



Crime and Disorder Act 1998

1998 CHAPTER 37

PART IV

DEALING WITH OFFENDERS

CHAPTER II

SCOTLAND

Sexual or violent offenders

86 Extended sentences for sex and violent offenders.

(1) After section 210 of the 1995 Act there shall be inserted the following section—

“210A Extended sentences for sex and violent offenders.

- (1) Where a person is convicted on indictment of a sexual or violent offence, the court may, if it—
- (a) intends, in relation to—
 - (i) a sexual offence, to pass a determinate sentence of imprisonment; or
 - (ii) a violent offence, to pass such a sentence for a term of four years or more; and
 - (b) considers that the period (if any) for which the offender would, apart from this section, be subject to a licence would not be adequate for the purpose of protecting the public from serious harm from the offender, pass an extended sentence on the offender.
- (2) An extended sentence is a sentence of imprisonment which is the aggregate of—

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- (a) the term of imprisonment (“the custodial term”) which the court would have passed on the offender otherwise than by virtue of this section; and
 - (b) a further period (“the extension period”) for which the offender is to be subject to a licence and which is, subject to the provisions of this section, of such length as the court considers necessary for the purpose mentioned in subsection (1)(b) above.
- (3) The extension period shall not exceed, in the case of—
- (a) a sexual offence, ten years; and
 - (b) a violent offence, five years.
- (4) A court shall, before passing an extended sentence, consider a report by a relevant officer of a local authority about the offender and his circumstances and, if the court thinks it necessary, hear that officer.
- (5) The term of an extended sentence passed for a statutory offence shall not exceed the maximum term of imprisonment provided for in the statute in respect of that offence.
- (6) Subject to subsection (5) above, a sheriff may pass an extended sentence which is the aggregate of a custodial term not exceeding the maximum term of imprisonment which he may impose and an extension period not exceeding three years.
- (7) The Secretary of State may by order—
- (a) amend paragraph (b) of subsection (3) above by substituting a different period, not exceeding ten years, for the period for the time being specified in that paragraph; and
 - (b) make such transitional provision as appears to him to be necessary or expedient in connection with the amendment.
- (8) The power to make an order under subsection (7) above 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.
- (9) An extended sentence shall not be imposed where the sexual or violent offence was committed before the commencement of section 86 of the Crime and Disorder Act 1998.
- (10) For the purposes of this section—
- “licence” and “relevant officer” have the same meaning as in Part I of the ^{M1}Prisoners and Criminal Proceedings (Scotland) Act 1993;
 - “sexual offence” means—
- (i) rape;
 - (ii) clandestine injury to women;
 - (iii) abduction of a woman or girl with intent to rape or ravish;
 - (iv) assault with intent to rape or ravish;
 - (v) indecent assault;
 - (vi) lewd, indecent or libidinous behaviour or practices;
 - (vii) shameless indecency;
 - (viii) sodomy;

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- (ix) an offence under section 170 of the ^{M2}Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the ^{M3}Customs Consolidation Act 1876, but only where the prohibited goods include indecent photographs of persons;
 - (x) an offence under section 52 of the ^{M4}Civic Government (Scotland) Act 1982 (taking and distribution of indecent images of children);
 - (xi) an offence under section 52A of that Act (possession of indecent images of children);
 - (xii) an offence under section 1 of the ^{M5}Criminal Law (Consolidation) (Scotland) Act 1995 (incest);
 - (xiii) an offence under section 2 of that Act (intercourse with a stepchild);
 - (xiv) an offence under section 3 of that Act (intercourse with child under 16 by person in position of trust);
 - (xv) an offence under section 5 of that Act (unlawful intercourse with girl under 16);
 - (xvi) an offence under section 6 of that Act (indecent behaviour towards girl between 12 and 16);
 - (xvii) an offence under section 8 of that Act (abduction of girl under 18 for purposes of unlawful intercourse);
 - (xviii) an offence under section 10 of that Act (person having parental responsibilities causing or encouraging sexual activity in relation to a girl under 16); and
 - (xix) an offence under subsection (5) of section 13 of that Act (homosexual offences);
 - “imprisonment” includes—
 - (i) detention under section 207 of this Act; and
 - (ii) detention under section 208 of this Act; and
 - “violent offence” means any offence (other than an offence which is a sexual offence within the meaning of this section) inferring personal violence.
- (11) Any reference in subsection (10) above to a sexual offence includes—
- (a) a reference to any attempt, conspiracy or incitement to commit that offence; and
 - (b) except in the case of an offence in paragraphs (i) to (viii) of the definition of “sexual offence” in that subsection, a reference to aiding and abetting, counselling or procuring the commission of that offence.”
- (2) In section 209 of the 1995 Act (supervised release orders), in subsection (1)—
- (a) after the word “convicted” there shall be inserted the words “ on indictment ”;
 - (b) after the words “an offence” there shall be inserted the words “ , other than a sexual offence within the meaning of section 210A of this Act, ”; and
 - (c) the words “not less than twelve months but” shall cease to have effect.

