Act 1991

## 1991 CHAPTER 53

### PART III

#### CHILDREN AND YOUNG PERSONS

##### *Children's evidence*

#### 52 Competence of children as witnesses.

F1 .....

##### Textual Amendments

F1 S. 52 repealed (24.7.2002) by 1999 c. 23, s. 67(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(iv)(aa)

#### 53 Notices of transfer in certain cases involving children.

- (1) If a person has been charged with an offence to which section 32(2) of the 1988 Act applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions is of the opinion—
- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;
  - (b) that a child who is alleged—
    - (i) to be a person against whom the offence was committed; or
    - (ii) to have witnessed the commission of the offence,will be called as a witness at the trial; and
  - (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court,

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- a notice (“notice of transfer”) certifying that opinion may be [F<sup>2</sup>given] by or [F<sup>2</sup>to] behalf of the Director on the magistrates’ court in whose jurisdiction the offence has been charged.
- (2) A notice of transfer shall be [F<sup>3</sup>given] before the magistrates’ court begins to inquire into the case as examining justices.
- (3) On the [F<sup>4</sup>giving]of a notice of transfer the functions of the magistrates’ court shall cease in relation to the case except as provided by paragraphs 2 and 3 of Schedule 6 to this Act or by [F<sup>5</sup>paragraph 2 of Schedule 3 to the Access to Justice Act 1999].
- (4) The decision to [F<sup>6</sup>give]a notice of transfer shall not be subject to appeal or liable to be questioned in any court.
- (5) Schedule 6 to this Act (which makes further provision in relation to notices of transfer) shall have effect.
- (6) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) of the 1988 Act, is under fourteen years of age or, if he was under that age when any such video recording as is mentioned in section 32A(2) of that Act was made in respect of him, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) of that Act, is under seventeen years of age or, if he was under that age when any such video recording was made in respect of him, is under eighteen years of age.
- (7) Any reference in subsection (6) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) of that Act includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- [F<sup>7</sup>(8) This section shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.]

#### Textual Amendments

- F2** Words in s. 53(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F3** Words in s. 53(2) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F4** Words in s. 53(3) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(c)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F5** Words in s. 53(3) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 47** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)** (with transitional provisions and savings in Sch. 2 para. 2)
- F6** Words in s. 53(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(d)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F7** S. 53(8) inserted (4.1.1998 for certain purposes, otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para. 93**; S.I. 1998/2327, **art. 4(2)(c)** (subject to art. 3); S.I. 2000/3283, **art. 2(c)**.

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

- C1** S. 53(7) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1)(2), 94, **Sch. 6 para. 19(a)**; S.I. 2008/2504, **art. 2(a)**

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#### Commencement Information

II S. 53 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### [<sup>F8</sup>54] Video recordings of testimony from child witnesses.

After section 32 of the 1988 Act (evidence through television links) there shall be inserted the following section—

##### “ Video recordings of testimony from child witnesses.

- (1) This section applies in relation to the following proceedings, namely—
  - (a) trials on indictment for any offence to which section 32(2) above applies;
  - (b) appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
  - (c) proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
- (2) In any such proceedings a video recording of an interview which—
  - (a) is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
  - (b) relates to any matter in issue in the proceedings,may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.
- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—
  - (a) it appears that the child witness will not be available for cross-examination;
  - (b) any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
  - (c) the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.
- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (5) Where a video recording is admitted under this section—
  - (a) the child witness shall be called by the party who tendered it in evidence;

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- (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—
- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
- (b) no such statement shall be capable of corroborating any other evidence given by him;
- and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).
- (7) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
- (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- (9) In this section—
- “statement” includes any representation of fact, whether made in words or otherwise;
- “video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.
- (10) A magistrates’ court inquiring into an offence as examining justices under section 6 of the Magistrates’ Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.
- (11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.
- (12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.”]

#### **Textual Amendments**

**F8** S. 54 repealed (24.7.2002 except insofar as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(iv)(bb)

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**Commencement Information**

**I2** S. 54 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**55 Further amendments of enactments relating to children’s evidence.**

(1) In section 103 of the 1980 Act (evidence of children in committal proceedings) subsection (3)(a) shall cease to have effect and for subsection (5) there shall be substituted the following subsection—

“(5) In this section “child” has the same meaning as in section 53 of the Criminal Justice Act 1991.”

