



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 9

#### SUPPLEMENTARY

## 302 Execution of process between England and Wales and Scotland

Section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) (execution of process of English and Welsh courts in Scotland) applies to any process issued by a magistrates' court under—

[<sup>F1</sup>section 256AC(1) or (3),  
section 256C(1) or (3),]  
paragraph 7(2) or (4), 13(6) or 25(1) of Schedule 8,  
paragraph 12 of Schedule 9,  
<sup>F2</sup> ..., <sup>F3</sup> ...  
paragraph 6(2) or (4), 12(1) or 20(1) of Schedule 12,  
[<sup>F4</sup>paragraph 8(1) or 10(5) of Schedule 19A,]

as it applies to process issued under the Magistrates' Courts Act 1980 by a magistrates' court.

### Textual Amendments

- F1** Words in s. 302 inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 24\(2\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F2** Words in s. 302 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 36](#); S.I. 2012/2906, art. 2(h)

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- F3** Word in s. 302 omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 24\(3\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)
- F4** Words in s. 302 inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 24\(4\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u)

#### Commencement Information

- I1** S. 302 wholly in force at 4.4.2005; s. 302 not in force at Royal Assent, see s. 336(3); s. 302 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 302 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 21](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 303 Sentencing: repeals

The following enactments (which are superseded by the provisions of this Part) shall cease to have effect—

- (a) Part 2 of the Criminal Justice Act 1991 (c. 53) (early release of prisoners),
- (b) in the Crime (Sentences) Act 1997 (c. 43)—
  - (i) section 29 (power of Secretary of State to release life prisoners to whom section 28 of that Act does not apply),
  - (ii) section 33 (transferred prisoners), and
  - (iii) sections 35 and 40 (fine defaulters),
- (c) sections 80 and 81 of the Crime and Disorder Act 1998 (c. 37) (sentencing guidelines), and
- (d) in the Sentencing Act—
  - (i) Chapter 3 of Part 4 (community orders available only where offender 16 or over),
  - (ii) section 85 (sexual or violent offences: extension of custodial term for licence purposes),
  - (iii) sections 87 and 88 (remand in custody),
  - (iv) section 109 (life sentence for second serious offence), and
  - (v) Chapter 5 of Part 5 (suspended sentences).

#### Commencement Information

- I2** S. 303 partly in force; s. 303(b)(i)(ii) in force at 18.12.2003 see s. 336(2); s. 303(a)(c)(d) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 22](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 304 Amendments relating to sentencing

Schedule 32 (which contains amendments related to the provisions of this Part) shall have effect.

#### Commencement Information

- I3** S. 304 partly in force; s. 304 in force for certain purposes at 18.12.2003, see s. 336(2); s. 304 in force for certain purposes at 22.1.2004 by [S.I. 2004/81](#), [art. 3](#); s. 304 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 304 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 23](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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### 305 Interpretation of Part 12

(1) In this Part, except where the contrary intention appears—

“accredited programme” has the meaning given by section 202(2);

<sup>F5</sup> ...

[<sup>F6</sup>“alcohol abstinence and monitoring requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 212A; ]

“alcohol treatment requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 212;

“the appropriate officer of the court” means, in relation to a magistrates' court, the [<sup>F7</sup>designated officer for] the court;

“associated”, in relation to offences, is to be read in accordance with section 161(1) of the Sentencing Act;

“attendance centre” has the meaning given by section 221(2);

“attendance centre requirement”, in relation to a community order, <sup>F8</sup>... or suspended sentence order, has the meaning given by section 214;

“community order” has the meaning given by section 177(1);

“community requirement”, in relation to a suspended sentence order, has the meaning given by section 189(7);

“community sentence” has the meaning given by section 147(1);

“court” (without more), except in Chapter 7, does not include a service court [<sup>F9</sup>, but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006;]

“curfew requirement”, in relation to a community order, <sup>F8</sup>... or suspended sentence order, has the meaning given by section 204;

“custodial sentence” has the meaning given by section 76 of the Sentencing Act;

<sup>F10</sup> .....