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Modifications etc. (not altering text)

C1 S. 86(2)(b)(c) restricted (19.9.1998) by S.I. 1998/2327, **art.8(2)**.

Commencement Information

I1 S. 86 wholly in force; S. 86 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

Marginal Citations

M1 1993 c.9.

M2 1979 c.2.

M3 1876 c.36.

M4 1982 c.45.

M5 1995 c.39.

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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. 1(1C) inserted by [2010 c. 17 s. 40\(2\)](#) (This amendment not applied to legislation.gov.uk. S. 40 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A inserted by [2010 c. 17 s. 41\(3\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 8A repealed by [2014 c. 12 Sch. 11 para. 24\(c\)](#)
- s. 9(2)(d) and word inserted by [2010 c. 17 s. 41\(4\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2)(d) and word omitted by [2014 c. 12 Sch. 11 para. 26\(4\)\(a\)](#)
- s. 9(2AA) inserted by [2010 c. 17 s. 41\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. S. 41 repealed (23.3.2015) without ever being in force by 2014 c. 12, Sch. 11 para. 46; S.I. 2015/373, art. 4(f)(x))
- s. 9(2AA) repealed by [2014 c. 12 Sch. 11 para. 26\(5\)](#)
- s. 41(5)(i)(ii) words substituted by [2021 c. 11 Sch. 13 para. 37\(3\)](#)
- s. 47(A1) inserted by [2022 c. 35 s. 12\(2\)](#)
- s. 47(1)-(1F) substituted for s. 47(1) by [2022 c. 35 s. 12\(3\)](#)
- s. 47(4)(a) word substituted by [2022 c. 35 s. 12\(6\)\(b\)](#)
- s. 47(4)(a) words renumbered as s. 47(4)(a) by [2022 c. 35 s. 12\(6\)\(a\)](#)
- s. 47(4)(b) and word inserted by [2022 c. 35 s. 12\(6\)\(c\)](#)
- s. 47(4A) inserted by [2022 c. 35 s. 12\(7\)](#)
- s. 50A(6) inserted by [2022 c. 35 Sch. 2 para. 8\(2\)\(b\)](#)
- s. 51(2A)-(2E) inserted by [2022 c. 35 s. 10\(4\)](#)
- s. 51(3A)(3B) substituted for s. 51(3)-(12) by [2022 c. 35 s. 10\(5\)](#)
- s. 51A(A1) inserted by [2022 c. 35 s. 10\(7\)](#)
- s. 51A(3A)-(3E) inserted by [2022 c. 35 s. 10\(9\)](#)
- s. 51A(4A)(4B) substituted for s.0051A(4)-(10) by [2022 c. 35 s. 10\(10\)](#)
- s. 52(2A) inserted by [2022 c. 35 s. 10\(11\)](#)
- Sch. 3 para. 3(11A) inserted by [2003 c. 44 Sch. 3 para. 71\(d\)](#)