



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART I

#### POWERS EXERCISABLE BEFORE SENTENCE

##### *Deferment of sentence*

##### [<sup>F1</sup>1] **Deferment of sentence**

- (1) The Crown Court or a magistrates' court may defer passing sentence on an offender for the purpose of enabling the court, or any other court to which it falls to deal with him, to have regard in dealing with him to—
  - (a) his conduct after conviction (including, where appropriate, the making by him of reparation for his offence); or
  - (b) any change in his circumstances;but this is subject to subsections (3) and (4) below.
- (2) Without prejudice to the generality of subsection (1) above, the matters to which the court to which it falls to deal with the offender may have regard by virtue of paragraph (a) of that subsection include the extent to which the offender has complied with any requirements imposed under subsection (3)(b) below.
- (3) The power conferred by subsection (1) above shall be exercisable only if—
  - (a) the offender consents;
  - (b) the offender undertakes to comply with any requirements as to his conduct during the period of the deferment that the court considers it appropriate to impose; and
  - (c) the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

*Status: Point in time view as at 06/04/2014. This version of this Act contains provisions that are prospective.*

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- (4) Any deferment under this section shall be until such date as may be specified by the court, not being more than six months after the date on which the deferment is announced by the court; and, subject to section 1D(3) below, where the passing of sentence has been deferred under this section it shall not be further so deferred.
- (5) Where a court has under this section deferred passing sentence on an offender, it shall forthwith give a copy of the order deferring the passing of sentence and setting out any requirements imposed under subsection (3)(b) above—
- (a) to the offender,
  - (b) where an officer of a local probation board has been appointed to act as a supervisor in relation to him, to that board,
  - [<sup>F2</sup>(ba) where an officer of a provider of probation services has been appointed to act as a supervisor in relation to him, to that provider,]and
  - (c) where a person has been appointed under section 1A(2)(b) below to act as a supervisor in relation to him, to that person.
- (6) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.
- (7) Where—
- (a) a court which under this section has deferred passing sentence on an offender proposes to deal with him on the date originally specified by the court, or
  - (b) the offender does not appear on the day so specified,
- the court may issue a summons requiring him to appear before the court at a time and place specified in the summons, or may issue a warrant to arrest him and bring him before the court at a time and place specified in the warrant.
- (8) Nothing in this section or sections [<sup>F3</sup>1ZA] to 1D below shall affect—
- (a) the power of the Crown Court to bind over an offender to come up for judgment when called upon; or
  - (b) the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

#### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 23 para. 1](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))
- F2** S. 1(5)(ba) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, [Sch. 1 para. 14\(2\)](#)
- F3** Word in s. 1(8) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 6](#); [S.I. 2013/2981](#), art. 2(d)

#### [<sup>F4</sup>1ZA] Undertakings to participate in restorative justice activities

- (1) Without prejudice to the generality of paragraph (b) of section 1(3), the requirements that may be imposed under that paragraph include restorative justice requirements.

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- (2) Any reference in this section to a restorative justice requirement is to a requirement to participate in an activity—
  - (a) where the participants consist of, or include, the offender and one or more of the victims,
  - (b) which aims to maximise the offender's awareness of the impact of the offending concerned on the victims, and
  - (c) which gives an opportunity to a victim or victims to talk about, or by other means express experience of, the offending and its impact.
- (3) Imposition under section 1(3)(b) of a restorative justice requirement requires, in addition to the offender's consent and undertaking under section 1(3), the consent of every other person who would be a participant in the activity concerned.
- (4) For the purposes of subsection (3), a supervisor appointed under section 1A(2) does not count as a proposed participant.
- (5) Where a restorative justice requirement is imposed under section 1(3)(b), the duty under section 1(5) (to give copies of order) extends to every person who would be a participant in the activity concerned.
- (6) In a case where there is such a restorative justice requirement, a person running the activity concerned must in doing that have regard to any guidance that is issued, with a view to encouraging good practice in connection with such an activity, by the Secretary of State.
- (7) In this section “victim” means a victim of, or other person affected by, the offending concerned.]

#### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 23 para. 1](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F4** [S. 1ZA](#) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 5](#) (with [Sch. 16 para. 7](#)); [S.I. 2013/2981](#), art. 2(d)

#### 1A Further provision about undertakings

- (1) Without prejudice to the generality of paragraph (b) of section 1(3) above, the requirements that may be imposed by virtue of that paragraph include requirements as to the residence of the offender during the whole or any part of the period of deferment.
- (2) Where an offender has undertaken to comply with any requirements imposed under section 1(3)(b) above the court may appoint—
  - (a) an officer of a local probation board, [<sup>F5</sup>or an officer of a provider of probation services] or
  - (b) any other person whom the court thinks appropriate, to act as a supervisor in relation to him.
- (3) A person shall not be appointed under subsection (2)(b) above without his consent.

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- (4) It shall be the duty of a supervisor appointed under subsection (2) above—
- (a) to monitor the offender's compliance with the requirements; and
  - (b) to provide the court to which it falls to deal with the offender in respect of the offence in question with such information as the court may require relating to the offender's compliance with the requirements.

#### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 23 para. 1](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F5** Words in s. 1A(2)(a) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\), art. 1, Sch. 1 para. 14\(3\)](#)

### 1B Breach of undertakings

- (1) A court which under section 1 above has deferred passing sentence on an offender may deal with him before the end of the period of deferment if—
- (a) he appears or is brought before the court under subsection (3) below; and
  - (b) the court is satisfied that he has failed to comply with one or more requirements imposed under section 1(3)(b) above in connection with the deferment.
- (2) Subsection (3) below applies where—
- (a) a court has under section 1 above deferred passing sentence on an offender;
  - (b) the offender undertook to comply with one or more requirements imposed under section 1(3)(b) above in connection with the deferment; and
  - (c) a person appointed under section 1A(2) above to act as a supervisor in relation to the offender has reported to the court that the offender has failed to comply with one or more of those requirements.
- (3) Where this subsection applies, the court may issue—
- (a) a summons requiring the offender to appear before the court at a time and place specified in the summons; or
  - (b) a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

#### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 23 para. 1](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

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## 1C Conviction of offence during period of deferment

- (1) A court which under section 1 above has deferred passing sentence on an offender may deal with him before the end of the period of deferment if during that period he is convicted in Great Britain of any offence.
- (2) Subsection (3) below applies where a court has under section 1 above deferred passing sentence on an offender in respect of one or more offences and during the period of deferment the offender is convicted in England and Wales of any offence (“the later offence”).
- (3) Where this subsection applies, then (without prejudice to subsection (1) above and whether or not the offender is sentenced for the later offence during the period of deferment), the court which passes sentence on him for the later offence may also, if this has not already been done, deal with him for the offence or offences for which passing of sentence has been deferred, except that—
  - (a) the power conferred by this subsection shall not be exercised by a magistrates' court if the court which deferred passing sentence was the Crown Court; and
  - (b) the Crown Court, in exercising that power in a case in which the court which deferred passing sentence was a magistrates' court, shall not pass any sentence which could not have been passed by a magistrates' court in exercising that power.
- (4) Where a court which under section 1 above has deferred passing sentence on an offender proposes to deal with him by virtue of subsection (1) above before the end of the period of deferment, the court may issue—
  - (a) a summons requiring him to appear before the court at a time and place specified in the summons; or
  - (b) a warrant to arrest him and bring him before the court at a time and place specified in the warrant.

### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 23 para. 1](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#))

## 1D Deferment of sentence: supplementary

- (1) In deferring the passing of sentence under section 1 above a magistrates' court shall be regarded as exercising the power of adjourning the trial conferred by section 10(1) of the Magistrates' Courts Act 1980, and accordingly sections 11(1) and 13(1) to (3A) and (5) of that Act (non-appearance of the accused) apply (without prejudice to section 1(7) above) if the offender does not appear on the date specified under section 1(4) above.
- (2) Where the passing of sentence on an offender has been deferred by a court (“the original court”) under section 1 above, the power of that court under that section to deal with the offender at the end of the period of deferment and any power of that court under section 1B(1) or 1C(1) above, or of any court under section 1C(3) above, to deal with the offender—

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- (a) is power to deal with him, in respect of the offence for which passing of sentence has been deferred, in any way in which the original court could have dealt with him if it had not deferred passing sentence; and
  - (b) without prejudice to the generality of paragraph (a) above, in the case of a magistrates' court, includes the power conferred by section 3 below to commit him to the Crown Court for sentence.
- (3) Where—
- (a) the passing of sentence on an offender in respect of one or more offences has been deferred under section 1 above, and
  - (b) a magistrates' court deals with him in respect of the offence or any of the offences by committing him to the Crown Court under section 3 below,
- the power of the Crown Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the court.
- (4) Subsection (5) below applies where—
- (a) the passing of sentence on an offender in respect of one or more offences has been deferred under section 1 above;
  - (b) it falls to a magistrates' court to determine a relevant matter; and
  - (c) a justice of the peace is satisfied—
    - (i) that a person appointed under section 1A(2)(b) above to act as a supervisor in relation to the offender is likely to be able to give evidence that may assist the court in determining that matter; and
    - (ii) that that person will not voluntarily attend as a witness.
- (5) The justice may issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence.
- (6) For the purposes of subsection (4) above a court determines a relevant matter if it—
- (a) deals with the offender in respect of the offence, or any of the offences, for which the passing of sentence has been deferred; or
  - (b) determines, for the purposes of section 1B(1)(b) above, whether the offender has failed to comply with any requirements imposed under section 1(3)(b) above.]

#### Textual Amendments

- F1** Ss. 1-1D substituted for s. 1-2 (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 23 para. 1](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))

### *Committal to Crown Court for sentence*

## 3 Committal for sentence on summary trial of offence triable either way.

- (1) Subject to subsection (4) below, this section applies where on the summary trial of an offence triable either way a person aged 18 or over is convicted of the offence.

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- (2) If the court is of the opinion—
- (a) that the offence or the combination of the offence and one or more offences associated with it was so serious that [<sup>F6</sup>the Crown Court should, in the court's opinion, have the power to deal with the offender in any way it could deal with him if he had been convicted on indictment], <sup>F7</sup>...
- <sup>F7</sup>(b) .....  
the court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 5(1) below.
- (3) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.
- (4) This section does not apply in relation to an offence as regards which this section is excluded by section [<sup>F8</sup>17D or] 33 of the <sup>M1</sup>Magistrates' Courts Act 1980 (certain offences where value involved is small).
- (5) The preceding provisions of this section shall apply in relation to a corporation as if—
- (a) the corporation were an individual aged 18 or over; and
- (b) in subsection (2) above, <sup>F9</sup>... the words "in custody or on bail" were omitted.

#### Textual Amendments

- F6** Words in s. 3(2)(a) substituted by 2003 c. 44 Sch. 3 para. 22A(2)(a) (as inserted) (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(1\)\(a\), Sch. 13 para. 8](#)
- F7** S. 3(2)(b) and the word immediately preceding it omitted by virtue of 2003 c. 44 Sch. 3 para. 22A(2)(b) (as inserted) (8.5.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(1\)\(a\), Sch. 13 para. 8](#)
- F8** Words in s. 3(4) inserted by 2003 c. 44 Sch. 3 para. 22A(3) (as inserted) (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(1\)\(a\), Sch. 13 para. 8](#)
- F9** Words in s. 3(5)(b) omitted by virtue of by 2003 c. 44 Sch. 3 para. 22A(4) (as inserted) (8.5.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(1\)\(a\), Sch. 13 para. 8](#)

#### Marginal Citations

- M1** 1980 c. 43.

### [<sup>F10</sup>3A Committal for sentence of dangerous adult offenders

- (1) This section applies where on the summary trial of a specified offence triable either way a person aged 18 or over is convicted of the offence.
- (2) If, in relation to the offence, it appears to the court that the criteria for the imposition of a sentence under section [<sup>F11</sup>226A] of the Criminal Justice Act 2003 would be met, the court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 5(1) below.
- (3) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.

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- (4) In reaching any decision under or taking any step contemplated by this section—
- (a) the court shall not be bound by any indication of sentence given in respect of the offence under section 20 of the Magistrates' Courts Act 1980 (procedure where summary trial appears more suitable); and
  - (b) nothing the court does under this section may be challenged or be the subject of any appeal in any court on the ground that it is not consistent with an indication of sentence.
- (5) Nothing in this section shall prevent the court from committing [<sup>F12</sup>an offender convicted of a specified offence] to the Crown Court for sentence under section 3 above if the provisions of that section are satisfied.
- (6) In this section, references to a specified offence are to a specified offence within the meaning of section 224 of the Criminal Justice Act 2003.

#### Textual Amendments

- F10** Ss. 3A-3C inserted (4.4.2005 for the purpose of the insertion of s. 3C) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 23](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 29\(b\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))
- F11** Word in s. 3A(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 8](#); S.I. 2012/2906, art. 2(s)
- F12** S. 3A amendment to earlier affecting provision [2003 c. 44](#), [Sch. 3 para. 23](#) (8.5.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(1)(a), [Sch. 13 para. 9](#)

### 3B Committal for sentence on indication of guilty plea by child or young person

- (1) This section applies where—
- (a) a person aged under 18 appears or is brought before a magistrates' court (“the court”) on an information charging him with an offence mentioned in subsection (1) of section 91 below (“the offence”);
  - (b) he or his representative indicates under section 24A or (as the case may be) 24B of the Magistrates' Courts Act 1980 (child or young person to indicate intention as to plea in certain cases) that he would plead guilty if the offence were to proceed to trial; and
  - (c) proceeding as if section 9(1) of that Act were complied with and he pleaded guilty under it, the court convicts him of the offence.
- (2) If the court is of the opinion that—
- (a) the offence; or
  - (b) the combination of the offence and one or more offences associated with it, was such that the Crown Court should, in the court’s opinion, have power to deal with the offender as if the provisions of section 91(3) below applied, the court may commit him in custody or on bail to the Crown Court for sentence in accordance with section 5A(1) below.
- (3) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect



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of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.

#### Textual Amendments

**F10** Ss. 3A-3C inserted (4.4.2005 for the purpose of the insertion of s. 3C) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 23](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 29\(b\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))

### 3C Committal for sentence of dangerous young offenders

- (1) This section applies where on the summary trial of a specified offence a person aged under 18 is convicted of the offence.
- (2) If, in relation to the offence, it appears to the court that the criteria for the imposition of a sentence under section [\[<sup>F13</sup>226B\]](#) of the Criminal Justice Act 2003 would be met, the court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section [5A\(1\)](#) below.
- (3) Where the court commits a person under subsection (2) above, section [6](#) below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.
- (4) Nothing in this section shall prevent the court from committing a specified offence to the Crown Court for sentence under section [3B](#) above if the provisions of that section are satisfied.
- (5) In this section, references to a specified offence are to a specified offence within the meaning of section [224](#) of the Criminal Justice Act 2003.]

#### Textual Amendments

**F10** Ss. 3A-3C inserted (4.4.2005 for the purpose of the insertion of s. 3C) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 23](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 29\(b\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))

**F13** Word in [s. 3C\(2\)](#) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 9](#); S.I. 2012/2906, art. 2(s)

### 4 Committal for sentence on indication of guilty plea to offence triable either way.

- (1) This section applies where—
  - (a) a person aged 18 or over appears or is brought before a magistrates' court ("the court") on an information charging him with an offence triable either way ("the offence");

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- (b) [<sup>F14</sup>he or (where applicable) his representative indicates under section 17A, 17B or 20(7) of the Magistrates' Courts Act 1980 that he would plead guilty if the offence were to proceed to trial; and]
- (c) proceeding as if section 9(1) of [<sup>F15</sup>the Magistrates' Courts Act 1980][<sup>F15</sup>that Act] were complied with and he pleaded guilty under it, the court convicts him of the offence.

[<sup>F16</sup>(1A) But this section does not apply to an offence as regards which this section is excluded by section 17D of that Act (certain offences where value involved is small).]

- (2) If the court has [<sup>F17</sup>sent] the offender to the Crown Court for trial for one or more related offences, that is to say, one or more offences which, in its opinion, are related to the offence, it may commit him in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 5(1) below.
- (3) [<sup>F18</sup>If the power conferred by subsection (2) above is not exercisable but the court is still to determine to, or to determine whether to, send the offender to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998 for one or more related offences—
  - (a) it shall adjourn the proceedings relating to the offence until after it has made those determinations; and
  - (b) if it sends the offender to the Crown Court for trial for one or more related offences, it may then exercise that power.]
- (4) Where the court—
  - (a) under subsection (2) above commits the offender to the Crown Court to be dealt with in respect of the offence, and
  - (b) does not state that, in its opinion, it also has power so to commit him under section 3(2) [<sup>F19</sup>or, as the case may be, section 3A(2)] above,
 section 5(1) below shall not apply unless he is convicted before the Crown Court of one or more of the related offences.
- (5) Where section 5(1) below does not apply, the Crown Court may deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of the offence.
- (6) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.
- (7) For the purposes of this section one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.

[<sup>F20</sup>(8) In reaching any decision under or taking any step contemplated by this section—

- (a) the court shall not be bound by any indication of sentence given in respect of the offence under section 20 of the Magistrates' Courts Act 1980 (procedure where summary trial appears more suitable); and
- (b) nothing the court does under this section may be challenged or be the subject of any appeal in any court on the ground that it is not consistent with an indication of sentence.]

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### Textual Amendments

- F14** S. 4(1)(b) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(2)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F15** Word in s. 4(1)(c) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(3)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F16** S. 4(1A) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(4)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F17** Word in s. 4(2) substituted by 2003 c. 44 Sch. 3 para. 24(4A) (as inserted) (8.5.2008) by **Criminal Justice and Immigration Act 2008 (c. 4), s. 153(1)(a), Sch. 13 para. 10**
- F18** S. 4(3) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(5)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F19** Words in s. 4(4)(b) substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(6)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F20** S. 4(8) inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 24(7)**; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

### [<sup>F21</sup>4A Committal for sentence on indication of guilty plea by child or young person with related offences

- (1) This section applies where—
- a person aged under 18 appears or brought before a magistrates' court (“the court”) on an information charging him with an offence mentioned in subsection (1) of section 91 below (“the offence”);
  - he or his representative indicates under section 24A or (as the case may be) 24B of the Magistrates' Courts Act 1980 (child or young person to indicate intention as to plea in certain cases) that he would plead guilty if the offence were to proceed to trial; and
  - proceeding as if section 9(1) of that Act were complied with and he pleaded guilty under it, the court convicts him of the offence.
- (2) If the court has sent the offender to the Crown Court for trial for one or more related offences, that is to say one or more offences which, in its opinion, are related to the

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offence, it may commit him in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 5A(1) below.

- (3) If the power conferred by subsection (2) above is not exercisable but the court is still to determine to, or to determine whether to, send the offender to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998 for one or more related offences—
- (a) it shall adjourn the proceedings relating to the offence until after it has made those determinations; and
  - (b) if it sends the offender to the Crown Court for trial for one or more related offences, it may then exercise that power.
- (4) Where the court—
- (a) under subsection (2) above commits the offender to the Crown Court to be dealt with in respect of the offence; and
  - (b) does not state that, in its opinion, it also has power so to commit him under section 3B(2) or, as the case may be, section 3C(2) above,
- section 5A(1) below shall not apply unless he is convicted before the Crown Court of one or more of the related offences.
- (5) Where section 5A(1) below does not apply, the Crown Court may deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of the offence.
- (6) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.
- (7) Section 4(7) above applies for the purposes of this section as it applies for the purposes of that section.]

#### Textual Amendments

**F21** S. 4A inserted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 25](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### 5 <sup>[F22]</sup> **Power of Crown Court on committal for sentence under sections 3 and 4.**<sup>[F22]</sup> **Power of Crown Court on committal for sentence under sections 3, 3A and 4]**

- <sup>[F22]</sup>(1) Where an offender is committed by a magistrates' court for sentence under section 3, 3A or 4 above, the Crown Court shall inquire into the circumstances of the case and may deal with the offender in any way in which it could deal with him if he had just been convicted of the offence on indictment before the court.
- (2) In relation to committals under section 4 above, subsection (1) above has effect subject to section 4(4) and (5) above.

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- (3) Section 20A(1) of the Magistrates' Courts Act 1980 (which relates to the effect of an indication of sentence under section 20 of that Act) shall not apply in respect of any specified offence (within the meaning of section 224 of the Criminal Justice Act 2003)—
- (a) in respect of which the offender is committed under section 3A(2) above; or
  - (b) in respect of which—
    - (i) the offender is committed under section 4(2) above; and
    - (ii) the court states under section 4(4) above that, in its opinion, it also has power to commit the offender under section 3A(2) above.]

#### Textual Amendments

- F22** S. 5 substituted (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 26](#); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(3)(c), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### [<sup>F23</sup>5A Power of Crown Court on committal for sentence under sections 3B, 3C and 4A

- (1) Where an offender is committed by a magistrates' court for sentence under section 3B, 3C or 4A above, the Crown Court shall inquire into the circumstances of the case and may deal with the offender in any way in which it could deal with him if he had just been convicted of the offence on indictment before the court.
- (2) In relation to committals under section 4A above, subsection (1) above has effect subject to section 4A(4) and (5) above.]

#### Textual Amendments

- F23** S. 5A inserted (4.4.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 27](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 29\(c\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); [S.I. 2012/1320](#), art. 4(1)(c)(2)(3) (with art. 5) (see [S.I. 2012/2574](#), art. 4(2) and [S.I. 2013/1103](#), art. 4); [S.I. 2012/2574](#), art. 2(2)(2)(d)(3), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(2)(3) (with arts. 3, 4)

## 6 Committal for sentence in certain cases where offender committed in respect of another offence.

- (1) This section applies where a magistrates' court ("the committing court") commits a person in custody or on bail to the Crown Court under any enactment mentioned in subsection (4) below to be sentenced or otherwise dealt with in respect of an offence ("the relevant offence").
- (2) Where this section applies and the relevant offence is an indictable offence, the committing court may also commit the offender, in custody or on bail as the case may

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require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court).

- (3) Where this section applies and the relevant offence is a summary offence, the committing court may commit the offender, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of—
- (a) any other offence of which the committing court has convicted him, being either—
    - (i) an offence punishable with imprisonment; or
    - (ii) an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 34, 35 or 36 of the <sup>M2</sup>Road Traffic Offenders Act 1988 (disqualification for certain motoring offences); or
  - (b) any suspended sentence in respect of which the committing court has under [<sup>F24</sup>paragraph 11(1) of Schedule 12 to the Criminal Justice Act 2003] power to deal with him.
- (4) The enactments referred to in subsection (1) above are—
- (a) the <sup>M3</sup>Vagrancy Act 1824 (incorrigible rogues);
  - (b) sections [<sup>F25</sup>3 to 4A] above (committal for sentence for offences triable either way);
  - (c) section 13(5) below (conditionally discharged person convicted of further offence);
  - <sup>F26</sup>(d) .....
  - [<sup>F27</sup>(e) paragraph 11(2) of Schedule 12 to the Criminal Justice Act 2003 (committal to Crown Court where offender convicted during operational period of suspended sentence).]

### Textual Amendments

- F24** Words in s. 6(3)(b) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 91\(2\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F25** Words in s. 6(4)(b) substituted (4.4.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 28](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 29(c) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F26** S. 6(4)(d) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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**F27** S. 6(4)(e) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 91\(3\)](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### Marginal Citations

**M2** 1988 c. 53.

**M3** 1824 c. 83.

## 7 Power of Crown Court on committal for sentence under section 6.

- (1) Where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence, the Crown Court may after inquiring into the circumstances of the case deal with him in any way in which the magistrates' court could deal with him if it had just convicted him of the offence.
- (2) Subsection (1) above does not apply where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of a suspended sentence, but in such a case the powers under [<sup>F28</sup>paragraphs 8 and 9 of Schedule 12 to the Criminal Justice Act 2003] (power of court to deal with suspended sentence) shall be exercisable by the Crown Court.
- (3) Without prejudice to subsections (1) and (2) above, where under section 6 above or any enactment mentioned in subsection (4) of that section a magistrates' court commits a person to be dealt with by the Crown Court, any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court shall not be discharged or exercised by that court but shall instead be discharged or may instead be exercised by the Crown Court.
- (4) Where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence triable only on indictment in the case of an adult (being an offence which was tried summarily because of the offender's being under 18 years of age), the Crown Court's powers under subsection (1) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—
  - (a) to impose a fine not exceeding £5,000;
  - (b) to deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

#### Textual Amendments

**F28** Words in s. 7(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 92](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

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*Remission for sentence: young offenders etc.*

## 8 Power and duty to remit young offenders to youth courts for sentence.

- (1) Subsection (2) below applies where a child or young person (that is to say, any person aged under 18) is convicted by or before any court of an offence other than homicide.
- (2) The court may and, if it is not a youth court, shall unless satisfied that it would be undesirable to do so, remit the case—
  - (a) [<sup>F29</sup>if the offender was committed for trial or sent to the Crown Court for trial under section 51 of the <sup>M4</sup>Crime and Disorder Act 1998, to a youth court acting for the place where he was committed for trial or sent to the Crown Court for trial;]  
 [<sup>F29</sup>if the offender was sent to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998, to a youth court acting for the place where he was sent to the Crown Court for trial;]
  - (b) in any other case, to a youth court acting either for the same place as the remitting court or for the place where the offender habitually resides;  
 but in relation to a magistrates' court other than a youth court this subsection has effect subject to subsection (6) below.
- (3) Where a case is remitted under subsection (2) above, the offender shall be brought before a youth court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and convicted by that court.
- (4) A court by which an order remitting a case to a youth court is made under subsection (2) above—
  - (a) may, subject to section 25 of the <sup>M5</sup>Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the youth court; and
  - (b) shall cause to be transmitted to the [<sup>F30</sup>designated officer] for the youth court a certificate setting out the nature of the offence and stating—
    - (i) that the offender has been convicted of the offence; and
    - (ii) that the case has been remitted for the purpose of being dealt with under the preceding provisions of this section.
- (5) Where a case is remitted under subsection (2) above, the offender shall have no right of appeal against the order of remission, but shall have the same right of appeal against any order of the court to which the case is remitted as if he had been convicted by that court.
- (6) Without prejudice to the power to remit any case to a youth court which is conferred on a magistrates' court other than a youth court by subsections (1) and (2) above, where such a magistrates' court convicts a child or young person of an offence it must exercise that power unless the case falls within subsection (7) or (8) below.
- (7) The case falls within this subsection if the court would, were it not so to remit the case, be required by section 16(2) below to refer the offender to a youth offender panel (in which event the court may, but need not, so remit the case).



