



Sentencing Act 2020

2020 CHAPTER 17

SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

PART 2

POWERS EXERCISABLE BEFORE PASSING SENTENCE

CHAPTER 1

DEFERMENT OF SENTENCE

3 Deferment order

- (1) In this Code “deferment order” means an order deferring passing sentence on an offender in respect of one or more offences until the date specified in the order, to enable a court, in dealing with the offender, to have regard to—
 - (a) the offender's conduct after conviction (including, where appropriate, the offender's making reparation for the offence), or
 - (b) any change in the offender's circumstances.
- (2) A deferment order may impose requirements (“deferment requirements”) as to the offender's conduct during the period of deferment.
- (3) Deferment requirements may include—
 - (a) requirements as to the residence of the offender during all or part of the period of deferment;
 - (b) restorative justice requirements.

Commencement Information

II S. 3 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

4 Availability of deferment order

(1) A deferment order is available to the Crown Court or a magistrates' court in respect of an offence where—

- (a) the offender is before the court to be dealt with for the offence, and
- (b) no previous deferment order has been made in respect of the offence.

See also section 11(4) (power of Crown Court to make further deferment order where magistrates' court commits offender for sentence).

(2) But a deferment order is not available to a magistrates' court dealing with an offender in respect of an offence for which section 85(1)(a) (compulsory referral conditions) requires the court to make a referral order.

Commencement Information

I2 S. 4 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

5 Making a deferment order

(1) A court may make a deferment order in respect of an offence only if—

- (a) the offender consents,
- (b) the offender undertakes to comply with any deferment requirements the court proposes to impose,
- (c) if those requirements include a restorative justice requirement, section 7(2) (consent of participants in restorative justice activity) is satisfied, and
- (d) 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 make the order.

(2) The date specified under section 3(1) in the order may not be more than 6 months after the date on which the order is made.

(3) A court which makes a deferment order must forthwith give a copy of the order—

- (a) to the offender,
- (b) if it imposes deferment requirements that include a restorative justice requirement, to every person who would be a participant in the activity concerned (see section 7(1)),
- (c) where an officer of a provider of probation services has been appointed to act as a supervisor, to that provider, and
- (d) where a person has been appointed under section 8(1)(b) to act as a supervisor, to that person.

(4) A court which makes a deferment order may not on the same occasion remand the offender, notwithstanding any enactment.

Commencement Information

I3 S. 5 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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6 Effect of deferment order

- (1) Where a deferment order has been made in respect of an offence, the court which deals with the offender for the offence may have regard to—
 - (a) the offender's conduct after conviction, or
 - (b) any change in the offender's circumstances.
- (2) The matters to which the court may have regard in dealing with the offender include, in particular—
 - (a) where appropriate, the making by the offender of reparation for the offence, and
 - (b) the extent to which the offender has complied with any deferment requirements.
- (3) Subsection (4) applies where—
 - (a) the court which made a deferment order proposes to deal with the offender on the date specified in the order, or
 - (b) the offender does not appear on that date.
- (4) The court may—
 - (a) issue a summons requiring the offender to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for the offender's arrest which requires the offender to be brought before the court at the time and place specified in the warrant.
- (5) Subsection (6) applies where a magistrates' court makes a deferment order.
- (6) In making the order the court is to be regarded as having adjourned the trial under section 10(1) of the Magistrates' Courts Act 1980.

Accordingly, sections 11(1) and 13(1) to (3A) and (5) of that Act (non-appearance of the accused) apply if the offender does not appear on the date specified in the deferment order (but this is without prejudice to subsection (4)).

Commencement Information

I4 S. 6 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

7 Restorative justice requirements

- (1) Any reference in this Chapter 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.
- (2) A restorative justice requirement may not be imposed as a deferment requirement without the consent of every person who would be a participant in the activity.

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- (3) For the purposes of subsection (2), a supervisor and the offender do not count as proposed participants.
- (4) A person running an activity for the purposes of a restorative justice requirement must have regard to any guidance issued from time to time by the Secretary of State with a view to encouraging good practice in connection with such an activity.
- (5) In this section “victim” means a victim of, or other person affected by, the offending concerned.

Commencement Information

I5 S. 7 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

8 Deferment order: supervisor

Appointment of supervisor

- (1) Where a court makes a deferment order that imposes deferment requirements, it may appoint—
 - (a) an officer of a provider of probation services, or
 - (b) any other person the court thinks appropriate who consents to the appointment,
 to act as a supervisor in relation to the offender.

Function of supervisor

- (2) A supervisor must—
 - (a) monitor the offender's compliance with the deferment requirements, and
 - (b) provide the court which deals with the offender for any offence in respect of which the order was made with such information as the court may require relating to the offender's compliance with the deferment requirements.

Supervisor appointed under subsection (1)(b): power of magistrates' court to issue summons

- (3) Where—
 - (a) a deferment order imposes deferment requirements,
 - (b) it falls to a magistrates' court to—
 - (i) deal with the offender for any offence in respect of which the order was made, or
 - (ii) determine under section 9(3)(b) whether the offender has failed to comply with a deferment requirement, and
 - (c) a justice of the peace is satisfied that a supervisor appointed under subsection (1)(b)—
 - (i) is likely to be able to give evidence that may assist the court in doing so, and
 - (ii) will not voluntarily attend as a witness,

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the justice may issue a summons directed to that supervisor requiring the supervisor to attend before the court at the time and place appointed in the summons to give evidence.

Commencement Information

I6 S. 8 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

9 Failure to comply with deferment requirement

- (1) This section applies where—
 - (a) a court has made a deferment order that imposes deferment requirements, and
 - (b) a supervisor has reported to the court that the offender has failed to comply with one or more of the deferment requirements.
- (2) The court may issue—
 - (a) a summons requiring the offender to appear before it at the time and place specified in the summons, or
 - (b) a warrant for the offender's arrest which requires the offender to be brought before it at the time and place specified in the warrant.
- (3) The court may deal with the offender for the offence in respect of which the order was made before the end of the period of deferment if—
 - (a) the offender appears or is brought before the court under subsection (2), and
 - (b) the court is satisfied that the offender has failed to comply with one or more of the deferment requirements.

For the powers of the court in dealing with the offender under this subsection, see section 11.

Commencement Information

I7 S. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

10 Conviction of offence during period of deferment

- (1) This section applies where a court has made a deferment order in respect of an offence.

Power of court which made deferment order

- (2) The court which made the order (“the original court”) may deal with the offender for the offence in respect of which the deferment order was made before the end of the period of deferment if during that period the offender is convicted in Great Britain of any offence.

For the powers of the original court in dealing with the offender under this subsection, see section 11.

- (3) Where the original court proposes to deal with the offender by virtue of subsection (2) before the end of the period of deferment, it may issue—

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- (a) a summons requiring the offender to appear before the court at the time and place specified in the summons, or
- (b) a warrant for the arrest of the offender, requiring the offender to be brought before the court at the time and place specified in the warrant.

Power of court which sentences offender for later offence

- (4) Subsection (5) applies where during the period of deferment the offender is convicted in England and Wales of any offence (“the later offence”).

This is subject to subsection (6).

- (5) The court which passes sentence on the offender for the later offence may also deal with the offender for the offence or offences in respect of which the deferment order was made (if this has not already been done).

For the powers of the court in dealing with the offender under this subsection, see section 11.

- (6) Subsection (5) does not apply where—
- (a) the deferment order was made by the Crown Court, and
 - (b) the court which passes sentence on the offender for the later offence is a magistrates' court.
- (7) Subsection (5)—
- (a) is without prejudice to subsection (2), and
 - (b) applies whether or not the offender is sentenced for the later offence during the period of deferment.

Commencement Information

18 S. 10 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

11 Powers of court dealing with offender following deferment order

- (1) Subsection (2) applies where an offender who is subject to a deferment order is being dealt with for any offence in respect of which the order was made—
- (a) by the court which made the order (“the original court”)—
 - (i) at the end of the period of deferment, in accordance with the deferment order,
 - (ii) under section 9(3) (failure to comply with deferment requirement), or
 - (iii) under section 10(2) (original court dealing with offender following conviction during period of deferment), or
 - (b) by any court under section 10(5) (conviction during period of deferment: convicting court dealing with offender).
- (2) The court may deal with the offender for the offence in any way in which the original court could have dealt with the offender for the offence if it had not made a deferment order.
- (3) Where a magistrates' court is dealing with the offender, its power under that subsection includes, in particular, the power in section 14 to commit the offender to the Crown Court for sentence.

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- (4) Where a magistrates' court deals with the offender by committing the offender to the Crown Court under section 14, the power of the Crown Court to deal with the offender includes the same power to make a deferment order as if the offender had just been convicted of the offence on indictment before it.

Commencement Information

I9 S. 11 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

12 Saving for power to bind over and other powers to defer sentence

Nothing in this Chapter affects—

- (a) the power of the Crown Court to bind over an offender to come up for judgment when called upon, or
- (b) any other power of a court to defer passing sentence.

Commencement Information

I10 S. 12 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

13 Deferment orders: interpretation

(1) In this Chapter—

- “deferment requirement” has the meaning given by section 3(2);
- “period of deferment”, in relation to a deferment order, means the period from the date on which the deferment order is made until the date specified in the order under section 3(1);
- “restorative justice requirement” has the meaning given by section 7;
- “supervisor”, in relation to a deferment order, means a person appointed under section 8(1).

(2) In relation to a deferment order made by a magistrates' court, any reference in this Chapter to the court which made the order includes a reference to any magistrates' court acting in the same local justice area as that court.

Commencement Information

I11 S. 13 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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CHAPTER 2

COMMITTAL TO THE CROWN COURT FOR SENTENCE

Committal following summary trial: adults and corporations

14 Committal for sentence on summary trial of offence triable either way: adults and corporations

- (1) This section applies where—
- (a) on the summary trial of an offence triable either way a person aged 18 or over is convicted of the offence, and
 - (b) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was so serious that the Crown Court should have the power to deal with the offender in any way it could deal with the offender if the offender had been convicted on indictment.

This is subject to the provisions mentioned in subsection (4).

- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 21(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.
- (4) For offences in relation to which this section does not apply see sections 17D and 33 of the Magistrates' Courts Act 1980 (exclusion in respect of certain offences where value involved is small).
- (5) This section applies to a corporation as if—
 - (a) the corporation were an individual aged 18 or over, and
 - (b) in subsection (2) the words “in custody or on bail” were omitted.

Commencement Information

I12 S. 14 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

15 Committal for sentence of dangerous adult offenders

- (1) This section applies where—
- (a) on the summary trial of a specified offence (see section 306) triable either way a person aged 18 or over is convicted of the offence, and
 - (b) the court is of the opinion that an extended sentence of detention in a young offender institution or of imprisonment (see section 266 or 279) would be available in relation to the offence.

