



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART I

#### POWERS EXERCISABLE BEFORE SENTENCE

##### *Deferment of sentence*

#### **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 (2) and (3) below.
- (2) The power conferred by subsection (1) above shall be exercisable only if—
  - (a) the offender consents; and
  - (b) 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.
- (3) 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 2(7) below, where the passing of sentence has been deferred under this section it shall not be further so deferred.
- (4) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.

*Status: Point in time view as at 20/06/2001.*

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- (5) Where the passing of sentence on an offender has been deferred by a court under this section, the court's power under this section to deal with the offender at the end of the period of deferment—
- (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 it 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.
- (6) Nothing in this section or section 2 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.

## 2 Further powers of courts where sentence deferred under section 1.

- (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 or 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) a court which under section 1 above has deferred passing sentence on an offender proposes to deal with him, whether on the date originally specified by the court or by virtue of subsection (1) above before that date, or
  - (b) the offender does not appear on the date so specified,
- the court may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest.
- (5) 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 <sup>M1</sup>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

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to subsection (4) above) if the offender does not appear on the date specified under section 1(3) above.

- (6) Any power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred under section 1 above—
- (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 court which deferred passing sentence could have dealt with him; 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.
- (7) 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.

#### Marginal Citations

M1 1980 c. 43.

### *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.
- (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 greater punishment should be inflicted for the offence than the court has power to impose, or
  - (b) in the case of a violent or sexual offence, that a custodial sentence for a term longer than the court has power to impose is necessary to protect the public from serious harm from him,
- 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 33 of the <sup>M2</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—

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- (a) the corporation were an individual aged 18 or over; and
- (b) in subsection (2) above, paragraph (b) and the words “in custody or on bail” were omitted.

#### **Marginal Citations**

**M2** 1980 c. 43.

#### **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”);
  - (b) he or his representative indicates that he would plead guilty if the offence were to proceed to trial; and
  - (c) proceeding as if section 9(1) of the <sup>M3</sup>Magistrates’ Courts Act 1980 were complied with and he pleaded guilty under it, the court convicts him of the offence.
- (2) If the court has committed 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) If the power conferred by subsection (2) above is not exercisable but the court is still to inquire, as examining justices, into one or more related offences—
  - (a) it shall adjourn the proceedings relating to the offence until after the conclusion of its inquiries; and
  - (b) if it commits 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) 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.

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#### Marginal Citations

M3 1980 c. 43.

### 5 Power of Crown Court on committal for sentence under sections 3 and 4.

- (1) Where an offender is committed by a magistrates' court for sentence under section 3 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.

### 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 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>M4</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 section 120(1) below power to deal with him.
- (4) The enactments referred to in subsection (1) above are—
  - (a) the <sup>M5</sup>Vagrancy Act 1824 (incorrigible rogues);
  - (b) sections 3 and 4 above (committal for sentence for offences triable either way);
  - (c) section 13(5) below (conditionally discharged person convicted of further offence);
  - (d) section 116(3)(b) below (offender convicted of offence committed during currency of original sentence); and
  - (e) section 120(2) below (offender convicted during operational period of suspended sentence).

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#### **Marginal Citations**

**M4** 1988 c. 53.

**M5** 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 section 119 below (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.

*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) if the offender was committed for trial or sent to the Crown Court for trial under section 51 of the <sup>M6</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;
  - (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;

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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>M7</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 justices' chief executive 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).
- (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 justices' chief executive for the court, be evidence of the order.

#### Marginal Citations

M6 1998 c. 37.

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M7 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) acting for the same petty sessions area as the youth court.
- (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>M8</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 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>M9</sup>Bail Act 1976.

**Marginal Citations**

M8 1980 c. 43.

M9 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



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- (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>M10</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—
- (a) section 128 of the <sup>M11</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>M12</sup>Bail Act 1976.

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#### **Marginal Citations**

**M10** 1988 c. 53.

**M11** 1980 c. 43.

**M12** 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
  - (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>M13</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**

**M13** 1976 c. 63.

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