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- (8) The case falls within this subsection if it does not fall within subsection (7) above but the court is of the opinion that the case is one which can properly be dealt with by means of—
- (a) an order discharging the offender absolutely or conditionally, or
  - (b) an order for the payment of a fine, or
  - (c) an order (under section 150 below) requiring the offender’s parent or guardian to enter into a recognizance to take proper care of him and exercise proper control over him,
- with or without any other order that the court has power to make when absolutely or conditionally discharging an offender.
- (9) In subsection (8) above “care” and “control” shall be construed in accordance with section 150(11) below.
- (10) A document purporting to be a copy of an order made by a court under this section shall, if it purports to be certified as a true copy by the [<sup>F31</sup>designated officer] for the court, be evidence of the order.

#### Textual Amendments

**F29** S. 8(2)(a) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(2\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

**F30** Words in s. 8(4)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 62](#)

**F31** Words in s. 8(10) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 62](#)

#### Marginal Citations

**M4** 1998 c. 37.

**M5** 1994 c. 33.

## 9 Power of youth court to remit offender who attains age of 18 to magistrates’ court other than youth court for sentence.

- (1) Where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18, the youth court may, at any time after conviction and before sentence, remit him for sentence to a magistrates’ court (other than a youth court) <sup>F32</sup>....
- (2) Where an offender is remitted under subsection (1) above, the youth court shall adjourn proceedings in relation to the offence, and—
- (a) section 128 of the <sup>M6</sup>Magistrates’ Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings shall have effect, in relation to the youth court’s power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be

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- brought or appear after remand were a reference to the court to which he is being remitted; and
- (b) subject to subsection (3) below, the court to which the offender is remitted (“the other court”) may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the offence which took place before the youth court had taken place before the other court.
- (3) Where an offender is remitted under subsection (1) above, section 8(6) above (duty of adult magistrates’ court to remit young offenders to youth court for sentence) shall not apply to the court to which he is remitted.
- (4) Where an offender is remitted under subsection (1) above he shall have no right of appeal against the order of remission (but without prejudice to any right of appeal against an order made in respect of the offence by the court to which he is remitted).
- (5) In this section—
- (a) “enactment” includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act; and
- (b) “bail in criminal proceedings” has the same meaning as in the <sup>M7</sup>Bail Act 1976.

#### Textual Amendments

- F32** Words in s. 9(1) omitted (1.4.2005) by virtue of [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 63](#)

#### Marginal Citations

- M6** 1980 c. 43.  
**M7** 1976 c. 63.

## 10 Power of magistrates’ court to remit case to another magistrates’ court for sentence.

- (1) Where a person aged 18 or over (“the offender”) has been convicted by a magistrates’ court (“the convicting court”) of an offence to which this section applies (“the instant offence”) and—
- (a) it appears to the convicting court that some other magistrates’ court (“the other court”) has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way, and
- (b) the other court consents to his being remitted under this section to the other court,
- the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.
- (2) This section applies to—
- (a) any offence punishable with imprisonment; and
- (b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under section 34, 35 or 36 of the <sup>M8</sup>Road Traffic Offenders Act 1988 (disqualification for certain motoring offences).
- (3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—

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- (a) section 128 of the <sup>M9</sup>Magistrates' Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings shall have effect, in relation to the convicting court's power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and
  - (b) subject to subsection (7) below, the other court may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the instant offence which took place before the convicting court had taken place before the other court.
- (4) The power conferred on the other court by subsection (3)(b) above includes, where applicable, the power to remit the offender under this section to another magistrates' court in respect of the instant offence.
- (5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsections (3) and (4) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.
- (6) The offender, if remitted under this section, shall have no right of appeal against the order of remission (but without prejudice to any right of appeal against any other order made in respect of the instant offence by the court to which he is remitted).
- (7) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 148 below (restitution orders) by virtue of the offender's conviction of the instant offence.
- (8) In this section—
- (a) "conviction" includes a finding under section 11(1) below (remand for medical examination) that the person in question did the act or made the omission charged, and "convicted" shall be construed accordingly;
  - (b) "enactment" includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act; and
  - (c) "bail in criminal proceedings" has the same meaning as in the <sup>M10</sup>Bail Act 1976.

#### Marginal Citations

**M8** 1988 c. 53.

**M9** 1980 c. 43.

**M10** 1976 c. 63.

#### *Remand by magistrates' court for medical examination*

### **11 Remand by magistrates' court for medical examination.**

- (1) If, on the trial by a magistrates' court of an offence punishable on summary conviction with imprisonment, the court—
- (a) is satisfied that the accused did the act or made the omission charged, but

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- (b) is of the opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined,  
 the court shall adjourn the case to enable a medical examination and report to be made, and shall remand him.
- (2) An adjournment under subsection (1) above shall not be for more than three weeks at a time where the court remands the accused in custody, nor for more than four weeks at a time where it remands him on bail.
- (3) Where on an adjournment under subsection (1) above the accused is remanded on bail, the court shall impose conditions under paragraph (d) of section 3(6) of the <sup>M11</sup>Bail Act 1976 and the requirements imposed as conditions under that paragraph shall be or shall include requirements that the accused—
- (a) undergo medical examination by a registered medical practitioner or, where the inquiry is into his mental condition and the court so directs, two such practitioners; and
- (b) for that purpose attend such an institution or place, or on such practitioner, as the court directs and, where the inquiry is into his mental condition, comply with any other directions which may be given to him for that purpose by any person specified by the court or by a person of any class so specified.

#### Marginal Citations

M11 1976 c. 63.

## PART II

### ABSOLUTE AND CONDITIONAL DISCHARGE

#### 12 Absolute and conditional discharge.

- (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law or falls to be imposed under section <sup>F33</sup>section 110(2) or 111(2) below, <sup>F34</sup>section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988<sup>F35</sup>, <sup>F36</sup>section <sup>F37</sup>224A,] 225(2) or 226(2)] of the Criminal Justice Act 2003 or section 29(4) or (6) of the Violent Crime Reduction Act 2006)) is of the opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, the court may make an order either—
- (a) discharging him absolutely; or
- (b) if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified in the order.
- (2) Subsection (1)(b) above has effect subject to section <sup>F38</sup>66ZB(6)] of the <sup>M12</sup>Crime and Disorder Act 1998 (effect of <sup>F39</sup>youth cautions]).
- (3) An order discharging a person subject to such a condition as is mentioned in subsection (1)(b) above is in this Act referred to as an “order for conditional

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discharge”; and the period specified in any such order is in this Act referred to as “the period of conditional discharge”.

<sup>F40</sup>(4) .....

- (5) If (by virtue of section 13 below) a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.
- (6) On making an order for conditional discharge, the court may, if it thinks it expedient for the purpose of the offender’s reformation, allow any person who consents to do so to give security for the good behaviour of the offender.
- (7) Nothing in this section shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of any offence, from making an order for costs against the offender or imposing any disqualification on him or from making in respect of the offence an order under section 130, 143 or 148 below (compensation orders, deprivation orders and restitution orders) [<sup>F41</sup>or from making in respect of the offence an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.]

#### Textual Amendments

- F33** Words in s. 12(1) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 93(a)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F34** Words in s. 12(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 10**; S.I. 2012/2770, art. 2(f)
- F35** Words in s. 12(1) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), s. 66(2), **Sch. 1 para. 6(a)**; S.I. 2007/858, art. 2(g)
- F36** Words in s. 12 substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 41**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(o)
- F37** Words in s. 12(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 4**; S.I. 2012/2906, art. 2(q)
- F38** Word in s. 12(2) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 19(a)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F39** Words in s. 12(2) substituted (8.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 24 para. 19(b)** (with s. 135(4)); S.I. 2013/453, art. 4(f)
- F40** S. 12(4) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 93(b), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F41** Words in s. 12(7) inserted (15.10.2013 for E.; 5.11.2013 for W) by Prevention of Social Housing Fraud Act 2013 (c. 3), s. 12, **Sch. para. 8**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

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

- C1** S. 12 restricted (28.8.2000) by 1989 c. 37, s. 14A(5) (as substituted (28.8.2000) by 2000 c. 25, s. 1, **Sch. 1 para. 2**; S.I. 2000/2125, art. 2)
- C2** S. 12 excluded (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 36(5)(6), 94(1); S.I. 2008/755, art. 15(1)(f)

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**C3** S. 12(1) modified by 1964 c. 84, s. 5A(6) (as substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 24\(1\)](#), 60 (with Sch. 12 para. 8); S.I. 2005/579, art. 3(b))

**Marginal Citations**

**M12** 1998 c. 37.

**13 Commission of further offence by person conditionally discharged.**

- (1) If it appears to the Crown Court, where that court has jurisdiction in accordance with subsection (2) below, or to a justice of the peace having jurisdiction in accordance with that subsection, that a person in whose case an order for conditional discharge has been made—
  - (a) has been convicted by a court in Great Britain of an offence committed during the period of conditional discharge, and
  - (b) has been dealt with in respect of that offence,
 that court or justice may, subject to subsection (3) below, issue a summons requiring that person to appear at the place and time specified in it or a warrant for his arrest.
- (2) Jurisdiction for the purposes of subsection (1) above may be exercised—
  - (a) if the order for conditional discharge was made by the Crown Court, by that court;
  - (b) if the order was made by a magistrates' court, by [<sup>F42</sup>a justice of the peace] .
- (3) A justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.
- (4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.
- (5) If a person in whose case an order for conditional discharge has been made by the Crown Court is convicted by a magistrates' court of an offence committed during the period of conditional discharge, the magistrates' court—
  - (a) may commit him to custody or release him on bail until he can be brought or appear before the Crown Court; and
  - (b) if it does so, shall send to the Crown Court a copy of the minute or memorandum of the conviction entered in the register, signed by the [<sup>F43</sup>designated officer] by whom the register is kept.
- (6) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with him, for the offence for which the order was made, in any way in which it could deal with him if he had just been convicted by or before that court of that offence.
- (7) If a person in whose case an order for conditional discharge has been made by a magistrates' court—
  - (a) is convicted before the Crown Court of an offence committed during the period of conditional discharge, or

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- (b) is dealt with by the Crown Court for any such offence in respect of which he was committed for sentence to the Crown Court,  
the Crown Court may deal with him, for the offence for which the order was made, in any way in which the magistrates' court could deal with him if it had just convicted him of that offence.
- (8) If a person in whose case an order for conditional discharge has been made by a magistrates' court is convicted by another magistrates' court of any offence committed during the period of conditional discharge, that other court may, with the consent of the court which made the order, deal with him, for the offence for which the order was made, in any way in which this court could deal with him if it had just convicted him of that offence.
- (9) Where an order for conditional discharge has been made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (6), (7) or (8) above by that or any other court in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
- (b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (10) The reference in subsection (6) above to a person's having been convicted of an offence committed during the period of conditional discharge is a reference to his having been so convicted by a court in Great Britain.

#### Textual Amendments

- F42** Words in s. 13(2)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 64\(a\)](#)
- F43** Words in s. 13(5)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 64\(b\)](#)

## 14 Effect of discharge.

- (1) Subject to subsection (2) below, a conviction of an offence for which an order is made under section 12 above discharging the offender absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under section 13 above.
- (2) Where the offender was aged 18 or over at the time of his conviction of the offence in question and is subsequently sentenced (under section 13 above) for that offence, subsection (1) above shall cease to apply to the conviction.
- (3) Without prejudice to subsections (1) and (2) above, the conviction of an offender who is discharged absolutely or conditionally under section 12 above shall in any event be disregarded for the purposes of any enactment or instrument which—
- (a) imposes any disqualification or disability upon convicted persons; or
- (b) authorises or requires the imposition of any such disqualification or disability.

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- (4) Subsections (1) to (3) above shall not affect—
- (a) any right of an offender discharged absolutely or conditionally under section 12 above to rely on his conviction in bar of any subsequent proceedings for the same offence;
  - (b) the restoration of any property in consequence of the conviction of any such offender; or
  - (c) the operation, in relation to any such offender, of any enactment or instrument in force on 1st July 1974 which is expressed to extend to persons dealt with under section 1(1) of the <sup>M13</sup>Probation of Offenders Act 1907 as well as to convicted persons.
- (5) In subsections (3) and (4) above—
- “enactment” includes an enactment contained in a local Act; and
- “instrument” means an instrument having effect by virtue of an Act.
- (6) Subsection (1) above has effect subject to section 50(1A) of the <sup>M14</sup>Criminal Appeal Act 1968 and section 108(1A) of the <sup>M15</sup>Magistrates’ Courts Act 1980 (rights of appeal); and this subsection shall not be taken to prejudice any other enactment that excludes the effect of subsection (1) or (3) above for particular purposes.
- (7) Without prejudice to paragraph 1(3) of Schedule 11 to this Act (references to provisions of this Act to be construed as including references to corresponding old enactments), in this section—
- (a) any reference to an order made under section 12 above discharging an offender absolutely or conditionally includes a reference to an order which was made under any provision of Part I of the <sup>M16</sup>Powers of Criminal Courts Act 1973 (whether or not reproduced in this Act) discharging the offender absolutely or conditionally;
  - (b) any reference to an offender who is discharged absolutely or conditionally under section 12 includes a reference to an offender who was discharged absolutely or conditionally under any such provision.

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

- C4** S. 14 restricted (28.8.2000) by 1989 c. 37, s. 14A(5) (as substituted (28.8.2000) by 2000 c. 25, s. 1, Sch. 1 para. 2; S.I. 2000/2125, art. 2)
- C5** S. 14 excluded (E.W.) (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 36(5)(6), 94(1); S.I. 2008/755, art. 15(1)(f)
- C6** S. 14(1) excluded (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 134(1)(a)(2), 141; S.S.I. 2004/138, art. 2; S.I. 2004/874, art. 2
- C7** S. 14(1) excluded (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 158(3)(a), 182(5) (with s. 180); S.I. 2010/816, art. 2, Sch. para. 11

#### **Marginal Citations**

- M13** 1907 c. 17.  
**M14** 1968 c. 19.  
**M15** 1980 c. 43.  
**M16** 1973 c. 62.



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## **15 Discharge: supplementary.**

- (1) The Secretary of State may by order direct that subsection (1) of section 12 above shall be amended by substituting, for the maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.
- (2) Where an order for conditional discharge has been made on appeal, for the purposes of section 13 above it shall be deemed—
  - (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
  - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.
- (3) In proceedings before the Crown Court under section 13 above, any question whether any person in whose case an order for conditional discharge has been made has been convicted of an offence committed during the period of conditional discharge shall be determined by the court and not by the verdict of a jury.

## **PART III**

### **MANDATORY AND DISCRETIONARY REFERRAL OF YOUNG OFFENDERS**

#### *Referral orders*

## **16 Duty and power to refer certain young offenders to youth offender panels.**

- (1) This section applies where a youth court or other magistrates' court is dealing with a person aged under 18 for an offence and—
  - (a) neither the offence nor any connected offence is one for which the sentence is fixed by law;
  - (b) the court is not, in respect of the offence or any connected offence, proposing to impose a custodial sentence on the offender or make a hospital order (within the meaning of the <sup>M17</sup>Mental Health Act 1983) in his case; and
  - (c) the court is not proposing to discharge him [<sup>F44</sup>, whether absolutely or conditionally,] in respect of the offence.
- (2) If—
  - (a) the compulsory referral conditions are satisfied in accordance with section 17 below, and
  - (b) referral is available to the court,the court shall sentence the offender for the offence by ordering him to be referred to a youth offender panel.
- (3) If—
  - (a) the discretionary referral conditions are satisfied in accordance with section 17 below, and
  - (b) referral is available to the court,the court may sentence the offender for the offence by ordering him to be referred to a youth offender panel.

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- (4) For the purposes of this Part an offence is connected with another if the offender falls to be dealt with for it at the same time as he is dealt with for the other offence (whether or not he is convicted of the offences at the same time or by or before the same court).
- (5) For the purposes of this section referral is available to a court if—
  - (a) the court has been notified by the Secretary of State that arrangements for the implementation of referral orders are available in the area in which it appears to the court that the offender resides or will reside; and
  - (b) the notice has not been withdrawn.
- (6) An order under subsection (2) or (3) above is in this Act referred to as a “referral order”.
- (7) No referral order may be made in respect of any offence committed before the commencement of section 1 of the <sup>M18</sup>Youth Justice and Criminal Evidence Act 1999.

**Textual Amendments**

**F44** Words in s. 16(1)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 79\(1\), 151\(1\)](#) (with s. 79(4)); S.I. 2012/2906, art. 2(a)

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**Marginal Citations**

**M17** 1983 c. 20.  
**M18** 1999 c. 23.

**17 The referral conditions.**

- (1) For the purposes of section 16(2) above [<sup>F45</sup>and subsection (2) below] the compulsory referral conditions are satisfied in relation to an offence if [<sup>F46</sup>the offence is an offence punishable with imprisonment and] the offender—
  - (a) pleaded guilty to the offence and to any connected offence; [<sup>F47</sup>and ]
  - [<sup>F48</sup>(b) has never been—
    - (i) convicted by or before a court in the United Kingdom of any offence other than the offence and any connected offence, or
    - (ii) convicted by or before a court in another member State of any offence.]
  - <sup>F49</sup>(c) .....
- [<sup>F50</sup>(2) For the purposes of section 16(3) above, the discretionary referral conditions are satisfied in relation to an offence if—
  - (a) the compulsory referral conditions are not satisfied in relation to the offence; [<sup>F51</sup>and]
  - (b) the offender pleaded guilty—
    - (i) to the offence; or
    - (ii) if the offender is being dealt with by the court for the offence and any connected offence, to at least one of those offences; and]
  - <sup>F52</sup>(c) .....
- <sup>F53</sup>(2A) .....
- <sup>F53</sup>(2B) .....

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<sup>F53</sup>(2C) .....

<sup>F53</sup>(2D) .....

- (3) The Secretary of State may by regulations make such amendments of this section as he considers appropriate for altering in any way the descriptions of offenders in the case of which the compulsory referral conditions or the discretionary referral conditions fall to be satisfied for the purposes of section 16(2) or (3) above (as the case may be).
- (4) Any description of offender having effect for those purposes by virtue of such regulations may be framed by reference to such matters as the Secretary of State considers appropriate, including (in particular) one or more of the following—
- (a) the offender's age;
  - (b) how the offender has pleaded;
  - (c) the offence (or offences) of which the offender has been convicted;
  - (d) the offender's previous convictions (if any);
  - (e) how (if at all) the offender has been previously punished or otherwise dealt with by any court; and
  - (f) any characteristics or behaviour of, or circumstances relating to, any person who has at any time been charged in the same proceedings as the offender (whether or not in respect of the same offence).

<sup>F54</sup>(5) .....

#### Textual Amendments

- F45** Words in s. 17(1) inserted (27.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. **35(2)(a)**, 153(7); S.I. 2009/860, art. 2(2)(a)
- F46** Words in s. 17(1) inserted (18.8.2003) by The Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605), regs. 1(1), **2(1)**
- F47** Word in s. 17(1)(a) inserted (27.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. **35(2)(b)**, 153(7); S.I. 2009/860, art. 2(2)(a)
- F48** S. 17(1)(b) substituted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 12(2)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(vi)
- F49** S. 17(1)(c) repealed (27.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 35(2)(c), 153(7), **Sch. 28 Pt. 2**; S.I. 2009/860, art. 2(2)(a)(g)
- F50** S. 17(2)-(2D) substituted for s. 17(1A)(2) (27.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. **35(3)**, 153(7); S.I. 2009/860, art. 2(2)(a)
- F51** Word in s. 17(2)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. **79(2)(a)**, 151(1) (with s. 79(4)); S.I. 2012/2906, art. 2(a)
- F52** S. 17(2)(c) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. **79(2)(b)**, 151(1) (with s. 79(4)); S.I. 2012/2906, art. 2(a)
- F53** S. 17(2A)-(2D) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. **79(2)(b)**, 151(1) (with s. 79(4)); S.I. 2012/2906, art. 2(a)
- F54** S. 17(5) repealed (27.4.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 35(4), 153(7), **Sch. 28 Pt. 2**; S.I. 2009/860, art. 2(2)(a)(g)

## 18 Making of referral orders: general.

- (1) A referral order shall—
- (a) specify the youth offending team responsible for implementing the order;

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- (b) require the offender to attend each of the meetings of a youth offender panel to be established by the team for the offender; and
  - (c) specify the period for which any youth offender contract taking effect between the offender and the panel under section 23 below is to have effect (which must not be less than three nor more than twelve months).
- (2) The youth offending team specified under subsection (1)(a) above shall be the team having the function of implementing referral orders in the area in which it appears to the court that the offender resides or will reside.
- (3) On making a referral order the court shall explain to the offender in ordinary language—
- (a) the effect of the order; and
  - (b) the consequences which may follow—
    - (i) if no youth offender contract takes effect between the offender and the panel under section 23 below; or
    - (ii) if the offender breaches any of the terms of any such contract.
- (4) Subsections (5) to (7) below apply where, in dealing with an offender for two or more connected offences, a court makes a referral order in respect of each, or each of two or more, of the offences.
- (5) The orders shall have the effect of referring the offender to a single youth offender panel; and the provision made by them under subsection (1) above shall accordingly be the same in each case, except that the periods specified under subsection (1)(c) may be different.
- (6) The court may direct that the period so specified in either or any of the orders is to run concurrently with or be additional to that specified in the other or any of the others; but in exercising its power under this subsection the court must ensure that the total period for which such a contract as is mentioned in subsection (1)(c) above is to have effect does not exceed twelve months.
- (7) Each of the orders mentioned in subsection (4) above shall, for the purposes of this Part, be treated as associated with the other or each of the others.

## **19 Making of referral orders: effect on court's other sentencing powers.**

- (1) Subsections (2) to (5) below apply where a court makes a referral order in respect of an offence.
- (2) The court may not deal with the offender for the offence in any of the prohibited ways.
- (3) The court—
- (a) shall, in respect of any connected offence, either sentence the offender by making a referral order or make an order discharging him absolutely; and
  - (b) may not deal with the offender for any such offence in any of the prohibited ways.
- (4) For the purposes of subsections (2) and (3) above the prohibited ways are—
- (a) imposing a [F55 sentence which consists of or includes a youth rehabilitation order ] on the offender;
  - (b) ordering him to pay a fine;

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- [<sup>F56</sup>(ba) making an order under section 1(2A) of the Street Offences Act 1959 in respect of the offender;]
  - (c) making a reparation order in respect of him; and
  - (d) making an order discharging him conditionally.
- (5) The court may not make, in connection with the conviction of the offender for the offence or any connected offence—
- (a) an order binding him over to keep the peace or to be of good behaviour; [<sup>F57</sup>or]
  - (b) an order under section 150 below (binding over of parent or guardian); <sup>F58</sup> ...
  - <sup>F58</sup>(c) .....
- (6) Subsections (2), (3) and (5) above do not affect the exercise of any power to deal with the offender conferred by paragraph 5 (offender referred back to court by panel) or paragraph 14 (powers of a court where offender convicted while subject to referral) of Schedule 1 to this Act.
- (7) Where section 16(2) above requires a court to make a referral order, the court may not under section 1 above defer passing sentence on him, but section 16(2) and subsection (3)(a) above do not affect any power or duty of a magistrates' court under—
- (a) section 8 above (remission to youth court, or another such court, for sentence);
  - (b) section 10(3) of the <sup>M19</sup>Magistrates' Courts Act 1980 (adjournment for inquiries); or
  - (c) section 35, 38, 43 or 44 of the <sup>M20</sup>Mental Health Act 1983 (remand for reports, interim hospital orders and committal to Crown Court for restriction order).

**Textual Amendments**

- F55** Words in s. 19(4)(a) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 52](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(v)
- F56** S. 19(4)(ba) inserted (1.4.2010) by [Policing and Crime Act 2009 \(c. 26\), s. 116\(1\), Sch. 7 para. 22](#); S.I. 2010/507, art. 5(v)
- F57** Word in s. 19(5)(a) inserted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 34 para. 3\(a\)](#); S.I. 2004/81, art. 5(1)(2)(d)
- F58** S. 19(5)(c) and word repealed (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 34 para. 3\(b\), Sch. 37 Pt. 12](#); S.I. 2004/81, art. 5(1)(2)(d)

**Marginal Citations**

- M19** 1980 c. 43.
- M20** 1983 c. 20.

**20 Making of referral orders: attendance of parents etc.**

- (1) A court making a referral order may make an order requiring—
- (a) the appropriate person, or
  - (b) in a case where there are two or more appropriate persons, any one or more of them,
- to attend the meetings of the youth offender panel.
- (2) Where an offender is aged under 16 when a court makes a referral order in his case—

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- (a) the court shall exercise its power under subsection (1) above so as to require at least one appropriate person to attend meetings of the youth offender panel; and
  - (b) if the offender falls within subsection (6) below, the person or persons so required to attend those meetings shall be or include a representative of the local authority mentioned in that subsection.
- (3) The court shall not under this section make an order requiring a person to attend meetings of the youth offender panel—
- (a) if the court is satisfied that it would be unreasonable to do so; or
  - (b) to an extent which the court is satisfied would be unreasonable.
- (4) Except where the offender falls within subsection (6) below, each person who is a parent or guardian of the offender is an “appropriate person” for the purposes of this section.
- (5) Where the offender falls within subsection (6) below, each of the following is an “appropriate person” for the purposes of this section—
- (a) a representative of the local authority mentioned in that subsection; and
  - (b) each person who is a parent or guardian of the offender with whom the offender is allowed to live.
- (6) An offender falls within this subsection if he is (within the meaning of the <sup>M21</sup>Children Act 1989) a child who is looked after by a local authority.
- (7) If, at the time when a court makes an order under this section—
- (a) a person who is required by the order to attend meetings of a youth offender panel is not present in court, or
  - (b) a local authority whose representative is so required to attend such meetings is not represented in court,
- the court must send him or (as the case may be) the authority a copy of the order forthwith.

**Marginal Citations**

**M21** 1989 c. 41.

*Youth offender panels*

**21 Establishment of panels.**

- (1) Where a referral order has been made in respect of an offender (or two or more associated referral orders have been so made), it is the duty of the youth offending team specified in the order (or orders)—
- (a) to establish a youth offender panel for the offender;
  - (b) to arrange for the first meeting of the panel to be held for the purposes of section 23 below; and
  - (c) subsequently to arrange for the holding of any further meetings of the panel required by virtue of section 25 below (in addition to those required by virtue of any other provision of this Part).