[^{F1}(1A) This section also applies where—

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- (a) on the summary trial of an offence specified in Schedule 17A triable either way a person is convicted of the offence, and
 - (b) the court is of the opinion that the circumstances are such that a serious terrorism sentence (see section 268A or 282A) may be required to be imposed.]
- (2) The court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 21(2).
 - (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.
 - (4) In doing anything under or contemplated by this section, the court is not 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).
 - (5) 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 inconsistent with an indication of sentence.
 - (6) Nothing in this section prevents the court from committing an offender convicted of [F2an offence] to the Crown Court for sentence under section 14 or 18 if the provisions of that section are satisfied.

Textual Amendments

- F1** S. 15(1A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 11(2)(a)
- F2** Words in s. 15(6) substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), Sch. 13 para. 11(2)(b)

Commencement Information

- I13** S. 15 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Committal following summary trial: persons under 18

16 Committal for sentence of young offenders on summary trial of certain serious offences

- (1) This section applies where—
 - (a) on the summary trial of an offence within paragraph (a) or (b) of the table in section 249(1) (offences punishable with imprisonment for 14 years or more and certain sexual offences), a person is convicted of the offence,
 - (b) the person is aged under 18 at the time of conviction, and
 - (c) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,was such that the Crown Court should have power to deal with the offender by imposing a sentence of detention under section 250.
- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).

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- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.

Commencement Information

I14 S. 16 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

[^{F3}16A Committal for sentence of young offenders on summary trial of certain terrorist offences

- (1) This section applies where—
- (a) on summary trial of an offence within section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern), a person is convicted of the offence,
 - (b) the person is aged under 18 at the time of conviction, and
 - (c) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was such that the Crown Court should have power to deal with the offender by imposing a sentence of detention under section 252A for a term of more than two years.
- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.]

Textual Amendments

F3 [S. 16A](#) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(2\)](#)

17 Committal for sentence of dangerous young offenders

- (1) This section applies where—
- (a) on the summary trial of a specified offence (see section 306) a person aged under 18 is convicted of the offence, and
 - (b) the court is of the opinion that an extended sentence of detention under section 254 would be available in relation to the offence.
- (2) The court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.

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- (4) Nothing in this section prevents the court from committing a person convicted of a specified offence to the Crown Court for sentence under section 16 [F4, 16A] or 19 if the provisions of that section are satisfied.

Textual Amendments

- F4** Word in s. 17(4) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 26(3)

Commencement Information

- I15** S. 17 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Committal for sentence following indication of guilty plea

18 Committal for sentence on indication of guilty plea to offence triable either way: adult offenders

- (1) Where a magistrates' court—
- has convicted an offender aged 18 or over of an offence triable either way following an indication of a guilty plea, and
 - has sent the offender to the Crown Court for trial for one or more related offences,
- it may commit the offender in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 21(2).
- (2) For offences in relation to which subsection (1) does not apply, see section 17D of the Magistrates' Courts Act 1980 (cases where value involved is small).
- (3) Where a magistrates' court—
- convicts an offender aged 18 or over of an offence triable either way following an indication of a guilty plea, and
 - is still to determine to send, or 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,
- it must adjourn the proceedings relating to the offence until after it has made those determinations.
- (4) Where the court—
- commits the offender under subsection (1) to the Crown Court to be dealt with in respect of the offence, and
 - in its opinion also has power under section 14(2) or is required under section 15(2) to commit the offender to the Crown Court to be dealt with in respect of the offence,
- the court may make a statement of that opinion.
- (5) For powers of the court, where it commits a person under subsection (1), also to commit in respect of other offences, see section 20.
- (6) For the purposes of this section, a magistrates' court convicts a person of an offence triable either way following an indication of a guilty plea if—

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- (a) the person appears or is brought before the court on an information charging the person with the offence,
 - (b) the person or (where applicable) the person's representative indicates under—
 - (i) section 17A or 17B of the Magistrates' Courts Act 1980 (indication of intention as to plea in case of offence triable either way), or
 - (ii) section 20(7) of that Act (summary trial appears more suitable),
 that the person would plead guilty if the offence were to proceed to trial, and
 - (c) proceeding as if—
 - (i) section 9(1) of that Act were complied with, and
 - (ii) the person pleaded guilty under it,
 the court convicts the person of the offence.
- (7) For the purposes of this section—
- (a) “related offence” means an offence which, in the opinion of the court, is related to the offence, and
 - (b) 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.
- (8) In doing anything under or contemplated by this section, the court is not 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).
- (9) 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 inconsistent with an indication of sentence.

Commencement Information

I16 S. 18 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

19 Committal for sentence on indication of guilty plea by child with related offences

- (1) Where—
- (a) a magistrates' court—
 - (i) has convicted a person aged under 18 of an offence following an indication of a guilty plea, and
 - (ii) has sent the person to the Crown Court for trial for one or more related offences, and
 - (b) the offence falls within paragraph (a) or (b) of the table in section 249(1) (offences punishable with imprisonment for 14 years or more and certain sexual offences) [^{F5}or section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern)],
- the court may commit the offender in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 22(2).
- (2) Where a magistrates' court—
- (a) convicts a person aged under 18 of an offence mentioned in paragraph (a) or (b) of the table in section 249(1) [^{F6}or within section 252A(1)(a)] following an indication of a guilty plea, and

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- (b) is still to determine to send, or whether to send, the person to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998 for one or more related offences,
- it must adjourn the proceedings relating to the offence until after it has made those determinations.
- (3) Where the court—
- (a) commits the offender under subsection (1) to the Crown Court to be dealt with in respect of the offence, and
- (b) in its opinion, also has power so to commit the offender under section 16(2) [^{F7}, 16A(2)] or 17(2),
- the court may make a statement of that opinion.
- (4) For powers of the court, where it commits a person under subsection (1), also to commit in respect of other offences, see section 20.
- (5) For the purposes of this section, a magistrates' court convicts a person aged under 18 of an offence following an indication of a guilty plea if—
- (a) the person appears or is brought before the court when aged under 18 on an information charging the person with the offence,
- (b) the person or the person's representative indicates under section 24A or 24B of the Magistrates' Courts Act 1980 (child or young person to indicate intention as to plea in certain cases) that the person would plead guilty if the offence were to proceed to trial, and
- (c) proceeding as if—
- (i) section 9(1) of that Act were complied with, and
- (ii) the person pleaded guilty under it,
- the court convicts the person of the offence.
- (6) For the purposes of this section—
- (a) “related offence” means an offence which, in the opinion of the court, is related to the offence, and
- (b) 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.

Textual Amendments

- F5** Words in s. 19(1)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(a\)](#)
- F6** Words in s. 19(2)(a) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(b\)](#)
- F7** Word in s. 19(3)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(c\)](#)

Commencement Information

- I17** S. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

Committal for sentence where offender committed in respect of another offence

20 Committal in certain cases where offender committed in respect of another offence

- (1) This section applies where a magistrates' court (“the committing court”) commits an offender to the Crown Court under—
- (a) sections 14 to 19 (committal for sentence for indictable offences),
 - (b) paragraph 5(4) of Schedule 2 (further offence committed by offender given conditional discharge order),
 - (c) paragraph 24(2) of Schedule 10 (committal to Crown Court where offender convicted of further offence while community order is in force),
 - (d) paragraph 11(2) of Schedule 16 (committal to Crown Court where offender commits further offence during operational period of suspended sentence order),
 - (e) section 43 of the Mental Health Act 1980 (power of magistrates' courts to commit for restriction order),
 - (f) section 6(6) or 9(3) of the Bail Act 1976 (committal to Crown Court for offences of absconding by person released on bail or agreeing to indemnify sureties in criminal proceedings), or
 - (g) the Vagrancy Act 1824 (incorrigible rogues),
- to be sentenced or otherwise dealt with in respect of an offence (“the relevant offence”).
- (2) Where—
- (a) the relevant offence is an indictable offence, and
 - (b) the committing court has power to deal with the offender in respect of another offence,
- the committing court may also commit the offender to the Crown Court to be dealt with in respect of the other offence in accordance with section 23.
- (3) It is immaterial for the purposes of subsection (2) whether the court which convicted the offender of the other offence was the committing court or another court.
- (4) Where the relevant offence is a summary offence, the committing court may commit the offender to the Crown Court to be dealt with, in accordance with section 23, in respect of—
- (a) any other offence of which the committing court has convicted the offender which is punishable with—
 - (i) imprisonment, or
 - (ii) driving disqualification, or
 - (b) any suspended sentence in respect of which it falls to the committing court to deal with the offender by virtue of paragraph 11(1) of Schedule 16.
- (5) For the purposes of subsection (4)(a) an offence is punishable with driving disqualification if the committing court has a power or duty to order the offender to be disqualified under section 34, 35 or 36 of the Road Traffic Offenders Act 1988 (disqualification for certain motoring offences) in respect of it.
- (6) A committal to the Crown Court under this section is to be in custody or on bail as the case may require.

Status: Point in time view as at 14/07/2022.

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Commencement Information

I18 S. 20 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power of Crown Court on committal for sentence

21 Power of Crown Court on committal for sentence of offender under section 14, 15 or 18

- (1) This section applies where an offender is committed by a magistrates' court for sentence under—
- section 14(2) (committal for sentence on summary trial of offence triable either way),
 - section 15(2) (committal for sentence of dangerous adult offenders), or
 - section 18(1) (committal for sentence on indication of guilty plea to offence triable either way).

- (2) The Crown Court—
- must inquire into the circumstances of the case, and
 - may deal with the offender in any way in which it could deal with the offender if the offender had been convicted of the offence on indictment before the court.

This is subject to subsections (4) and (5).

- (3) Any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
- is not to be discharged or exercised by that court, but
 - is instead to be discharged or may instead be exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

- (4) Subsection (5) applies where a magistrates' court—
- commits an offender under section 18(1) to be dealt with in respect of an offence (“the offence”), but
 - does not make a statement under section 18(4) (statement of power to commit under section 14(2) or 15(2)).
- (5) Unless the offender is convicted before the Crown Court of at least one of the offences for which the magistrates' court has sent the offender for trial (see section 18(1)(b))—
- subsection (2)(b) does not apply, and
 - the Crown Court may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender for it.
- (6) 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) does not apply in respect of a specified offence (see section 306)—
- in respect of which the offender is committed under section 15(2) (dangerous adult offenders), or
 - in respect of which—

Status: Point in time view as at 14/07/2022.

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- (i) the offender is committed under section 18(1) (guilty plea to offence triable either way), and
- (ii) the court makes a statement under section 18(4) that, in its opinion, it also has power to commit the offender under section 15(2).

Commencement Information

I19 S. 21 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

22 Power of Crown Court on committal for sentence of person under 18 under section 16, [F⁸16A,] 17 or 19

- (1) This section applies where an offender is committed by a magistrates' court for sentence under—
- (a) section 16(2) (committal for sentence of young offenders on summary trial of certain serious offences),
 - [F⁹(aa) section 16A(2) (committal for sentence of young offenders on summary trial of certain terrorist offences),]
 - (b) section 17(2) (committal for sentence of dangerous young offenders), or
 - (c) section 19(1) (committal for sentence on indication of guilty plea by child or young person with related offences).
- (2) The Crown Court—
- (a) must inquire into the circumstances of the case, and
 - (b) may deal with the offender in any way in which it could deal with the offender if the offender had been convicted of the offence on indictment before the court.