(2) In subsection (1) of section 32 of the 1988 Act (evidence through television links)—

(a) for the words from “on a trial” to “1968” there shall be substituted the words “in proceedings to which subsection (1A) below applies”; and

(b) [F<sup>9</sup>for paragraph (b) there shall be substituted the following paragraph—

“(b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies.”.]

(3) After that subsection there shall be inserted the following subsection—

“(1A) This subsection applies—

(a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968; and

(b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.”

(4) [F<sup>10</sup>After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where, in the case of any proceedings before a youth court—

(a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and

(b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,

the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the purposes of this subsection by the justices acting for the petty sessions area for which the court acts.

(3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.”]

F<sup>11</sup>(5) .....

(6) [F<sup>12</sup>After subsection (5) of that section there shall be inserted the following subsection—

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“(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”]

(7) After section 34 of the 1988 Act there shall be inserted the following section—

**“34A Cross-examination of alleged child victims.**

- (1) No person who is charged with an offence to which section 32(2) above applies shall cross-examine in person any witness who—
- (a) is alleged—
    - (i) to be a person against whom the offence was committed; or
    - (ii) to have witnessed the commission of the offence; and
  - (b) is a child, or is to be cross-examined following the admission under section 32A above of a video recording of testimony from him.
- (2) Subsection (7) of section 32A above shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”

**Textual Amendments**

- F9** S. 55(2)(b) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F10** S. 55(4) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)
- F11** S. 55(5) omitted (1.9.2004) by virtue of The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 3, Sch. para. 33
- F12** S. 55(6) repealed (24.7.2002 except in so far as required for proceedings before Service courts) by 1999 c. 23, ss. 67(3), 68(3), Sch. 6 (with Sch. 7 paras. 3(3), 5(2)); S.I. 2002/1739, art. 2(g)(iv)(cc)

**Commencement Information**

- I3** S. 55 wholly in force at 1.10.1992, see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Responsibilities of parent or guardian*

**56 Attendance at court of parent or guardian.**

Subsection (1) of section 34 (attendance at court of parent or guardian) of the 1933 Act shall cease to have effect and after that section there shall be inserted the following section—

**“34A Attendance at court of parent or guardian.**

- (1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—
- (a) may in any case; and

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(b) shall in the case of a child or a young person who is under the age of sixteen years,

require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.

(2) In relation to a child or young person for whom a local authority have parental responsibility and who—

(a) is in their care; or

(b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,

the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.”

**Commencement Information**

**I4** S. 56 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

<sup>F13</sup>57 .....

**Textual Amendments**

**F13** S. 57 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F14</sup>58 .....

**Textual Amendments**

**F14** S. 58 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Detention etc. pending trial*

**59 Detention at a police station.**

In section 38 of the <sup>M1</sup>Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for subsections (6) and (6A) there shall be substituted the following subsections—

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“(6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1) above, the custody officer shall, unless he certifies—

- (a) that, by reason of such circumstances as are specified in the certificate, it is impracticable for him to do so; or
- (b) in the case of an arrested juvenile who has attained the age of 15 years, that no secure accommodation is available and that keeping him in other local authority accommodation would not be adequate to protect the public from serious harm from him,

secure that the arrested juvenile is moved to local authority accommodation.

(6A) In this section—

“local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989);

“secure accommodation” means accommodation provided for the purpose of restricting liberty;

“sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;

and any reference, in relation to an arrested juvenile charged with a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.”

#### **Commencement Information**

**I5** S. 59 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### **Marginal Citations**

**M1** 1984 c. 60.

## **60 Remands and committals to local authority accommodation.**

(1) For section 23 of the 1969 Act there shall be substituted the following section—

### **“23 Remands and committals to local authority accommodation.**

(1) Where—

- (a) a court remands a child or young person charged with or convicted of one or more offences or commits him for trial or sentence; and
- (b) he is not released on bail,

the remand or committal shall be to local authority accommodation; and in the following provisions of this section, any reference (however expressed) to a remand shall be construed as including a reference to a committal.