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- (2) A youth offender panel shall—
  - (a) be constituted,
  - (b) conduct its proceedings, and
  - (c) discharge its functions under this Part (and in particular those arising under section 23 below),in accordance with guidance given from time to time by the Secretary of State.
- (3) At each of its meetings a panel shall, however, consist of at least—
  - (a) one member appointed by the youth offending team from among its members; and
  - (b) two members so appointed who are not members of the team.
- (4) The Secretary of State may by regulations make provision requiring persons appointed as members of a youth offender panel to have such qualifications, or satisfy such other criteria, as are specified in the regulations.
- (5) Where it appears to the court which made a referral order that, by reason of either a change or a prospective change in the offender's place or intended place of residence, the youth offending team for the time being specified in the order ("the current team") either does not or will not have the function of implementing referral orders in the area in which the offender resides or will reside, the court may amend the order so that it instead specifies the team which has the function of implementing such orders in that area ("the new team").
- (6) Where a court so amends a referral order—
  - (a) subsection (1)(a) above shall apply to the new team in any event;
  - (b) subsection (1)(b) above shall apply to the new team if no youth offender contract has (or has under paragraph (c) below been treated as having) taken effect under section 23 below between the offender and a youth offender panel established by the current team;
  - (c) if such a contract has (or has previously under this paragraph been treated as having) so taken effect, it shall (after the amendment) be treated as if it were a contract which had taken effect under section 23 below between the offender and the panel being established for the offender by the new team.
- (7) References in this Part to the meetings of a youth offender panel (or any such meeting) are to the following meetings of the panel (or any of them)—
  - (a) the first meeting held in pursuance of subsection (1)(b) above;
  - (b) any further meetings held in pursuance of section 25 below;
  - (c) any progress meeting held under section 26 below; and
  - (d) the final meeting held under section 27 below.

## **22 Attendance at panel meetings.**

- (1) The specified team shall, in the case of each meeting of the panel established for the offender, notify—
  - (a) the offender, and
  - (b) any person to whom an order under section 20 above applies, of the time and place at which he is required to attend that meeting.
- (2) If the offender fails to attend any part of such a meeting the panel may—

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- (a) adjourn the meeting to such time and place as it may specify; or
  - (b) end the meeting and refer the offender back to the appropriate court;
- and subsection (1) above shall apply in relation to any such adjourned meeting.

[<sup>F59</sup>(2A) If—

- (a) a parent or guardian of the offender fails to comply with an order under section 20 above (requirement to attend the meetings of the panel), and
  - (b) the offender is aged under 18 at the time of the failure,
- the panel may refer that parent or guardian to a youth court [<sup>F60</sup>acting in the local justice area] in which it appears to the panel that the offender resides or will reside.]
- (3) One person aged 18 or over chosen by the offender, with the agreement of the panel, shall be entitled to accompany the offender to any meeting of the panel (and it need not be the same person who accompanies him to every meeting).
  - (4) The panel may allow to attend any such meeting—
    - (a) any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, in respect of which the offender was referred to the panel;
    - (b) any person who appears to the panel to be someone capable of having a good influence on the offender.
  - (5) Where the panel allows any such person as is mentioned in subsection (4)(a) above (“the victim”) to attend a meeting of the panel, the panel may allow the victim to be accompanied to the meeting by one person chosen by the victim with the agreement of the panel.

#### Textual Amendments

- F59** S. 22(2A) inserted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 34 para. 4](#); [S.I. 2004/81](#), art. 5(1)(2)(d)
- F60** Words in s. 22(2A) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 65](#)

### *Youth offender contracts*

#### **23 First meeting: agreement of contract with offender.**

- (1) At the first meeting of the youth offender panel established for an offender the panel shall seek to reach agreement with the offender on a programme of behaviour the aim (or principal aim) of which is the prevention of re-offending by the offender.
- (2) The terms of the programme may, in particular, include provision for any of the following—
  - (a) the offender to make financial or other reparation to any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, for which the offender was referred to the panel;
  - (b) the offender to attend mediation sessions with any such victim or other person;
  - (c) the offender to carry out unpaid work or service in or for the community;
  - (d) the offender to be at home at times specified in or determined under the programme;



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- (e) attendance by the offender at a school or other educational establishment or at a place of work;
  - (f) the offender to participate in specified activities (such as those designed to address offending behaviour, those offering education or training or those assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs);
  - (g) the offender to present himself to specified persons at times and places specified in or determined under the programme;
  - (h) the offender to stay away from specified places or persons (or both);
  - (i) enabling the offender's compliance with the programme to be supervised and recorded.
- (3) The programme may not, however, provide—
- (a) for the electronic monitoring of the offender's whereabouts; or
  - (b) for the offender to have imposed on him any physical restriction on his movements.
- (4) No term which provides for anything to be done to or with any such victim or other affected person as is mentioned in subsection (2)(a) above may be included in the programme without the consent of that person.
- (5) Where a programme is agreed between the offender and the panel, the panel shall cause a written record of the programme to be produced forthwith—
- (a) in language capable of being readily understood by, or explained to, the offender; and
  - (b) for signature by him.
- (6) Once the record has been signed—
- (a) by the offender, and
  - (b) by a member of the panel on behalf of the panel,
- the terms of the programme, as set out in the record, take effect as the terms of a "youth offender contract" between the offender and the panel; and the panel shall cause a copy of the record to be given or sent to the offender.

## **24 First meeting: duration of contract.**

- (1) This section applies where a youth offender contract has taken effect under section 23 above between an offender and a youth offender panel.
- (2) The day on which the contract so takes effect shall be the first day of the period for which it has effect.
- (3) Where the panel was established in pursuance of a single referral order, the length of the period for which the contract has effect shall be that of the period specified under section 18(1)(c) above in the referral order.
- (4) Where the panel was established in pursuance of two or more associated referral orders, the length of the period for which the contract has effect shall be that resulting from the court's directions under section 18(6) above.
- (5) Subsections (3) and (4) above have effect subject to—
  - (a) any order under paragraph [F619ZD, ] 11 or 12 of Schedule 1 to this Act extending the length of the period for which the contract has effect; and

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(b) subsection (6) below.

- (6) If the referral order, or each of the associated referral orders, is revoked (whether under paragraph 5(2) of Schedule 1 to this Act or by virtue of paragraph 14(2) of that Schedule), the period for which the contract has effect expires at the time when the order or orders is or are revoked unless it has already expired.

#### Textual Amendments

**F61** Words in s.24(5)(a) inserted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), 153\(7\), Sch. 26 para. 42](#); ; S.I. 2009/860, art. 2(2)(f)

## 25 First meeting: failure to agree contract.

- (1) Where it appears to a youth offender panel to be appropriate to do so, the panel may—
- (a) end the first meeting (or any further meeting held in pursuance of paragraph (b) below) without having reached agreement with the offender on a programme of behaviour of the kind mentioned in section 23(1) above; and
  - (b) resume consideration of the offender’s case at a further meeting of the panel.
- (2) If, however, it appears to the panel at the first meeting or any such further meeting that there is no prospect of agreement being reached with the offender within a reasonable period after the making of the referral order (or orders)—
- (a) subsection (1)(b) above shall not apply; and
  - (b) instead the panel shall refer the offender back to the appropriate court.
- (3) If at a meeting of the panel—
- (a) agreement is reached with the offender but he does not sign the record produced in pursuance of section 23(5) above, and
  - (b) his failure to do so appears to the panel to be unreasonable,
- the panel shall end the meeting and refer the offender back to the appropriate court.

## 26 Progress meetings.

- (1) At any time—
- (a) after a youth offender contract has taken effect under section 23 above, but
  - (b) before the end of the period for which the contract has effect,
- the specified team shall, if so requested by the panel, arrange for the holding of a meeting of the panel under this section (“a progress meeting”).
- (2) The panel may make a request under subsection (1) above if it appears to the panel to be expedient to review—
- (a) the offender’s progress in implementing the programme of behaviour contained in the contract; or
  - (b) any other matter arising in connection with the contract.
- (3) The panel shall make such a request if—
- (a) the offender has notified the panel that—
    - (i) he wishes to seek the panel’s agreement to a variation in the terms of the contract; or

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- (ii) he wishes the panel to refer him back to the appropriate court with a view to the referral order (or orders) being revoked on account of a significant change in his circumstances (such as his being taken to live abroad) making compliance with any youth offender contract impractical; or
  - (b) it appears to the panel that the offender is in breach of any of the terms of the contract.
- (4) At a progress meeting the panel shall do such one or more of the following things as it considers appropriate in the circumstances, namely—
  - (a) review the offender’s progress or any such other matter as is mentioned in subsection (2) above;
  - (b) discuss with the offender any breach of the terms of the contract which it appears to the panel that he has committed;
  - (c) consider any variation in the terms of the contract sought by the offender or which it appears to the panel to be expedient to make in the light of any such review or discussion;
  - (d) consider whether to accede to any request by the offender that he be referred back to the appropriate court.
- (5) Where the panel has discussed with the offender such a breach as is mentioned in subsection (4)(b) above—
  - (a) the panel and the offender may agree that the offender is to continue to be required to comply with the contract (either in its original form or with any agreed variation in its terms) without being referred back to the appropriate court; or
  - (b) the panel may decide to end the meeting and refer the offender back to that court.
- (6) Where a variation in the terms of the contract is agreed between the offender and the panel, the panel shall cause a written record of the variation to be produced forthwith—
  - (a) in language capable of being readily understood by, or explained to, the offender; and
  - (b) for signature by him.
- (7) Any such variation shall take effect once the record has been signed—
  - (a) by the offender; and
  - (b) by a member of the panel on behalf of the panel;and the panel shall cause a copy of the record to be given or sent to the offender.
- (8) If at a progress meeting—
  - (a) any such variation is agreed but the offender does not sign the record produced in pursuance of subsection (6) above, and
  - (b) his failure to do so appears to the panel to be unreasonable,the panel may end the meeting and refer the offender back to the appropriate court.
- (9) Section 23(2) to (4) above shall apply in connection with what may be provided for by the terms of the contract as varied under this section as they apply in connection with what may be provided for by the terms of a programme of behaviour of the kind mentioned in section 23(1).

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- (10) Where the panel has discussed with the offender such a request as is mentioned in subsection (4)(d) above, the panel may, if it is satisfied that there is (or is soon to be) such a change in circumstances as is mentioned in subsection (3)(a)(ii) above, decide to end the meeting and refer the offender back to the appropriate court.

## 27 Final meeting.

- (1) Where the compliance period in the case of a youth offender contract is due to expire, the specified team shall arrange for the holding, before the end of that period, of a meeting of the panel under this section (“the final meeting”).
- (2) At the final meeting the panel shall—
- (a) review the extent of the offender’s compliance to date with the terms of the contract; and
  - (b) decide, in the light of that review, whether his compliance with those terms has been such as to justify the conclusion that, by the time the compliance period expires, he will have satisfactorily completed the contract;
- and the panel shall give the offender written confirmation of its decision.
- (3) Where the panel decides that the offender’s compliance with the terms of the contract has been such as to justify that conclusion, the panel’s decision shall have the effect of discharging the referral order (or orders) as from the end of the compliance period.
- (4) Otherwise the panel shall refer the offender back to the appropriate court.
- (5) Nothing in section 22(2) above prevents the panel from making the decision mentioned in subsection (3) above in the offender’s absence if it appears to the panel to be appropriate to do that instead of exercising either of its powers under section 22(2).
- (6) Section 22(2)(a) above does not permit the final meeting to be adjourned (or re-adjourned) to a time falling after the end of the compliance period.
- (7) In this section “the compliance period”, in relation to a youth offender contract, means the period for which the contract has effect in accordance with section 24 above.

*f<sup>62</sup> Referrals back to court in the interests of justice*

### Textual Amendments

**F62** S. 27A and cross-heading inserted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 36(2), 153(7); S.I. 2009/860, art. 2(2)(b)

## 27A Revocation of referral order where offender making good progress etc.

- (1) This section applies where, having regard to circumstances which have arisen since a youth offender contract took effect under section 23 above, it appears to the youth offender panel to be in the interests of justice for the referral order (or each of the referral orders) to be revoked.
- (2) The panel may refer the offender back to the appropriate court requesting it—
- (a) to exercise only the power conferred by sub-paragraph (2) of paragraph 5 of Schedule 1 to this Act to revoke the order (or each of the orders); or

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- (b) to exercise both—
  - (i) the power conferred by that sub-paragraph to revoke the order (or each of the orders); and
  - (ii) the power conferred by sub-paragraph (4) of that paragraph to deal with the offender for the offence in respect of which the revoked order was made.
- (3) The circumstances in which the panel may make a referral under subsection (2) above include the offender's making good progress under the contract.
- (4) Where—
  - (a) the panel makes a referral under subsection (2) above in relation to any offender and any youth offender contract, and
  - (b) the appropriate court decides not to exercise the power conferred by paragraph 5(2) of Schedule 1 to this Act in consequence of that referral,the panel may not make a further referral under that subsection in relation to that offender and contract during the relevant period except with the consent of the appropriate court.
- (5) In subsection (4) above “the relevant period” means the period of 3 months beginning with the date on which the appropriate court made the decision mentioned in paragraph (b) of that subsection.]

#### **[<sup>F63</sup>27B Extension of period for which young offender contract has effect**

- (1) This section applies where at any time—
  - (a) a youth offender contract has taken effect under section 23 above for a period which is less than twelve months;
  - (b) that period has not ended; and
  - (c) having regard to circumstances which have arisen since the contract took effect, it appears to the youth offender panel to be in the interests of justice for the length of that period to be extended.
- (2) The panel may refer the offender back to the appropriate court requesting it to extend the length of that period.
- (3) The requested period of extension must not exceed three months.]

#### **Textual Amendments**

**F63** S. 27B inserted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 37\(2\), 153\(7\)](#); [S.I. 2009/860, art. 2\(2\)\(c\)](#)

#### *Further court proceedings*

#### **28 [<sup>F64</sup>Offender or parent referred back to court: offender] convicted while subject to referral order.**

Schedule 1 to this Act, which—

- (a) in [<sup>F65</sup>Parts 1 and 1ZA] makes provision for what is to happen when a youth offender panel refers an offender back to the appropriate court, and

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- [<sup>F66</sup>(aa) in Part 1A makes provision for what is to happen when a youth offender panel refers a parent or guardian to the court under section 22(2A) above, and]
- (b) in Part II makes provision for what is to happen when an offender is convicted of further offences while for the time being subject to a referral order,
- shall have effect.

#### Textual Amendments

- F64** Words in s. 28 heading substituted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 34 para. 5\(2\)](#); S.I. 2004/81, art. 5(1)(2)(d)
- F65** Words in s. 28(a) substituted (27.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 43](#); S.I. 2009/860, art. 2(2)(f)
- F66** S. 28(aa) inserted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 34 para. 5\(3\)](#); S.I. 2004/81, art. 5(1)(2)(d)

### *Supplementary*

#### 29 Functions of youth offending teams.

- (1) The functions of a youth offending team responsible for implementing a referral order include, in particular, arranging for the provision of such administrative staff, accommodation or other facilities as are required by the youth offender panel established in pursuance of the order.
- (2) During the period for which a youth offender contract between a youth offender panel and an offender has effect—
  - (a) the specified team shall make arrangements for supervising the offender's compliance with the terms of the contract; and
  - (b) the person who is the member of the panel referred to in section 21(3)(a) above shall ensure that records are kept of the offender's compliance (or non-compliance) with those terms.
- (3) In implementing referral orders a youth offending team shall have regard to any guidance given from time to time by the Secretary of State.

#### 30 Regulations under Part III.

- (1) Any power of the Secretary of State to make regulations under section 17(3) or 21(4) above or paragraph 13(8) of Schedule 1 to this Act shall be exercisable by statutory instrument.
- (2) A statutory instrument containing any regulations under section 21(4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No regulations shall be made under—
  - (a) section 17(3), or
  - (b) paragraph 13(8) of Schedule 1,
 unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

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- (4) Any regulations made by the Secretary of State under section 17(3) or 21(4) or paragraph 13(8) of Schedule 1 may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

### 31 Rules of court.

- (1) [<sup>F67</sup>Criminal Procedure Rules] may make such provision as appears to the [<sup>F68</sup>Criminal Procedure Rule Committee] to be necessary or expedient for the purposes of this Part (and nothing in this section shall be taken to affect the generality of any enactment conferring power to make such rules).

<sup>F69</sup>(2) . . . . .

#### Textual Amendments

- F67** Words in s. 31(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), **Sch. para. 40(2)(a)** (with art. 2(2))
- F68** Words in s. 31(1) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), **Sch. para. 40(2)(b)** (with art. 2(2))
- F69** S. 31(2) omitted (1.9.2004) by virtue of [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), **Sch. para. 40(3)** (with art. 2(2))

### 32 Definitions for purposes of Part III.

In this Part—

“the appropriate court” shall be construed in accordance with paragraph 1(2) of Schedule 1 to this Act;

“associated”, in relation to referral orders, shall be construed in accordance with section 18(7) above;

“connected”, in relation to offences, shall be construed in accordance with section 16(4) above;

“meeting”, in relation to a youth offender panel, shall be construed in accordance with section 21(7) above;

“the specified team”, in relation to an offender to whom a referral order applies (or two or more associated referral orders apply), means the youth offending team for the time being specified in the order (or orders).

## PART IV

### [<sup>F70</sup>YOUTH COMMUNITY ORDERS] AND REPARATION ORDERS

#### Textual Amendments

- F70** Words in Pt. IV heading substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 94**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 42(34)** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

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

- C8** Pt. IV applied (with modifications) (25.8.2000) by 1997 c. 43, s. 35(4)(b)(5) (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 184(3))

<sup>F71</sup>CHAPTER I

[<sup>F72</sup>YOUTH COMMUNITY ORDERS]: GENERAL PROVISIONS

**Textual Amendments**

- F71** Pt. IV Ch. I repealed (30.11.2009 except for the repeal of ss. 33(1)(c), 36B) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(1), 153(7), Sch. 28 Pt. 1 (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(f)(u) (with art. 4)
- F72** Words in Pt. IV Ch. I heading substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 94; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

[<sup>F71</sup>33 **Meaning of “youth community order” and “community sentence”**

(1) In this Act “youth community order” means any of the following orders—

- <sup>F71</sup>(a) .....
- <sup>F71</sup>(b) .....
- (c) an attendance centre order;
- <sup>F71</sup>(d) .....
- <sup>F71</sup>(e) .....

<sup>F71</sup>(2) .....]

<sup>F73</sup>34 **Community orders not available where sentence fixed by law etc.**

.....

**Textual Amendments**

- F73** Ss. 34-36A repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

<sup>F73</sup>35 **Restrictions on imposing community sentences.**

.....



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**Textual Amendments**

**F73** Ss. 34-36A repealed (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r)** (with Sch. 2) (as explained (29.7.2005) by **S.I. 2005/2122, art. 2**; and as amended: (14.7.2008) by **2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))**

**<sup>F73</sup>36 Procedural requirements for community sentences: pre-sentence reports etc.**

**Textual Amendments**

**F73** Ss. 34-36A repealed (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r)** (with Sch. 2) (as explained (29.7.2005) by **S.I. 2005/2122, art. 2**; and as amended: (14.7.2008) by **2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))**

**<sup>F73</sup>36A Pre-sentence drug testing.**

**Textual Amendments**

**F73** Ss. 34-36A repealed (4.4.2005) by **Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r)** (with Sch. 2) (as explained (29.7.2005) by **S.I. 2005/2122, art. 2**; and as amended: (14.7.2008) by **2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))**

**<sup>F71</sup><sub>F74</sub>36B Electronic monitoring of requirements in <sup>F75</sup>youth community orders].**

- (1) Subject to subsections (2) <sup>F76</sup>and (3) below, a <sup>F77</sup>youth community order] may include requirements for securing the electronic monitoring of the offender's compliance with any other requirements imposed by the order.
- (2) A court shall not include in a <sup>F78</sup>youth community order] a requirement under subsection (1) above unless the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
  - (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but

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(b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,  
the requirement shall not be included in the order without that person’s consent.

<sup>F79</sup>(4) .....

(5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(6) The Secretary of State may make rules for regulating—

(a) the electronic monitoring of compliance with requirements included in a [<sup>F80</sup>youth community order]; and

(b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.

(7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.

In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.

<sup>F79</sup>(8) .....

(9) In the case of <sup>F81</sup>..., a supervision order or an action plan order, the relevant area is the [<sup>F82</sup>local justice area] proposed to be specified in the order.

(10) In the case of an attendance centre order, the relevant area is the [<sup>F82</sup>local justice area] in which the attendance centre proposed to be specified in the order is situated.]]

#### Textual Amendments

**F74** S. 36B inserted (20.6.2001, 2.7.2001 and 2.9.2004 for specified purposes) by 2000 c. 43, ss. 52, 80(1); S.I. 2001/2232, art. 2(e); S.I. 2004/2171, art. 2

**F75** Words in s. 36B heading substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 96(2); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**F76** Words in s. 36B(1) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 96(3)(a); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**F77** Words in s. 36B(1) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 96(3)(b); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**F78** Words in s. 36B(2) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 96(4); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I.

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- 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F79** S. 36B(4)(8) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F80** Words in s. 36B(6)(a) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 96(4)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F81** Words in s. 36B(9) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F82** Words in s. 36B(9)(10) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 66**

## <sup>F83</sup>CHAPTER II

### COMMUNITY ORDERS AVAILABLE FOR OFFENDERS OF ANY AGE

#### Textual Amendments

- F83** Pt. IV Ch. II repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6(1), 153(7), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(f)(u) (with art. 4)

### <sup>F83</sup>Curfew orders

#### <sup>F83</sup>37 Curfew orders.

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#### <sup>F84</sup>38 Electronic monitoring of curfew orders.

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#### Textual Amendments

- F84** S. 38 repealed (20.6.2001 for specified purposes, otherwise 2.7.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 163, **Sch. 8**; S.I. 2001/2232, art. 2(k)(m)(iv)(n)

#### <sup>F83</sup>39 Breach, revocation and amendment of curfew orders.

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*Status: Point in time view as at 06/04/2014. This version of this Act contains provisions that are prospective.  
Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 19 July 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)*

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**F83 40 Curfew orders: supplementary.**

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*F83 Exclusion orders*

**F83 40A Exclusion orders.**

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**F83 40B Breach, revocation and amendment of exclusion orders.**

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**F83 40C Exclusion orders: supplementary.**

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**CHAPTER III**

COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED 16 OR OVER

*Probation orders*

**F85 41 Community rehabilitation orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, [Sch. 1 para. 14](#)

**F85 42 Additional requirements which may be included in community rehabilitation orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

**F85 43 Breach, revocation and amendment of community rehabilitation orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

**F85 44 Offenders residing in Scotland or Northern Ireland.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

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**F85 45 Community rehabilitation orders: supplementary.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

*Community punishment orders*

**F85 46 Community punishment orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 47 Obligations of person subject to community punishment order.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41,

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46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 48 Breach, revocation and amendment of community punishment orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 49 Offenders residing in Scotland or Northern Ireland.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 50 Community punishment orders: supplementary.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by

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Children Act 2004 (c. 31), Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by S.I. 2008/912, art. 1, Sch. 1 para. 14

### *Community punishment and rehabilitation orders*

#### **F85 51 Community punishment and rehabilitation orders.**

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##### **Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 22** (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

### *Drug treatment and testing orders*

#### **F85 52 Drug treatment and testing orders.**

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##### **Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 22** (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

#### **F85 53 The treatment and testing requirements.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

**F85 54 Provisions of order as to supervision and periodic review.**

.....

**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

**F85 55 Periodic reviews.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(i\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (3.4.2007) by [S.I. 2007/391, art. 2](#); (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394, art. 2\(2\)\(g\)](#); [S.I. 2006/885, art. 2\(h\)](#); and [ss. 41, 46, 47, 54, 57](#), in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912, art. 1, Sch. 1 para. 14](#)

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**F85 56 Breach, revocation and amendment of drug treatment and testing orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 57 Copies of orders.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

**F85 58 Drug treatment and testing orders: supplementary.**

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**Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with Sch. 2 paras 7, 8, 12, 13) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), Sch. 5 Pt. 4; [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, Sch. 1 para. 14

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### *Drug abstinence orders*

#### **F85 58A Drug abstinence orders.**

##### **Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, [Sch. 1 para. 14](#)

#### **F85 58B Drug abstinence orders: supplementary.**

##### **Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), art. 2(2)(g); [S.I. 2006/885](#), art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by [S.I. 2008/912](#), art. 1, [Sch. 1 para. 14](#)

### *Orders for persistent petty offenders*

#### **F85 59 Curfew orders and community punishment orders for persistent petty offenders.**

##### **Textual Amendments**

**F85** Pt. IV Ch. III repealed (4.4.2005 except in relation to a person aged 16 or 17 convicted of an offence, 4.4.2009 otherwise) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(i), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2 paras 7, 8, 12, 13](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (3.4.2007) by [S.I. 2007/391](#), art. 2; (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para.](#)

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17; S.I. 2012/2906, art. 2(1)); and s. 46, in so far as it is still in force, amended (1.4.2006 for W.) by Children Act 2004 (c. 31), Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h); and ss. 41, 46, 47, 54, 57, in so far as they are still in force, amended (1.4.2008) by S.I. 2008/912, art. 1, Sch. 1 para. 14

## F86 CHAPTER IV

### ATTENDANCE CENTRE ORDERS: OFFENDERS UNDER 21 AND DEFAULTERS

#### Textual Amendments

**F86** Pt. IV Ch. IV repealed (30.11.2009 for the repeal of s. 60(1)(a)) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6(1), 153(7), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(f)(u) (with art. 4)

#### [F86] 60 Attendance centre orders.

- (1) Where—
  - <sup>F86</sup>(a) .....
  - (b) a court would have power, but for section 89 below (restrictions on imprisonment of young offenders and defaulters), to commit a person aged under 21 to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone, or
  - (c) a court has power to commit a person aged at least 21 but under 25 to prison in default of payment of any sum of money,

the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception of persons of his description, order him to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.
- (2) An order under subsection (1) above is in this Act referred to as an “attendance centre order”.
- (3) The aggregate number of hours for which an attendance centre order may require a person to attend at an attendance centre shall not be less than 12 except where—
  - (a) he is aged under 14; and
  - (b) the court is of the opinion that 12 hours would be excessive, having regard to his age or any other circumstances.
- (4) The aggregate number of hours shall not exceed 12 except where the court is of the opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case—
  - (a) shall not exceed 24 where the person is aged under 16; and
  - (b) shall not exceed 36 where the person is aged 16 or over but under 21 or (where subsection (1)(c) above applies) under 25.
- (5) A court may make an attendance centre order in respect of a person before a previous attendance centre order made in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—
  - (a) to the number specified in the previous order; or
  - (b) to the fact that that order is still in effect.

