



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART II

EFFECT OF CUSTODIAL SENTENCES

CHAPTER I

DETERMINATE SENTENCES

General

F1 8

Textual Amendments

F1 S. 8 repealed (30.9.1998) by 1998 c. 37, s. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 22(1)(w)(3)(x).

9 Crediting of periods of remand in custody.

- (1) This section applies where—
 - (a) a court sentences an offender to imprisonment for a term in respect of an offence committed after the commencement of this section; and
 - (b) the offender has been remanded in custody in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence.
- (2) It is immaterial for that purpose whether the offender—
 - (a) has also been remanded in custody in connection with other offences; or
 - (b) has also been detained in connection with other matters.

Status: Point in time view as at 30/09/1998.

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- (3) Subject to subsection (4) below, the court shall direct that the number of days for which the offender was remanded in custody in connection with the offence or a related offence shall count as time served by him as part of the sentence.
- (4) Subsection (3) above shall not apply if and to the extent that—
- (a) rules made by the Secretary of State so provide in the case of—
 - (i) a remand in custody which is wholly or partly concurrent with a sentence of imprisonment; or
 - (ii) sentences of imprisonment for consecutive terms or for terms which are wholly or partly concurrent; or
 - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where the court gives a direction under subsection (3) above, it shall state in open court—
- (a) the number of days for which the offender was remanded in custody; and
 - (b) the number of days in relation to which the direction is given.
- (6) Where the court does not give a direction under subsection (3) above, or gives such a direction in relation to a number of days less than that for which the offender was remanded in custody, it shall state in open court—
- (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4) above; or
 - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (7) The power to make rules under subsection (4)(a) above shall be exercisable by statutory instrument; but no such rules shall be made unless a draft of the rules has been laid before and approved by a resolution of each House of Parliament.
- [^{F2}(7A) Such rules may make such incidental, supplemental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.]
- (8) For the purposes of this section a suspended sentence shall be treated as a sentence of imprisonment when it takes effect under section 23 of the ^{M1}Powers of Criminal Courts Act 1973 (“the 1973 Act”) and as being imposed by the order under which it takes effect.
- (9) References in this section to an offender being remanded in custody are references to his being—
- (a) held in police detention; or
 - (b) remanded in or committed to custody by an order of a court.
- (10) A person is in police detention for the purposes of this section—
- (a) at any time when he is in police detention for the purposes of the ^{M2}Police and Criminal Evidence Act 1984; and
 - (b) at any time when he is detained under section 14 of the ^{M3}Prevention of Terrorism (Temporary Provisions) Act 1989.
- [^{F3}(11) In this section “sentence of imprisonment” does not include a committal—
- (a) in default of payment of any sum of money other than one adjudged to be paid by a conviction;
 - (b) for want of sufficient distress to satisfy any sum of money; or

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- (c) for failure to do or abstain from doing anything required to be done or left undone;

and cognate expressions shall be construed accordingly.

(12) For the purposes of any reference in this section, however expressed, to the term of imprisonment to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

- (a) the sentences were passed on the same occasion; or
(b) where they were passed on different occasions, the person has not been released under Part II of the 1991 Act at any time during the period beginning with the first and ending with the last of those occasions.]

Textual Amendments

F2 S. 9(7A) inserted (30.9.1998) by 1998 c. 37, s. 107(3); S.I. 1998/2327, art. 2(1)(w).

F3 S. 9(11)(12) inserted (30.9.1998) by 1998 c. 37, s. 107(4); S.I. 1998/2327, art. 2(1)(w).

Modifications etc. (not altering text)

C1 S. 9 modified (*prosp.*) by 1991 c. 53, s. 47(2) (as inserted (*prosp.*) by 1998 c. 37, ss. 119, 121(2), Sch. 8 para. 90).

Marginal Citations

M1 1973 c.62.

M2 1984 c.60.

M3 1989 c.4.

[^{F4}9A Provision supplementary to section 9.

(1) Section 9 above applies to—

- (a) a sentence of detention in a young offender institution; and
(b) a determinate sentence of detention under section 53 of the ^{M4}Children and Young Persons Act 1933 (“the 1933 Act”),

as it applies to an equivalent sentence of imprisonment.

(2) Section 9 above applies to—

- (a) persons remanded or committed to local authority accommodation under section 23 of the ^{M5}Children and Young Persons Act 1969 (“the 1969 Act”) and placed and kept in secure accommodation; and
(b) persons remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the ^{M6}Mental Health Act 1983 (“the 1983 Act”),

as it applies to persons remanded in or committed to custody by an order of a court.

(3) In this section “secure accommodation” has the same meaning as in section 23 of the 1969 Act.]

Textual Amendments

F4 S. 9A inserted (30.9.1998) by 1998 c. 37, s. 107(5); S.I. 1998/2327, art. 2(1)(w).

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Modifications etc. (not altering text)

C2 S. 9A modified (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para.6**; S.I. 1998/2327, **art. 2(1)(z)**.

Marginal Citations

M4 1933 c.12.

M5 1969 c.54.

M6 1983 c.20.

Status:

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