(2) A court remanding a person to local authority accommodation shall designate the local authority who are to receive him; and that authority shall be—



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- (a) in the case of a person who is being looked after by a local authority, that authority; and
  - (b) in any other case, the local authority in whose area it appears to the court that he resides or the offence or one of the offences was committed.
- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.
- (4) Subject to subsection (5) below, a court remanding a person to local authority accommodation may, after consultation with the designated authority, require that authority to comply with a security requirement, that is to say, a requirement that the person in question be placed and kept in secure accommodation.
- (5) A court shall not impose a security requirement except in respect of a young person who has attained the age of fifteen, and then only if—
  - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
  - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only such a requirement would be adequate to protect the public from serious harm from him.
- (6) Where a court imposes a security requirement in respect of a person, it shall be its duty—
  - (a) to state in open court that it is of such opinion as is mentioned in subsection (5) above; and
  - (b) to explain to him in open court and in ordinary language why it is of that opinion;and a magistrates' court shall cause a reason stated by it under paragraph (b) above to be specified in the warrant of commitment and to be entered in the register.
- (7) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, require that person to comply with any such conditions as could be imposed under section 3(6) of the Bail Act 1976 if he were then being granted bail.
- (8) Where a court imposes on a person any such conditions as are mentioned in subsection (7) above, it shall be its duty to explain to him in open court and in ordinary language why it is imposing those conditions; and a magistrates' court shall cause a reason stated by it under this subsection to be specified in the warrant of commitment and to be entered in the register.
- (9) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, impose on that authority requirements—

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- (a) for securing compliance with any conditions imposed on that person under subsection (7) above; or
  - (b) stipulating that he shall not be placed with a named person.
- (10) Where a person is remanded to local authority accommodation, a relevant court—
- (a) may, on the application of the designated authority, impose on that person any such conditions as could be imposed under subsection (7) above if the court were then remanding him to such accommodation; and
  - (b) where it does so, may impose on that authority any requirements for securing compliance with the conditions so imposed.
- (11) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority or that person, vary or revoke any conditions or requirements imposed under subsection (7), (9) or (10) above.
- (12) In this section—
- “court” and “magistrates’ court” include a justice;
  - “imprisonable offence” means an offence punishable in the case of an adult with imprisonment;
  - “relevant court”, in relation to a person remanded to local authority accommodation, means the court by which he was so remanded, or any magistrates’ court having jurisdiction in the place where he is for the time being;
  - “secure accommodation” means accommodation which is provided in a community home for the purpose of restricting liberty, and is approved for that purpose by the Secretary of State;
  - “sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;
  - “young person” means a person who has attained the age of fourteen years and is under the age of seventeen years.
- (13) In this section—
- (a) any reference to a person who is being looked after by a local authority shall be construed in accordance with section 22 of the Children Act 1989;
  - (b) any reference to consultation shall be construed as a reference to such consultation (if any) as is reasonably practicable in all the circumstances of the case; and
  - (c) any reference, in relation to a person charged with or convicted of a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.
- (14) This section has effect subject to—
- (a) section 37 of the Magistrates’ Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and

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(b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),

but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours.”

(2) In section 37 of the 1980 Act (committal of young person to Crown Court for sentence)

(a) in subsection (1), for the words “17 years old” there shall be substituted the words “18 years old”;

(b) in subsection (2), for the words “A person committed in custody under subsection (1) above” there shall be substituted the words “Where a person committed in custody under subsection (1) above is not less than 17 years old, he”; and

(c) after that subsection there shall be inserted the following subsection—

“(3) Where a person committed in custody under subsection (1) above is less than 17 years old—

(a) he shall be committed to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989) and

(b) the court by which he is so committed shall impose a security requirement within the meaning of section 23 of the Children and Young Persons Act 1969.”

(3) In the case of a child or young person who has been remanded or committed to local authority accommodation by a youth court or a magistrates’ court other than a youth court, any application under section 25 of the <sup>M2</sup>Children Act 1989 (use of accommodation for restricting liberty) shall, notwithstanding anything in section 92(2) of that Act or section 65 of the 1980 Act, be made to that court.