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- (6) An attendance centre order shall not be made unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.
- (7) The times at which a person is required to attend at an attendance centre shall, as far as practicable, be such as to avoid—
  - (a) any conflict with his religious beliefs or with the requirements of any other [<sup>F87</sup>youth community order] to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (8) The first time at which the person is required to attend at an attendance centre shall be a time at which the centre is available for his attendance in accordance with the notification of the Secretary of State, and shall be specified in the order.
- (9) The subsequent times shall be fixed by the officer in charge of the centre, having regard to the person's circumstances.
- (10) A person shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.
- (11) Where a court makes an attendance centre order, the [<sup>F88</sup>[<sup>F89</sup>designated officer] for] the court shall—
  - (a) deliver or send a copy of the order to the officer in charge of the attendance centre specified in it; and
  - (b) deliver a copy of the order to the person in respect of whom it is made or send a copy by registered post or the recorded delivery service addressed to his last or usual place of abode.
- (12) Where a person (“the defaulter”) has been ordered to attend at an attendance centre in default of the payment of any sum of money—
  - (a) on payment of the whole sum to any person authorised to receive it, the attendance centre order shall cease to have effect;
  - (b) on payment of a part of the sum to any such person, the total number of hours for which the defaulter is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part bears to the whole sum.]

#### Textual Amendments

- F87** Words in s. 60(7) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 102\(4\)](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#))
- F88** Words in s. 60(11) substituted (1.4.2001) by [S.I. 2001/618, art. 5\(4\)](#)
- F89** Words in s. 60(11) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 1, Sch. para. 72](#)

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**[<sup>F86</sup>61 Breach, revocation and amendment of attendance centre orders.**

Schedule 5 to this Act (which makes provision for dealing with failures to comply with attendance centre orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect.]

**<sup>F90</sup>62 Provision, regulation and management of attendance centres.**

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**Textual Amendments**  
**F90** S. 62 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**<sup>F91</sup>CHAPTER V**

**COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED UNDER 18**

**Textual Amendments**  
**F91** Pt. IV Ch. V repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6(1), 153(7), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); [S.I. 2009/3074](#), art. 2(f)(u) (with art. 4)

*<sup>F91</sup>Supervision orders*

**<sup>F91</sup>63 Supervision orders.**

.....

**<sup>F91</sup>64 Selection and duty of supervisor and certain expenditure of his.**

.....

**<sup>F91</sup>64A Supervision orders and curfew orders**

.....

**<sup>F91</sup>65 Breach, revocation and amendment of supervision orders.**

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**<sup>F91</sup>66 Facilities for implementing supervision orders.**

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**F<sup>91</sup>67**    **Meaning of “local authority”, “reside” and “parent”.**

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**F<sup>91</sup>68**    **Isles of Scilly.**

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*F<sup>91</sup> Action plan orders*

**F<sup>91</sup>69**    **Action plan orders.**

.....

**F<sup>91</sup>70**    **Requirements which may be included in action plan orders and directions.**

.....

**F<sup>91</sup>71**    **Action plan orders: power to fix further hearings.**

.....

**F<sup>91</sup>72**    **Breach, revocation and amendment of action plan orders.**

.....

**CHAPTER VI**

**REPARATION ORDERS FOR YOUNG OFFENDERS**

**73**    **Reparation orders.**

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence other than one for which the sentence is fixed by law, the court by or before which he is convicted may make an order requiring him to make reparation specified in the order—
  - (a) to a person or persons so specified; or
  - (b) to the community at large;and any person so specified must be a person identified by the court as a victim of the offence or a person otherwise affected by it.
- (2) An order under subsection (1) above is in this Act referred to as a “reparation order”.
- (3) In this section and section 74 below “make reparation”, in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation; and the requirements that may be specified in a reparation order are subject to section 74(1) to (3).
- (4) The court shall not make a reparation order in respect of the offender if it proposes—
  - (a) to pass on him a custodial sentence; or
  - [<sup>F92</sup>(b) to make in respect of him a youth rehabilitation order or a referral order.]

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- [<sup>F93</sup>(4A) The court shall not make a reparation order in respect of the offender at a time when a youth rehabilitation order is in force in respect of him unless when it makes the reparation order it revokes the youth rehabilitation order.
- (4B) Where a youth rehabilitation order is revoked under subsection (4A), paragraph 24 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach, revocation or amendment of youth rehabilitation order) applies to the revocation.]
- (5) Before making a reparation order, a court shall obtain and consider a written report by [<sup>F94</sup>an officer of a local probation board][<sup>F95</sup>an officer of a provider of probation services], a social worker of a local authority <sup>F96</sup>... or a member of a youth offending team indicating—
  - (a) the type of work that is suitable for the offender; and
  - (b) the attitude of the victim or victims to the requirements proposed to be included in the order.
- (6) The court shall not make a reparation order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be named in the order under section 74(4) below and the notice has not been withdrawn.
- <sup>F97</sup>(7) .....
- (8) The court shall give reasons if it does not make a reparation order in a case where it has power to do so.

**Textual Amendments**

**F92** S. 73(4)(b) substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 53(a)** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(v)

**F93** S. 73(4A)(4B) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 53(b)** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(v)

**F94** Words in s. 73(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, art. 2(f)(i)

**F95** Words in s. 73(5) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 14(14)**

**F96** Words in s. 73(5) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)

**F97** S. 73(7) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 106(3), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34),44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**74 Requirements and provisions of reparation order, and obligations of person subject to it.**

- (1) A reparation order shall not require the offender—
  - (a) to work for more than 24 hours in aggregate; or
  - (b) to make reparation to any person without the consent of that person.



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- (2) Subject to subsection (1) above, requirements specified in a reparation order shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (3) Requirements so specified shall, as far as practicable, be such as to avoid—
- any conflict with the offender’s religious beliefs [<sup>F98</sup> or with the requirements of any community order [<sup>F99</sup> or any youth community order] to which he may be subject]; and
  - any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (4) A reparation order shall name the [<sup>F100</sup>local justice area] in which it appears to the court making the order (or to the court amending under Schedule 8 to this Act any provision included in the order in pursuance of this subsection) that the offender resides or will reside.
- (5) In this Act “responsible officer”, in relation to an offender subject to a reparation order, means one of the following who is specified in the order, namely—
- [<sup>F101</sup>an officer of a local probation board][<sup>F102</sup>or an officer of a provider of probation services (as the case may be)] ;
  - a social worker of a local authority <sup>F103</sup>...;
  - a member of a youth offending team.
- (6) Where a reparation order specifies [<sup>F101</sup>an officer of a local probation board] under subsection (5) above, the officer specified must be an officer appointed for or assigned to the [<sup>F104</sup>local justice area] named in the order.
- [<sup>F105</sup>(6A) Where a reparation order specifies an officer of a provider of probation services under subsection (5) above, the officer specified must be an officer acting in the local justice area named in the order.]
- (7) Where a reparation order specifies under that subsection—
- a social worker of a local authority <sup>F106</sup>..., or
  - a member of a youth offending team,
- the social worker or member specified must be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the offender resides or will reside.
- (8) Any reparation required by a reparation order—
- shall be made under the supervision of the responsible officer; and
  - shall be made within a period of three months from the date of the making of the order.

#### Textual Amendments

- F98** Words in s. 74(3)(a) repealed (30.11.2009 for specified purposes) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 4 para. 54, **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(vi)
- F99** Words in s. 74(3)(a) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 107**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I.

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- 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F100** Words in s. 74(4) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 76**
- F101** Words in s. 74(5)(a)(6) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F102** Words in s. 74(5)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 14(15)(a)**
- F103** Words in s. 74(5)(b) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)
- F104** Words in s. 74(6) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 76**
- F105** S. 74(6A) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 1, **Sch. 1 para. 14(15)(b)**
- F106** Words in s. 74(7)(a) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)

## 75 Breach, revocation and amendment of reparation orders.

Schedule 8 to this Act (which makes provision for dealing with failures to comply with <sup>F107</sup>... reparation orders and for revoking and amending such orders) shall have effect <sup>F107</sup>....

### Textual Amendments

- F107** Words in s. 75 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 4 para. 55, **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(vii)

## PART V

### CUSTODIAL SENTENCES ETC.

#### CHAPTER I

##### GENERAL PROVISIONS

#### *Meaning of “custodial sentence”*

## 76 Meaning of “custodial sentence”.

- (1) In this Act “custodial sentence” means—
- (a) a sentence of imprisonment (as to which, see section 89(1)(a) below);
  - (b) a sentence of detention under section 90 or 91 below;
  - <sup>F108</sup>(bb) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003;
  - (bc) a sentence of detention under section [<sup>F109</sup>226B or] 228 of that Act;]
  - (c) a sentence of custody for life under section 93 or 94 below;

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- (d) a sentence of detention in a young offender institution (under section 96 below or otherwise); or
  - (e) a detention and training order (under section 100 below).
- (2) In subsection (1) above “sentence of imprisonment” does not include a committal for contempt of court or any kindred offence.

#### Textual Amendments

- F108** S. 76(1)(bb)(bc) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 108](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F109** Words in s. 76(1)(bc) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 10](#); [S.I. 2012/2906](#), art. 2(s)

#### *Liability to imprisonment on conviction on indictment*

### 77 **Liability to imprisonment on conviction on indictment.**

Where a person is convicted on indictment of an offence against any enactment and is for that offence liable to be sentenced to imprisonment, but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

#### *General limit on magistrates' courts' powers*

### 78 **General limit on magistrates' court's power to impose imprisonment or detention in a young offender institution.**

- [<sup>F110</sup>(1) A magistrates' court shall not have power to impose imprisonment, or detention in a young offender institution, for more than six months in respect of any one offence.
- (2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment or detention in a young offender institution for more than six months.
- (3) Subsection (1) above is without prejudice to section 133 of the <sup>M22</sup>Magistrates' Courts Act 1980 (consecutive terms of imprisonment).
- (4) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient [<sup>F111</sup>goods] to satisfy a fine, shall not be limited by virtue of subsection (1) above.
- [<sup>F112</sup>(4A) In subsection (4) the reference to want of sufficient goods to satisfy a fine is a reference to circumstances where—
- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine from a person, but

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- (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]
- (5) In subsection (4) above “fine” includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.
- (6) In this section “impose imprisonment” means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone.
- (7) Section 132 of the <sup>M23</sup>Magistrates’ Courts Act 1980 contains provision about the minimum term of imprisonment which may be imposed by a magistrates’ court.]

#### Textual Amendments

- F110** Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))
- F111** Word in [s. 78\(4\)](#) substituted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 132\(2\)](#) (with [s. 89](#)); S.I. 2014/768, art. 2(1)(b)
- F112** [S. 78\(4A\)](#) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 132\(3\)](#) (with [s. 89](#)); S.I. 2014/768, art. 2(1)(b)

#### Marginal Citations

- M22** [1980 c. 43](#).
- M23** [1980 c. 43](#).

### *General restrictions on discretionary custodial sentences*

#### **F11079 General restrictions on imposing discretionary custodial sentences.**

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#### Textual Amendments

- F110** Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1))

#### **F11080 Length of discretionary custodial sentences: general provision.**

.....

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#### Textual Amendments

**F110** Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

#### *Procedural requirements for imposing discretionary custodial sentences*

### <sup>F110</sup>**81 Pre-sentence reports and other requirements.**

.....

#### Textual Amendments

**F110** Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

### <sup>F110</sup>**82 Additional requirements in case of mentally disordered offender.**

.....

#### Textual Amendments

**F110** Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

#### *[<sup>F113</sup> Life sentences]*

#### Textual Amendments

**F113** S. 82A and cross-heading inserted (30.11.2000) by [2000 c. 43](#), [ss. 60\(1\), 80\(3\)](#)

### <sup>F114</sup>**[82A Determination of tariffs.**

- (1) This section applies if a court passes a life sentence in circumstances [<sup>F115</sup>where the sentence is not fixed by law].

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- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the <sup>M24</sup>Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
  - (b) the effect of any direction which it would have given under [<sup>F116</sup>[<sup>F117</sup>section 240ZA] of the Criminal Justice Act 2003][<sup>F118</sup>(crediting periods of remand in custody) or under section 246 of the Armed Forces Act 2006 (equivalent provision for service courts)][<sup>F119</sup>or under section 240A of that Act of 2003 (crediting periods of remand on bail subject to certain types of condition)] if it had sentenced him to a term of imprisonment; and
  - (c) the early release provisions as compared with [<sup>F120</sup>section 244(1) of the Criminal Justice Act 2003] .
- (4) If [<sup>F121</sup>the offender was aged 21 or over when he committed the offence and] the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, <sup>F122</sup>..., the early release provisions shall not apply to the offender.

<sup>F123</sup>(4A) .....

<sup>F124</sup>(5) .....

<sup>F124</sup>(6) .....

(7) In this section—

“court” includes [<sup>F125</sup>the Court Martial];

[<sup>F126</sup>“life sentence” means a sentence mentioned in subsection (2) of section 34 of the Crime (Sentences) Act 1997 other than a sentence mentioned in paragraph (d) or (e) of that subsection.]

(8) So far as this section relates to sentences passed by [<sup>F127</sup>the Court Martial], section 167(1) below does not apply.]

#### Textual Amendments

**F114** S. 82A and cross-heading inserted (30.11.2000) by 2000 c. 43, ss. 60(1), 80(3)

**F115** Words in s. 82A(1) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 109(2)

**F116** Words in s. 82A(3)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 109(3)(a); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))

**F117** Words in s. 82A(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 13 para. 10; S.I. 2012/2906, art. 2(k)

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- F118** Words in s. 82A(3)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 163\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F119** Words in s. 82A(3)(b) inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 22\(5\)](#), 153(7); S.I. 2008/2712, art. 2, [Sch. para. 2](#)
- F120** Words in s. 82A(3)(c) substituted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 32 para. 109\(3\)\(b\)](#)
- F121** Words in s. 82A(4) inserted (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 32 para. 109\(4\)\(a\)](#)
- F122** Words in s. 82A(4) repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 32 para. 109\(4\)\(b\)](#), [Sch. 37 Pt. 8](#)
- F123** S. 82A(4A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 11\(2\)](#); S.I. 2012/2906, art. 2(s)
- F124** S. 82A(5)(6) repealed (18.12.2003) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(2), [Sch. 32 para. 109\(5\)](#), [Sch. 37 Pt. 8](#)
- F125** Words in s. 82A(7) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 163\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F126** Words in s. 82A(7) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 11\(3\)](#); S.I. 2012/2906, art. 2(s)
- F127** Words in s. 82A(8) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 163\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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

- C9** S. 82A modified (30.11.2000) by [2000 c. 43](#), [ss. 60\(4\)](#), 80(3)

#### Marginal Citations

- M24** [1997 c. 43](#).

#### Other restrictions

### 83 Restriction on imposing custodial sentences on persons not legally represented.

- (1) A magistrates' court on summary conviction, or the Crown Court on committal for sentence or on conviction on indictment, shall not pass a sentence of imprisonment on a person who—
- is not legally represented in that court, and
  - has not been previously sentenced to that punishment by a court in any part of the United Kingdom,
- unless he is a person to whom subsection (3) below applies.
- (2) A magistrates' court on summary conviction, or the Crown Court on committal for sentence or on conviction on indictment, shall not—
- pass a sentence of detention under section 90 or 91 below,
  - pass a sentence of custody for life under section 93 or 94 below,
  - pass a sentence of detention in a young offender institution, or
  - make a detention and training order,
- on or in respect of a person who is not legally represented in that court unless he is a person to whom subsection (3) below applies.

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- (3) This subsection applies to a person if either—
- (a) [<sup>F128</sup>representation was made available to him for the purposes of the proceedings under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 but] was withdrawn because of his conduct [<sup>F129</sup>or because it appeared that his financial resources were such that he was not eligible [<sup>F130</sup>for such representation]];
    - <sup>F131</sup>(aa) he applied for such representation and the application was refused because it appeared that his financial resources were such that he was not eligible [<sup>F132</sup>for such representation]; or]
    - (b) having been informed of his right to apply for such representation and having had the opportunity to do so, he refused or failed to apply.
- (4) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced.
- (5) For the purposes of subsection (1)(b) above a previous sentence of imprisonment which has been suspended and which has not taken effect under section 119 below or under section 19 of the <sup>M25</sup>Treatment of Offenders Act (Northern Ireland) 1968 shall be disregarded.
- (6) In this section “sentence of imprisonment” does not include a committal for contempt of court or any kindred offence.

#### Textual Amendments

- F128** Words in s. 83(3)(a) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 53\(2\)\(a\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)
- F129** Words in s. 83(3) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), s. 4(2)(c), (3)(a), 5(2); S.I. 2006/2491, art. 2
- F130** Words in s. 83(3)(a) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 53\(2\)\(b\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)
- F131** S. 83(3)(aa) substituted for preceding word (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), s. 4(2)(c), (3)(b), 5(2); S.I. 2006/2491, art. 2
- F132** Words in s. 83(3)(aa) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 53\(3\)](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)

#### Marginal Citations

- M25** 1968 c. 29 (N.I.)

<sup>F133</sup>84 **Restriction on consecutive sentences for released prisoners.**

.....



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**Textual Amendments**

**F133** S. 84 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

*Sexual and violent offences: licences etc.*

**F134** **85 Sexual or violent offences: extension of certain custodial sentences for licence purposes.**

.....

**Textual Amendments**

**F134** S. 85 repealed (4.4.2005 except in relation to a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(ii), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F135** **86 Sexual offences committed before 30th September 1998.**

.....

**Textual Amendments**

**F135** S. 86 repealed (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 121(4), 151(1); [S.I. 2012/2906](#), art. 2(d)

PROSPECTIVE

*Crediting of periods of remand in custody*

**F136** **87 Crediting of periods of remand in custody: terms of imprisonment and detention.**

.....

**Textual Amendments**

**F136** S. 87 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(iii), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2;

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and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

<sup>F137</sup> **88 Meaning of “remand in custody”.**

.....

**Textual Amendments**

**F137** S. 88 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(iii), 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**CHAPTER II**

DETENTION AND CUSTODY OF YOUNG OFFENDERS

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

**C10** Pt. 5 Ch. 2 power to modify, amend or repeal conferred (30.9.2003) by Armed Forces Act 2001 (c. 19), ss. 31(1)(a)(3)(6)(7), 39(2); S.I. 2003/2268, art. 2

*Restriction on imposing imprisonment on persons under 21*

**89 Restriction on imposing imprisonment on persons under 21.**

- (1) Subject to subsection (2) below, no court shall—
- (a) pass a sentence of imprisonment on a person for an offence if he is aged under 21 when convicted of the offence; or
  - (b) commit a person aged under 21 to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person aged under 21 who is—
- (a) remanded in custody;
  - (b) committed in custody for [<sup>F138</sup>trial or] sentence; or
  - (c) sent in custody for trial under section 51 [<sup>F139</sup>or 51A] of the <sup>M26</sup>Crime and Disorder Act 1998.

**Textual Amendments**

**F138** Words in s. 89(2)(b) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 3 para. 74(3) (a), Sch. 37 Pt. 4; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(c)(d)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012)

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by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

**F139** Words in s. 89(2)(c) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 3 para. 74(3)(b)**; S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### Marginal Citations

**M26** 1998 c. 37.

### *Detention at Her Majesty's pleasure or for specified period*

#### **90 Offenders who commit murder [<sup>F140</sup>etc.] when under 18: duty to detain at Her Majesty's pleasure.**

Where a person convicted of murder [<sup>F140</sup>or any other offence the sentence for which is fixed by law as life imprisonment] appears to the court to have been aged under 18 at the time the offence was committed, the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure.

#### Textual Amendments

**F140** Words in s. 90 and the sidenote inserted (30.11.2000) by 2000 c. 43, s. 60(2)(3)

#### **91 Offenders under 18 convicted of certain serious offences: power to detain for specified period.**

(1) Subsection (3) below applies where a person aged under 18 is convicted on indictment of—

(a) an offence punishable in the case of a person aged 21 or over with imprisonment for 14 years or more, not being an offence the sentence for which is fixed by law; or

[<sup>F141</sup>(b) an offence under section 3 of the Sexual Offences Act 2003 (in this section, “the 2003 Act”) (sexual assault); or

(c) an offence under section 13 of the 2003 Act (child sex offences committed by children or young persons); or

(d) an offence under section 25 of the 2003 Act (sexual activity with a child family member); or

(e) an offence under section 26 of the 2003 Act (inciting a child family member to engage in sexual activity).]

[<sup>F142</sup>(1A) Subsection (3) below also applies where—

(a) a person aged under 18 is convicted on indictment of an offence—

(i) under subsection (1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of section 5 of the Firearms Act 1968 (prohibited weapons), or

(ii) under subsection (1A)(a) of that section,

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- (b) the offence was committed after the commencement of section 51A of that Act and [<sup>F143</sup>for the purposes of subsection (3) of that section] at a time when he was aged 16 or over, and
- (c) the court is of the opinion mentioned in section 51A(2) of that Act (exceptional circumstances which justify its not imposing required custodial sentence).]

[<sup>F144</sup>(1B) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted on indictment of an offence under the Firearms Act 1968 that is listed in section 51A(1A)(b), (e) or (f) of that Act and was committed in respect of a firearm or ammunition specified in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a) of that Act;
- (b) the offence was committed after the commencement of section 30 of the Violent Crime Reduction Act 2006 and for the purposes of section 51A(3) of the Firearms Act 1968 at a time when he was aged 16 or over; and
- (c) the court is of the opinion mentioned in section 51A(2) of the Firearms Act 1968.

(1C) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted of an offence under section 28 of the Violent Crime Reduction Act 2006 (using someone to mind a weapon);
- (b) section 29(3) of that Act applies (minimum sentences in certain cases); and
- (c) the court is of the opinion mentioned in section 29(6) of that Act (exceptional circumstances which justify not imposing the minimum sentence).]

[<sup>F145</sup>(2) .....

- (3) If the court is of the opinion that [<sup>F146</sup>neither [<sup>F147</sup> a youth rehabilitation order ] nor a detention and training order] is suitable, the court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 21 or over, as may be specified in the sentence.

- (4) Subsection (3) above is subject to (in particular) [<sup>F148</sup>section 152 and 153 of the Criminal Justice Act 2003].

[<sup>F149</sup>(5) Where

[<sup>F150</sup>(a) subsection (2) of section 51A of the Firearms Act 1968, or

(b) subsection (6) of section 29 of the Violent Crime Reduction Act 2006,

requires the imposition of a sentence of detention under this section for a term of at least the term provided for in that section, the court shall sentence the offender to be detained for such period, of at least the term so provided for] but not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 or over, as may be specified in the sentence.]

#### Textual Amendments

**F141** S. 91(1)(b)-(e) substituted for s. 91(1)(b)(c) (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), s. 141, Sch. 6 para. 43\(2\)](#); S.I. 2004/874, art. 2

**F142** S. 91(1A) inserted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 289\(1\)\(2\), 336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)

**F143** Words in s. 91(1A)(b) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 66\(2\), Sch. 1 para. 7\(1\)](#); S.I. 2007/858, art. 2(g)

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- F144** S. 91(1B)(1C) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 66(2), [Sch. 1 para. 7\(2\)](#); S.I. 2007/858, art. 2(g)
- F145** S. 91(2) repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2004/829, art. 2(1)(2)(1)(iii)
- F146** Words in s. 91(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 110\(2\)](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(1))
- F147** Words in s. 91(3) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 4 para. 56](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(vii)
- F148** Words in s. 91(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 110\(3\)](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(1))
- F149** S. 91(5) inserted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 289\(1\)\(3\)](#), [336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)
- F150** Words in s. 91(5) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 66(2), [Sch. 1 para. 7\(3\)](#); S.I. 2007/858, art. 2(g)

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

- C11** S. 91(1A)(c): power to repeal conferred (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 291\(1\)\(b\)](#), [336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)
- C12** S. 91(5): power to repeal conferred (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 291\(1\)\(b\)](#), [336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)

**92 Detention under sections 90 and 91: place of detention etc.**

- (1) A person sentenced to be detained under section 90 or 91 above shall be liable to be detained in such place and under such conditions—
- (a) as the Secretary of State may direct; or
- (b) as the Secretary of State may arrange with any person.
- (2) A person detained pursuant to the directions or arrangements made by the Secretary of State under this section shall be deemed to be in legal custody.

<sup>F151</sup>(3) .....

**Textual Amendments**

- F151** S. 92(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 44](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), [Sch. 1 para. 48\(o\)](#)

*Custody for life*

**93 Duty to impose custody for life in certain cases where offender under 21.**

Where a person aged under 21 is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 90 above.

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**94 Power to impose custody for life in certain other cases where offender at least 18 but under 21.**

- (1) Where a person aged at least 18 but under 21 is convicted of an offence—
- (a) for which the sentence is not fixed by law, but
  - (b) for which a person aged 21 or over would be liable to imprisonment for life, the court shall, if it considers that a sentence for life would be appropriate, sentence him to custody for life.
- (2) Subsection (1) above is subject to (in particular) sections 79 and 80 above, but this subsection does not apply in relation to a sentence which falls to be imposed under section 109(2) below.

**95 Custody for life: place of detention.**

- (1) Subject to section 22(2)(b) of the <sup>M27</sup>Prison Act 1952 (removal to hospital etc.), an offender sentenced to custody for life shall be detained in a young offender institution unless a direction under subsection (2) below is in force in relation to him.
- (2) The Secretary of State may from time to time direct that an offender sentenced to custody for life shall be detained in a prison or remand centre instead of a young offender institution.

**Marginal Citations**

M27 1952 c. 52.

*Detention in a young offender institution*

**96 Detention in a young offender institution for other cases where offender at least 18 but under 21.**

- Subject to sections 90, 93 and 94 above, where—
- (a) a person aged at least 18 but under 21 is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
  - (b) the court is of the opinion that either or both of paragraphs (a) and (b) of section 79(2) above apply or the case falls within section 79(3),
- the sentence that the court is to pass is a sentence of detention in a young offender institution.

**97 Term of detention in a young offender institution, and consecutive sentences.**

- (1) The maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.
- (2) Subject to subsection (3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than 21 days.

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(3) A court may pass a sentence of detention in a young offender institution for less than 21 days for an offence under section 65(6) of the <sup>M28</sup>Criminal Justice Act 1991 (breach of requirement imposed on young offender on his release from detention).

(4) Where—

- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution, or
- (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence,

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

(5) Subject to section 84 above (restriction on consecutive sentences for released prisoners), where an offender who—

- (a) is serving a sentence of detention in a young offender institution, and
- (b) is aged 21 or over,

is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.