This is subject to subsections (4) and (5).

- (3) Any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
- (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead be exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

- (4) Subsection (5) applies where a magistrates' court—
- (a) commits an offender under section 19(1) to be dealt with in respect of an offence (“the offence”), but
 - (b) does not make a statement under section 19(3) (statement of power to commit under section 16(2) [F¹⁰, 16A(2)] or 17(2)).
- (5) Unless the offender is convicted before the Crown Court of at least one of the offences for which the magistrates' court has sent the offender for trial (see section 19(1)(a))—
- (a) subsection (2)(b) does not apply, and
 - (b) the Crown Court may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender for it.

Status: Point in time view as at 14/07/2022.

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Textual Amendments

- F8** Word in s. 22 heading inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(a\)](#)
- F9** S. 22(1)(aa) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(b\)](#)
- F10** Word in s. 22(4)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(c\)](#)

Commencement Information

- I20** S. 22 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

23 Power of Crown Court on committal for sentence under section 20

- (1) Subsection (2) applies where under section 20(2) or (4)(a) (committal for sentence in certain cases where offender committed in respect of another offence) a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence.
- (2) The Crown Court—
 - (a) must inquire into the circumstances of the case, and
 - (b) may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender (assuming it had convicted the offender of the offence).
- (3) Subsection (4) applies where under section 20(4)(b) a magistrates' court commits a person to be dealt with by the Crown Court in respect of a suspended sentence.
- (4) The powers under paragraphs 13 and 14 of Schedule 16 (power of court to deal with suspended sentence) are exercisable by the Crown Court.
- (5) Subsection (6) applies where under section 20 a magistrates' court commits a person to be dealt with by the Crown Court.
- (6) Without prejudice to subsections (1) to (4), any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
 - (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead be exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

Commencement Information

- I21** S. 23 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Further powers to commit to Crown Court for sentence

24 Further powers to commit offender to the Crown Court to be dealt with

- (1) For other powers of a magistrates' court to commit an offender to the Crown Court to be dealt with for an offence, see—

Status: Point in time view as at 14/07/2022.

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- (a) paragraph 22(2) and (4) of Schedule 7 (offender subject to youth rehabilitation order made by Crown Court convicted of further offence by magistrates' court);
 - (b) section 70 of the Proceeds of Crime Act 2002 (request by prosecution with a view to consideration of confiscation order under section 6 of that Act);
 - (c) section 43(1) of the Mental Health Act 1983 (power of magistrates' courts to commit for restriction order);
 - (d) section 6(6) of the Bail Act 1976 (offence of absconding by person released on bail);
 - (e) section 9(3) of that Act (offence of agreeing to indemnify sureties in criminal proceedings);
 - (f) the Vagrancy Act 1824 (incorrigible rogues).
- (2) Nothing in subsection (1) is to be taken to limit any other power of a magistrates' court to commit an offender to the Crown Court.

Commencement Information

I22 S. 24 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

CHAPTER 3

REMISSION TO YOUTH COURT OR OTHER MAGISTRATES' COURT FOR SENTENCE

25 Power and duty to remit offenders aged under 18 to youth courts for sentence

- (1) This section applies where a person aged under 18 is convicted by or before a court (“the convicting court”) of an offence other than homicide.
- (2) If the convicting court is the Crown Court, it must remit the offender to a youth court acting for the place where the sending court sat, unless satisfied that it would be undesirable to do so.

The “sending court” is the magistrates' court which sent the offender to the Crown Court for trial.

[^{F11}(2A) If—

- (a) the convicting court is a magistrates' court, and
 - (b) that court commits the offender to the Crown Court for sentence,
- the Crown Court may remit the offender to a youth court acting for the place where the convicting court sat.]
- (3) If the convicting court is a youth court, it may remit the offender to another youth court.
 - (4) If the convicting court is a magistrates' court other than a youth court—
 - (a) it may remit the offender to a youth court, and
 - (b) must do so unless subsection (5) applies.
 - (5) This subsection applies where the convicting court—
 - (a) would be required by section 85(1)(a) to make a referral order if it did not remit the offender to a youth court, or

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- (b) is of the opinion that the case is one which can properly be dealt with by means of—
- (i) an order for absolute discharge or an order for conditional discharge,
 - (ii) a fine, or
 - (iii) an order (under section 376) requiring the offender's parent or guardian to enter into a recognizance to take proper care of, and exercise proper control over, the offender,
- with or without any other order that the court has power to make when making an order for absolute discharge or an order for conditional discharge.
- (6) For the purposes of subsection (5)(b)(iii)—
- (a) “care” and “control” are to be read in accordance with section 376(3) (binding over of parent or guardian), and
 - (b) section 404 (certain references to parent or guardian to be read as references to local authority) does not apply.
- (7) Any remission of an offender under subsection (3) or (4) must be to a youth court acting for—
- (a) the same place as the remitting court, or
 - (b) the place where the offender habitually resides.
- (8) Where an offender is remitted to a youth court under this section, that court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the offence.
- (9) A court which remits an offender to a youth court under this section must provide the designated officer for the youth court with a certificate which—
- (a) sets out the nature of the offence, and
 - (b) states—
 - (i) that the offender has been convicted of the offence, and
 - (ii) that the offender has been remitted for the purpose of being dealt with under subsection (8).
- (10) A document which purports—
- (a) to be a copy of an order made by a court under this section, and
 - (b) to be certified as a true copy by the designated officer for the court,
- is to be evidence of the order.

Textual Amendments

F11 S. 25(2A) inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), **ss. 11(2)**, 51(1)

Commencement Information

I23 S. 25 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

[^{F12}25A Power to remit adult offenders to magistrates' courts for sentence

- (1) This section applies where a person aged 18 or over, or a person who is not an individual—

Status: Point in time view as at 14/07/2022.

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- (a) has been convicted of an offence by a magistrates' court and committed to the Crown Court for sentence, or
 - (b) has been convicted of an offence (other than an offence triable only on indictment) by the Crown Court following a plea of guilty.
- (2) The Crown Court may remit the offender to a magistrates' court for sentence.
- (3) In deciding whether to exercise the power in subsection (2), the Crown Court must—
- (a) take into account any other offence before the Crown Court that appears to the court to be related to that offence (whether the same, or a different, person is accused or has been convicted of the other offence), and
 - (b) have regard to any allocation guidelines (or revised allocation guidelines) issued as definitive guidelines under section 122 of the Coroners and Justice Act 2009.
- (4) There is no right of appeal against an order under subsection (2).]

Textual Amendments

F12 S. 25A inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), **ss. 11(3)**, 51(1)

26 Remission by Crown Court to youth court [^{F13}or other magistrates' court]: custody or bail, and appeals

- (1) This section applies where the Crown Court remits an offender to a youth court under section 25 [^{F14}or a magistrates' court under section 25A].
- (2) The Crown Court may, subject to section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary—
- (a) with respect to the custody of the offender, or
 - (b) for the offender's release on bail,
- until the offender can appear or be brought before the youth court [^{F15}or magistrates' court].
- (3) The offender—
- (a) has no right of appeal against the order of remission, but
 - (b) has the same right of appeal against an order of the youth court [^{F16}or magistrates' court] as if convicted by that court.

Textual Amendments

F13 Words in s. 26 heading inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(1), **Sch. 2 para. 14(a)**

F14 Words in s. 26(1) inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(1), **Sch. 2 para. 14(b)**

F15 Words in s. 26(2) inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(1), **Sch. 2 para. 14(c)**

F16 Words in s. 26(3)(b) inserted (28.4.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(1), **Sch. 2 para. 14(d)**

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Commencement Information

I24 S. 26 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

27 Power of youth court to remit offender who attains age of 18 to magistrates' court other than youth court for sentence

- (1) Subsection (2) applies where a person who appears or is brought before a youth court charged with an offence subsequently reaches the age of 18.
- (2) The youth court may, at any time after conviction and before sentence, remit the offender for sentence to a magistrates' court other than a youth court (“the adult court”).
- (3) Where an offender is remitted under subsection (2), the adult court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the offence.
- (4) Where an offender is remitted under subsection (2), section 25(4) (duty of adult magistrates' court to remit young offenders to youth court for sentence) does not apply to the adult court.

Commencement Information

I25 S. 27 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

28 Power of magistrates' court to remit case to another magistrates' court for sentence

- (1) Subsection (2) applies where—
 - (a) a person aged 18 or over has been convicted by a magistrates' court (“the convicting court”) of a relevant offence (“the present offence”),
 - (b) it appears to the convicting court that some other magistrates' court (“the other court”) has convicted the offender of another relevant offence in respect of which the other court has not—
 - (i) passed sentence on the offender,
 - (ii) committed the offender to the Crown Court for sentence, nor
 - (iii) dealt with the offender in any other way, and
 - (c) the other court consents to the offender's being remitted to it under this section.
- (2) The convicting court may remit the offender to the other court to be dealt with in respect of the present offence by the other court instead of by the convicting court.
- (3) In subsection (1), “relevant offence”, in relation to the convicting court or the other court, means an offence which is punishable by that court with—
 - (a) imprisonment, or
 - (b) driving disqualification.

For this purpose, an offence is punishable by a court with driving disqualification if the court has a power or duty to order the offender to be disqualified under section 34, 35 or 36 of the Road Traffic Offenders Act 1988 (disqualification for certain motoring offences) in respect of it.

Status: Point in time view as at 14/07/2022.

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- (4) Where the convicting court remits the offender to the other court under this section the other court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the present offence.

This is subject to subsection (7).

- (5) The power conferred on the other court by subsection (4) includes, where applicable, the power to remit the offender under this section to another magistrates' court in respect of the present offence.
- (6) Where the convicting court has remitted the offender under this section, the other court may remit the offender back to the convicting court; and where it does so subsections (4) and (5) (so far as applicable) apply with the necessary modifications.
- (7) Nothing in this section prevents the convicting court from making a restitution order (see section 147) by virtue of the offender's conviction of the present offence.
- (8) In this section “conviction” includes a finding under section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) that the person in question did the act or made the omission charged, and “convicted” is to be read accordingly.

Commencement Information

I26 S. 28 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

29 Remission by magistrates' court: adjournment, remand and appeal

- (1) This section applies where a magistrates' court (“the remitting court”) remits an offender under section 25, 27 or 28 to another magistrates' court (“the other court”) to be dealt with in respect of an offence.
- (2) The remitting court must adjourn proceedings in relation to the offence.
- (3) Any remand enactment has effect, in relation to the remitting 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 other court.
- (4) In this section, “remand enactment” means section 128 of the Magistrates' Courts Act 1980 (remand in custody or on bail) or any other enactment, whenever passed or made, relating to remand or the granting of bail in criminal proceedings; and for this purpose—
- (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 Bail Act 1976.
- (5) The offender has no right of appeal against the order of remission.

This does not affect any right of appeal against an order made in respect of the offence by the other court.

Status: Point in time view as at 14/07/2022.