#### Commencement Information

**I6** S. 60 wholly in force at 1.6.1999; s. 60(3) in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1), **Sch. 1**; s. 60(1)(2)(a) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**; s. 60(2)(b)(c) in force at 1.6.1999 by S.I. 1999/1280, art. 3, **Sch.**

S. 60(2)(b)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3(which art. 2(5), Sch. 3 was revoked (16.1999) by S.I. 1999/1280, art. 2)

#### Marginal Citations

**M2** 1989 c. 41.

### 61 Provision by local authorities of secure accommodation.

(1) It shall be the duty of every local authority to secure that they are in a position to comply with any security requirement which may be imposed on them under—

(a) section 23(4) of the 1969 Act (remands and committals to local authority accommodation); <sup>F15</sup> . . .

<sup>F15</sup>(b) . . . . .

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- (2) A local authority may discharge their duty under subsection (1) above either by providing secure accommodation themselves or by making arrangements with other local authorities for the provision by them of such accommodation [<sup>F16</sup>or by making arrangements with [<sup>F17</sup>persons carrying on an appropriate children’s home for the provision or use by them of such accommodation].]
- (3) The Secretary of State may by regulations make provision as to the co-operation required of local authorities in the provision of secure accommodation.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section expressions used in section 23 of the 1969 Act have the same meanings as in that section [<sup>F18</sup>and expressions, other than “local authority”, used in the <sup>M3</sup>Children Act 1989 have the same meanings as in that Act.].

#### Textual Amendments

- F15** S. 61(b) and the word “or” immediately preceding it repealed (1.4.2000) by 1998 c. 37, s. 120(1), 121(2), **Sch. 10**; S.I. 1999/3426, **art. 3(c)(v)**
- F16** Words in s. 61(2) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(a); S.I. 1995/1378, **art. 2**.
- F17** Words in s. 61(2) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 17; S.I. 2001/4150, **art. 3(3)(a)** (subject to transitional provisions in **art. 4** and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **arts. 2, 3** (with **arts. 3(4)-(10)** and subject to transitional provisions in **Schs. 1-3**)
- F18** Words in s. 61(5) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(b); S.I. 1995/1378, **art. 2**.

#### Commencement Information

- I7** S. 61 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

#### Marginal Citations

- M3** 1989 c. 41.

#### [<sup>F19</sup>61A Cost of secure accommodation.

- (1) The Secretary of State may, in relation to any costs incurred by a local authority in discharging their duty under section 61(1) above—
  - (a) defray such costs to such extent as he considers appropriate in any particular case;
  - (b) defray a proportion to be determined by him from time to time of such costs; and
  - (c) defray or contribute to such costs in accordance with a tariff to be determined by him from time to time.
- (2) The Secretary of State may require any person providing secure accommodation to transmit to him, at such times and in such form as he may direct, such particulars as he may require with respect to any costs to which this section applies.
- (3) Payments under this section shall be made out of money provided by Parliament.]

*Status: Point in time view as at 31/10/2009.*

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#### Textual Amendments

**F19** S. 61A inserted (3.2.1995) by 1994 c. 33, ss.21, 172(2); S.I. 1995/127, art. 2(1), Sch. 1.

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

**C2** S. 61A: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(f)

## 62 <sup>F20</sup> **Transitory provisions pending provision of secure accommodation.**

- (1) In relation to any time before such day as the Secretary of State may by order made by statutory instrument appoint, section 23 of the 1969 Act as substituted by section 60(1) above shall have effect with the following modifications.
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “then, unless he is declared by the court, after consultation with a probation officer or a social worker of a local authority social services department, to be a person to whom subsection (5) below applies”.
- (3) For subsections (4) and (5) there shall be substituted the following subsections—
  - “(4) Where a court declares a person to be one to whom subsection (5) below applies, it shall remand him—
    - (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
    - (b) to a prison, if it has not been so notified.
  - (4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—
    - (a) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
    - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
  - (5) This subsection applies to a young person who is male and has attained the age of fifteen, but only if—
    - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
    - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only remanding him to a remand centre or prison would be adequate to protect the public from serious harm from him.”
- (4) In subsection (6)—
  - (a) for the words “imposes a security requirement in respect of a young person” there shall be substituted the words “declares a person to be one to whom subsection (5) above applies”; and