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

**C13** S. 97(1)(2) applied (temp.) (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 2 para. 9\(2\)](#)

**Marginal Citations**

**M28** 1991 c. 53.

**98 Detention in a young offender institution: place of detention.**

(1) Subject to section 22(2)(b) of the <sup>M29</sup>Prison Act 1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under subsection (2) below is in force in relation to him.

(2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution.

**Marginal Citations**

**M29** 1952 c. 52.

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### [<sup>F152</sup>Conversion of sentence of detention to sentence of imprisonment

#### Textual Amendments

**F152** S. 99 and cross-heading substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 236, 336(3)(4)**; [S.I. 2005/950](#), **art. 2(1)**, **Sch. 1 para. 18** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), **art. 2**; and as amended: (14.7.2008) by [2008 c. 4](#), **Sch. 26 para. 78**, **Sch. 28 Pt. 2**; [S.I. 2008/1586](#), **Sch. 1 paras. 48(s), 50(2)(d)**; (30.11.2009) by [S.I. 2009/3111](#), **art. 2**; (3.12.2012) by [S.I. 2012/2905](#), **art. 4**; (3.12.2012) by [2012 c. 10](#), **Sch. 14 para. 17**; [S.I. 2012/2906](#), **art. 2(1)**)

## 99 Conversion of sentence of detention to sentence of imprisonment

- (1) Subject to the following provisions of this section, where an offender has been sentenced by a relevant sentence of detention to a term of detention and either—
- (a) he has attained the age of 21, or
  - (b) he has attained the age of 18 and has been reported to the Secretary of State by the [<sup>F153</sup>independent monitoring board] of the institution in which he is detained as exercising a bad influence on the other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates,
- the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.
- (2) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of detention imposed under the relevant sentence of detention which he has already served shall be deemed to have been a portion of a term of imprisonment.
- (3) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 the offender shall be treated as if he had been sentenced under section 225 of that Act<sup>F154</sup>....
- [<sup>F155</sup>(3A) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving an extended sentence of detention imposed under Chapter 5 of Part 12 of the Criminal Justice Act 2003—
- (a) if the sentence was imposed under section 226B of that Act, the offender shall be treated as if the offender had been sentenced under section 226A of that Act, and
  - (b) if the sentence was imposed under section 228 of that Act, the offender shall be treated as if the offender had been sentenced under section 227 of that Act.]
- (4) Rules under section 47 of the Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a relevant sentence of detention shall continue to have effect after a direction under subsection (1) has been given in relation to him.
- (5) In this section “relevant sentence of detention” means—
- (a) a sentence of detention under section 90 or 91 above,
  - [<sup>F156</sup>(aa) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006,]
  - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003, or



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(c) an extended sentence of detention under section [F157 226B or] 228 of that Act.]

[F158 (6) References in this section to a sentence under section 226 [F159, 226B] or 228 of the Criminal Justice Act 2003 include such a sentence passed as a result of section 221 [F160, 221A] or 222 of the Armed Forces Act 2006.]

#### Textual Amendments

**F153** Words in s. 99(1)(b) substituted (1.11.2007) by Offender Management Act 2007 (c. 21), s. 41(1), **Sch. 3 para. 9**; S.I. 2007/3001, art. 2(1)(r)

**F154** Words in s. 99(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 12(2)**; S.I. 2012/2906, art. 2(s)

**F155** S. 99(3A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 12(3)**; S.I. 2012/2906, art. 2(s)

**F156** S. 99(5)(aa) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 164(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

**F157** Words in s. 99(5)(c) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 12(4)**; S.I. 2012/2906, art. 2(s)

**F158** S. 99(6) added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 164(b)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

**F159** Words in s. 99(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 22 para. 15(a)**; S.I. 2012/2906, art. 2(t)

**F160** Words in s. 99(6) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 22 para. 15(b)**; S.I. 2012/2906, art. 2(t)

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

**C14** S. 99(5)(aa) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), art. 1(3), **Sch. 1 para. 45(1)**

### *Detention and training orders*

#### **100 Offenders under 18: detention and training orders.**

(1) [F161 Subject to sections 90 and 91 above, sections 226 and [F162 226B] of the Criminal Justice Act 2003, and subsection (2)] below, where—

(a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and

[F163 (b) the court is of the opinion that subsection (2) of section 152 of the Criminal Justice Act 2003 applies or the case falls within subsection (3) of that section,]

the sentence that the court is to pass is a detention and training order.

[F164 (1A) Subsection (1) applies with the omission of paragraph (b) in the case of an offence the sentence for which falls to be imposed under these provisions—

(a) section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public);

(b) section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon).]

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- (2) A court shall not make a detention and training order—
- (a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender;
  - (b) in the case of an offender under the age of 12 at that time, unless—
    - (i) it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him; and
    - (ii) the offence was committed on or after such date as the Secretary of State may by order appoint.
- (3) A detention and training order is an order that the offender in respect of whom it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

F165(4) .....

#### Textual Amendments

- F161** Words in s. 100(1) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 111\(2\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F162** Word in s. 100(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 13](#); S.I. 2012/2906, art. 2(s)
- F163** S. 100(1)(b) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 111\(2\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F164** S. 100(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 11](#); S.I. 2012/2770, art. 2(f)
- F165** S. 100(4) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 111\(3\), Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

## 101 Term of order, consecutive terms and taking account of remands.

- (1) Subject to subsection (2) below, the term of a detention and training order made in respect of an offence (whether by a magistrates' court or otherwise) shall be 4, 6, 8, 10, 12, 18 or 24 months.
- (2) The term of a detention and training order may not exceed the maximum term of imprisonment that the Crown Court could (in the case of an offender aged 21 or over) impose for the offence.
- (3) Subject to subsections (4) and (6) below, a court making a detention and training order may order that its term shall commence on the expiry of the term of any other detention and training order made by that or any other court.

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- (4) A court shall not make in respect of an offender a detention and training order the effect of which would be that he would be subject to detention and training orders for a term which exceeds 24 months.
- (5) Where the term of the detention and training orders to which an offender would otherwise be subject exceeds 24 months, the excess shall be treated as remitted.
- (6) A court making a detention and training order shall not order that its term shall commence on the expiry of the term of a detention and training order under which the period of supervision has already begun (under section 103(1) below).
- (7) Where a detention and training order (“the new order”) is made in respect of an offender who is subject to a detention and training order under which the period of supervision has begun (“the old order”), the old order shall be disregarded in determining—
  - (a) for the purposes of subsection (4) above whether the effect of the new order would be that the offender would be subject to detention and training orders for a term which exceeds 24 months; and
  - (b) for the purposes of subsection (5) above whether the term of the detention and training orders to which the offender would (apart from that subsection) be subject exceeds 24 months.
- (8) In determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded [<sup>F166</sup>—
  - (a) in custody, or
  - (b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003),]in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.
- (9) Where a court proposes to make detention and training orders in respect of an offender for two or more offences—
  - (a) subsection (8) above shall not apply; but
  - (b) in determining the total term of the detention and training orders it proposes to make in respect of the offender, the court shall take account of the total period (if any) for which he has been remanded [<sup>F167</sup>as mentioned in that subsection] in connection with any of those offences, or any other offence the charge for which was founded on the same facts or evidence.
- (10) Once a period of remand has, under subsection (8) or (9) above, been taken account of in relation to a detention and training order made in respect of an offender for any offence or offences, it shall not subsequently be taken account of (under either of those subsections) in relation to such an order made in respect of the offender for any other offence or offences.
- (11) Any reference in subsection (8) or (9) above to an offender’s being remanded in custody is a reference to his being—
  - (a) held in police detention;
  - (b) remanded in or committed to custody by an order of a court;
  - [<sup>F168</sup>(c) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; or]

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- (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the <sup>M30</sup>Mental Health Act 1983.
- (12) A person is in police detention for the purposes of subsection (11) above—
- (a) at any time when he is in police detention for the purposes of the <sup>M31</sup>Police and Criminal Evidence Act 1984; and
- (b) at any time when he is detained under [<sup>F169</sup>section 41 of the Terrorism Act 2000];
- <sup>F170</sup> ...
- [<sup>F171</sup>(12A) Section 243 of the Criminal Justice Act 2003 (persons extradited to the United Kingdom) applies in relation to a person sentenced to a detention and training order as it applies in relation to a fixed-term prisoner, with [<sup>F172</sup>the reference in subsection (2A) of that section to section 240ZA] being read as a reference to subsection (8) above.]
- (13) For the purpose of any reference in sections 102 to 105 below to the term of a detention and training order, consecutive terms of such orders and terms of such orders which are wholly or partly concurrent shall be treated as a single term if—
- (a) the orders were made on the same occasion; or
- (b) where they were made on different occasions, the offender has not been released (by virtue of subsection (2), (3), (4) or (5) of section 102 below) at any time during the period beginning with the first and ending with the last of those occasions.

#### Textual Amendments

- F166** Words in s. 101(8) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 22\(6\)\(a\), 153\(7\); S.I. 2008/2712, art. 2, Sch. para. 2](#)
- F167** Words in s. 101(9) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 22\(6\)\(b\), 153\(7\); S.I. 2008/2712, art. 2, Sch. para. 2](#)
- F168** S. 101(11)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 43\(a\); S.I. 2012/2906, art. 2\(j\) \(with art. 7\(2\)\(3\)\)](#)
- F169** Words in s. 101(12)(b) substituted (19.2.2001) by [2000 c. 11, s. 125\(1\), Sch. 15 para. 20\(3\); S.I. 2001/421, art. 2](#)
- F170** Words in s. 101(12) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 43\(b\); S.I. 2012/2906, art. 2\(j\) \(with art. 7\(2\)\(3\)\)](#)
- F171** S. 101(12A) inserted (15.1.2007) by [Police and Justice Act 2006 \(c. 48\), s. 53\(1\), Sch. 13 para. 32; S.I. 2006/3364, art. 2\(e\)](#)
- F172** Words in s. 101(12A) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 13 para. 11; S.I. 2012/2906, art. 2\(k\)](#)

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

- C15** S. 101(3)-(10) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 213\(1\)\(2\), 383\(2\); S.I. 2009/812, art. 3\(a\)\(b\) \(with transitional provisions in S.I. 2009/1059\); S.I. 2009/1167, art. 4](#)
- C16** S. 101(3)-(7) applied (with modifications) (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), arts. 1\(3\), 87\(2\)-\(5\)](#)
- C17** S. 101(8) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), ss. 213\(3\), 383\(2\); S.I. 2009/812, art. 3\(a\)\(b\) \(with transitional provisions in S.I. 2009/1059\); S.I. 2009/1167, art. 4](#)

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- C18** S. 101(9) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C19** S. 101(11) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C20** S. 101(12) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C21** S. 101(13) applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), ss. 215(1), 383(2) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C22** S. 101(13) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 213(1)(2), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

#### Marginal Citations

**M30** 1983 c. 20.

**M31** 1984 c. 60.

## 102 The period of detention and training.

- (1) An offender shall serve the period of detention and training under a detention and training order in such [<sup>F173</sup>youth detention] accommodation as may be determined by the Secretary of State <sup>F174</sup>....
- (2) Subject to subsections (3) to (5) below, the period of detention and training under a detention and training order shall be one-half of the term of the order.
- (3) The Secretary of State may at any time release the offender if he is satisfied that exceptional circumstances exist which justify the offender's release on compassionate grounds.
- (4) The Secretary of State may release the offender—
  - (a) in the case of an order for a term of 8 months or more but less than 18 months, [<sup>F175</sup>at any time during the period of one month ending with] the half-way point of the term of the order; and
  - (b) in the case of an order for a term of 18 months or more, [<sup>F176</sup>at any time during the period of two months ending with ] that point.
- (5) If a youth court so orders on an application made by the Secretary of State for the purpose, the Secretary of State shall release the offender—
  - (a) in the case of an order for a term of 8 months or more but less than 18 months, one month after the half-way point of the term of the order; and
  - (b) in the case of an order for a term of 18 months or more, one month or two months after that point.
- (6) An offender detained in pursuance of a detention and training order shall be deemed to be in legal custody.

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### Textual Amendments

- F173** Words in s. 102(1) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(2)(a)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(k)
- F174** Words in s. 102(1) omitted (1.11.2007) by virtue of [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(2)(b)**, 41(1); [S.I. 2007/3001](#), art. 2(1)(k)
- F175** Words in s. 102(4)(a) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 33(1)(a)**, 41(1) (with [s. 33\(2\)](#)); [S.I. 2007/3001](#), art. 2(1)(j)
- F176** Words in s. 102(4)(b) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 33(1)(b)**, 41(1) (with [s. 33\(2\)](#)); [S.I. 2007/3001](#), art. 2(1)(j)

### Modifications etc. (not altering text)

- C23** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 213(1)**, 383(2); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

## 103 The period of supervision.

- (1) The period of supervision of an offender who is subject to a detention and training order—
  - (a) shall begin with the offender’s release, whether at the half-way point of the term of the order or otherwise; and
  - (b) subject to subsection (2) below, shall end when the term of the order ends.
- (2) The Secretary of State may by order provide that the period of supervision shall end at such point during the term of a detention and training order as may be specified in the order under this subsection.
- (3) During the period of supervision, the offender shall be under the supervision of—
  - (a) [<sup>F177</sup>an officer of a local probation board][<sup>F178</sup>or an officer of a provider of probation services] ;
  - (b) a social worker of a local authority <sup>F179</sup>...; or
  - (c) a member of a youth offending team;
 and the category of person to supervise the offender shall be determined from time to time by the Secretary of State.
- (4) Where the supervision is to be provided by [<sup>F177</sup>an officer of a local probation board], [<sup>F177</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the [<sup>F180</sup>local justice area] within which the offender resides for the time being.
- <sup>F181</sup>(4A) 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 within which the offender resides for the time being.]
- (5) Where the supervision is to be provided by—
  - (a) a social worker of a local authority <sup>F182</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.
- (6) The offender shall be given a notice from the Secretary of State specifying—

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- (a) the category of person for the time being responsible for his supervision; and
  - (b) any requirements with which he must for the time being comply.
- (7) A notice under subsection (6) above shall be given to the offender—
- (a) before the commencement of the period of supervision; and
  - (b) before any alteration in the matters specified in subsection (6)(a) or (b) above comes into effect.

#### Textual Amendments

- F177** Words in s. 103(3)(a)(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. 1 para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F178** Words in s. 103(3)(a) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 1, **Sch. 1 para. 14(16)(a)**
- F179** Words in s. 103(3)(b) repealed (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004 (c. 31)**, **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)
- F180** Words in s. 103(4) substituted (1.4.2005) by **The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886)**, art. 1, **Sch. para. 76**
- F181** S. 103(4A) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 1, **Sch. 1 para. 14(16)(b)**
- F182** Words in s. 103(5)(a) repealed (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004 (c. 31)**, **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)

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

- C23** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, **ss. 213(1)**, 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

### 104 Breach of supervision requirements.

- (1) Where a detention and training order is in force in respect of an offender and it appears on information to a justice of the peace <sup>F183</sup>... that the offender has failed to comply with requirements under section 103(6)(b) above, the justice—
- (a) may issue a summons requiring the offender to appear at the place and time specified in the summons <sup>F184</sup>... or
  - (b) if the information is in writing and on oath, may issue a warrant for the offender's arrest <sup>F185</sup>....
- [<sup>F186</sup>(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—
- (a) before a youth court acting in the local justice which the offender resides; or
  - (b) if it is not known where the offender resides, before a youth court acting in the same local justice area as the justice who issued the summons or warrant.]

(3) If it is proved to the satisfaction of the youth court before which an offender appears or is brought under this section that he has failed to comply with requirements under section 103(6)(b) above, that court may—

    - [<sup>F187</sup>(a) order the offender to be detained, in such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding the maximum period found under subsection (3A) below, as the court may specify;

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- (aa) order the offender to be subject to such period of supervision, not exceeding the maximum period found under subsection (3A) below, as the court may specify; or]
  - (b) impose on the offender a fine not exceeding level 3 on the standard scale.
- [<sup>F188</sup>(3A) The maximum period referred to in subsection (3)(a) and (aa) above is the shorter of—
- (a) three months, and
  - (b) the period beginning with the date of the offender's failure and ending with the last day of the term of the detention and training order.
- (3B) For the purposes of subsection (3A) above a failure that is found to have occurred over two or more days is to be taken to have occurred on the first of those days.
- (3C) A court may order a period of detention or supervision, or impose a fine, under subsection (3) above before or after the end of the term of the detention and training order.
- (3D) A period of detention or supervision ordered under subsection (3) above—
- (a) begins on the date the order is made, and
  - (b) may overlap to any extent with the period of supervision under the detention and training order.]
- (4) An offender detained in pursuance of an order under subsection (3)(a) above shall be deemed to be in legal custody.
- [<sup>F189</sup>(4A) Where an order under subsection (3)(a) above is made in the case of a person who has attained the age of 18, the order has effect to require the person to be detained in prison for the period specified by the court.]
- (5) A fine imposed under subsection (3)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- [<sup>F190</sup>(5A) Sections 104A and 104B below make further provision about the operation of orders under subsection (3) above.]
- (6) An offender may appeal to the Crown Court against any order made under subsection (3)(a) [<sup>F191</sup>, (aa)] or (b) above.

#### Textual Amendments

**F183** Words in s. 104(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 5 para. 2\(2\)\(a\)](#); S.I. 2005/579, [art. 3\(d\)](#)

**F184** Words in s. 104(1)(a) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 5 para. 2\(2\)\(b\)](#); S.I. 2005/579, [art. 3\(d\)](#)

**F185** Words in s. 104(1)(b) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 5 para. 2\(2\)\(c\)](#); S.I. 2005/579, [art. 3\(d\)](#)

**F186** S. 104(2) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 5 para. 2\(3\)](#) (as amended (1.4.2005) by S.I. 2005/886, [Sch. para. 113\(a\)\(ii\)](#)); S.I. 2005/579, [art. 3\(d\)](#)

**F187** S. 104(3)(a)(aa) substituted for s. 104(3)(a) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 80\(2\)](#), 151(1) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)

**F188** S. 104(3A)-(3D) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 80\(3\)](#), 151(1) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)

**F189** S. 104(4A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 80\(4\)](#), 151(1) (with s. 80(8)(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)



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**F190** S. 104(5A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 80(5)**, 151(1) (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

**F191** Words in s. 104(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 80(6)**, 151(1) (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

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

**C23** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006](#) (c. 52), **ss. 213(1)**, 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

**C24** S. 104(4A) modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 80(8)**, 151(1) (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

[<sup>F192</sup>**104A**Application of sections 103 to 105 in relation to orders under section 104(3)(aa)

- (1) Subsections (3) to (7) of section 103 above apply in relation to a period of supervision to which an offender is subject by virtue of an order under section 104(3)(aa) above as they apply to the period of supervision under a detention and training order.
- (2) In the application of section 103 above by virtue of subsection (1) above, subsection (7)(a) of that section is to be read as requiring a notice to be given to the offender as soon as is reasonably practicable after the order under section 104(3)(aa) above is made.
- (3) Section 104 above and section 105 below apply where an offender is subject to a period of supervision under section 104(3)(aa) above as they apply where a detention and training order is in force in respect of an offender.
- (4) In the application of section 104 above by virtue of subsection (3) above—
  - (a) the references in that section to section 103(6)(b) above are to be read as references to that provision as applied by subsection (1) above,
  - (b) the references in subsections (3A)(b) and (3C) of that section to the term of the detention and training order are to be read as references to the term of the period of supervision under section 104(3)(aa) above, and
  - (c) the reference in subsection (3D)(b) of that section to the period of supervision under the detention and training order is to be read as including a reference to the period of supervision under section 104(3)(aa) above.
- (5) In the application of section 105 below by virtue of subsection (3) above—
  - (a) paragraph (a) of subsection (1) of that section is to be read as if the words “after his release and” were omitted, and
  - (b) the reference in that paragraph to the date on which the term of the detention and training order ends is to be read as a reference to the date on which the period of supervision under section 104(3)(aa) ends.

**Textual Amendments**

**F192** S. 104A - S. 104B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 80(7)**, 151(1) (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

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#### **104B Interaction of orders under section 104(3)(a) with other sentences**

- (1) Where a court makes a detention and training order in the case of an offender who is subject to a period of detention under section 104(3)(a) above, the detention and training order takes effect—
  - (a) at the beginning of the day on which it is made, or
  - (b) if the court so orders, at the time when the period of detention under section 104(3)(a) above ends.
- (2) Where a court orders an offender who is subject to a detention and training order to be subject to a period of detention under section 104(3)(a) above for a failure to comply with requirements under a different detention and training order, the period of detention takes effect as follows—
  - (a) if the offender has been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the order for the period of detention is made, and
  - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102 above.
- (3) Subject to subsection (4) below, where at any time an offender is subject concurrently—
  - (a) to a detention and training order, and
  - (b) to a period of detention under section 104(3)(a) above,
 the offender is to be treated for the purposes of sections 102 to 105 of this Act as if the offender were subject only to the detention and training order.
- (4) Nothing in subsection (3) above requires the offender to be released in respect of either the order or the period of detention unless and until the offender is required to be released in respect of each of them.
- (5) The Secretary of State may by regulations make provision about the interaction between a period of detention under section 104(3)(a) above and a custodial sentence in a case where—
  - (a) an offender who is subject to such a period of detention becomes subject to a custodial sentence, or
  - (b) an offender who is subject to a custodial sentence becomes subject to such a period of detention.
- (6) The provision that may be made by regulations under subsection (5) above includes—
  - (a) provision as to the time at which the period of detention under section 104(3)(a) above or the custodial sentence is to take effect;
  - (b) provision for the offender to be treated, for the purposes of the enactments specified in the regulations, as subject only to the period of detention or the custodial sentence;
  - (c) provision about the effect of enactments relating to the person's release from detention or imprisonment in a case where that release is not to take effect immediately by virtue of provision in the regulations.
- (7) The power of the Secretary of State to make regulations under subsection (5) above—
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make supplementary, incidental, transitional, transitory or saving provision.

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- (8) A statutory instrument containing regulations under subsection (5) above is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F192** S. 104A - S. 104B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 80(7), 151(1)** (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

### 105 Offences during currency of order.

- (1) This section applies to a person subject to a detention and training order if—
- after his release and before the date on which the term of the order ends, he commits an offence punishable with imprisonment in the case of a person aged 21 or over (“the new offence”); and
  - whether before or after that date, he is convicted of the new offence.
- (2) Subject to section 8(6) above (duty of adult magistrates’ court to remit young offenders to youth court for sentence), the court by or before which a person to whom this section applies is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be detained in such [<sup>F193</sup>youth detention] accommodation as the Secretary of State may determine for the whole or any part of the period which—
- begins with the date of the court’s order; and
  - is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) above.
- (3) The period for which a person to whom this section applies is ordered under subsection (2) above to be detained in [<sup>F194</sup>youth detention] accommodation—
- shall, as the court may direct, either be served before and be followed by, or be served concurrently with, any sentence imposed for the new offence; and
  - in either case, shall be disregarded in determining the appropriate length of that sentence.
- (4) Where the new offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (5) A person detained in pursuance of an order under subsection (2) above shall be deemed to be in legal custody.

#### Textual Amendments

**F193** Words in s. 105(2) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(4), 41(1)**; S.I. 2007/3001, art. 2(1)(k)

**F194** Words in s. 105(3) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(4), 41(1)**; S.I. 2007/3001, art. 2(1)(k)

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

**C23** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 213(1), 383(2)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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## 106 Interaction with sentences of detention in a young offender institution.

(1) Where a court passes a sentence of detention in a young offender institution in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—

- (a) if the offender has been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which it is passed;
- (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.

<sup>F195</sup>(2) .....

<sup>F195</sup>(3) .....

(4) Subject to subsection (5) below, where at any time an offender is subject concurrently—

- (a) to a detention and training order, and
- (b) to a sentence of detention in a young offender institution,

he shall be treated for the purposes of sections 102 to 105 above and of section 98 above (place of detention), Chapter IV of this Part (return to detention) and Part II of the <sup>M32</sup>Criminal Justice Act 1991 (early release) as if he were subject only to the one of them that was imposed on the later occasion.

(5) Nothing in subsection (4) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.

(6) Where, by virtue of any enactment giving a court power to deal with a person in a way in which a court on a previous occasion could have dealt with him, a detention and training order for any term is made in the case of a person who has attained the age of 18, the person shall be treated as if he had been sentenced to detention in a young offender institution for the same term.

### Textual Amendments

**F195** S. 106(2)(3) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 32 para. 112, Sch. 37 Pt. 7; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

### Modifications etc. (not altering text)

**C25** S. 106(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 2 para. 10](#)

### Marginal Citations

**M32** [1991 c. 53](#).

## <sup>F196</sup>106 Interaction with sentences of detention

(1) In this section—

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“the 2003 Act” means the Criminal Justice Act 2003;

“sentence of detention” means—

- (a) a sentence of detention under section 91 above [<sup>F197</sup> or section 209 of the Armed Forces Act 2006 ], or
- (b) a sentence of detention under section [<sup>F198</sup>226B or] 228 of the 2003 Act (extended sentence for certain violent or sexual offences: persons under 18).

[<sup>F199</sup> and references in this section to a sentence of detention under section [<sup>F200</sup>226B or] 228 of the 2003 Act include such a sentence passed as a result of section [<sup>F201</sup>221A or] 222 of the Armed Forces Act 2006.]

- (2) Where a court passes a sentence of detention in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—
  - (a) if the offender has at any time been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the sentence is passed, and
  - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.
- (3) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention, the order shall take effect as follows—
  - (a) if the offender has at any time been released under Chapter 6 of Part 12 of the 2003 Act (release on licence of fixed-term prisoners), at the beginning of the day on which the order is made, and
  - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Chapter.
- (4) Where an order under section 102(5) above is made in the case of a person in respect of whom a sentence of detention is to take effect as mentioned in subsection (2)(b) above, the order is to be expressed as an order that the period of detention attributable to the detention and training order is to end at the time determined under section 102(5) (a) or (b) above.
- (5) In determining for the purposes of subsection (3)(b) the time when an offender would otherwise be released under Chapter 6 of Part 12 of the 2003 Act, section 246 of that Act (power of Secretary of State to release prisoners on licence before he is required to do so) is to be disregarded.
- (6) Where by virtue of subsection (3)(b) above a detention and training order made in the case of a person who is subject to a sentence of detention under section [<sup>F202</sup>226B or] 228 of the 2003 Act is to take effect at the time when he would otherwise be released under Chapter 6 of Part 12 of that Act, any direction by the Parole Board under [<sup>F203</sup> subsection (5)(b) of section 246A or (as the case may be)] subsection (2) (b) of section 247 of that Act in respect of him is to be expressed as a direction that the Board would, but for the detention and training order, have directed his release under that section.
- (7) Subject to subsection (9) below, where at any time an offender is subject concurrently—
  - (a) to a detention and training order, and
  - (b) to a sentence of detention,

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he shall be treated for the purposes of the provisions specified in subsection (8) below as if he were subject only to the sentence of detention.