“default order” has the meaning given by section 300(3);

“drug rehabilitation requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 209;

“electronic monitoring requirement”, in relation to a community order, <sup>F8</sup>... or suspended sentence order, has the meaning given by section 215;

“exclusion requirement”, in relation to a community order, <sup>F8</sup>... or suspended sentence order, has the meaning given by section 205;

[<sup>F11</sup>“foreign travel prohibition requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 206A;]

“guardian” has the same meaning as in the Children and Young Persons Act 1933 (c. 12);

<sup>F12</sup> .....

“licence” means a licence under Chapter 6;

“local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43);

“mental health treatment requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 207;

“pre-sentence report” has the meaning given by section 158(1);

“programme requirement”, in relation to a community order, <sup>F8</sup>... or suspended sentence order, has the meaning given by section 202;

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“prohibited activity requirement”, in relation to a community order,<sup>F8</sup>... or suspended sentence order, has the meaning given by section 203;

[<sup>F13</sup>“rehabilitation activity requirement” , in relation to a community order or suspended sentence order, has the meaning given by section 200A;]

“residence requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 206;

“responsible officer”, in relation to an offender to whom a community order,<sup>F14</sup>... or a suspended sentence order relates, has the meaning given by section 197;

“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 are to be read accordingly;

“the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

[<sup>F15</sup>“service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;]

<sup>F5</sup>  
...

“suspended sentence” and “suspended sentence order” have the meaning given by section 189(7);

“unpaid work requirement”, in relation to a community order,<sup>F8</sup>... or suspended sentence order, has the meaning given by section 199;

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

[<sup>F16</sup>(1A) In this Part any 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).]
- (2) For the purposes of any provision of this Part which requires the determination of the age of a person by the court or the Secretary of State, his age is to be taken 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.
- (3) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.

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(4) For the purposes of this Part—

- [<sup>F17</sup>(za) a sentence falls to be imposed under [<sup>F18</sup>section 1(2B) or 1A(5)] of the Prevention of Crime Act 1953 if it is required by [<sup>F19</sup>that provision] and the court is not of the opinion there mentioned,]
- (a) a sentence falls to be imposed under subsection (2) of section 51A of the Firearms Act 1968 (c. 27) if it is required by that subsection and the court is not of the opinion there mentioned,
- [<sup>F20</sup>(aa) a sentence falls to be imposed under [<sup>F21</sup>section 139(6B), 139A(5B) or 139AA(7)] of the Criminal Justice Act 1988 if it is required by [<sup>F22</sup>that provision] and the court is not of the opinion there mentioned,]
- (b) a sentence falls to be imposed under section 110(2) or 111(2) of the Sentencing Act if it is required by that provision and the court is not of the opinion there mentioned,
- [<sup>F23</sup>(ba) a sentence falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 if it is required by that provision and the court is not of the opinion there mentioned,]
- [<sup>F24</sup>(bb) a sentence falls to be imposed under section 224A if the court is obliged by that section to pass a sentence of imprisonment for life,]
- [<sup>F25</sup>(c) a sentence falls to be imposed under subsection (2) of section 225 if the court is obliged to pass a sentence of imprisonment for life under that subsection;
- (d) a sentence falls to be imposed under subsection (2) of section 226 if the court is obliged to pass a sentence of detention for life under that subsection;]
- [<sup>F26</sup>(e) .....