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- (b) for the words “subsection (5) above” there shall be substituted the words “that subsection”.
- (5) In subsections (7) and (9), the words “without imposing a security requirement” shall be omitted.
- (6) After subsection (9) there shall be inserted the following subsection—  
 “(9A) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, he shall cease to be remanded to local authority accommodation and subsection (4) above shall apply.”
- (7) In subsection (12), the definition of “secure accommodation” shall be omitted.

**Textual Amendments**  
**F20** S. 62 repealed and superseded (1.6.1999) by 1998 c. 37, ss. 98(7), 120(1), Sch. 10; S.I. 1999/1279, art. 2

*Young offenders*

<sup>F21</sup>**63** .....

**Textual Amendments**  
**F21** S. 63 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

<sup>F22</sup>**64** .....

**Textual Amendments**  
**F22** S. 64 repealed (9.1.1995) by 1993 c. 33, s. 168(3), Sch.11; S.I. 1994/3192, art.2, Sch.

**65 Supervision of young offenders after release.**

- (1) Where a person under the age of 22 years (“the offender”) is released from a term of detention in a young offender institution or under [<sup>F23</sup>section 91 of the Powers of Criminal Courts (Sentencing) Act 2000][<sup>F24</sup>or under section 209 of the Armed Forces Act 2006], he shall be under the supervision of
  - [<sup>F25</sup>(a) [<sup>F26</sup>an officer of a local probation board][<sup>F27</sup>or an officer of a provider of probation services];
  - (b) a social worker of a local authority <sup>F28</sup>. . . ; or
  - (c) in the case of a person under the age of 18 years on his release, a member of a youth offending team.]

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- [<sup>F29</sup>(1A) Where the supervision is to be provided by [<sup>F26</sup>an officer of a local probation board], [<sup>F26</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.
- [ Where the supervision is to be provided by an officer of a provider of probation services, the officer of a provider of probation services shall be an officer acting in the local justice area in which the offender resides for the time being.]
- <sup>F30</sup>(1AA) (1B) Where the supervision is to be provided by—
- (a) a social worker of a local authority <sup>F31</sup>. . . ; or
  - (b) a member of a youth offending team,
- the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.]
- (2) The supervision period ends on the offender’s 22nd birthday if it has not ended before.
- (3) Subject to subsection (2) above, where the offender is released otherwise than on licence under Part II of this Act, the supervision period begins on his release and ends three months from his release.
- (4) Subject to subsection (2) above, where the offender is released on licence under Part II of this Act and the licence expires less than three months from his release, the supervision period begins on the expiry of the licence and ends three months from his release.
- (5) Where a person is under supervision under this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- [<sup>F32</sup>(5A) The requirements that may be specified in a notice under subsection (5) above include—
- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
  - (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);
  - (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board [<sup>F33</sup>, an officer of a provider of probation services] or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
  - (b) his term of detention was imposed for a trigger offence; and
  - (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.
- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.

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- (5D) The function of giving such an instruction as is mentioned in subsection (5A)(c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.]
- (6) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (5) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to an appropriate custodial sentence for a period not exceeding 30 days, but not liable to be dealt with in any other way.
- (7) In subsection (6) above “appropriate custodial sentence” means—
- (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced; and
  - (b) a sentence of detention in a young offender institution, if he has not attained that age.
- (8) A person released from a custodial sentence passed under subsection (6) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.
- [<sup>F34</sup>(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.]