- (8) Those provisions are—
- (a) sections 102 to 105 above,
  - (b) section 92 above [<sup>F204</sup>, section 235 of the 2003 Act and section 210 of the Armed Forces Act 2006 (place of detention etc),] and
  - (c) Chapter 6 of Part 12 of the 2003 Act.<sup>F205</sup>, and
  - (d) section 214 of the Armed Forces Act 2006 (offences committed during a detention and training order under that Act).]
- (9) Nothing in subsection (7) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.]

#### Textual Amendments

- F196** S. 106A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 113**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F197** Words in s. 106A(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 165(2)(a)**; S.I. 2009/812, art. 3(a) (b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F198** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 14(2)**; S.I. 2012/2906, art. 2(s)
- F199** Words in s. 106A(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 165(2)(b)**; S.I. 2009/812, art. 3(a) (b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F200** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 16(a)**; S.I. 2012/2906, art. 2(t)
- F201** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 22 para. 16(b)**; S.I. 2012/2906, art. 2(t)
- F202** Words in s. 106A(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 14(3)(a)**; S.I. 2012/2906, art. 2(s)
- F203** Words in s. 106A(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 14(3)(b)**; S.I. 2012/2906, art. 2(s)
- F204** Words in s. 106A(8)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 165(3)(a)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F205** S. 106A(8)(d) and word added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 165(3)(b)**; S.I. 2009/812, art. 3(a) (b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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

- C26** S. 106A modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 213(1)(2), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C27** S. 106A modified (24.4.2009 for specified purposes) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 45(2)**

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## 107 Meaning of “[<sup>F206</sup>youth detention] accommodation” and references to terms.

- (1) In sections 102, 104 and 105 above [<sup>F207</sup>“youth detention accommodation”] means—
- (a) a secure training centre;
  - (b) a young offender institution;
  - (c) accommodation provided by [<sup>F208</sup>or on behalf of] a local authority for the purpose of restricting the liberty of children and young persons;
  - (d) accommodation provided for that purpose under subsection (5) of section 82 of the <sup>M33</sup>Children Act 1989 (financial support by the Secretary of State); or
  - [<sup>F209</sup>(e) such other accommodation or descriptions of accommodation as the Secretary of State may by order specify.]
- (2) In sections 102 to 105 above references to the term of a detention and training order shall be construed in accordance with section 101(13) above.

### Textual Amendments

**F206** Words in s. 107 heading substituted (1.11.2007) by *Offender Management Act 2007 (c. 21), ss. 34(5), 41(1); S.I. 2007/3001, art. 2(1)(k)*

**F207** Words in s. 107(1) substituted (1.11.2007) by *Offender Management Act 2007 (c. 21), ss. 34(6)(a), 41(1); S.I. 2007/3001, art. 2(1)(k)*

**F208** Words in s. 107(1)(c) inserted (1.11.2007) by *Offender Management Act 2007 (c. 21), ss. 34(6)(b), 41(1); S.I. 2007/3001, art. 2(1)(k)*

**F209** S. 107(1)(e) substituted (1.11.2007) by *Offender Management Act 2007 (c. 21), ss. 34(6)(c), 41(1); S.I. 2007/3001, art. 2(1)(k)*

### Modifications etc. (not altering text)

**C28** S. 107 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by *Armed Forces Act 2006 (c. 52), ss. 213(1), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4*

### Marginal Citations

**M33** 1989 c. 41.

## *Detention of persons aged at least 18 but under 21 for default or contempt*

## 108 Detention of persons aged at least 18 but under 21 for default or contempt.

- (1) In any case where, but for section 89(1) above, a court would have power—
- (a) to commit a person aged at least 18 but under 21 to prison for default in payment of a fine or any other sum of money, or
  - (b) to make an order fixing a term of imprisonment in the event of such a default by such a person, or
  - (c) to commit such a person to prison for contempt of court or any kindred offence,

the court shall have power, subject to subsection (3) below, to commit him to be detained under this section or, as the case may be, to make an order fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.

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*Status: Point in time view as at 06/04/2014. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 19 July 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)*

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- (2) For the purposes of subsection (1) above, the power of a court to order a person to be imprisoned under section 23 of the <sup>M34</sup>Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.
- (3) No court shall commit a person to be detained under this section unless it is of the opinion that no other method of dealing with him is appropriate; and in forming any such opinion, the court—
  - (a) shall take into account all such information about the circumstances of the default or contempt (including any aggravating or mitigating factors) as is available to it; and
  - (b) may take into account any information about that person which is before it.
- (4) Where a magistrates’ court commits a person to be detained under this section, it shall—
  - (a) state in open court the reason for its opinion that no other method of dealing with him is appropriate; and
  - (b) cause that reason to be specified in the warrant of commitment and to be entered in the register.
- (5) Subject to section 22(2)(b) of the <sup>M35</sup>Prison Act 1952 (removal to hospital etc.), a person in respect of whom an order has been made under this section is to be detained—
  - (a) in a remand centre,
  - (b) in a young offender institution, or
  - (c) in any place in which a person aged 21 or over could be imprisoned or detained for default in payment of a fine or any other sum of money,
 as the Secretary of State may from time to time direct.

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**Marginal Citations**  
**M34** 1971 c. 32.  
**M35** 1952 c. 52.

**CHAPTER III**

**REQUIRED CUSTODIAL SENTENCES FOR CERTAIN OFFENCES**

**<sup>F210</sup>109 Life sentence for second serious offence.**

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**Textual Amendments**  
**F210** S. 109 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(iv), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))



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## **110 Minimum of seven years for third class A drug trafficking offence.**

- (1) This section applies where—
- (a) a person is convicted of a class A drug trafficking offence committed after 30th September 1997;
  - (b) at the time when that offence was committed, he was 18 or over and had [<sup>F211</sup>2 relevant drug convictions; and]
  - (c) one of those other offences was committed after he had been convicted of the other.
- (2) The court shall impose an appropriate custodial sentence for a term of at least seven years except where the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender; and
  - (b) would make it unjust to do so in all the circumstances.

[<sup>F212</sup>(2A) For the purposes of subsection (1)—

- (a) a “relevant drug conviction” means—
  - (i) a conviction in any part of the United Kingdom of a class A drug trafficking offence, or
  - (ii) a conviction in another member State of an offence which was committed after the relevant date and would, if done in the United Kingdom at the time of the conviction, have constituted a class A drug trafficking offence; and
- (b) “the relevant date” means the date on which this subsection comes into force.]

[<sup>F213</sup>(3) .....

- (4) Where—
- (a) a person is charged with a class A drug trafficking offence (which, apart from this subsection, would be triable either way), and
  - (b) the circumstances are such that, if he were convicted of the offence, he could be sentenced for it under subsection (2) above,
- the offence shall be triable only on indictment.

- (5) In this section “class A drug trafficking offence” means a drug trafficking offence committed in respect of a class A drug; and for this purpose—

“class A drug” has the same meaning as in the <sup>M36</sup>Misuse of Drugs Act 1971;

[<sup>F214</sup>“ drug trafficking offence ” means an offence which is specified in—

- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
- (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.]

- (6) In this section “an appropriate custodial sentence” means—

- (a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;
- (b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

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### Textual Amendments

- F211** Words in s. 110(1)(b) substituted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(2\)\(a\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)
- F212** [S. 110\(2A\)](#) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(2\)\(b\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)
- F213** [S. 110\(3\)](#) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 114](#), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 paras. 42\(34\)44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, [Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F214** Words in s. 110(5) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 37\(2\)](#); S.I. 2003/333, art. 2, [Sch. \(with arts. 10-13\)](#)

### Modifications etc. (not altering text)

- C29** [S. 110\(2\)](#) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 239\(5\), 383\(2\)](#) (with s. 271(1)); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

### Marginal Citations

- M36** 1971 c. 38.

## 111 Minimum of three years for third domestic burglary.

- (1) This section applies where—
- (a) a person is convicted of a domestic burglary committed after 30th November 1999;
  - (b) at the time when that burglary was committed, he was 18 or over and had <sup>[F215]</sup>2 relevant domestic burglary convictions; and]
  - (c) one of those other burglaries was committed after he had been convicted of the other, and both of them were committed after <sup>[F216]</sup>the relevant date].
- (2) The court shall impose an appropriate custodial sentence for a term of at least three years except where the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender; and
  - (b) would make it unjust to do so in all the circumstances.

<sup>[F217]</sup>(2A) For the purposes of subsection (1)—

- (a) a “relevant domestic burglary conviction” means—
  - (i) a conviction in England and Wales of a domestic burglary, or
  - (ii) a conviction in any other part of the United Kingdom or any other member State of an offence which would, if done in England and Wales at the time of the conviction, have constituted domestic burglary;
- (b) “the relevant date”, in relation to a relevant domestic burglary conviction, means—
  - (i) in respect of a conviction in England and Wales, 30 November 1999, and

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(ii) in any other case, the day on which this subsection comes into force.]

<sup>F218</sup>(3) .....

(4) Where—

- (a) a person is charged with a domestic burglary which, apart from this subsection, would be triable either way, and
- (b) the circumstances are such that, if he were convicted of the burglary, he could be sentenced for it under subsection (2) above,

the burglary shall be triable only on indictment.

(5) In this section “domestic burglary” means a burglary committed in respect of a building or part of a building which is a dwelling.

(6) In this section “an appropriate custodial sentence” means—

- (a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;
- (b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

#### Textual Amendments

- F215** Words in s. 111(1)(b) substituted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\), Sch. 17 para. 10\(3\)\(a\)\(i\)](#) (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F216** Words in s. 111(1)(c) substituted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\), Sch. 17 para. 10\(3\)\(a\)\(ii\)](#) (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F217** S. 111(2A) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\), Sch. 17 para. 10\(3\)\(b\)](#) (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F218** S. 111(3) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 115, Sch. 37 Pt. 7; S.I. 2005/950, art. 2\(1\), Sch. 1 paras. 42\(34\)44\(4\)\(r\)](#) (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2\(l\)](#))

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

- C30** S. 111(2) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), ss. 239\(5\), 383\(2\)](#) (with s. 271(1)); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); S.I. 2009/1167, art. 4

## 112 Appeals where previous convictions set aside.

(1) This section applies where—

- (a) a sentence has been imposed on any person under subsection (2) of section <sup>F219</sup>... 110 or 111 above; and
- (b) any previous conviction of his without which that section would not have applied has been subsequently set aside on appeal.

(2) Notwithstanding anything in section 18 of the <sup>M37</sup>Criminal Appeal Act 1968, notice of appeal against the sentence may be given at any time within 28 days from the date on which the previous conviction was set aside.

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#### Textual Amendments

**F219** Word in s. 112(1)(a) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\); \(30.11.2009\) by S.I. 2009/3111, art. 2; \(3.12.2012\) by S.I. 2012/2905, art. 4; \(3.12.2012\) by \[2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2\\(l\\)\]\(#\)\)](#)

#### Marginal Citations

**M37** [1968 c. 19.](#)

### 113 Certificates of convictions for purposes of Chapter III.

(1) Where—

- (a) on any date after 30th September 1997 a person is convicted in England and Wales of <sup>F220</sup>... a class A drug trafficking offence, or on any date after 30th November 1999 a person is convicted in England and Wales of a domestic burglary, and
- (b) the court by or before which he is so convicted states in open court that he has been convicted of such an offence on that date, and
- (c) that court subsequently certifies that fact,

the certificate shall be evidence, for the purposes of the relevant section of this Chapter, that he was convicted of such an offence on that date.

[<sup>F221</sup>(1A) Where—

- (a) a person is convicted—
  - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
  - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
  - (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
- (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the person has been convicted of such an offence on that date, and
- (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, the fact that the person has been convicted of such an offence on that date,

the certificate is evidence, for the purposes of the relevant section of this Chapter, that the person was convicted of such an offence on that date.]

(2) Where—

- (a) after 30th September 1997 a person is convicted in England and Wales of a class A drug trafficking offence or after 30th November 1999 a person is convicted in England and Wales of a domestic burglary, and
- (b) the court by or before which he is so convicted states in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
- (c) that court subsequently certifies that fact,

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the certificate shall be evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on that day or over, or at some time during, that period.

[<sup>F222</sup>(2A) Where—

- (a) a person is convicted—
  - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
  - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
  - (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
- (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
- (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, that the offence was committed on a particular day or over, or at some time during, a particular period,

the certificate is evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on that day or over, or at some time during, that period.]

(3) In this section—

[<sup>F223</sup>“proper officer” means the clerk of the court, that clerk's deputy or any other person having custody of the court record;]

<sup>F224</sup>... “class A drug trafficking offence” and “domestic burglary” have the same meanings as in sections <sup>F224</sup>... 110 and 111 respectively, <sup>F225</sup>...

[<sup>F226</sup>“corresponding drug trafficking offence” means an offence within section 110(2A)(a)(ii);]

“the relevant section of this Chapter”, in relation to any such offence, shall be construed accordingly.

#### Textual Amendments

- F220** Words in s. 113(1)(a) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F221** S. 113(1A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(4)(a)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F222** S. 113(2A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(4)(b)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F223** Words in s. 113(3) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(4)(c)(i)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F224** Words in s. 113(3) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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- F225** Word in s. 113(3) repealed (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), Sch. 17 para. 10(4)(c)(ii), **Sch. 23 Pt. 5** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(f)(iv)
- F226** Words in s. 113(3) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(4)(c)(ii)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)

**[<sup>F227</sup> 114 Offences under service law.**

(1) Where—

- (a) a person has at any time been convicted of an offence under section 42 of the Armed Forces Act 2006, and
- (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) was a class A drug trafficking offence or a domestic burglary,

the relevant section of this Chapter shall have effect as if he had at that time been convicted in England and Wales of that corresponding offence.

**[<sup>F228</sup> (1A) Where—**

- (a) a person has at any time been found guilty of a member State service offence committed after the relevant date, and
- (b) the corresponding UK offence was a class A drug trafficking offence or a domestic burglary,

the relevant section of this Chapter and subsection (1) above shall have effect as if the person had at that time been convicted in England and Wales of that corresponding UK offence.

(1B) For the purposes of subsection (1A)—

- (a) “member State service offence” means an offence which—
  - (i) was the subject of proceedings under the service law of a member State other than the United Kingdom, and
  - (ii) at the time it was done would have constituted an offence under the law of any part of the United Kingdom, or an offence under section 42 of the Armed Forces Act 2006, if it had been done in any part of the United Kingdom by a member of Her Majesty's forces (“the corresponding UK offence”);
- (b) “relevant date” means—
  - (i) where the corresponding UK offence was a class A drug trafficking offence, the relevant date referred to in section 110(2A)(b), and
  - (ii) where the corresponding UK offence was a domestic burglary, the relevant date referred to in section 111(2A)(b)(ii);
- (c) “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;
- (d) “service law”, in relation to a member State other than the United Kingdom, means the law governing all or any of the naval, military or air forces of that State.]

(2) Subsection (3) of section 113 applies for the purposes of this section as it applies for the purposes of that section.

(3) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, [<sup>F229</sup>encouragement and assistance] and aiding and abetting outside England and Wales) applies for the

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purposes of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to this section.]

[<sup>F230</sup>(4) Where—

- (a) the corresponding UK offence is an offence under section 42 of the Armed Forces Act 2006 by reason of section 43, 45, 46 or 47 of that Act (attempting, conspiring to commit, inciting, aiding, abetting, counselling or procuring criminal conduct); and
- (b) the act to which it relates (“the contemplated act”) is not an act that is (or that if done would have been) punishable by the law of England and Wales;

for the purposes of subsections (1A) and (1B) it must be assumed that the contemplated act amounted to the offence under the law of England and Wales that it would have amounted to if it had been the equivalent act in England or Wales.]

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#### Textual Amendments

- F227** S. 114 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 166](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F228** S. 114(1A)(1B) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(5\)\(a\)](#) (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, [art. 3\(d\)\(iv\)](#)
- F229** Words in s. 114(3) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 5 para. 3](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, [art. 2\(a\)](#)
- F230** S. 114(4) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(5\)\(b\)](#) (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, [art. 3\(d\)\(iv\)](#)

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

- C31** S. 114(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 1 para. 45\(3\)](#)

## 115 Determination of day when offence committed.

Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of sections <sup>F231</sup>... 110 and 111 above to have been committed on the last of those days.

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#### Textual Amendments

- F231** Word in s. 115 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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## CHAPTER IV

### RETURN TO PRISON ETC. WHERE OFFENCE COMMITTED DURING ORIGINAL SENTENCE

**F232 116 Power to order return to prison etc. where offence committed during original sentence.**

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**Textual Amendments**

**F232** S. 116 repealed (4.4.2005 except in relation to a person in a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005, or is for a term of less than twelve months) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 116](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 paras. 42\(34\)44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l)); s. 116(1)(b), in so far as it is still in force, amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 45\(a\)](#); [S.I. 2008/1466](#), art. 2(c)(iv); s. 116(7), in so far as it is still in force, amended (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 45\(b\)](#); [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 48\(o\)](#)

**F233 117 Treatment for purposes of section 116(1) of person serving two or more sentences or extended sentence.**

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**Textual Amendments**

**F233** S. 117 repealed (4.4.2005 except in relation to a person in a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005, or is for a term of less than twelve months) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 116](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 paras. 42\(34\)44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

## CHAPTER V

### SUSPENDED SENTENCES OF IMPRISONMENT

#### *Suspended sentences of imprisonment*

**F234 118 Suspended sentences of imprisonment.**

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**Textual Amendments**

**F234 Pt. V Ch. V** repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F234 119 Power of court on conviction of further offence to deal with suspended sentence.**

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**Textual Amendments**

**F234 Pt. V Ch. V** repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F234 120 Court by which suspended sentence may be dealt with.**

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**Textual Amendments**

**F234 Pt. V Ch. V** repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F234 121 Procedure where court convicting of further offence does not deal with suspended sentence.**

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**Textual Amendments**

**F234 Pt. V Ch. V** repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

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### *Suspended sentence supervision orders*

#### <sup>F234</sup> **122 Suspended sentence supervision orders.**

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##### **Textual Amendments**

**F234** Pt. V Ch. V repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### <sup>F234</sup> **123 Breach of requirement of suspended sentence supervision order.**

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##### **Textual Amendments**

**F234** Pt. V Ch. V repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

#### <sup>F234</sup> **124 Suspended sentence supervision orders: revocation, amendment and cessation.**

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##### **Textual Amendments**

**F234** Pt. V Ch. V repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

### *Suspended sentences: supplementary*

#### <sup>F234</sup> **125 Suspended sentences: supplementary.**

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##### **Textual Amendments**

**F234** Pt. V Ch. V repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d)(v), 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1

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paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

## PART VI

### FINANCIAL PENALTIES AND ORDERS

#### *Financial circumstances orders*

#### <sup>F235</sup>126 Powers to order statement as to offender’s financial circumstances.

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##### Textual Amendments

**F235** Ss. 126-129 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

#### *Fines: general*

#### <sup>F235</sup>127 General power of Crown Court to fine offender convicted on indictment.

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##### Textual Amendments

**F235** Ss. 126-129 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

#### <sup>F235</sup>128 Fixing of fines.

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##### Textual Amendments

**F235** Ss. 126-129 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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<sup>F235</sup>**129 Remission of fines.**

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**Textual Amendments**

**F235** Ss. 126-129 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 44(4)(r)** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), **Sch. 26 para. 78**, **Sch. 28 Pt. 2**; [S.I. 2008/1586](#), **Sch. 1 paras. 48(s)**, **50(2)(d)**; (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), **Sch. 14 para. 17**; [S.I. 2012/2906](#), art. 2(l))

*Compensation orders*

**130 Compensation orders against convicted persons.**

- (1) A court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Act referred to as a “compensation order”) requiring him—
- (a) to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence; or
  - (b) to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road;
- but this is subject to the following provisions of this section and to section 131 below.
- (2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section <sup>F236</sup>110(2) or 111(2) above, <sup>F237</sup>section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988] <sup>F238</sup>, <sup>F239</sup>section <sup>F240</sup>224A,] 225(2) or 226(2)] of the Criminal Justice Act 2003 or section 29(4) or (6) of the Violent Crime Reduction Act 2006] , subsection (1) above shall have effect as if the words “instead of or” were omitted.
- <sup>F241</sup>(2A) A court must consider making a compensation order in any case where this section empowers it to do so.]
- (3) A court shall give reasons, on passing sentence, if it does not make a compensation order in a case where this section empowers it to do so.
- (4) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.
- (5) In the case of an offence under the <sup>M38</sup>Theft Act 1968 <sup>F242</sup>or Fraud Act 2006] , where the property in question is recovered, any damage to the property occurring while it was out of the owner’s possession shall be treated for the purposes of subsection (1) above as having resulted from the offence, however and by whomever the damage was caused.

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- (6) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if—
- (a) it is in respect of damage which is treated by subsection (5) above as resulting from an offence under the <sup>M39</sup>Theft Act 1968 [<sup>F243</sup>or Fraud Act 2006] ; or
  - (b) it is in respect of injury, loss or damage as respects which—
    - (i) the offender is uninsured in relation to the use of the vehicle; and
    - (ii) compensation is not payable under any arrangements to which the Secretary of State is a party.
- (7) Where a compensation order is made in respect of injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.
- (8) A vehicle the use of which is exempted from insurance by section 144 of the <sup>M40</sup>Road Traffic Act 1988 is not uninsured for the purposes of subsection (6) above.
- (9) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.
- (10) A compensation order in respect of bereavement may be made only for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the <sup>M41</sup>Fatal Accidents Act 1976; and the amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of that Act.
- (11) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.
- (12) Where the court considers—
- (a) that it would be appropriate both to impose a fine and to make a compensation order, but
  - (b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,
- the court shall give preference to compensation (though it may impose a fine as well).

#### Textual Amendments

- F236** Words in s. 130(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 117](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F237** Words in s. 130(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 12](#); S.I. 2012/2770, art. 2(f)
- F238** Words in s. 130(2) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 66\(2\), Sch. 1 para. 6\(b\)](#); S.I. 2007/858, art. 2(g)
- F239** Words in s. 130(2) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 46](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(o)
- F240** Words in s. 130(2) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 19 para. 5](#); S.I. 2012/2906, art. 2(q)

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- F241** S. 130(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 63\(1\), 151\(1\); S.I. 2012/2906, art. 2\(a\)](#)
- F242** Words in s. 130(5) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 15\(1\), Sch. 1 para. 29; S.I. 2006/3200, art. 2](#)
- F243** Words in s. 130(6)(a) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 15\(1\), Sch. 1 para. 29; S.I. 2006/3200, art. 2](#)

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**Marginal Citations**

- M38** 1968 c. 60.  
**M39** 1968 c. 60.  
**M40** 1988 c. 52.  
**M41** 1976 c. 30.

**131 Limit on amount payable under compensation order of magistrates' court [<sup>F244</sup> in case of young offender].**

[<sup>F245</sup>(A1) This section applies if (but only if) a magistrates' court has convicted a person aged under 18 (“the offender”) of an offence or offences.]

- (1) The compensation to be paid under a compensation order made by [<sup>F246</sup>the court in respect of the offence, or any one of the offences,] shall not exceed £5,000.
- (2) The compensation or total compensation to be paid under a compensation order or compensation orders made by [<sup>F247</sup>the] court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between—
  - (a) the amount or total amount which under subsection (1) above is the maximum for the offence or offences of which the offender has been convicted; and
  - (b) the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

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**Textual Amendments**

- F244** Words in s. 131 title inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(5\)](#) (with [Sch. 16 para. 10](#)); [S.I. 2013/2981, art. 2\(d\)](#)
- F245** S. 131(A1) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(2\)](#) (with [Sch. 16 para. 10](#)); [S.I. 2013/2981, art. 2\(d\)](#)
- F246** Words in s. 131(1) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(3\)](#) (with [Sch. 16 para. 10](#)); [S.I. 2013/2981, art. 2\(d\)](#)
- F247** Word in s. 131(2) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(4\)](#) (with [Sch. 16 para. 10](#)); [S.I. 2013/2981, art. 2\(d\)](#)

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

- C32** Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\), ss. 4\(12\), 12; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2](#)

**132 Compensation orders: appeals etc.**

- (1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal

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out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

- (2) [<sup>F248</sup>Criminal Procedure Rules] may make provision regarding the way in which the magistrates' court for the time being having functions (by virtue of section 41(1) of the <sup>M42</sup>Administration of Justice Act 1970) in relation to the enforcement of a compensation order is to deal with money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.
  - (3) The Court of Appeal may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as varied.
  - (4) Where the [<sup>F249</sup>Supreme Court] restores a conviction, it may make any compensation order which the court of trial could have made.
- [<sup>F250</sup>(4A) Where an order is made in respect of a person under subsection (3) or (4) above, the Court of Appeal or House of Lords shall make such order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or such variation of the order of the Crown Court under that section, as is necessary to secure that the person's liability under that section is the same as it would be if he were being dealt with by the Crown Court.]
- (5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
    - (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
    - (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

#### Textual Amendments

**F248** Words in s. 132(2) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), **Sch. para. 42** (with art. 2(2))

**F249** Words in s. 132(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 9 para. 69**; S.I. 2009/1604, art. 2(d)

**F250** S. 132(4A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, **Sch. 10 para. 49**; S.I. 2007/602, art. 2(c)

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

**C32** Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), ss. 4(12), 12; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

#### Marginal Citations

**M42** 1970 c. 31.

### 133 Review of compensation orders.

- (1) The magistrates' court for the time being having functions in relation to the enforcement of a compensation order (in this section referred to as "the appropriate court") may, on the application of the person against whom the compensation order

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was made, discharge the order or reduce the amount which remains to be paid; but this is subject to subsections (2) to (4) below.