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Commencement Information

I27 S. 29 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

PART 3

PROCEDURE

CHAPTER 1

INFORMATION AND REPORTS

Pre-sentence reports

30 Pre-sentence report requirements

- (1) This section applies where, by virtue of any provision of this Code, the pre-sentence report requirements apply to a court in relation to forming an opinion.
- (2) If the offender is aged 18 or over, the court must obtain and consider a pre-sentence report before forming the opinion unless, in the circumstances of the case, it considers that it is unnecessary to obtain a pre-sentence report.
- (3) If the offender is aged under 18, the court must obtain and consider a pre-sentence report before forming the opinion unless—
 - (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court considers—
 - (i) in the circumstances of the case, and
 - (ii) having had regard to the information contained in that report or, if there is more than one, the most recent report,that it is unnecessary to obtain a pre-sentence report.
- (4) Where a court does not obtain and consider a pre-sentence report before forming an opinion in relation to which the pre-sentence report requirements apply, no custodial sentence or community sentence is invalidated by the fact that it did not do so.

Commencement Information

I28 S. 30 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

31 Meaning of “pre-sentence report” etc

“Pre-sentence report”

- (1) In this Code “pre-sentence report” means a report which—
 - (a) is made or submitted by an appropriate officer with a view to assisting the court in determining the most suitable method of dealing with an offender, and

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- (b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.
- (2) In subsection (1), “an appropriate officer” means—
 - (a) where the offender is aged 18 or over, an officer of a provider of probation services;
 - (b) where the offender is aged under 18—
 - (i) an officer of a provider of probation services,
 - (ii) a social worker of a local authority, or
 - (iii) a member of a youth offending team.
- (3) Rules under subsection (1)(b) are subject to the negative resolution procedure.

“Obtaining” a pre-sentence report

- (4) Where by any provision of this Code, the court is required to obtain a pre-sentence report, it may accept a pre-sentence report given orally in open court.

But this is subject to—

 - (a) any rules made under subsection (1)(b), and
 - (b) subsection (5).
- (5) A pre-sentence report must be in writing if it—
 - (a) relates to an offender aged under 18, and
 - (b) is required to be obtained and considered before the court forms an opinion mentioned in—
 - (i) section 230(2) (seriousness threshold for discretionary custodial sentence),
 - (ii) section 231(2) (determining term of custodial sentence),
 - (iii) section 255(1)(c) (determining risk of harm to public for purpose of extended sentence), or
 - (iv) section 258(1)(c) (determining risk of harm to public for purpose of required life sentence).

Modifications etc. (not altering text)

C1 S. 31(1) applied (with modifications) by 2006 c. 52, s. 257(2) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 57(a)(b)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#))

Commencement Information

I29 S. 31 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

32 Disclosure of pre-sentence reports

- (1) This section applies where the court obtains a pre-sentence report, other than a report given orally in open court.

Copy for offender and parent or guardian

- (2) The court must give a copy of the report—
 - (a) to the offender or the offender's legal representative, and

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- (b) if the offender is aged under 18, to any parent or guardian of the offender who is present in court.
- (3) But if—
- (a) the offender is aged under 18, and
 - (b) it appears to the court that the disclosure of any information contained in the report—
 - (i) to the offender, or
 - (ii) to a parent or guardian of the offender,would be likely to create a risk of significant harm to the offender,
- a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.

For this purpose, “harm” has the same meaning as in section 31 of the Children Act 1989.

Copy for prosecutor

- (4) The court must give a copy of the report to the prosecutor, that is to say, the person having the conduct of the proceedings in respect of the offence.
- (5) But a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for the prosecutor to be given it.

But this subsection does not apply if the prosecutor is of a description specified in regulations made by the Secretary of State.
- (6) No information obtained by virtue of subsection (4) may be used or disclosed otherwise than for the purpose of—
 - (a) determining whether representations as to matters contained in the report need to be made to the court, or
 - (b) making such representations to the court.
- (7) Regulations under subsection (5) are subject to the negative resolution procedure.

Modifications etc. (not altering text)

C2 S. 32(1)-(4) (6) applied by 2006 c. 52, s. 257(4) (as amended (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 25 para. 57\(c\)\(i\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2; S.I. 2020/1236, reg. 2)

Commencement Information

I30 S. 32 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

33 Appeals: requirements relating to pre-sentence reports

- (1) Any court, on an appeal against a custodial sentence or a community sentence, must—
 - (a) subject to subsection (2) or (3), obtain a pre-sentence report if none was obtained by the court below, and
 - (b) consider any such report obtained by it or by the court below.

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

- (2) If the offender is aged 18 or over, the court need not obtain a pre-sentence report if it considers—
- (a) that the court below was justified in not obtaining a pre-sentence report, or
 - (b) that, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.
- (3) If the offender is aged under 18, the court need not obtain a pre-sentence report if—
- (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court considers, having had regard to the information contained in that report or, if there is more than one, the most recent report—
 - (i) that the court below was justified in not obtaining a pre-sentence report, or
 - (ii) that, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.

Commencement Information

I31 S. 33 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Other reports of providers of probation services etc

34 Disclosure of other reports

- (1) This section applies where—
- (a) a report by—
 - (i) an officer of a provider of probation services, or
 - (ii) a member of a youth offending team,
 is made to any court (other than a youth court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, and
 - (b) the report is not a pre-sentence report.
- (2) The court must give a copy of the report—
- (a) to the offender or the offender's legal representative, and
 - (b) if the offender is aged under 18, to any parent or guardian of the offender who is present in court.
- (3) But if—
- (a) the offender is aged under 18, and
 - (b) it appears to the court that the disclosure of any information contained in the report—
 - (i) to the offender, or
 - (ii) to a parent or guardian of the offender,
 would be likely to create a risk of significant harm to the offender,
- a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.

Status: Point in time view as at 14/07/2022.

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For this purpose, “harm” has the same meaning as in section 31 of the Children Act 1989.

Commencement Information

I32 S. 34 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Financial circumstances orders

35 Powers to order statement as to offender's financial circumstances

- (1) In this Code, “financial circumstances order”, in relation to an individual, means an order requiring the individual to give the court, before the end of the period specified in the order, such a statement of the individual's assets and other financial circumstances as the court may require.
- (2) Where an individual has been convicted of an offence, the court may, before sentencing the individual, make a financial circumstances order with respect to the individual.
- (3) Where a magistrates' court has been notified in accordance with section 12(4) of the Magistrates' Courts Act 1980 that an individual desires to plead guilty without appearing before the court, the court may make a financial circumstances order with respect to the individual.
- (4) Where—
 - (a) an individual aged under 18 has been convicted of an offence, and
 - (b) the court is considering whether to make an order under section 380 in respect of the individual's parent or guardian (power to order parent or guardian to pay fine, costs, compensation or surcharge),the court may make a financial circumstances order with respect to the parent or (as the case may be) guardian.

Commencement Information

I33 S. 35 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

36 Financial circumstances order: offences

- (1) It is an offence for an individual to fail without reasonable excuse to comply with a financial circumstances order.
- (2) An individual who is guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) It is an offence for an individual, in furnishing any statement in pursuance of a financial circumstances order—
 - (a) to make a statement which the individual knows to be false in a material particular,
 - (b) recklessly to furnish a statement which is false in a material particular, or
 - (c) knowingly to fail to disclose any material fact.

Status: Point in time view as at 14/07/2022.

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- (4) An individual who is guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) Proceedings for an offence under subsection (3) may be commenced at any time which is both—
- (a) within 2 years from the date of the offence, and
 - (b) within 6 months from its first discovery by the prosecutor.

This subsection has effect despite anything in section 127(1) of the Magistrates' Courts Act 1980 (limitation of time).

Commencement Information

I34 S. 36 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Other powers to obtain reports etc

37 Reports and information: other powers of court

- (1) For other powers and duties of a court in relation to obtaining information or a report before passing sentence, see—
- (a) section 232 (medical report before passing certain custodial sentence in case of offender suffering from mental disorder);
 - (b) section 48(3) of the Children and Young Persons Act 1933 (power of youth court to remand for purpose of enabling information to be obtained with respect to offender aged under 18);
 - (c) section 10(3) of the Magistrates' Courts Act 1980 (adjournment by magistrates' court for purpose of enabling enquiries);
 - (d) section 35 of the Mental Health Act 1983 (remand to hospital for a report on the person's mental condition).
- (2) See also section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand by magistrates' court for medical examination) where a magistrates' court is considering whether to make an order under section 37(3) of the Mental Health Act 1983 (hospital admission or guardianship).

Commencement Information

I35 S. 37 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

CHAPTER 2

DEROGATORY ASSERTION ORDERS

38 Derogatory assertion order and restriction on reporting of assertions

- (1) While a derogatory assertion order or interim derogatory assertion order has effect in relation to an assertion, the assertion must not—

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

- (a) be published in Great Britain in a written publication available to the public, or
- (b) be included in a relevant programme for reception in Great Britain.

(2) In this Chapter—

“derogatory assertion order” means an order made under subsection (3) of section 39 in relation to an assertion to which that section applies;

“interim derogatory assertion order” means an order made under subsection (4) of section 39 in relation to an assertion to which that section applies.

Commencement Information

I36 S. 38 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

39 Order in respect of certain assertions

- (1) This section applies to an assertion that forms part of a speech in mitigation made by or on behalf of an offender before—
- (a) a court determining what sentence should be passed on the offender in respect of an offence, or
 - (b) a magistrates' court determining whether the offender should be committed to the Crown Court for sentence.
- (2) This section also applies to an assertion that forms part of a submission relating to a sentence which is made by or on behalf of the offender before—
- (a) a court hearing an appeal against or reviewing the sentence, or
 - (b) a court determining whether to grant leave to appeal against the sentence.
- (3) The court may make a derogatory assertion order in relation to an assertion to which this section applies where there are substantial grounds for believing—
- (a) that the assertion is derogatory to a person's character (for instance, because it suggests that the person's conduct is or has been criminal, immoral or improper), and
 - (b) that the assertion is false or that the facts asserted are irrelevant to the sentence.
- (4) Where it appears to the court that there is a real possibility that a derogatory assertion order will be made in relation to an assertion, the court may make an interim derogatory assertion order in relation to it (see subsection (8)).
- (5) No derogatory assertion order or interim derogatory assertion order may be made in relation to an assertion which it appears to the court was previously made—
- (a) at the trial at which the offender was convicted of the offence, or
 - (b) during any other proceedings relating to the offence.
- (6) Section 38(1) has effect where a court makes a derogatory assertion order or an interim derogatory assertion order.
- (7) A derogatory assertion order—
- (a) may be made after the court has made the relevant determination, but only if it is made as soon as is reasonably practicable after the determination has been made;

Status: Point in time view as at 14/07/2022.