#### Textual Amendments

- F23** Words in s. 65(1) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 145**
- F24** Words in s. 65(1) inserted (31.10.2009) by **The Armed Forces Act 2006 (Consequential Amendments) Order 2009 (S.I. 2009/2054)**, art. 2, **Sch. 1 para. 11**
- F25** S. 65(1)(a)(b)(c) substituted for words in s. 65(1) (30.9.1998 for areas specified in S.I. 1998/2327, **Sch. 1** and subject to art. 9 of that S.I., otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 94(1)**; S.I. 1998/2327, arts. 3(1)(b), 9, **Sch. 1**; S.I. 2000/924, **art. 2(e)**
- F26** Words in s. 65(1)(a)(1A) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F27** Words in s. 65(1)(a) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 3, **Sch. 1 para. 9(4)(a)**
- F28** Words in s. 65(1)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by **Children Act 2004 (c. 31)**, ss. 64, 67; **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**
- F29** S. 65(1A)(1B) inserted (30.9.1998 for areas specified in S.I. 1998/2327, **Sch. 1** and subject to art. 9 of that S.I., and otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 94(2)**; S.I. 1998/2327, arts. 3(1)(b), 9, **Sch. 1**; S.I. 2000/924, **art. 2(e)**
- F30** S. 65(1AA) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 3, **Sch. 1 para. 9(4)(b)**



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- F31** Words in s. 65(1B)(a) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67, **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(2)(h)**
- F32** S. 65(5A)-(5D) inserted (1.2.2001 as regards subsections (5A)(a)(b), and (5C) in so far as it applies to subsections (5A)(a)(b) and 20.6.2001 for specified purposes and otherwise 2.7.2001 as regards subsections (5A)(c)(5B)(5D) and (5C) insofar as it applies to (5A)(c)) by 2000 c. 43, **s. 63(2)**; S.I. 2000/3302, **art. 3**; S.I. 2001/2232, **art. 2(h)(i)-(iv)**
- F33** Words in s. 65(5A) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 9(4)(c)**
- F34** S. 65(9)(10) inserted (20.6.2001 for specified purposes and otherwise 2.7.2001) by 2000 c. 43, **s. 63(3)**; S.I. 2001/2232, **art. 2(h)(v)(vi)**

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

- C3** S. 65 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1, Pt. II paras. 8(2)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), **10(1)(b)(c)**; S.I. 1997/2200, **art. 2(1)**.  
s. 65 modified (25.8.2000) by 2000 c. 6, **ss. 99(2)**, 168(1)

**Commencement Information**

- I8** S. 65 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

<sup>F35</sup> **66** .....

**Textual Amendments**

- F35** S. 66 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

<sup>F36</sup> **67** .....

**Textual Amendments**

- F36** S. 67 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

*Miscellaneous*

**68 Persons aged 17 to be treated as young persons for certain purposes.**

The following enactments, namely—

- (a) the Children and Young Persons Acts 1933 to 1969;
- (b) section 43(3) of the 1952 Act (remand centres, young offender institutions etc.);
- (c) section 5(2) of the <sup>M4</sup>Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders); and
- (d) the 1980 Act,

shall have effect subject to the amendments specified in Schedule 8 to this Act, being amendments which, for certain purposes of those enactments, have the effect of substituting the age of 18 years for the age of 17 years.

*Status: Point in time view as at 31/10/2009.*

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#### Commencement Information

**I9** S. 68 wholly in force (except for specified purposes see S.I. 1992/333, art. 2(4) at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**)

#### Marginal Citations

**M4** 1974 c. 53.

### 69 Non-appearance of persons aged 16 or 17: plea of guilty.

F37 .....

#### Textual Amendments

**F37** S. 69 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

### 70 Renaming of juvenile courts etc.

- (1) Juvenile courts shall be renamed youth courts and juvenile court panels shall be renamed youth court panels.
- (2) Any reference to juvenile courts or juvenile court panels in any enactment passed or instrument made before the commencement of this section shall be construed in accordance with subsection (1) above.

#### Commencement Information

**I10** S. 70 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

### 71 Amendments to service law.

F38 .....

#### Textual Amendments

**F38** S. 71 repealed (28.3.2009 for certain purposes and 31.10.2009 insofar as not already in force) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

### 72 Repeal of certain provisions not brought in force.

F39 .....

#### Textual Amendments

**F39** S. 72 repealed (21.7.2008) by Statute Law (Repeals) Act 2008 (c. 12), s. 1(1), **Sch. 1 Pt. 3**

**Status:**

Point in time view as at 31/10/2009.

**Changes to legislation:**

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