- (2) The appropriate court may exercise a power conferred by subsection (1) above only—
- (a) at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the compensation order could be varied or set aside; and
  - (b) at a time before the person against whom the compensation order was made has paid into court the whole of the compensation which the order requires him to pay.
- (3) The appropriate court may exercise a power conferred by subsection (1) above only if it appears to the court—
- (a) that the injury, loss or damage in respect of which the compensation order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
  - (b) in the case of a compensation order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
  - (c) that the means of the person against whom the compensation order was made are insufficient to satisfy in full both the order and a confiscation order under Part VI of the <sup>M43</sup>Criminal Justice Act 1988 [<sup>F251</sup>, or Part 2 of the Proceeds of Crime Act 2002,]<sup>F252</sup> or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 (or both).] made against him in the same proceedings; or
  - (d) that the person against whom the compensation order was made has suffered a substantial reduction in his means which was unexpected at the time when the order was made, and that his means seem unlikely to increase for a considerable period.
- (4) Where the compensation order was made by the Crown Court, the appropriate court shall not exercise any power conferred by subsection (1) above in a case where it is satisfied as mentioned in paragraph (c) or (d) of subsection (3) above unless it has first obtained the consent of the Crown Court.
- (5) Where a compensation order has been made on appeal, for the purposes of subsection (4) above it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
  - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

#### **Textual Amendments**

**F251** Words in s. 133(3)(c) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 37(3)**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F252** Words in s. 133(3)(c) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, **Sch. para. 9**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

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

**C32** Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), **ss. 4(12), 12**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2



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#### Marginal Citations

M43 1988 c. 33.

### 134 Effect of compensation order on subsequent award of damages in civil proceedings.

- (1) This section shall have effect where a compensation order, or a service compensation order <sup>F253</sup> ..., has been made in favour of any person in respect of any injury, loss or damage and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.
- (2) The damages in the civil proceedings shall be assessed without regard to the order <sup>F254</sup> ..., but the plaintiff may only recover an amount equal to the aggregate of the following—
  - (a) any amount by which they exceed the compensation; and
  - (b) a sum equal to any portion of the compensation which he fails to recover, and may not enforce the judgment, so far as it relates to a sum such as is mentioned in paragraph (b) above, without the leave of the court.
- [<sup>F255</sup>(3) In this section “service compensation order” means a service compensation order under the Armed Forces Act 2006.]

#### Textual Amendments

- F253** Words in s. 134(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 167\(2\)](#), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F254** Words in s. 134(2) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 167\(2\)](#), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F255** S. 134(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 167\(3\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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

- C33** S. 134(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 1 para. 45\(4\)](#)

### *Young offenders*

### 135 Limit on fines imposed by magistrates' courts in respect of young offenders.

- (1) Where a person aged under 18 is found guilty by a magistrates' court of an offence for which, apart from this section, the court would have power to impose a fine of an amount exceeding £1,000, the amount of any fine imposed by the court shall not exceed £1,000.
- (2) In relation to a person aged under 14, subsection (1) above shall have effect as if for “£1,000”, in both places where it occurs, there were substituted “£250”.

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### 136 Power to order statement as to financial circumstances of parent or guardian.

- (1) Before exercising its powers under section 137 below (power to order parent or guardian to pay fine, costs [<sup>F256</sup>, compensation or surcharge]) against the parent or guardian of an individual who has been convicted of an offence, the court may make a financial circumstances order with respect to the parent or (as the case may be) guardian.
- (2) In this section “financial circumstances order” has the meaning given by subsection (3) of [<sup>F257</sup> section 162 of the Criminal Justice Act 2003], and subsections (4) to (6) of that section shall apply in relation to a financial circumstances order made under this section as they apply in relation to such an order made under that section.

#### Textual Amendments

**F256** Words in s. 136(1) substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 50; S.I. 2007/602, art. 2\(c\)](#)

**F257** Words in s. 136(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 118; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\); \(30.11.2009\) by S.I. 2009/3111, art. 2; \(3.12.2012\) by S.I. 2012/2905, art. 4; \(3.12.2012\) by \[2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2\\(l\\)\]\(#\)\)](#)

### 137 Power to order parent or guardian to pay fine, costs [<sup>F258</sup>, compensation or surcharge] .

- (1) Where—
  - (a) a child or young person (that is to say, any person aged under 18) is convicted of any offence for the commission of which a fine or costs may be imposed or a compensation order may be made, and
  - (b) the court is of the opinion that the case would best be met by the imposition of a fine or costs or the making of such an order, whether with or without any other punishment,

the court shall order that the fine, compensation or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

[<sup>F259</sup>(1A) Where but for this subsection a court would order a child or young person to pay a surcharge under section 161A of the Criminal Justice Act 2003, the court shall order that the surcharge be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

- (a) that the parent or guardian cannot be found; or
- (b) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.]

- (2) Where but for this subsection a court would impose a fine on a child or young person under—

[<sup>F260</sup>(za) paragraph 6(2)(a) or 8(2)(a) of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach of youth rehabilitation order),]

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- [<sup>F261</sup>(a) paragraph 4(1)(a) or 5(1)(a) of Schedule 3 to this Act (breach of curfew, probation, community service, combination or drug treatment and testing order),
- (b) paragraph 2(1)(a) of Schedule 5 to this Act (breach of attendance centre order or attendance centre rules),
- (c) paragraph 2(2)(a) of Schedule 7 to this Act (breach of supervision order),]
- (d) paragraph 2(2)(a) of Schedule 8 to this Act (breach of <sup>F262</sup>... reparation order),
- (e) section 104(3)(b) above (breach of requirements of supervision under a detention and training order), or
- (f) section 4(3)(b) of the <sup>M44</sup>Criminal Justice and Public Order Act 1994 (breach of requirements of supervision under a secure training order),
- the court shall order that the fine be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—
- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (3) In the case of a young person aged 16 or over, [<sup>F263</sup>subsections (1) to (2)] above shall have effect as if, instead of imposing a duty, they conferred a power to make such an order as is mentioned in those subsections.
- (4) Subject to subsection (5) below, no order shall be made under this section without giving the parent or guardian an opportunity of being heard.
- (5) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so.
- (6) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates' court.
- (7) A parent or guardian may appeal to the Court of Appeal against an order under this section made by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.
- (8) 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 <sup>M45</sup>Children Act 1989) which <sup>F264</sup>[<sup>F265</sup>are social services functions within the meaning of] the <sup>M46</sup>Local Authority Social Services Act 1970,
- references in this section to his parent or guardian shall be construed as references to that authority.
- (9) In subsection (8) above “local authority” and “parental responsibility” have the same meanings as in the <sup>M47</sup>Children Act 1989.

#### Textual Amendments

**F258** Words in s. 137 heading substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 51\(2\)](#); S.I. 2007/602, art. 2(c)

**F259** S. 137(1A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 51\(3\)](#); S.I. 2007/602, art. 2(c)

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- F260** S. 137(2)(za) inserted (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 57(a)** (with **Sch. 27 paras. 15**); S.I. 2009/3074, art. 2(p)(viii)
- F261** S. 137(2)(a)-(c) repealed (30.11.2009 for specified purposes) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 57(b)**, **Sch. 28 Pt. 1** (with **Sch. 27 paras. 15**); S.I. 2009/3074, art. 2(p)(u)(vii)
- F262** Words in s. 137(2)(d) repealed (30.11.2009) by **Criminal Justice and Immigration Act 2008 (c. 4)**, s. 153(7), **Sch. 4 para. 57(c)**, **Sch. 28 Pt. 1** (with **Sch. 27 paras. 15**); S.I. 2009/3074, art. 2(p)(u)(vii)
- F263** Words in s. 137(3) substituted (1.4.2007) by **Domestic Violence, Crime and Victims Act 2004 (c. 28)**, s. 60, **Sch. 10 para. 51(4)**; S.I. 2007/602, art. 2(c)
- F264** Words in s. 137(8)(b) substituted (W.) (1.4.2002) by S.I. 2002/808, **art. 34**
- F265** Words in s. 137(8)(b) substituted (E.) (11.7.2001) by S.I. 2001/2237, **art. 38**

#### Marginal Citations

- M44** 1994 c. 33.  
**M45** 1989 c. 41.  
**M46** 1970 c. 42.  
**M47** 1989 c. 41.

### 138 Fixing of fine [<sup>F266</sup>, compensation or surcharge] to be paid by parent or guardian.

- (1) For the purposes of any order under section 137 above made against the parent or guardian of a child or young person—
- [<sup>F267</sup>(za) subsection (3) of section 161A of the Criminal Justice Act 2003 (surcharges) and subsection (4A) of section 164 of that Act (fixing of fines) shall have effect as if any reference in those subsections to the offender's means were a reference to those of the parent or guardian;]
- (a) [<sup>F268</sup>section 164 of the Criminal Justice Act 2003] (fixing of fines) shall have effect as if any reference in subsections (1) to (4) to the financial circumstances of the offender were a reference to the financial circumstances of the parent or guardian, and as if subsection (5) were omitted;
- (b) section 130(11) above (determination of compensation order) shall have effect as if any reference to the means of the person against whom the compensation order is made were a reference to the financial circumstances of the parent or guardian; and
- (c) section 130(12) above (preference to be given to compensation if insufficient means to pay both compensation and a fine) shall have effect as if the reference to the offender were a reference to the parent or guardian;
- but in relation to an order under section 137 made against a local authority this subsection has effect subject to subsection (2) below.
- (2) For the purposes of any order under section 137 above made against a local authority, [<sup>F269</sup>section 164(1) of the Criminal Justice Act 2003 and section] 130(11) above shall not apply.
- (3) For the purposes of any order under section 137 above, where the parent or guardian of an offender who is a child or young person—
- (a) has failed to comply with an order under section 136 above, or
- (b) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

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and the court considers that it has insufficient information to make a proper determination of the parent's or guardian's financial circumstances, it may make such determination as it thinks fit.

- (4) Where a court has, in fixing the amount of a fine, determined the financial circumstances of a parent or guardian under subsection (3) above, subsections (2) to (4) of [F270 section 165 of the Criminal Justice Act 2003] (remission of fines) shall (so far as applicable) have effect as they have effect in the case mentioned in [F271 section 165(1)], but as if the reference in [F272 section 165(2)] to the offender's financial circumstances were a reference to the financial circumstances of the parent or guardian.
- (5) In this section "local authority" has the same meaning as in the M48 Children Act 1989.

### Textual Amendments

- F266** Words in s. 138 heading substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 52\(2\)](#); S.I. 2007/602, art. 2(c)
- F267** S. 138(za) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 52\(3\)](#); S.I. 2007/602, art. 2(c)
- F268** Words in s. 138(1)(a) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(2\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F269** Words in s. 138(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(3\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F270** Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F271** Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F272** Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(c\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))

### Marginal Citations

- M48** 1989 c. 41.

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*Miscellaneous powers and duties of Crown Court in relation to fines etc.*

**139 Powers and duties of Crown Court in relation to fines and forfeited recognizances.**

- (1) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court may make an order—
  - (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
  - (b) directing payment of that amount by instalments of such amounts and on such dates as may be specified in the order;
  - (c) in the case of a recognizance, discharging the recognizance or reducing the amount due under it.
  
- (2) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 108 above (detention of persons aged 18 to 20 for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.
  
- (3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by the Crown Court be committed to prison or detained in pursuance of an order under subsection (2) above unless—
  - (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
  - (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
  - (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life or detention in a young offender institution for that or another offence, or so sentences him for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term—
    - (i) of imprisonment;
    - (ii) of detention in a young offender institution; or
    - (iii) of detention under section 108 above.
  
- (4) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite them.

*Table*

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An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days

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An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years

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- (5) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment or detention in a young offender institution or a term of detention under section 108 above, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first-mentioned term.
- (6) The power conferred by this section to discharge a recognizance or reduce the amount due under it shall be in addition to the powers conferred by any other Act relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited under recognizances.
- (7) Subject to subsection (8) below, the powers conferred by this section shall not be taken as restricted by any enactment which authorises the Crown Court to deal with an offender in any way in which a magistrates' court might have dealt with him or could deal with him.
- (8) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the magistrates' court could have imposed, shall not exceed the period applicable to that fine (if imposed by the magistrates' court) under section 149(1) of the <sup>M49</sup>Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).
- (9) This section shall not apply to a fine imposed by the Crown Court on appeal against a decision of a magistrates' court, but subsections (2) to (4) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the [<sup>F273</sup>Supreme Court] on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court, and the references to the Crown Court in subsections (2) and (3) above shall be construed accordingly.
- (10) For the purposes of any reference in this section, however expressed, to the term of imprisonment or other detention to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall, unless the context otherwise requires, be treated as a single term.

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- (11) Any reference in this section, however expressed, to a previous sentence shall be construed as a reference to a previous sentence passed by a court in Great Britain.

#### Textual Amendments

**F273** Words in s. 139(9) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 69](#); S.I. 2009/1604, art. 2(d)

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

- C34** S. 139(2)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 35\(2\), 458\(1\); S.I. 2003/333, art. 2, Sch. \(with arts. 10-13\)](#)
- C35** S. 139(2)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 36\(2\), 458\(1\); S.I. 2003/333, art. 2, Sch. \(with arts. 10-13\)](#)
- C36** S. 139(4) applied by 2006 c. 52, s. 269A(2) (as inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\), ss. 16\(1\), 32\(3\); S.I. 2013/2501, art. 3\(c\)](#))
- C37** S. 139(4) applied by 2006 c. 52, s. 269B(4) (as inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\), ss. 16\(1\), 32\(3\); S.I. 2013/2501, art. 3\(c\)](#))
- C38** S. 139(9) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 36\(2\), 458\(1\); S.I. 2003/333, art. 2, Sch. \(with arts. 10-13\)](#)
- C39** S. 139(9) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 35\(2\), 458\(1\); S.I. 2003/333, art. 2, Sch. \(with arts. 10-13\)](#)

#### Marginal Citations

**M49** 1979 c. 2.

### 140 Enforcement of fines imposed and recognizances forfeited by Crown Court.

- (1) Subject to subsection (5) below, a fine imposed or a recognizance forfeited by the Crown Court shall be treated for the purposes of collection, enforcement and remission of the fine or other sum as having been imposed or forfeited—
- (a) by a magistrates' court specified in an order made by the Crown Court, or
  - (b) if no such order is made, by the magistrates' court by which the offender [<sup>F274</sup>was committed to the Crown Court to be tried or dealt with or by which he] was sent to the Crown Court for trial under section 51 [<sup>F275</sup>or 51A] of the <sup>M50</sup>Crime and Disorder Act 1998,
- and, in the case of a fine, as having been so imposed on conviction by the magistrates' court in question.
- (2) Subsection (3) below applies where a magistrates' court issues a warrant of commitment on a default in the payment of—
- (a) a fine imposed by the Crown Court; or
  - (b) a sum due under a recognizance forfeited by the Crown Court.
- (3) In such a case, the term of imprisonment or detention under section 108 above specified in the warrant of commitment as the term which the offender is liable to serve shall be—
- (a) the term fixed by the Crown Court under section 139(2) above, or
  - (b) if that term has been reduced under section 79(2) of the <sup>M51</sup>Magistrates' Courts Act 1980 (part payment) or section 85(2) of that Act (remission), that term as so reduced,



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notwithstanding that that term exceeds the period applicable to the case under section 149(1) of the <sup>M52</sup>Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).

- (4) Subsections (1) to (3) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the [<sup>F276</sup>Supreme Court] on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court; and references in those subsections to the Crown Court (except the references in subsection (1)(b)) shall be construed accordingly.
- (5) A magistrates' court shall not, under section 85(1) or 120 of the <sup>M53</sup>Magistrates' Courts Act 1980 as applied by subsection (1) above, remit the whole or any part of a fine imposed by, or sum due under a recognizance forfeited by—
  - (a) the Crown Court,
  - (b) the criminal division of the Court of Appeal, or
  - (c) the [<sup>F276</sup>Supreme Court] on appeal from that division,without the consent of the Crown Court.
- (6) Any fine or other sum the payment of which is enforceable by a magistrates' court by virtue of this section shall be treated for the purposes of the Justices of the <sup>M54</sup>Peace Act 1997 and, in particular, section 60 of that Act (application of fines and fees) as having been imposed by a magistrates' court, or as being due under a recognizance forfeited by such a court.

#### Textual Amendments

**F274** Words in s. 140(1)(b) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(4\)](#) (a), [Sch. 37 Pt. 4](#); S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

**F275** Words in s. 140(1)(b) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(4\)\(b\)](#); S.I. 2005/1267, art. 2(1)(2)(b), [Sch. Pt. 2](#); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(d)(3), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

**F276** Words in s. 140(4)(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 9 para. 69](#); S.I. 2009/1604, art. 2(d)

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

**C40** S. 140(1)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 35\(2\)](#), 458(1); S.I. 2003/333, art. 2, [Sch.](#) (with arts. 10-13)

#### Marginal Citations

**M50** 1998 c. 37.

**M51** 1980 c. 43.

**M52** 1979 c. 2.

**M53** 1980 c. 43.

**M54** 1997 c. 25.

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**141 Power of Crown Court to allow time for payment, or payment by instalments, of costs and compensation.**

Where the Crown Court makes any such order as is mentioned in Part I of Schedule 9 to the <sup>M55</sup>Administration of Justice Act 1970 (orders against accused for the payment of costs or compensation), the court may—

- (a) allow time for the payment of the sum due under the order;
- (b) direct payment of that sum by instalments of such amounts and on such dates as the court may specify.

**Marginal Citations**

**M55** 1970 c. 31.

**142 Power of Crown Court to order search of persons before it.**

(1) Where—

- [<sup>F277</sup>(za) the Crown Court orders a person to pay a surcharge under section 161A of the Criminal Justice Act 2003,]
  - (a) the Crown Court imposes a fine on a person or forfeits his recognizance,
  - (b) the Crown Court makes against a person any such order as is mentioned in paragraph 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs),
  - (c) the Crown Court makes a compensation order against a person,
- [<sup>F278</sup>(ca) the Crown Court makes an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 against a person,]
  - (d) the Crown Court makes against a person an order under section 137 above (order for parent or guardian to pay fine, costs [<sup>F279</sup>, compensation or surcharge]), or
  - (e) on the determination of an appeal brought by a person under section 108 of the <sup>M56</sup>Magistrates' Courts Act 1980 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,

then, if that person is before it, the Crown Court may order him to be searched.

- (2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.

**Textual Amendments**

- F277** S. 142(1)(za) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 53\(a\)](#); S.I. 2007/602, art. 2(c)
- F278** S. 142(1)(ca) inserted (15.10.2013 for E.; 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 10](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2
- F279** Words in s. 142(1)(d) substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 53\(b\)](#); S.I. 2007/602, art. 2(c)

**Marginal Citations**

**M56** 1980 c. 43.

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## PART VII

### FURTHER POWERS OF COURTS

#### *Powers to deprive offender of property used etc. for purposes of crime*

#### **143 Powers to deprive offender of property used etc. for purposes of crime.**

- (1) Where a person is convicted of an offence and the court by or before which he is convicted is satisfied that any property which has been lawfully seized from him, or which was in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued—
  - (a) has been used for the purpose of committing, or facilitating the commission of, any offence, or
  - (b) was intended by him to be used for that purpose,the court may (subject to subsection (5) below) make an order under this section in respect of that property.
- (2) Where a person is convicted of an offence and the offence, or an offence which the court has taken into consideration in determining his sentence, consists of unlawful possession of property which—
  - (a) has been lawfully seized from him, or
  - (b) was in his possession or under his control at the time when he was apprehended for the offence of which he has been convicted or when a summons in respect of that offence was issued,the court may (subject to subsection (5) below) make an order under this section in respect of that property.
- (3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.
- (4) Any power conferred on a court by subsection (1) or (2) above may be exercised—
  - (a) whether or not the court also deals with the offender in any other way in respect of the offence of which he has been convicted; and
  - (b) without regard to any restrictions on forfeiture in any enactment contained in an Act passed before 29th July 1988.
- (5) In considering whether to make an order under this section in respect of any property, a court shall have regard—
  - (a) to the value of the property; and
  - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (6) Where a person commits an offence to which this subsection applies by—
  - (a) driving, attempting to drive, or being in charge of a vehicle, or
  - (b) failing to comply with a requirement made under section 7 [<sup>F280</sup>or 7A] of the <sup>M57</sup>Road Traffic Act 1988 (failure to provide specimen for analysis or laboratory test [<sup>F280</sup>or to give permission for such a test]) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or

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- (c) failing, as the driver of a vehicle, to comply with subsection (2) or (3) of section 170 of the <sup>M58</sup>Road Traffic Act 1988 (duty to stop and give information or report accident),

the vehicle shall be regarded for the purposes of subsection (1) above (and section 144(1)(b) below) as used for the purpose of committing the offence (and for the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence).

- (7) Subsection (6) above applies to—

- (a) an offence under the <sup>M59</sup>Road Traffic Act 1988 which is punishable with imprisonment;
- (b) an offence of manslaughter; and
- (c) an offence under section 35 of the Offences Against the <sup>M60</sup>Person Act 1861 (wanton and furious driving).

- (8) Facilitating the commission of an offence shall be taken for the purposes of subsection (1) above to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

#### Textual Amendments

**F280** Words in s. 143(6)(b) inserted (1.10.2002) by 2002 c. 30, s. 56(6); S.I. 2002/2306, art. 2

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

**C41** S. 143 excluded by 1990 c. 43, s. 33C(8) (as inserted (18.10.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), ss. 44(1), 108(3); S.I. 2005/2896, art. 2(c))

**C42** S. 143 excluded (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), Sch. 5 para. 7(a)

#### Marginal Citations

**M57** 1988 c. 52.

**M58** 1988 c. 52.

**M59** 1988 c. 52.

**M60** 1861 c. 100.

### 144 Property which is in possession of police by virtue of section 143.

- (1) The <sup>M61</sup>Police (Property) Act 1897 shall apply, with the following modifications, to property which is in the possession of the police by virtue of section 143 above—
- (a) no application shall be made under section 1(1) of that Act by any claimant of the property after the end of six months from the date on which the order in respect of the property was made under section 143 above; and
- (b) no such application shall succeed unless the claimant satisfies the court either—
- (i) that he had not consented to the offender having possession of the property; or
- (ii) where an order is made under subsection (1) of section 143 above, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that subsection.

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- (2) In relation to property which is in the possession of the police by virtue of section 143 above, the power to make regulations under section 2 of the <sup>M62</sup>Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained and no order of a competent court has been made with respect to it) shall, subject to subsection (3) below, include power to make regulations for disposal (including disposal by vesting in the relevant authority) in cases where no application by a claimant of the property has been made within the period specified in subsection (1) (a) above or no such application has succeeded.
- (3) The regulations may not provide for the vesting in the relevant authority of property in relation to which an order has been made under section 145 below (court order as to application of proceeds of forfeited property).
- (4) Nothing in subsection (2A)(a) or (3) of section 2 of the <sup>M63</sup>Police (Property) Act 1897 limits the power to make regulations under that section by virtue of subsection (2) above.
- (5) In this section “relevant authority” has the meaning given by section 2(2B) of the <sup>M64</sup>Police (Property) Act 1897.

**Marginal Citations**

**M61** 1897 c. 30.

**M62** 1897 c. 30.

**M63** 1897 c. 30.

**M64** 1897 c. 30.

**145 Application of proceeds of forfeited property.**

- (1) Where a court makes an order under section 143 above in a case where—
  - (a) the offender has been convicted of an offence which has resulted in a person suffering personal injury, loss or damage, or
  - (b) any such offence is taken into consideration by the court in determining sentence,the court may also make an order that any proceeds which arise from the disposal of the property and which do not exceed a sum specified by the court shall be paid to that person.
- (2) The court may make an order under this section only if it is satisfied that but for the inadequacy of the offender’s means it would have made a compensation order under which the offender would have been required to pay compensation of an amount not less than the specified amount.
- (3) An order under this section has no effect—
  - (a) before the end of the period specified in section 144(1)(a) above; or
  - (b) if a successful application under section 1(1) of the <sup>M65</sup>Police (Property) Act 1897 has been made.

**Marginal Citations**

**M65** 1897 c. 30.

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### Driving disqualifications

#### 146 Driving disqualification for any offence.

- (1) The court by or before which a person is convicted of an offence committed after 31st December 1997 may, instead of or in addition to dealing with him in any other way, order him to be disqualified, for such period as it thinks fit, for holding or obtaining a driving licence.
- (2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section [F281 110(2) or 111(2) above, [F282 section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988]] [F283, [F284 section [F285 224A,] 225(2) or 226(2)] of the Criminal Justice Act 2003 or section 29(4) or (6) of the Violent Crime Reduction Act 2006 ], subsection (1) above shall have effect as if the words “instead of or” were omitted.
- (3) A court shall not make an order under subsection (1) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (4) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
  - (a) any such licence held by him together with its counterpart; F286 ...
  - [F287 (aa) in the case where he holds a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988), his Northern Ireland licence and its counterpart (if any); or]
  - (b) in the case where he holds a Community licence (within the meaning of Part III of the M66 Road Traffic Act 1988), his Community licence and its counterpart (if any).
- (5) In this section—
 

“driving licence” means a licence to drive a motor vehicle granted under Part III of the M67 Road Traffic Act 1988;

“counterpart”—

  - (a) in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act; F288 ...
  - (aa) [F289 in relation to a Northern Ireland licence, has the meaning given by section 109A of that Act; and]
  - (b) in relation to a Community licence, has the meaning given by section 99B of that Act.

#### Textual Amendments

**F281** Words in s. 146(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 120](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#))

**F282** Words in s. 146(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 13](#); [S.I. 2012/2770, art. 2\(f\)](#)

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- F283** Words in s. 146(2) substituted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), s. 66(2), **Sch. 1 para. 6(c)**; S.I. 2007/858, art. 2(g)
- F284** Words in s. 146(2) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 47**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(o)
- F285** Words in s. 146(2) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 6**; S.I. 2012/2906, art. 2(q)
- F286** Word in s. 146(4)(a) repealed (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), Sch. 5 para. 73(a), **Sch. 6**; S.I. 2004/2624, art. 2(1)(2)(b)
- F287** Words in s. 146(4) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 73(a)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F288** Word in s. 146(5) repealed (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), Sch. 5 para. 73(b), **Sch. 6**; S.I. 2004/2624, art. 2(1)(2)(b)
- F289** Words in s. 146(5) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 73(b)**; S.I. 2004/2624, art. 2(1)(2)(b)

#### Marginal Citations

**M66** 1988 c. 52.

**M67** 1988 c. 52.

### 147 Driving disqualification where vehicle used for purposes of crime.

- (1) This section applies where a person—
- is convicted before the Crown Court of an offence punishable on indictment with imprisonment for a term of two years or more; or
  - having been convicted by a magistrates' court of such an offence, is committed under section 3 above to the Crown Court for sentence.
- (2) This section also applies where a person is convicted by or before any court of common assault or of any other offence involving an assault (including an offence of aiding, abetting, counselling or procuring, or inciting to the commission of, an offence).
- (3) If, in a case to which this section applies by virtue of subsection (1) above, the Crown Court is satisfied that a motor vehicle was used (by the person convicted or by anyone else) for the purpose of committing, or facilitating the commission of, the offence in question, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.
- (4) If, in a case to which this section applies by virtue of subsection (2) above, the court is satisfied that the assault was committed by driving a motor vehicle, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.
- (5) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
- any such licence held by him together with its counterpart; <sup>F290</sup> ...
- [<sup>F291</sup>(aa) in the case where he holds a Northern Ireland licence (within the meaning of Part 3 of the Road Traffic Act 1988), his Northern Ireland licence and its counterpart (if any); or]
- in the case where he holds a Community licence (within the meaning of Part III of the <sup>M68</sup>Road Traffic Act 1988), his Community licence and its counterpart (if any).