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- (b) subject to subsection (10), ceases to have effect at the end of the period of 12 months beginning with the day on which it is made;
 - (c) may be made whether or not an interim derogatory assertion order has been made with regard to the case concerned.
- (8) An interim derogatory assertion order—
- (a) may be made at any time before the court makes the relevant determination, and
 - (b) subject to subsection (10), ceases to have effect when the court makes the relevant determination.
- (9) For the purposes of subsections (7) and (8) “relevant determination” means the determination of—
- (a) the sentence (where this section applies by virtue of subsection (1)(a));
 - (b) whether the offender should be committed to the Crown Court for sentence (where this section applies by virtue of subsection (1)(b));
 - (c) what the sentence should be (where this section applies by virtue of subsection (2)(a));
 - (d) whether to grant leave to appeal (where this section applies by virtue of subsection (2)(b)).
- (10) A derogatory assertion order or interim derogatory assertion order may be revoked at any time by the court which made it.

Commencement Information

I37 S. 39 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

40 Reporting of assertions: offences

- (1) If an assertion is published or included in a relevant programme in contravention of section 38, each of the following persons is guilty of an offence—
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
 - (b) in the case of publication in any other form, the person publishing the assertion;
 - (c) in the case of an assertion included in a relevant programme, any body corporate engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (2) A person guilty of an offence under this section is liable on summary conviction to—
- (a) in England and Wales, a fine;
 - (b) in Scotland, a fine of an amount not exceeding level 5 on the standard scale.
- (3) Where a person is charged with an offence under this section it is a defence to prove that at the time of the alleged offence the person—
- (a) was not aware, and neither suspected nor had reason to suspect, that a derogatory assertion order or interim derogatory assertion order had effect at that time, or

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- (b) was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the assertion in question.
- (4) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) a director, manager, secretary or other similar officer of the body corporate, or
 - (b) a person purporting to act in any such capacity,that person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In relation to a body corporate whose affairs are managed by its members, “director” in subsection (4) means a member of the body corporate.

Commencement Information

I38 S. 40 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

41 Reporting of assertions: supplementary

- (1) In sections 38 and 40—
 - “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;
 - “written publication” includes a film, a soundtrack and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.
- (2) For the purposes of sections 38 and 40 an assertion is published or included in a programme if the material published or included—
 - (a) names the person about whom the assertion is made or, without naming the person, contains enough to make it likely that members of the public will identify that person as the person about whom it is made, and
 - (b) reproduces the actual wording of the matter asserted or contains its substance.
- (3) Nothing in section 38 or 39 affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

Commencement Information

I39 S. 41 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

CHAPTER 3

SURCHARGE

42 Court's duty to order payment of surcharge

- (1) A court when dealing with an offender for one or more offences committed on or after 1 April 2007 must also order the offender to pay a surcharge.

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

This is subject to subsections (2) to (4).

(2) Subsection (1)—

- (a) does not apply in such cases as may be prescribed by regulations made by the Secretary of State, and
- (b) is subject to section 15 of the Proceeds of Crime Act 2002 (effect on duty in subsection (1) when proceedings on confiscation order are postponed).

(3) Where a court dealing with an offender considers—

- (a) that it would be appropriate to make one or more of—
 - (i) a compensation order,
 - (ii) an unlawful profit order, and
 - (iii) a slavery and trafficking reparation order, but
- (b) that the offender has insufficient means to pay both the surcharge and appropriate amounts under such of those orders as it would be appropriate to make,

the court must reduce the surcharge accordingly (if necessary to nil).

But see section 13(4) of the Proceeds of Crime Act 2002 (court not to take confiscation order into account.)

(4) Where an offender aged under 18 is convicted of an offence and, but for this subsection, a court would order the offender to pay a surcharge—

- (a) section 380 (orders for payment by parent or guardian) applies to the surcharge, and
- (b) for the purposes of any order under that section in respect of the surcharge, subsection (3)(b) of this section is to be read as if the reference to the offender's means were to the means of the offender's parent or guardian.

(5) For the purposes of this section a court does not “deal with” a person if it—

- (a) discharges the person absolutely, or
- (b) makes an order under the Mental Health Act 1983 in respect of the person.

(6) In this section—

“slavery and trafficking reparation order” means an order under section 8 of the Modern Slavery Act 2015;

“unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.

(7) Regulations under subsection (2) are subject to the negative resolution procedure.

Modifications etc. (not altering text)

C3 S. 42(1) excluded by S.I. 2012/1696, art. 2 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 405](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

Commencement Information

I40 S. 42 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

43 Amount of surcharge

- (1) The surcharge payable under section 42 is such amount as the Secretary of State may specify by regulations.
- (2) Regulations under this section may provide for the amount to depend on—
 - (a) the offence or offences committed;
 - (b) how the offender is otherwise dealt with (including, where the offender is fined, the amount of the fine);
 - (c) the age of the offender.
- (3) Regulations under this section are subject to the negative resolution procedure.

Commencement Information

I41 S. 43 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

CHAPTER 4

CRIMINAL COURTS CHARGE

44 Criminal courts charge duty where court dealing with offender for offence

Where the Crown Court or a magistrates' court deals with an offender for an offence, the criminal courts charge duty applies to the court (see section 46).

Commencement Information

I42 S. 44 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

45 Other occasions where criminal courts charge duty arises

For other occasions where the criminal courts charge duty applies to a court, see—

- (a) section 52A of the Senior Courts Act 1981 (dismissal of appeal by Crown Court);
- (b) section 30B of the Criminal Appeal Act 1968 (dismissal of appeal by Court of Appeal);
- (c) section 256AC of the Criminal Justice Act 2003 (breach of supervision requirements imposed on release);
- (d) paragraph 10(6) of Schedule 10 (magistrates' court dealing with offender for breach of requirement of community order);
- (e) paragraph 11(3) of that Schedule (Crown Court dealing with offender for breach of community order);
- (f) paragraph 13(2) of Schedule 16 (magistrates' court or Crown Court dealing with offender for breach of community requirement of suspended sentence order).

Status: Point in time view as at 14/07/2022.

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Commencement Information

I43 S. 45 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

46 Criminal courts charge duty

- (1) Where the criminal courts charge duty applies to a court in relation to an offender, the court must order the offender to pay a charge in respect of relevant court costs, unless—
- (a) the offender was aged under 18 when the offence was committed,
 - (b) the offence was committed before 13 April 2015, or
 - (c) the case is, or is of a class, prescribed by the Lord Chancellor by regulations.

But this is subject to section 15(2) of the Proceeds of Crime Act 2002 (effect on duty when proceedings on confiscation order are postponed).

- (2) In this section—

“court costs” means costs of providing the judiciary and the rest of the system of courts, but does not include defence or prosecution costs;

“relevant court costs” means court costs incurred in connection with—

- (a) criminal proceedings, or
- (b) proceedings for a relevant failure,

but does not include costs of providing the Supreme Court or judges of that Court;

“relevant failure” means a failure to comply with—

- (a) a requirement of a community order,
- (b) a community requirement of a suspended sentence order, or
- (c) a supervision requirement imposed under section 256AA of the Criminal Justice Act 2003.

- (3) In this Code, “criminal courts charge order” means an order under subsection (1).

Commencement Information

I44 S. 46 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

47 Court to disregard criminal courts charge duty in dealing with offender

- (1) This section applies where the criminal courts charge duty applies to a court in dealing with an offender for—
- (a) an offence, or
 - (b) a failure to comply with a requirement.
- (2) In dealing with the offender (other than under the duty) for the offence or failure, the court must not take into account—
- (a) the criminal courts charge duty, or
 - (b) any criminal courts charge order.

Status: Point in time view as at 14/07/2022.

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Commencement Information

I45 S. 47 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

48 Amount of criminal courts charge

- (1) A charge ordered to be paid by a criminal courts charge order must be of an amount specified by the Lord Chancellor by regulations.
- (2) When specifying amounts under this section, the Lord Chancellor must seek to secure that an amount specified in respect of a class of case does not exceed the relevant court costs reasonably attributable to a case of that class.
- (3) In this section “relevant court costs” has the same meaning as in section 46.

Commencement Information

I46 S. 48 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

49 Interest on criminal courts charge

- (1) The Lord Chancellor may by regulations provide that a person who is ordered by a criminal courts charge order to pay a charge must pay interest on the charge so far as it remains unpaid.
- (2) The regulations may, in particular—
 - (a) make provision about the rate of interest,
 - (b) make provision about periods when interest is or is not payable, and
 - (c) make provision by reference to a measure or document as amended from time to time.
- (3) The regulations may not make provision for a rate of interest that is higher than the rate that the Lord Chancellor considers would maintain the value in real terms of amounts that remain unpaid.
- (4) An amount of interest payable under the regulations is to be treated as part of the charge ordered to be paid by the criminal courts charge order.

Commencement Information

I47 S. 49 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

50 Power of magistrates' court to remit criminal courts charge

- (1) This section applies where a court has made a criminal courts charge order against a person.
- (2) A magistrates' court may remit the whole or part of the criminal courts charge, but this is subject to subsections (3) to (5).
- (3) It may remit the charge only if—

Status: Point in time view as at 14/07/2022.

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- (a) it is satisfied that the person has taken all reasonable steps to pay it, having regard to the person's personal circumstances, or
 - (b) it is satisfied that collection and enforcement of the charge is impracticable.
- (4) It may not remit the charge at a time when the person is detained in prison.
- (5) It may not remit the charge unless each of the following has expired—
- (a) a specified period beginning with the day on which a criminal courts charge order was last made in respect of the person;
 - (b) a specified period beginning with the day on which the person was last convicted of an offence;
 - (c) where relevant, a specified period beginning with the day on which the person was last released from prison.
- (6) Where a court remits a criminal courts charge after an order has been made under section 300(2) of the Criminal Justice Act 2003 (power to impose unpaid work requirement etc on fine defaulter) for default in paying the charge (or the charge and other amounts), the court must—
- (a) reduce the total number of hours or days to which the order relates by the same proportion as the amount remitted bears to the total amount in respect of which the order was made, or
 - (b) if the total number of hours or days would be reduced to nil under paragraph (a), revoke the order.
- (7) In calculating a reduction required by subsection (6), any fraction of an hour or day is to be rounded down to the nearest hour or day.
- (8) In this section—
- “criminal courts charge” means the charge ordered to be paid by a criminal courts charge order;
 - “prison” includes any place where a person serving a sentence of detention for an offence is liable to be detained;
 - “specified period” means a period of a length specified by the Lord Chancellor by regulations.

Commencement Information

I48 S. 50 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

51 Regulations under Chapter

- (1) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the powers to make regulations conferred by this Chapter.
- (2) Regulations under this Chapter are subject to the negative resolution procedure.

Commencement Information

I49 S. 51 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

CHAPTER 5

DUTIES TO EXPLAIN OR GIVE REASONS

52 Duty to give reasons for and to explain effect of sentence

- (1) A court passing sentence on an offender has the duties in subsections (2) and (3).
- (2) The court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- (3) The court must explain to the offender in ordinary language—
 - (a) the effect of the sentence,
 - (b) the effects of non-compliance with any order that the offender is required to comply with and that forms part of the sentence,
 - (c) any power of the court to vary or review any order that forms part of the sentence, and
 - (d) the effects of failure to pay a fine, if the sentence consists of or includes a fine.
- (4) Criminal Procedure Rules may—
 - (a) prescribe cases in which either duty does not apply, and
 - (b) make provision about how an explanation under subsection (3) is to be given.
- (5) Subsections (6) to (9) are particular duties of the court in complying with the duty in subsection (2).