#### Textual Amendments

- F5** Words in s. 305(1) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 5 para. 6\(3\)](#) (with [Sch. 7 para. 7](#)); S.I. 2015/40, art. 2(v)
- F6** Words in s. 305(1) inserted (31.7.2014 only in relation to the South London local justice area for specified purposes until 31.3.2016, 1.4.2016 for specified local justice areas for all purposes other than application by the Armed Forces Act 2006 until 31.3.2018, 1.5.2017 in relation to specified local justice areas for specified purposes until the end of 30.4.2019, 19.5.2020 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 76\(8\)](#), [77](#), [151\(3\)](#); S.I. 2014/1777, [arts. 2](#), [3](#), [4\(1\)](#) (with [art. 4\(2\)](#)) (as amended (30.7.2015) by S.I. 2015/1480, [arts. 1](#), [2](#) and (30.1.2016) by S.I. 2016/1, [arts. 1](#), [2](#)); S.I. 2016/286, [arts. 2](#), [3](#), [4\(1\)](#) (with [art. 4\(2\)](#)) (as amended (31.3.2017) by S.I. 2017/225, [arts. 1](#), [2](#)); S.I. 2017/525, [arts. 2](#), [3](#), [4\(1\)](#) (with [art. 4\(2\)](#)); S.I. 2020/478, [art. 2](#)
- F7** Words in s. 305(1) substituted (6.4.2020) by [Courts and Tribunals \(Judiciary and Functions of Staff\) Act 2018 \(c. 33\)](#), s. 4(3), [Sch. para. 37](#); S.I. 2020/24, reg. 3(b)
- F8** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(c\)](#); S.I. 2012/2906, art. 2(h)
- F9** S. 305(1): words in definition of "court" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 378\(1\)](#), [383](#), [Sch. 16 para. 231\(a\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F10** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(a\)](#); S.I. 2012/2906, art. 2(h)
- F11** Words in s. 305(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 72\(6\)](#), [151\(1\)](#); S.I. 2012/2906, art. 2(a) (with [art. 3](#))
- F12** Words in s. 305(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 37\(b\)](#); S.I. 2012/2906, art. 2(h)

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- F13** Words in s. 305(1) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 5 para. 6(2)** (with Sch. 7 para. 7); S.I. 2015/40, art. 2(v)
- F14** Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(d)**; S.I. 2012/2906, art. 2(h)
- F15** S. 305(1): definition of "service court" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for definitions of "service court" and "service disciplinary proceedings" by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 231(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F16** S. 305(1A) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 155** (with s. 89) (as amended (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(11), 151(1) (with **Sch. 15**); S.I. 2012/2906, **art. 2(d)**); S.I. 2014/768, **art. 2(1)(b)**
- F17** S. 305(4)(za) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 22(2)**; S.I. 2012/2770, art. 2(f)
- F18** Words in s. 305(4)(za) substituted (17.7.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 5 para. 16(2)(a)**; S.I. 2015/1463, art. 2(b)
- F19** Words in s. 305(4)(za) substituted (17.7.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 5 para. 16(2)(b)**; S.I. 2015/1463, art. 2(b)
- F20** S. 305(4)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 26 para. 22(3)**; S.I. 2012/2770, art. 2(f)
- F21** Words in s. 305(4)(aa) substituted (17.7.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 5 para. 16(3)(a)**; S.I. 2015/1463, art. 2(b)
- F22** Words in s. 305(4)(aa) substituted (17.7.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 5 para. 16(3)(b)**; S.I. 2015/1463, art. 2(b)
- F23** S. 305(4)(ba) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), **Sch. 1 para. 9(8)**; S.I. 2007/858, **art. 2(g)**
- F24** S. 305(4)(bb) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 22**; S.I. 2012/2906, art. 2(q)
- F25** S. 305(4)(c)(d) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 72(a)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F26** S. 305(4)(e) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 149, 153, Sch. 26 para. 72(b), **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 paras. 48(a), 50(2)(c)

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

- C1** S. 305(4)(bb) modified (temp.) (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 24(3)**; S.I. 2012/2906, art. 2(q)
- C2** S. 305(4)(c) modified (14.7.2008) by The Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008 (S.I. 2008/1587), **art. 2(4)**

#### Commencement Information

- I4** S. 305 wholly in force at 4.4.2005; s. 305 not in force at Royal Assent, see s. 336(3); s. 305(1)-(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 305 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 24 (subject to art. 2(2), Sch. 2)

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