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- (6) Facilitating the commission of an offence shall be taken for the purposes of this section to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.
- (7) In this section “driving licence” and “counterpart” have the meanings given by section 146(5) above.

#### **Textual Amendments**

- F290** Word in s. 147(5)(a) repealed (11.10.2004) by *Crime (International Co-operation) Act 2003 (c. 32)*, s. 94(1), Sch. 5 para. 74, **Sch. 6**; S.I. 2004/2624, art. 2(1)(2)(b)
- F291** S. 147(5)(aa) inserted (11.10.2004) by *Crime (International Co-operation) Act 2003 (c. 32)*, s. 94(1), **Sch. 5 para. 74**; S.I. 2004/2624, art. 2(1)(2)(b)

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

- C43** S. 147(2) modified (1.10.2008) by *Serious Crime Act 2007 (c. 27)*, s. 94(1), **Sch. 6 para. 39** (with Sch. 13 para. 5); S.I. 2008/2504, art. 2(a)

#### **Marginal Citations**

- M68** 1988 c. 52.

### *Restitution orders*

#### **148 Restitution orders.**

- (1) This section applies where goods have been stolen, and either—
- (a) a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence); or
  - (b) a person is convicted of any other offence, but such an offence as is mentioned in paragraph (a) above is taken into consideration in determining his sentence.
- (2) Where this section applies, the court by or before which the offender is convicted may on the conviction (whether or not the passing of sentence is in other respects deferred) exercise any of the following powers—
- (a) the court may order anyone having possession or control of the stolen goods to restore them to any person entitled to recover them from him; or
  - (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant; or
  - (c) the court may order that a sum not exceeding the value of the stolen goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him;

and in this subsection “the stolen goods” means the goods referred to in subsection (1) above.



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- (3) Where the court has power on a person's conviction to make an order against him both under paragraph (b) and under paragraph (c) of subsection (2) above with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.
- (4) Where the court on a person's conviction makes an order under subsection (2)(a) above for the restoration of any goods, and it appears to the court that the person convicted—
  - (a) has sold the goods to a person acting in good faith, or
  - (b) has borrowed money on the security of them from a person so acting,the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.
- (5) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers.
- (6) In subsection (5) above “the available documents” means—
  - (a) any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial; and
  - (b) [<sup>F292</sup>such written statements, depositions and other documents as were tendered by or on behalf of the prosecutor at any committal proceedings.]  
[<sup>F292</sup>such documents as were served on the offender in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998.]
- (7) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 30 of the <sup>M69</sup>Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals).
- (8) Subject to subsection (9) below, references in this section to stealing shall be construed in accordance with section 1(1) of the <sup>M70</sup>Theft Act 1968 (read with the provisions of that Act relating to the construction of section 1(1)).
- (9) Subsections (1) and (4) of section 24 of that Act (interpretation of certain provisions) shall also apply in relation to this section as they apply in relation to the provisions of that Act relating to goods which have been stolen.
- (10) In this section and section 149 below, “goods”, except in so far as the context otherwise requires, includes money and every other description of property (within the meaning of the <sup>M71</sup>Theft Act 1968) except land, and includes things severed from the land by stealing.
- (11) An order may be made under this section in respect of money owed by the Crown.

#### Textual Amendments

**F292** S. 148(6)(b) substituted (9.5.2005 for specified purposes; 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(5\)](#); S.I. 2005/1267, art. 2(1)(2)(a), Sch. Pt. 1; S.I. 2012/1320, art. 4(1)

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(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(d)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### **Marginal Citations**

- M69** 1968 c. 19.  
**M70** 1968 c. 60.  
**M71** 1968 c. 60.

### **149 Restitution orders: supplementary.**

- (1) The following provisions of this section shall have effect with respect to section 148 above.
- (2) The powers conferred by subsections (2)(c) and (4) of that section shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.
- (3) Where an order is made under that section against any person in respect of an offence taken into consideration in determining his sentence—
  - (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
  - (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.
- (4) Any order under that section made by a magistrates' court shall be suspended—
  - (a) in any case until the end of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;
  - (b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;
 but this subsection shall not apply where the order is made under section 148(2)(a) or (b) and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.

#### *Young offenders*

### **150 Binding over of parent or guardian.**

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence, the powers conferred by this section shall be exercisable by the court by which he is sentenced for that offence, and where the offender is aged under 16 when sentenced it shall be the duty of that court—
  - (a) to exercise those powers if it is satisfied, having regard to the circumstances of the case, that their exercise would be desirable in the interests of preventing the commission by him of further offences; and
  - (b) if it does not exercise them, to state in open court that it is not satisfied as mentioned in paragraph (a) above and why it is not so satisfied;
 but this subsection has effect subject to section 19(5) above and paragraph 13(5) of Schedule 1 to this Act (cases where referral orders made or extended).

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- (2) The powers conferred by this section are as follows—
- (a) with the consent of the offender’s parent or guardian, to order the parent or guardian to enter into a recognizance to take proper care of him and exercise proper control over him; and
  - (b) if the parent or guardian refuses consent and the court considers the refusal unreasonable, to order the parent or guardian to pay a fine not exceeding £1,000;
- and where the court has passed [<sup>F293</sup> on the offender a sentence which consists of or includes a youth rehabilitation order], it may include in the recognizance a provision that the offender’s parent or guardian ensure that the offender complies with the requirements of that sentence.
- (3) An order under this section shall not require the parent or guardian to enter into a recognizance for an amount exceeding £1,000.
- (4) An order under this section shall not require the parent or guardian to enter into a recognizance—
- (a) for a period exceeding three years; or
  - (b) where the offender will attain the age of 18 in a period shorter than three years, for a period exceeding that shorter period.
- (5) Section 120 of the <sup>M72</sup>Magistrates’ Courts Act 1980 (forfeiture of recognizances) shall apply in relation to a recognizance entered into in pursuance of an order under this section as it applies in relation to a recognizance to keep the peace.
- (6) A fine imposed under subsection (2)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (7) In fixing the amount of a recognizance under this section, the court shall take into account among other things the means of the parent or guardian so far as they appear or are known to the court; and this subsection applies whether taking into account the means of the parent or guardian has the effect of increasing or reducing the amount of the recognizance.
- (8) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates’ court.
- (9) A parent or guardian may appeal to the Court of Appeal against an order under this section made by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.
- (10) A court may vary or revoke an order made by it under this section if, on the application of the parent or guardian, it appears to the court, having regard to any change in the circumstances since the order was made, to be in the interests of justice to do so.
- (11) For the purposes of this section, taking “care” of a person includes giving him protection and guidance and “control” includes discipline.

#### Textual Amendments

**F293** Words in s. 150(2) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 4 para. 58, [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(ix)

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**Marginal Citations**

M72 1980 c. 43.

**PART VIII**

MISCELLANEOUS AND SUPPLEMENTARY

*Factors to be taken into account in sentencing*

**F294 151 Effect of previous convictions and of offending while on bail.**

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**Textual Amendments**

**F294** Ss. 151-153 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F294 152 Reduction in sentences for guilty pleas.**

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**Textual Amendments**

**F294** Ss. 151-153 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

**F294 153 Increase in sentences for racial or religious aggravation.**

.....

**Textual Amendments**

**F294** Ss. 151-153 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

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### Commencement and alteration of Crown Court sentence

#### 154 Commencement of Crown Court sentence.

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.
- (2) The power to give a direction under subsection (1) above has effect subject to [F295 section 265 of the Criminal Justice Act 2003] (restriction on consecutive sentences for released prisoners).
- (3) In this section “sentence” and “order” shall be construed in accordance with section 155(8) below.

#### Textual Amendments

**F295** Words in s. 154(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 121](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(1\)](#))

#### 155 Alteration of Crown Court sentence.

- (1) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of [F296 56 days] beginning with the day on which the sentence or other order was imposed or made F297... within the time allowed by that subsection.
- [F298(1A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined.]
- F299(2) .....
- F300(3) .....
- (4) A sentence or other order shall not be varied or rescinded under this section except by the court constituted as it was when the sentence or other order was imposed or made, or, where that court comprised one or more justices of the peace, a court so constituted except for the omission of any one or more of those justices.
- (5) Subject to subsection (6) below, where a sentence or other order is varied under this section the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.
- (6) For the purposes of—
  - (a) section 18(2) of the M73 Criminal Appeal Act 1968 (time limit for notice of appeal or of application for leave to appeal), and
  - (b) paragraph 1 of Schedule 3 to the M74 Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act),

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the sentence or other order shall be regarded as imposed or made on the day on which it is varied under this section.

(7) [<sup>F301</sup>Criminal Procedure Rules]—

- (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictments, provide for extending the period fixed by subsection (1) above;
- (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by that court.

(8) In this section—

“sentence” includes a recommendation for deportation made when dealing with an offender;

“order” does not include an order [<sup>F302</sup>relating to a requirement to make a payment under regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012].

#### Textual Amendments

- F296** Words in s. 155(1) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 8 para. 28\(2\)\(a\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 13)
- F297** Words in s. 155(1) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 8 para. 28(2)(b), [Sch. 28 Pt. 3](#); S.I. 2008/1586, art. 2(1), Sch. 1 paras. 2650(3)(f) (with Sch. 2 para. 13)
- F298** S. 155(1A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 8 para. 28\(3\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 26 (with Sch. 2 para. 13)
- F299** S. 155(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 8 para. 28(4), [Sch. 28 Pt. 3](#); S.I. 2008/1586, art. 2(1), Sch. 1 paras. 2650(3)(f) (with Sch. 2 para. 13)
- F300** S. 155(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 8 para. 28(4), [Sch. 28 Pt. 3](#); S.I. 2008/1586, art. 2(1), Sch. 1 paras. 2650(3)(f) (with Sch. 2 para. 13)
- F301** Words in s. 155(7) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), [Sch. para. 43](#) (with art. 2(2))
- F302** Words in s. 155(8) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 54](#); S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

#### Marginal Citations

- M73** 1968 c. 19.  
**M74** 1988 c. 33.

*Disclosure of pre-sentence reports etc.*

<sup>F303</sup>**156 Disclosure of pre-sentence reports.**

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#### Textual Amendments

- F303** Ss. 156-158 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122,

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art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)

**F303 157 Other reports of officers of local probation boards and members of youth offending teams**

.....

**Textual Amendments**

**F303** Ss. 156-158 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

*Supplementary*

**F303 158 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders.**

.....

**Textual Amendments**

**F303** Ss. 156-158 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

**159 Execution of process between England and Wales and Scotland.**

Section 4 of the <sup>M75</sup>Summary Jurisdiction (Process) Act 1881 (execution of process of English and Welsh courts in Scotland) shall apply to any process issued under—

[<sup>F304</sup>section 1(7), 1B(3), 1C(4),] 13(1), 104(1) <sup>F305</sup>... above,  
paragraph 3(2) of Schedule 1 to this Act [<sup>F306</sup>or],

<sup>F307</sup>  
...

<sup>F305</sup>  
.....

paragraph 1(1) of Schedule 5 to this Act,

<sup>F308</sup>  
...

paragraph 6(2) of Schedule 8 to this Act,

as it applies to process issued under the <sup>M76</sup>Magistrates' Courts Act 1980 by a magistrates' court.

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### Textual Amendments

- F304** Words in s. 159 substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 23 para. 2](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 20](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F305** Words in s. 159 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F306** Word in s. 159 inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 59\(a\)](#) (with [Sch. 27 paras. 15](#)); [S.I. 2009/3074, art. 2\(p\)\(x\)](#)
- F307** Words in s. 159 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 59\(b\), Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); [S.I. 2009/3074, art. 2\(p\)\(u\)\(x\)](#)
- F308** Words in s. 159 repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 59\(d\), Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); [S.I. 2009/3074, art. 2\(p\)\(u\)\(x\)](#)

### Marginal Citations

- M75** 1881 c. 24.  
**M76** 1980 c. 43.

## 160 Rules and orders.

- (1) Any power of the Secretary of State to make rules or orders under this Act shall be exercisable by statutory instrument.
- [<sup>F309</sup>(2) [<sup>F310</sup>A statutory instrument containing any order under section 107(1)(e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]]
- (3) The Secretary of State shall not make—
- (a) any order under section 15(1), <sup>F311</sup> ... <sup>F312</sup> ... 100(2)(b)(ii) [<sup>F313</sup>or 103(2)]<sup>F314</sup> ...
- <sup>F314</sup>(b) .....
- unless a draft of the order or rules has been laid before, and approved by a resolution of, each House of Parliament.
- <sup>F315</sup>(4) .....
- [<sup>F316</sup>(5) [<sup>F317</sup>An order under section 107(1)(e) may make different provision for different cases or classes of case.]]
- (6) Any order made by the Secretary of State under this Act may make such transitional provision as appears to him necessary or expedient in connection with any provision made by the order.

### Textual Amendments

- F309** S. 160(2) substituted (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(1\)\(h\), Sch. 21 para. 94\(2\)](#) (with s. 180)



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- F310** S. 160(2) repealed (30.11.2009 for specified purposes) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), Sch. 4 para. 60(2), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(xi)
- F311** Word in s. 160(3)(a) repealed (30.11.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), Sch. 4 para. 60(3)(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(xi)
- F312** Word in s. 160(3)(a) repealed (4.4.2005) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F313** Words in s. 160(3)(a) substituted (30.11.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), **Sch. 4 para. 60(3)(b)** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(xi)
- F314** S. 160(3)(b) and preceding word repealed (4.4.2005) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F315** S. 160(4) repealed (4.4.2005) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F316** S. 160(5) substituted (20.6.2001, 2.7.2001 and 2.9.2004 for specified purposes) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(d)**; S.I. 2001/2232, art. 2(m)(vi); S.I. 2004/2171, art. 2
- F317** S. 160(5) repealed (30.11.2009 for specified purposes) by **Criminal Justice and Immigration Act 2008** (c. 4), s. 153(7), Sch. 4 para. 60(4), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(xi)

### Interpretation

#### 161 Meaning of “associated offence”, “sexual offence”, “violent offence” and “protecting the public from serious harm”.

- (1) For the purposes of this Act, an offence is associated with another if—
  - (a) the offender is convicted of it in the proceedings in which he is convicted of the other offence, or (although convicted of it in earlier proceedings) is sentenced for it at the same time as he is sentenced for that offence; or
  - (b) the offender admits the commission of it in the proceedings in which he is sentenced for the other offence and requests the court to take it into consideration in sentencing him for that offence.

- F318**(2) .....
- F318**(3) .....
- F318**(4) .....

#### Textual Amendments

- F318** S. 161(2)-(4) repealed (4.4.2005) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122,

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art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

<sup>F319</sup> **162 Meaning of “pre-sentence report”.**

.....

**Textual Amendments**

**F319** S. 162 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l)); in so far as it is still in force, amended (1.4.2006 for W.) by Children Act 2004 (c. 31), Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)

**163 General definitions.**

[<sup>F320</sup>(1)] In this Act, except where the contrary intention appears—

[<sup>F321</sup>“action plan order” means an order under section 69(1) above;]

[<sup>F321</sup>[<sup>F322</sup>“affected person” —

(a) in relation to an exclusion order, has the meaning given by section 40A(13) above;

(b) <sup>F323</sup> .....

(c) <sup>F323</sup> .....].]

<sup>F323</sup> .....

“associated”, in relation to offences, shall be construed in accordance with section 161(1) above;

[<sup>F321</sup>“attendance centre” has the meaning given by [<sup>F324</sup>section 221(2) of the Criminal Justice Act 2003];]

[<sup>F321</sup>“attendance centre order” means an order under section 60(1) above (and, except where the contrary intention is shown by paragraph 8 of Schedule 3 or paragraph 4 of Schedule 7 or 8 to this Act, includes orders made under section 60(1) by virtue of paragraph 4(1)(c) or 5(1)(c) of Schedule 3 or paragraph 2(2)(a) of Schedule 7 or 8);]

“child” means a person under the age of 14;

<sup>F325</sup> .....

“community order” has the meaning given by [<sup>F326</sup>section 177(1) of the Criminal Justice Act 2003];

<sup>F323</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

[<sup>F321</sup>“community sentence” has the meaning given by section 33(2) above;]

“compensation order” has the meaning given by section 130(1) above;

“court” does not include [<sup>F327</sup>the Court Martial];

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[<sup>F321</sup>“curfew order” means an order under section 37(1) above (and, except where the contrary intention is shown by section 59 above or paragraph 3 of Schedule 7 or 8 to this Act or section 35 of the <sup>M77</sup>Crime (Sentences) Act 1997, includes orders made under section 37(1) by virtue of section 59 or paragraph 2(2)(a) of Schedule 7 or 8 or the said section 35);]

“custodial sentence” has the meaning given by section 76 above;

“detention and training order” has the meaning given by section 100(3) above;

<sup>F323</sup> .....

<sup>F323</sup> .....

[<sup>F321</sup> [<sup>F322</sup>“exclusion order ” means an order under section 40A(1) above]]

<sup>F323</sup> .....

“guardian” has the same meaning as in the <sup>M78</sup>Children and Young Persons Act 1933;

“local authority accommodation” means accommodation provided by or on behalf of a local authority, and “accommodation provided by or on behalf of a local authority” here has the same meaning as it has in the <sup>M79</sup>Children Act 1989 by virtue of section 105 of that Act;

[<sup>F322</sup>“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000]

“offence punishable with imprisonment” shall be construed in accordance with section 164(2) below;

<sup>F328</sup> ...

“order for conditional discharge” has the meaning given by section 12(3) above;

“period of conditional discharge” has the meaning given by section 12(3) above;

<sup>F323</sup> .....

<sup>F325</sup> .....

<sup>F325</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

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<sup>F323</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

<sup>F323</sup> .....

“referral order” means an order under section 16(2) or (3) above;

“the register” means the register of proceedings before a magistrates’ court required by [<sup>F329</sup>Criminal Procedure Rules] to be kept by the <sup>F330</sup>[<sup>F331</sup>designated officer] for] the court;

“reparation order” means an order under section 73(1) above;

“responsible officer”—

- (a) <sup>F332</sup> ...
- (aa) <sup>F332</sup> ...
- (b) <sup>F323</sup> .....
- (c) <sup>F323</sup> .....
- (d) <sup>F323</sup> .....
- (e) <sup>F323</sup> .....
- (ee) <sup>F323</sup> .....
- (f) <sup>F332</sup> ...

(g) in relation to a reparation order, has the meaning given by section 74(5) above;

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F323 .....  
 F323 .....

“sentence of imprisonment” does not include a committal—  
 (a) in default of payment of any sum of money;  
 (b) for want of sufficient distress to satisfy any sum of money; or  
 (c) for failure to do or abstain from doing anything required to be done or left undone;

and references to sentencing an offender to imprisonment shall be construed accordingly;

F323 .....  
 F323 .....

[<sup>F321</sup>“supervision order” means an order under section 63(1) above;]  
 [<sup>F321</sup>“supervisor”, in relation to a supervision order, has the meaning given by section 63(3) above;]

“suspended sentence” has the meaning given by [<sup>F333</sup>section 189(7) of the Criminal Justice Act 2003];

F323 .....  
 F323 .....  
 F323 .....  
 F323 .....  
 F323 .....  
 F323 .....  
 F323 .....

“young person” means a person aged at least 14 but under 18;  
 “youth offending team” means a team established under section 39 of the <sup>M80</sup>Crime and Disorder Act 1998.

[<sup>F321</sup>[<sup>F334</sup>“youth community order” has the meaning given by section 33(1) above.]]

[<sup>F335</sup>“youth rehabilitation order” has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008.]

[<sup>F336</sup>(2) In the definition of “sentence of imprisonment” in subsection (1) the reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—  
 (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but  
 (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]

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**Textual Amendments**

**F320** S. 163(1): s. 216 renumbered s. 216(1) (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007](#) (c. 15), s. 148, [Sch. 13 para. 133\(2\)](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

**F321** Words in s. 163 repealed (30.11.2009 for specified purposes) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), [Sch. 4 para. 61\(a\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(u)(xii)

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- F322** Words in s. 163 inserted (1.4.2001, 20.6.2001, 2.7.2001 and 2.9.2004 for specified purposes) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 197(f)**; S.I. 2001/919, **art. 2(f)(iii)**; S.I. 2001/2232, **art. 2(m)(vii)**; S.I. 2004/2171, art. 2
- F323** Words in s. 163 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 44(4)(r)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F324** Words in s. 163 substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 123(2)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F325** Definitions of “combination order”, “probation order” and “probation period” in s. 163 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, **Sch. 7 Pt. II para. 197(b)**, **Sch. 8**; S.I. 2001/919, **art. 2(f)(iii)(g)**
- F326** Words in s. 163 substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 123(4)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F327** Words in s. 163 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 168**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F328** Words in s. 163(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 9 para. 1** (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F329** Words in s. 163 substituted (1.9.2004) by The Courts Act 2003 (Consequential Amendments) Order 2004 (S.I. 2004/2035), art. 2(1), **Sch. para. 44** (with art. 2(2))
- F330** S. 163: words in the definition of “the register” substituted (1.4.2001) by S.I. 2001/618, **art. 5(5)**
- F331** Words in s. 163 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, **Sch. para. 80**
- F332** Words in s. 163 repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 4 para. 61(b), **Sch. 28 Pt. 1** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(u)(xii)
- F333** Words in s. 163 substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 123(7)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F334** Words in s. 163 inserted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 123(8)**; S.I. 2005/950, art. 2(1), **Sch. 1 para. 42(34)** (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F335** Words in s. 163 added (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 4 para. 61(c)** (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(xii)
- F336** S. 163(2) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 133(3)** (with s. 89); S.I. 2014/768, art. 2(1)(b)

#### Marginal Citations

- M77** 1997 c. 43.  
**M78** 1933 c. 12.  
**M79** 1989 c. 41.  
**M80** 1998 c. 37.

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## 164 Further interpretive provisions.

- (1) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State, his age shall be deemed to be that which it appears to the court or (as the case may be) the Secretary of State to be after considering any available evidence.
- (2) Any reference in this Act to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this or any Act on the imprisonment of young offenders.
- [<sup>F337</sup>(3) References in this Act to a sentence falling to be imposed—
- (a) under section 110(2) or 111(2) above,
  - [<sup>F338</sup>(aa) under section 1A(5) of the Prevention of Crime Act 1953,]
  - (b) under section 51A(2) of the Firearms Act 1968, <sup>F339</sup>...
  - [<sup>F340</sup>(ba) under section 139AA(7) of the Criminal Justice Act 1988,]
  - (c) under [<sup>F341</sup>section [<sup>F342</sup>224A,] 225(2) or 226(2) ] of the Criminal Justice Act 2003, [<sup>F343</sup>or
  - (d) under section 29(4) or (6) of the Violent Crime Reduction Act 2006,]
- are to be read in accordance with section 305(4) of the Criminal Justice Act 2003.]

### Textual Amendments

- F337** S. 164(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 124**; [S.I. 2005/950](#), art. 2(1), **Sch. 1 para. 42(34)** (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), **Sch. 26 para. 78**, **Sch. 28 Pt. 2**; [S.I. 2008/1586](#), **Sch. 1 paras. 48(s)**, **50(2)(d)**; (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), **Sch. 14 para. 17**; [S.I. 2012/2906](#), art. 2(l))
- F338** S. 164(3)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 26 para. 14(2)**; [S.I. 2012/2770](#), art. 2(f)
- F339** Word in s. 164(3)(b) repealed (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 66(2), **Sch. 1 para. 8**, **Sch. 5**; [S.I. 2007/858](#), art. 2(g)(n)(xi)
- F340** S. 164(3)(ba) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 26 para. 14(3)**; [S.I. 2012/2770](#), art. 2(f)
- F341** Words in s. 164(3)(c) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), **Sch. 26 para. 48**; [S.I. 2008/1586](#), art. 2(1), **Sch. 1 para. 48(o)**
- F342** Words in s. 164(3)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 7**; [S.I. 2012/2906](#), art. 2(q)
- F343** S. 164(3)(d) and word inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), s. 66(2), **Sch. 1 para. 8**; [S.I. 2007/858](#), art. 2(g)

### *Final provisions*

## 165 Consequential amendments, transitory modifications, transitional provisions and repeals.

- (1) Schedule 9 to this Act (which contains amendments consequential on this Act) shall have effect.
- (2) Schedule 10 to this Act (which contains transitory modifications of this Act) shall have effect.

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- (3) Schedule 11 to this Act (which contains transitional provisions) shall have effect.
- (4) The enactments mentioned in Part I of Schedule 12 to this Act and the instruments mentioned in Part II of that Schedule are hereby repealed or revoked to the extent specified in the third column of those Parts.

**166 Short title.**

This Act may be cited as the Powers of Criminal Courts (Sentencing) Act 2000.

**167 Extent.**

- (1) Subject to subsections (2) to (4) below, this Act extends to England and Wales only.
- (2) The following provisions also extend to Scotland, namely—
  - section 14;
  - sections 44, 49 and 51(6);
  - section 121(3);
  - section 159;
  - this section; and
  - Schedule 4.
- (3) The following provisions also extend to Northern Ireland, namely—
  - sections 44, 49 and 51(6);
  - this section; and
  - Schedule 4.
- (4) The extent of any amendment, repeal or revocation made by this Act is the same as that of the enactment amended, repealed or revoked.
- (5) For the purposes of the <sup>M81</sup>Scotland Act 1998, any provision of this Act which extends to Scotland is to be taken to be a pre-commencement enactment within the meaning of that Act.

**Marginal Citations**

**M81** 1998 c. 46.

**168 Commencement.**

- (1) Subject <sup>F344</sup>... to paragraph 11 of Schedule 11 (special provisions relating to referral orders), this Act shall come into force at the end of the period of three months beginning with the day on which it is passed (and references to the commencement of this Act are to its coming into force then).

<sup>F345</sup>(2) .....

<sup>F345</sup>(3) .....

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### **Textual Amendments**

- F344** Words in s. 168(1) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F345** [S. 168\(2\)\(3\)](#) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))



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