Sentencing guidelines

- (6) The court must identify any sentencing guidelines relevant to the offender's case and—
 - (a) explain how the court discharged any duty imposed on it by section 59 or 60 (duty to follow guidelines unless satisfied it would be contrary to the interests of justice to do so);
 - (b) where the court was satisfied it would be contrary to the interests of justice to follow the guidelines, state why.
- (7) Where as a result of taking into account any matter mentioned in section 73(2) (guilty pleas), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, the court must state that fact.

Offender aged under 18

- (8) If the court imposes a youth rehabilitation order with supervision and surveillance, or a youth rehabilitation order with fostering, it must state why it is of the opinion mentioned in each of—
 - (a) section 179(2), and
 - (b) paragraph (a) and, if applicable, paragraph (b) of section 180(2).
- (9) If—
 - (a) the offender is aged under 18, and
 - (b) the court imposes a sentence that may only be imposed in the offender's case if the court is of the opinion mentioned in section 230(2) (discretionary custodial sentence),the court must state why it is of that opinion.

Status: Point in time view as at 14/07/2022.

Changes to legislation: Sentencing Act 2020, SECOND GROUP OF PARTS is up to date with all changes known to be in force on or before 13 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)

Commencement Information

I50 S. 52 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

53 Offender aged under 16: duties to give reasons where order not made in respect of parent or guardian

- (1) Where an offender aged under 16 is convicted of an offence, for the duty of the court to make a statement in certain circumstances—
- (a) if it does not make a parenting order under section 366 in respect of a parent or guardian of the offender, see subsection (3)(b) of that section;
 - (b) if it—
 - (i) makes a criminal behaviour order in respect of the offender, and
 - (ii) does not make a parenting order under section 8(1)(b) of the Crime and Disorder Act 1998 in respect of a parent or guardian of the offender,
 see section 9(1B) of that Act;
 - (c) if it does not make an order under section 376 (binding over of parent or guardian), see subsection (4)(b) of that section.
- (2) Section 404 (certain references to parent or guardian to be read as references to local authority) does not apply to this section.

Commencement Information

I51 S. 53 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

54 Duty to give reasons where reparation order not made

Where—

- (a) a court is dealing with an offender for an offence, and
- (b) a reparation order is available,

the court must give reasons if it does not make a reparation order.

Commencement Information

I52 S. 54 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

55 Duty to give reasons where compensation order not made

Where—

- (a) a court is dealing with an offender for an offence, and
- (b) a compensation order is available,

the court must give reasons if it does not make a compensation order.

Status: Point in time view as at 14/07/2022.

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Commencement Information

I53 S. 55 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

56 Other duties of court to give reasons where certain orders not made

- (1) For other duties of the court dealing with an offender for an offence to give reasons, in certain circumstances, for a decision not to make an order, see—

<i>Duty to give reasons</i>	<i>Type of order</i>	<i>Type of offence</i>
Criminal Justice and Police Act 2001		
section 33(2)(c)	travel restriction order under section 33	sentence of imprisonment for certain drug-trafficking offences
Animal Welfare Act 2006		
section 33(6)	order under section 33 (deprivation)	certain offences under that Act
section 34(8)	order under section 34 (disqualification)	certain offences under that Act
Football Spectators Act 1989		
section 14A(3)	banning order under Part 2	relevant offence within the meaning of that Part
Prevention of Social Housing Fraud Act 2013		
section 4(4)	unlawful profit order under section 4	offence under section 1 or 2
Modern Slavery Act 2015		
section 8(7)(b)	slavery and trafficking reparation order	offence under section 1, 2 or 4

- (2) Nothing in this section is to be taken to affect—

- (a) any power to make an order mentioned in the table in subsection (1), or
(b) any requirement to give reasons for a decision not to exercise any power to make an order not mentioned in the table.

Commencement Information

I54 S. 56 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status: Point in time view as at 14/07/2022.

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PART 4

EXERCISE OF COURT'S DISCRETION

CHAPTER 1

PURPOSES OF SENTENCING

57 Purposes of sentencing: adults

- (1) This section applies where—
 - (a) a court is dealing with an offender for an offence, and
 - (b) the offender is aged 18 or over when convicted.
- (2) The court must have regard to the following purposes of sentencing—
 - (a) the punishment of offenders,
 - (b) the reduction of crime (including its reduction by deterrence),
 - (c) the reform and rehabilitation of offenders,
 - (d) the protection of the public, and
 - (e) the making of reparation by offenders to persons affected by their offences.
- (3) Subsection (1) does not apply—
 - (a) to an offence in relation to which a mandatory sentence requirement applies (see section 399), or
 - (b) in relation to making any of the following under Part 3 of the Mental Health Act 1983—
 - (i) a hospital order (with or without a restriction order),
 - (ii) an interim hospital order,
 - (iii) a hospital direction, or
 - (iv) a limitation direction.

Commencement Information

I55 S. 57 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

58 Offenders aged under 18: considerations of court not affected by Code

Nothing in this Code affects the duties of the court—

- (a) to have regard to the principal aim of the youth justice system (which is to prevent offending (or re-offending) by persons aged under 18: see section 37 of the Crime and Disorder Act 1998);
- (b) under section 44 of the Children and Young Persons Act 1933 (to have regard to welfare and in certain cases to take steps in relation to surroundings and provision of education etc).

Commencement Information

I56 S. 58 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status: Point in time view as at 14/07/2022.

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CHAPTER 2

SENTENCING GUIDELINES

59 Sentencing guidelines: general duty of court

- (1) Every court—
- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender's case, and
 - (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,
- unless the court is satisfied that it would be contrary to the interests of justice to do so.
- (2) The duty imposed by subsection (1) is subject to—
- (a) section 125(1) (fine must reflect seriousness of offence);
 - (b) section 179(2) (restriction on youth rehabilitation order);
 - (c) section 186(3) and (6) (restrictions on choice of requirements of youth rehabilitation order);
 - (d) section 204(2) (restriction on community order);
 - (e) section 208(3) and (6) (restrictions on choice of requirements of community order);
 - (f) section 230 (threshold for imposing discretionary custodial sentence);
 - (g) section 231 (custodial sentence must be for shortest term commensurate with seriousness of offence);
 - [^{F17}(ga) sections 268B and 282B (requirement to impose serious terrorism sentence);]
 - (h) sections 273 and 283 (life sentence for second listed offence for certain dangerous offenders);
 - (i) section 321 and Schedule 21 (determination of minimum term in relation to mandatory life sentence);
 - (j) the provisions mentioned in section 399(c) (mandatory minimum sentences).
- (3) Nothing in this section or section 60 or 61 is to be taken as restricting any power (whether under the Mental Health Act 1983 or otherwise) which enables a court to deal with an offender suffering from a mental disorder in the manner it considers to be most appropriate in all the circumstances.

Textual Amendments

F17 S. 59(2)(ga) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(v), [Sch. 13 para. 11\(3\)](#)

Commencement Information

I57 S. 59 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

60 Sentencing guidelines: determination of sentence

- (1) This section applies where—
- (a) a court is deciding what sentence to impose on an offender for an offence, and

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- (b) offence-specific guidelines have been issued in relation to the offence.
- (2) The principal guidelines duty includes a duty to impose on the offender, in accordance with the offence-specific guidelines, a sentence which is within the offence range.
- (3) Subsection (2) is subject to—
 - (a) section 73 (reduction in sentences for guilty pleas),
 - (b) sections 74, 387 and 388 (assistance by offenders: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered to be given) by the offender to the prosecutor or investigator of an offence, and
 - (c) any rule of law as to the totality of sentences.
- (4) If the offence-specific guidelines describe different seriousness categories—
 - (a) the principal guidelines duty also includes a duty to decide which of the categories most resembles the offender's case in order to identify the sentencing starting point in the offence range, but
 - (b) nothing in this section imposes on the court a separate duty to impose a sentence which is within the category range.
- (5) Subsection (4) does not apply if the court is of the opinion that, for the purpose of identifying the sentence within the offence range which is the appropriate starting point, none of the categories sufficiently resembles the offender's case.
- (6) Subsections (2) and (4) (except as applied by section 61) are subject to any power a court has to impose an extended sentence.

Commencement Information

I58 S. 60 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

61 Sentencing guidelines: extended sentences [^{F18}, serious terrorism sentences] and life sentences

Extended sentence: determination of appropriate custodial term

- (1) Subsection (2) applies where a court is considering whether to impose an extended sentence for an offence.
- (2) In determining the appropriate custodial term for the purposes of section 256(2), 268(2) or 281(2) (extended sentence for certain violent, sexual or terrorism offences), section 60 applies to the court as it applies to a court in determining the sentence for an offence.

[^{F19}Serious terrorism sentence: determination of appropriate custodial term

- (2A) Subsection (2B) applies where a court is required to impose a serious terrorism sentence for an offence.
- (2B) In determining the appropriate custodial term for the purposes of section 268C(2)(b) or 282C(2)(b) (serious terrorism sentences: appropriate custodial term exceeding 14-year minimum), section 60 applies to the court as it applies to a court in determining the sentence for an offence.]

Status: Point in time view as at 14/07/2022.

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Life sentence for second listed offence: determination of sentence condition

(3) Subsection (4) applies where a court is considering whether to impose a sentence under section 273 or 283 (life sentence for second listed offence) for an offence.

(4) In determining, for the purpose of deciding whether the sentence condition in section 273(4) or 283(4) is met, the sentence that it would have passed as mentioned in that condition, section 60 applies to the court as it applies to a court in determining the sentence for an offence.

Notional determinate term for non-fixed life sentence

(5) Subsection (6) applies where a court imposes a non-fixed life sentence for an offence.

(6) Section 60 applies to the court in determining [^{F20}the notional determinate sentence within the meaning of] section 323 (minimum term order for non-fixed life sentence).

^{F21}(7)

(8) In this section “non-fixed life sentence” means—

- (a) a sentence of imprisonment for life (other than a sentence fixed by law),
- (b) a sentence of detention for life under section 250, or
- (c) a sentence of custody for life under section 272.

Textual Amendments

- F18** Words in s. 61 heading inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 11(4)(a)**
- F19** S. 61(2A)(2B) and heading inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 11(4)(b)**
- F20** Words in s. 61(6) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 129(3)(a)(i)**, 208(1); S.I. 2022/520, reg. 5(n)
- F21** S. 61(7) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 129(3)(a)(ii)**, 208(1); S.I. 2022/520, reg. 5(n)

Commencement Information

- I59** S. 61 in force at 1.12.2020 by S.I. 2020/1236, **reg. 2**

62 Sentencing guidelines duties: interpretation

(1) In this Chapter—

“mental disorder”, in relation to a person, has the same meaning as in the Mental Health Act 1983;

“the principal guidelines duty” means the duty, imposed by section 59(1) (a), of a court, in sentencing an offender, to follow any sentencing guidelines which are relevant to the offender's case;

“offence-specific guidelines” means any sentencing guidelines issued in relation to a particular offence which are structured in the way described in section 121(2) to (5) of the Coroners and Justice Act 2009 (and “the offence-specific guidelines”, in relation to an offence, means, if any such guidelines have been issued in relation to the offence, those guidelines);

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“the sentencing starting point”, in relation to the offence range, has the meaning given by section 121(10) of the Coroners and Justice Act 2009.

