



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

### PART III

#### MISCELLANEOUS AND SUPPLEMENTAL

#### *Community sentences*

#### **35 Fine defaulters: general**

- (1) Subsection (2) below applies in any case where a magistrates' court—
  - (a) has power under Part III of the 1980 Act to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction of a magistrates' court (other than a sum ordered to be paid under section 71 of the Criminal Justice Act 1988 or section 2 of the Drug Trafficking Act 1994); or
  - (b) would, but for section 1 of the 1982 Act (restrictions on custodial sentences for persons under 21), have power to issue such a warrant for such default.
- (2) The magistrates' court may—
  - (a) subject to subsections (4) to (6) and (11) below, make a community service order; or
  - (b) subject to subsections (7) to (11) below, make a curfew order,  
in respect of the person in default instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the 1980 Act (enforcement of fines imposed on young offenders).
- (3) Where a magistrates' court has power to make an order under subsection (2)(a) or (b) above, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions, if any, as it thinks just.
- (4) In this section “community service order” has the same meaning as in the 1973 Act and—
  - (a) section 14(2) of that Act; and

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(b) so far as applicable, the other provisions of that Act relating to community service orders and the provisions of Part I of the 1991 Act so relating, shall have effect in relation to an order under subsection (2)(a) above as they have effect in relation to an order in respect of an offender, but subject to the exceptions in subsection (5) below.

- (5) The following are the exceptions, namely—
- (a) the reference in section 14(1A)(a) of the 1973 Act to 40 hours shall be construed as a reference to 20 hours;
  - (b) section 14(3) of that Act shall not apply;
  - (c) the requirements in the order under subsection (2)(a) above shall, as far as practicable, be such as to avoid any interference with the times, if any, at which the offender normally works or attends school or other educational establishment;
  - (d) the power conferred by paragraph 3(1)(d) of Schedule 2 to the 1991 Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things; and
  - (e) paragraph 3(2)(a) of that Schedule shall not apply.
- (6) In the case of an amount in default which is described in the first column of the following Table, the period of community service specified in an order under subsection (2)(a) above shall not exceed the number of hours set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of hours</i>
An amount not exceeding £200	40 hours
An amount exceeding £200 but not exceeding £500	60 hours
An amount exceeding £500	100 hours

- (7) In this section “curfew order” has the same meaning as in Part I of the 1991 Act and—
- (a) section 12(5) of that Act; and
  - (b) so far as applicable, the other provisions of that Part relating to curfew orders, shall have effect in relation to an order under subsection (2)(b) above as they have effect in relation to an order in respect of an offender, but subject to the exceptions in subsection (8) below.
- (8) The following are the exceptions, namely—
- (a) the power conferred by paragraph 3(1)(d) of Schedule 2 to the 1991 Act to revoke the order and deal with an offender for the offence in respect of which the order was made shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things; and
  - (b) paragraph 3(2)(a) of that Schedule shall not apply.
- (9) In the case of an amount in default which is described in the first column of the following Table, the number of days to which an order under subsection (2)(b) above

relates shall not exceed the number of days set out opposite that amount in the second column of that Table.

TABLE

<i>Amount</i>	<i>Number of days</i>
An amount not exceeding £200	20 days
An amount exceeding £200 but not exceeding £500	30 days
An amount exceeding £500 but not exceeding £1,000	60 days
An amount exceeding £1,000 but not exceeding £2,500	90 days
An amount exceeding £2,500	180 days

- (10) A magistrates' court shall not make an order under subsection (2)(b) above in respect of a person who is under 16.
- (11) A magistrates court shall not make an order under subsection (2)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the relevant area and the notice has not been withdrawn.
- (12) In subsection (11) above “the relevant area” means—
- (a) in relation to an order under subsection (2)(a) above, the area proposed to be specified in the order;
  - (b) in relation to an order under subsection (2)(b) above, the area in which the place proposed to be specified in the order is situated.
- (13) Where an order has been made under subsection (2)(a) or (b) above for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
  - (b) on payment of a part of that sum to any such person, the total number of hours or days to which the order relates shall be reduced proportionately;
- and the total number is so reduced if it is reduced by such number of complete hours or days as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the whole sum.
- (14) The Secretary of State may by order direct that subsection (5)(a), (6) or (9) above shall be amended by substituting for any number of hours or days there specified such number of hours or days as may be specified in the order.
- (15) The power to make an order under this section shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

