



Crime and Disorder Act 1998

1998 CHAPTER 37

PART V **U.K.**

MISCELLANEOUS AND SUPPLEMENTAL

Remands and committals

97 **Remands and committals of children and young persons.** **E+W**

- (1) In subsection (4) of section 23 of the 1969 Act (remands and committals to local authority accommodation), for the words “Subject to subsection (5) below,” there shall be substituted the words “ Subject to subsections (5) and (5A) below, ”.
- (2) In subsection (5) of that section, for the words “a young person who has attained the age of fifteen” there shall be substituted the words “ a child who has attained the age of twelve, or a young person, who (in either case) is of a prescribed description ”.
- (3) After that subsection there shall be inserted the following subsection—

“(5A) A court shall not impose a security requirement in respect of a child or young person who is not legally represented in the court 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.”
- (4) In subsection (12) of that section, after the definition of “imprisonable offence” there shall be inserted the following definition—

““prescribed description” means a description prescribed by reference to age or sex or both by an order of the Secretary of State;”.
- (5) Section 20 of the 1994 Act (which has not been brought into force and is superseded by this section) is hereby repealed.

Status: Point in time view as at 01/06/1999.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Remands and committals is up to date with all changes known to be in force on or before 09 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. (See end of Document for details)

Commencement Information

- II** S. 97 wholly in force at 1.6.1999; S. 97 not in force at Royal Assent see s. 121; In force at 30.9.1998 for the purpose of making an order under section 23 of the 1969 Act by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); s. 97 in force at 1.6.1999 insofar as not already in force by S.I. 1999/1279, art. 2(d)

98 Remands and committals: alternative provision for 15 or 16 year old boys. **E**

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- (1) Section 23 of the 1969 Act shall have effect with the modifications specified in subsections (2) to (6) below in relation to any male person who—
 - (a) is of the age of 15 or 16; and
 - (b) is not of a description prescribed for the purposes of subsection (5) of that section.
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “ then, unless he is remanded to a remand centre or a prison in pursuance of subsection (4)(b) or (c) below, ”.
- (3) For subsections (4) to (5A) there shall be substituted the following subsections—
 - “(4) Where a court, after consultation with a probation officer, a social worker of a local authority social services department or a member of a youth offending team, declares a person to be one to whom subsection (5) below applies—
 - (a) it shall remand him to local authority accommodation and require him to be placed and kept in secure accommodation, if—
 - (i) it also, after such consultation, declares him to be a person to whom subsection (5A) below applies; and
 - (ii) it has been notified that secure accommodation is available for him;
 - (b) it shall remand him to a remand centre, if paragraph (a) above does not apply and it has been notified that such a centre is available for the reception from the court of persons to whom subsection (5) below applies; and
 - (c) it shall remand him to a prison, if neither paragraph (a) nor paragraph (b) above applies.
 - (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 person who—
 - (a) 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

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- (b) 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,
- if (in either case) the court is of opinion that only remanding him to a remand centre or prison, or to local authority accommodation with a requirement that he be placed and kept in secure accommodation, would be adequate to protect the public from serious harm from him.
- (5A) This subsection applies to a person if the court is of opinion that, by reason of his physical or emotional immaturity or a propensity of his to harm himself, it would be undesirable for him to be remanded to a remand centre or a prison.”
- (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
- (b) for the words “subsection (5) above” there shall be substituted the words “ that subsection ”.
- (5) In subsection (7), after the words “a security requirement” there shall be inserted the words “ (that is to say, a requirement imposed under subsection (4)(a) above that the person be placed and kept in secure accommodation) ”.
- (6) After subsection (9) there shall be inserted the following subsection—
- “(9A) Where a person is remanded to local authority accommodation without the imposition of a security requirement, 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, subsection (4) above shall apply.”
- (7) Section 62 of the 1991 Act (which is superseded by this section) shall cease to have effect.

Modifications etc. (not altering text)

- C1** S. 98 amended (2.4.2001) by 1999 c. 22, s. 24, Sch. 4 paras. 4, 7 (with Sch. 14 para. 7(2)); S.I. 2001/916, art. 3(a)(ii) (with Sch. 2 para. 2)

Status:

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