



Powers of Criminal Courts (Sentencing) Act 2000

2000 CHAPTER 6

PART I **E+W**

POWERS EXERCISABLE BEFORE SENTENCE

Remission for sentence: young offenders etc.

- 8 Power and duty to remit young offenders to youth courts for sentence. **E+W****
- (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 ^{M1}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;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 ^{M2}Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary

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- 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

- M1** 1998 c. 37.
M2 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. **E+W**

- (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.

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- (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 ^{M3}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 ^{M4}Bail Act 1976.

Marginal Citations

M3 1980 c. 43.

M4 1976 c. 63.

10 Power of magistrates' court to remit case to another magistrates' court for sentence. **E+W**

- (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

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- (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 ^{M5}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 ^{M6}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 ^{M7}Bail Act 1976.

Marginal Citations

M5 1988 c. 53.

M6 1980 c. 43.

M7 1976 c. 63.

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