### 36 Fine defaulters under 25

- (1) In subsection (1) of section 17 of the 1982 Act (attendance centre orders), after paragraph (b) there shall be inserted the words “or

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- (c) has power to commit to prison for default in payment of any sum of money a person who is under 25 but is not less than 21 years of age.”.
- (2) In subsection (5) of that section, after the words “under 21” there shall be inserted the words “or, as the case may be, 25”.

### **37 Persistent petty offenders**

- (1) This section applies where—
  - (a) a person is convicted of an offence by a magistrates' court or before the Crown Court;
  - (b) the court is satisfied that each of the conditions mentioned in subsection (2) below is fulfilled; and
  - (c) if it were not so satisfied, the court would be minded to impose a fine in respect of the offence.
- (2) The conditions are—
  - (a) that one or more fines imposed on the offender in respect of one or more previous offences have not been paid; and
  - (b) if a fine were imposed in an amount which was commensurate with the seriousness of the offence, the offender would not have sufficient means to pay it.
- (3) Notwithstanding anything in section 6 of the 1991 Act, the court may—
  - (a) subject to subsections (4) and (6) below, make a community service order; or
  - (b) subject to subsections (5) and (6) below, make a curfew order,in respect of the offender instead of imposing a fine.
- (4) Subsections (4) and (5) of section 35 above shall apply for the purposes of this section as they apply for the purposes of that section except that—
  - (a) the reference in subsection (4) to subsection (2)(a) of that section shall be construed as a reference to subsection (3)(a) of this section;
  - (b) paragraph (a) of subsection (5) shall not apply; and
  - (c) the reference in paragraph (d) of that subsection to dealing with the person in respect of whom the order was made for his default in paying the sum in question shall be construed as a reference to dealing with the offender for the offence in respect of which the order was made.
- (5) Subsections (7), (8) and (10) of section 35 above shall apply for the purposes of this section as they apply for the purposes of that section except that the references in subsections (7) and (10) to subsection (2)(b) of that section shall be construed as references to subsection (3)(b) of this section.
- (6) A court shall not make an order under subsection (3)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the relevant area and the notice has not been withdrawn.
- (7) In subsection (6) above “the relevant area” means—
  - (a) in relation to an order under subsection (3)(a) above, the area proposed to be specified in the order;
  - (b) in relation to an order under subsection (3)(b) above, the area in which the place proposed to be specified in the order is situated.

### **38 Abolition of certain consent etc. requirements**

- (1) In subsection (6) of section 12A of the 1969 Act (young offenders), for paragraph (c) there shall be substituted the following paragraph—

“(c) if the supervised person is under the age of sixteen, it has obtained and considered information about his family circumstances and the likely effect of the requirements on those circumstances.”

- (2) The following provisions shall cease to have effect, namely—

- (a) in subsection (3) of section 2 of the 1973 Act (probation orders), the words from “and the court” to the end;
- (b) in subsection (2) of section 14 of that Act (community service orders), the words “the offender consents and”; and
- (c) in subsection (5) of section 12 of the 1991 Act (curfew orders), the words from “and the court” to the end.

- (3) For sub-paragraph (4) of paragraph 5 of Schedule 1A to the 1973 Act (requirements as to treatment for mental condition etc) there shall be substituted the following sub-paragraph—

“(4) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his mental condition unless—

- (a) it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient); and
- (b) the offender has expressed his willingness to comply with such a requirement.”

- (4) For sub-paragraph (4) of paragraph 6 of that Schedule (requirements as to treatment for drug or alcohol dependency) there shall be substituted the following sub-paragraph—

“(4) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his dependency on drugs or alcohol unless—

- (a) it is satisfied that arrangements have been made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient); and
- (b) the offender has expressed his willingness to comply with such a requirement.”