- (2) For the purposes of this Chapter—
- (a) references to the following are to be read in accordance with section 121 of the Coroners and Justice Act 2009 (sentencing ranges)—
 - the offence range;
 - the category range;
 - the starting point;
 - the appropriate starting point;
 - (b) offence-specific guidelines describe different seriousness categories if they describe different categories of case in accordance with subsection (2) of that section.

Commencement Information

I60 S. 62 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

CHAPTER 3

SERIOUSNESS AND DETERMINING SENTENCE

Generally

63 Assessing seriousness

Where a court is considering the seriousness of any offence, it must consider—

- (a) the offender's culpability in committing the offence, and
- (b) any harm which the offence—
 - (i) caused,
 - (ii) was intended to cause, or
 - (iii) might foreseeably have caused.

Commencement Information

I61 S. 63 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Aggravating factors

64 Offence committed on bail

In considering the seriousness of an offence committed while the offender was on bail, the court must—

- (a) treat the fact that it was committed in those circumstances as an aggravating factor, and
- (b) state in open court that the offence is so aggravated.

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Modifications etc. (not altering text)

- C4** S. 64 modified by S.I. 2009/1042, reg. 9A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 398](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2)

Commencement Information

- I62** S. 64 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

65 Previous convictions

- (1) This section applies where a court is considering the seriousness of an offence (“the current offence”) committed by an offender who has one or more relevant previous convictions.
- (2) The court must treat as an aggravating factor each relevant previous conviction that it considers can reasonably be so treated, having regard in particular to—
 - (a) the nature of the offence to which the relevant previous conviction relates and its relevance to the current offence, and
 - (b) the time that has elapsed since the relevant previous conviction.
- (3) Where the court treats a relevant previous conviction as an aggravating factor under subsection (2) it must state in open court that the offence is so aggravated.
- (4) In subsections (1) to (3) “relevant previous conviction” means—
 - (a) a previous conviction by a court in the United Kingdom, [^{F22}or]
 - ^{F23}(b)
 - (c) a previous conviction of a service offence (see subsection (5)), ^{F24}...
 - ^{F24}(d)
- [^{F25}(4A) If the proceedings for the current offence were instituted before IP completion day (see section 397(5)), “relevant previous conviction” in subsections (1) to (3) also includes—
 - (a) a previous conviction of a relevant offence under the law of a member State by a court in that State, and
 - (b) a finding of guilt in respect of a member State service offence (see subsection (6)).]
- (5) In subsection (4)(c) (previous convictions of service offences)—
 - (a) “conviction” includes anything that under section 376(1) and (2) of the Armed Forces Act 2006 is to be treated as a conviction (which relates to summary hearings and the Summary Appeal Court);
 - (b) “service offence” means—
 - (i) a service offence within the meaning of the Armed Forces Act 2006, or
 - (ii) an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059);
 - (c) the previous convictions referred to are to be taken to include a previous finding of guilt in—
 - (i) proceedings under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (whether before a court-martial or any

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- other court or person authorised under any of those Acts to award a punishment in respect of any offence), or
- (ii) proceedings before a Standing Civilian Court established under section 6 of the Armed Forces Act 1976.
- (6) In subsection [^{F26}(4A)(b)] “member State service offence” means an offence which—
- (a) was the subject of proceedings under the service law of a member State other than the United Kingdom, and
 - (b) would constitute an offence under the law of any part of the United Kingdom, or a service offence (within the meaning of the Armed Forces Act 2006), if it were done in any part of the United Kingdom, by a member of Her Majesty's forces, at the time of the conviction of the offender for the current offence,
- and, for this purpose—
- “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;
- “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.
- (7) For the purposes of this section, an offence is “relevant” if the offence would constitute an offence under the law of any part of the United Kingdom if it were done in that part at the time of the conviction of the offender for the current offence.

Textual Amendments

- F22** Word in s. 65(4)(a) inserted (31.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 417(9), **Sch. 22 para. 86(2)(a)** (with [Sch. 27](#))
- F23** S. 65(4)(b) omitted (31.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 417(9), **Sch. 22 para. 86(2)(b)** (with [Sch. 27](#))
- F24** S. 65(4)(d) and word omitted (31.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\)](#), s. 417(9), **Sch. 22 para. 86(2)(c)** (with [Sch. 27](#))
- F25** S. 65(4A) inserted (31.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **Sch. 22 para. 86(3)** (as substituted by [The Taking Account of Convictions \(EU Exit\) \(Amendment\) Regulations 2020 \(S.I. 2020/1520\)](#), regs. 1(1), **5(2)**)
- F26** Word in s. 65(6) substituted (31.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **Sch. 22 para. 86(3A)** (as substituted by [The Taking Account of Convictions \(EU Exit\) \(Amendment\) Regulations 2020 \(S.I. 2020/1520\)](#), regs. 1(1), **5(2)**)

Commencement Information

- I63** S. 65 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

66 Hostility

- (1) This section applies where a court is considering the seriousness of an offence which is aggravated by—
- (a) racial hostility,
 - (b) religious hostility,
 - (c) hostility related to disability,
 - (d) hostility related to sexual orientation, or
 - (e) hostility related to transgender identity.

Status: Point in time view as at 14/07/2022.

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This is subject to subsection (3).

- (2) The court—
 - (a) must treat the fact that the offence is aggravated by hostility of any of those types as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) So far as it relates to racial and religious hostility, this section does not apply in relation to an offence under sections 29 to 32 of the Crime and Disorder Act 1998 (racially or religiously aggravated offences).
- (4) For the purposes of this section, an offence is aggravated by hostility of one of the kinds mentioned in subsection (1) if—
 - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on—
 - (i) the victim's membership (or presumed membership) of a racial group,
 - (ii) the victim's membership (or presumed membership) of a religious group,
 - (iii) a disability (or presumed disability) of the victim,
 - (iv) the sexual orientation (or presumed sexual orientation) of the victim, or (as the case may be)
 - (v) the victim being (or being presumed to be) transgender, or
 - (b) the offence was motivated (wholly or partly) by—
 - (i) hostility towards members of a racial group based on their membership of that group,
 - (ii) hostility towards members of a religious group based on their membership of that group,
 - (iii) hostility towards persons who have a disability or a particular disability,
 - (iv) hostility towards persons who are of a particular sexual orientation, or (as the case may be)
 - (v) hostility towards persons who are transgender.
- (5) For the purposes of paragraphs (a) and (b) of subsection (4), it is immaterial whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that paragraph.
- (6) In this section—
 - (a) references to a racial group are to a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins;
 - (b) references to a religious group are to a group of persons defined by reference to religious belief or lack of religious belief;
 - (c) “membership” in relation to a racial or religious group, includes association with members of that group;
 - (d) “disability” means any physical or mental impairment;
 - (e) references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment;
 - (f) “presumed” means presumed by the offender.

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Commencement Information

I64 S. 66 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

67 Assaults on emergency workers

- (1) This section applies where a court is considering the seriousness of an offence listed in subsection (3).
- (2) If the offence was committed against an emergency worker acting in the exercise of functions as such a worker, the court—
 - (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) The offences referred to in subsection (1) are—
 - (a) an offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 16 (threats to kill);
 - (ii) section 18 (wounding with intent to cause grievous bodily harm);
 - (iii) section 20 (malicious wounding);
 - (iv) section 23 (administering poison etc);
 - (v) section 28 (causing bodily injury by explosives);
 - (vi) section 29 (using explosives etc with intent to do grievous bodily harm);
 - (vii) section 47 (assault occasioning actual bodily harm);
 - ^{F27}(aa) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);
 - (b) an offence under section 3 of the Sexual Offences Act 2003 (sexual assault);
 - (c) manslaughter;
 - (d) kidnapping;
 - (e) an inchoate offence in relation to any of the preceding offences.
- (4) For the purposes of subsection (2) the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.
- (5) In this section, “emergency worker” has the meaning given by section 68.
- (6) Nothing in this section prevents a court from treating the fact that an offence was committed against an emergency worker acting in the exercise of functions as such as an aggravating factor in relation to offences not listed in subsection (3).

Textual Amendments

F27 S. 67(3)(aa) inserted (7.6.2022) by [Domestic Abuse Act 2021 \(c. 17\), s. 90\(6\), Sch. 2 para. 12\(2\)](#); [S.I. 2022/553, regs. 1\(2\), 3\(b\)](#)

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Commencement Information

I65 S. 67 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

68 Emergency workers for the purposes of section 67

- (1) In section 67, “emergency worker” means—
- (a) a constable;
 - (b) a person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes;
 - (c) a National Crime Agency officer;
 - (d) a prison officer;
 - (e) a person (other than a prison officer) employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer;
 - (f) a prisoner custody officer, so far as relating to the exercise of escort functions;
 - (g) a custody officer, so far as relating to the exercise of escort functions;
 - (h) a person employed for the purposes of providing, or engaged to provide, fire services or fire and rescue services;
 - (i) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both);
 - (j) a person employed for the purposes of providing, or engaged to provide—
 - (i) NHS health services, or
 - (ii) services in the support of the provision of NHS health services, and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.
- (2) It is immaterial for the purposes of subsection (1) whether the employment or engagement is paid or unpaid.
- (3) In this section—
- “custodial institution” means any of the following—
 - (a) a prison;
 - (b) a young offender institution, secure training centre or secure college;
 - (c) a removal centre, a short-term holding facility or pre-departure accommodation, as defined by section 147 of the Immigration and Asylum Act 1999;
 - (d) services custody premises, as defined by section 300(7) of the Armed Forces Act 2006;
 - “custody officer” has the meaning given by section 12(3) of the Criminal Justice and Public Order Act 1994;
 - “escort functions”—
 - (a) in the case of a prisoner custody officer, means the functions specified in section 80(1) of the Criminal Justice Act 1991;
 - (b) in the case of a custody officer, means the functions specified in paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994;

Status: Point in time view as at 14/07/2022.

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“NHS health services” means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 and under section 1(1) of the National Health Service (Wales) Act 2006;

“prisoner custody officer” has the meaning given by section 89(1) of the Criminal Justice Act 1991.

Commencement Information

I66 S. 68 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

[^{F28}68A Assaults on those providing a public service etc

- (1) This section applies where—
 - (a) a court is considering the seriousness of an offence listed in subsection (3), and
 - (b) the offence is not aggravated under section 67(2).
- (2) If the offence was committed against a person providing a public service, performing a public duty or providing services to the public, the court—
 - (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) The offences referred to in subsection (1) are—
 - (a) an offence of common assault or battery, except where section 1 of the Assaults on Emergency Workers (Offences) Act 2018 applies;
 - (b) an offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 16 (threats to kill);
 - (ii) section 18 (wounding with intent to cause grievous bodily harm);
 - (iii) section 20 (malicious wounding);
 - (iv) section 47 (assault occasioning actual bodily harm);
 - (c) an inchoate offence in relation to any of the preceding offences.
- (4) In this section—
 - (a) a reference to providing services to the public includes a reference to providing goods or facilities to the public;
 - (b) a reference to the public includes a reference to a section of the public.
- (5) Nothing in this section prevents a court from treating the fact that an offence was committed against a person providing a public service, performing a public duty or providing services to the public as an aggravating factor in relation to offences not listed in subsection (3).
- (6) This section has effect in relation to a person who is convicted of the offence on or after the date on which section 156 of the Police, Crime, Sentencing and Courts Act 2022 comes into force.]

Status: Point in time view as at 14/07/2022.

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Textual Amendments

- F28** S. 68A inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 156**, 208(1); S.I. 2022/520, reg. 5(s)

69 Terrorist connection

- (1) This section applies where a court is considering the seriousness of an offence [^{F29}specified in Schedule 1 (offences where terrorist connection to be considered)] [^{F29}within subsection (4) or (5)].
- (2) If the offence has a terrorist connection, the court—
 - (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) For the purposes of this section, an offence has a terrorist connection if the offence—
 - (a) is, or takes place in the course of, an act of terrorism, or
 - (b) is committed for the purposes of terrorism.

For this purpose, “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act).

- [^{F30}(4) An offence is within this subsection if it—
- (a) was committed on or after the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force,
 - (b) is punishable on indictment with imprisonment for more than 2 years, and
 - (c) is not specified in Schedule A1.
- (5) An offence is within this subsection if it—
- (a) was committed before the day on which section 1 of the Counter-Terrorism and Sentencing Act 2021 came into force, and
 - (b) is specified in Schedule 1.
- (6) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsections (4) and (5) to have been committed on the last of those days.]

Textual Amendments

- F29** Words in s. 69(1) substituted (29.6.2021 for specified purposes) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), **ss. 1(2)(a)**, 50(2)(a)(3)(a)
- F30** S. 69(4)-(6) inserted (29.6.2021 for specified purposes) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), **ss. 1(2)(b)**, 50(2)(a)(3)(a)

Modifications etc. (not altering text)

- C5** S. 69 modified by 2006 c. 52, s. 238(6) (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 53** (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)

Commencement Information

- I67** S. 69 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Status: Point in time view as at 14/07/2022.

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70 Using minor to mind weapon

- (1) This section applies where—
- (a) a court is considering the seriousness of an offence under section 28 of the Violent Crime Reduction Act 2006 (using someone to mind a weapon), and
 - (b) when the offence was committed—
 - (i) the offender was aged 18 or over, and
 - (ii) the person used to look after, hide or transport the weapon in question (“the person used”) was not.
- (2) The court—
- (a) must treat the fact that the person used was under the age of 18 when the offence was committed as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) Subsection (4) applies where the offence is found to have involved the person used's having possession of a weapon, or being able to make it available—
- (a) over a period of two or more days, or
 - (b) at some time during a period of two or more days.
- (4) If, on a day during that period, sub-paragraphs (i) and (ii) of subsection (1)(b) were both satisfied, they are to be treated as both being satisfied when the offence was committed.

Commencement Information

I68 S. 70 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

71 Supply of controlled drug near school premises or involving child

- (1) This section applies where—
- (a) a court is considering the seriousness of an offence under section 4(3) of the Misuse of Drugs Act 1971 (supplying controlled drug etc), and
 - (b) the offender was aged 18 or over when the offence was committed.
- (2) If condition A or B is met, the court—
- (a) must treat the fact that the condition is met as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) Condition A is that the offence was committed on or in the vicinity of school premises at a relevant time.
- (4) For the purposes of subsection (3)—
- “relevant time”, in relation to school premises, is—
- (a) any time when the school premises are in use by persons under the age of 18;
 - (b) one hour before the start and one hour after the end of any such time;
- “school” has the same meaning as it has in section 4A of the Misuse of Drugs Act 1971;
- “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school.

Status: Point in time view as at 14/07/2022.

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- (5) Condition B is that in connection with the commission of the offence the offender used a courier who, when the offence was committed, was aged under 18.
- (6) For the purposes of subsection (5), a person uses a courier in connection with an offence under section 4(3) of the Misuse of Drugs Act 1971 if the person causes or permits another person (“the courier”)—
 - (a) to deliver a controlled drug to a third person, or
 - (b) to deliver a drug-related consideration to the person or a third person.
- (7) For the purposes of subsection (6), a drug-related consideration is a consideration of any description which—
 - (a) is obtained in connection with the supply of a controlled drug, or
 - (b) is intended to be used in connection with obtaining a controlled drug.
- (8) In this section, “controlled drug” and “supply” have the same meanings as in the Misuse of Drugs Act 1971.

Commencement Information

I69 S. 71 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

72 Supply of psychoactive substance in certain circumstances

- (1) This section applies where—
 - (a) a court is considering the seriousness of an offence under section 5 of the Psychoactive Substances Act 2016 (supplying psychoactive substance etc), and
 - (b) the offender was aged 18 or over when the offence was committed.
- (2) If condition A, B or C is met the court—
 - (a) must treat the fact that the condition is met as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) Condition A is that the offence was committed on or in the vicinity of school premises at a relevant time.
- (4) For the purposes of subsection (3)—

“relevant time”, in relation to school premises, means—

 - (a) any time when the school premises are in use by persons under the age of 18;
 - (b) one hour before the start and one hour after the end of any such time;

“school” has the same meaning as in section 6 of the Psychoactive Substances Act 2016;

“school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school.
- (5) Condition B is that, in connection with the offence, the offender used a courier who, when the offence was committed, was aged under 18.
- (6) For the purposes of subsection (5), a person uses a courier in connection with an offence under section 5 of the Psychoactive Substances Act 2016 if the person causes or permits another person (“the courier”)—

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- (a) to deliver a substance to a third person, or
 - (b) to deliver a drug-related consideration to the person or a third person.
- (7) For the purposes of subsection (6), a drug-related consideration is a consideration of any description which—
- (a) is obtained in connection with the supply of a psychoactive substance, or
 - (b) is intended to be used in connection with obtaining a psychoactive substance.
- (8) Condition C is that the offence was committed in a custodial institution.
- (9) For the purposes of subsection (8), “custodial institution” means any of the following—
- (a) a prison;
 - (b) a young offender institution, secure training centre or secure college;
 - (c) a removal centre, short-term holding facility or pre-departure accommodation (each, as defined in section 147 of the Immigration and Asylum Act 1999);
 - (d) service custody premises (as defined in section 300(7) of the Armed Forces Act 2006).
- (10) In this section “psychoactive substance” has the same meaning as in the Psychoactive Substances Act 2016 (see section 2 of that Act).

Commencement Information

170 S. 72 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Mitigating factors

73 Reduction in sentence for guilty plea

- (1) This section applies where a court is determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court.
- (2) The court must take into account the following matters—
- (a) the stage in the proceedings for the offence at which the offender indicated the intention to plead guilty, and
 - (b) the circumstances in which the indication was given.
- [^{F31}(2A) If the court imposes a serious terrorism sentence in relation to the offence, nothing in section 268C(2) or, as the case may be, 282C(2) prevents the court, after taking into account any matter referred to in subsection (2), from imposing as the appropriate custodial term a term of any length which is not less than 80 per cent of the term which would otherwise be required.]
- (3) If—
- (a) a mandatory sentence requirement applies in relation to the offence (see section 399) by virtue of a provision mentioned in subsection (4), and
 - (b) the offender is aged 18 or over when convicted,
- the mandatory sentence requirement does not prevent the court, after taking into account any matter referred to in subsection (2), from imposing any sentence which

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is not less than 80 per cent of the sentence which would otherwise be required by that requirement.

- (4) The provisions referred to in subsection (3)(a) are—
- (a) section 312 (minimum sentence for threatening with weapon [^{F32}or corrosive substance] or bladed article);
 - (b) section 313 (minimum of 7 years for third class A drug trafficking offence);
 - (c) section 314 (minimum of 3 years for third domestic burglary);
 - (d) section 315 (minimum sentence for repeat offence involving weapon [^{F32}or corrosive substance] or bladed article).
- (5) If—
- (a) a mandatory sentence requirement applies in relation to the offence by virtue of—
 - (i) section 312, or
 - (ii) section 315, and
 - (b) the offender is aged 16 or 17 when convicted,
- the mandatory sentence requirement does not prevent the court from imposing any sentence that it considers appropriate after taking into account any matter referred to in subsection (2).

Textual Amendments

F31 S. 73(2A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 8, 50(2)(e)

F32 Words in s. 73(4) inserted (6.4.2022) by Sentencing Act 2020 (c. 17), s. 417(1), Sch. 22 para. 83(a) (with Sch. 27); S.I. 2022/415, reg. 2

Commencement Information

I71 S. 73 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

74 Reduction in sentence for assistance to prosecution

- (1) This section applies where the Crown Court is determining what sentence to pass in respect of an offence on an offender who—
- (a) pleaded guilty to the offence,
 - (b) was convicted in the Crown Court or committed to the Crown Court for sentence, and
 - (c) pursuant to a written agreement made with a specified prosecutor, has assisted or offered to assist—
 - (i) the investigator,
 - (ii) or the specified prosecutor or any other prosecutor,in relation to that or any other offence.
- (2) The court may take into account the extent and nature of the assistance given or offered.
- (3) If the court passes a sentence which is less than it would have passed but for the assistance given or offered, it must state in open court—
- (a) that it has passed a lesser sentence than it would otherwise have passed, and
 - (b) what the greater sentence would have been.

Status: Point in time view as at 14/07/2022.

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This is subject to subsection (4).

- (4) If the court considers that it would not be in the public interest to disclose that the sentence has been discounted by virtue of this section—
- (a) subsection (3) does not apply,
 - (b) the court must give a written statement of the matters specified in subsection (3)(a) and (b) to—
 - (i) the prosecutor, and
 - (ii) the offender, and
 - (c) sections 52(2) and 322(4) (requirement to explain reasons for sentence or other order) do not apply to the extent that the explanation will disclose that a sentence has been discounted by virtue of this section.
- [^{F33}(4A) Nothing in section 268C(2) or 282C(2) (minimum appropriate custodial term for serious terrorism sentences) affects the court's power under subsection (2) so far it relates to determining the appropriate custodial term.]
- (5) Nothing in—
- (a) any of the provisions listed in section 399(b) or (c) (minimum sentences in certain circumstances), or
 - (b) section 321 (and Schedule 21) (determination of minimum term in relation to mandatory life sentence),
- affects the court's power under subsection (2).

Textual Amendments

F33 S. 74(4A) inserted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), ss. 10, 50(2)(e)

Commencement Information

I72 S. 74 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

75 Specified prosecutors

- (1) In section 74 “specified prosecutor” is to be read in accordance with section 71 of the Serious Organised Crime and Police Act 2005 (assistance by offender: immunity from prosecution).
- (2) The Attorney General may issue guidance to specified prosecutors about the exercise by them of any of their powers under—
 - (a) section 74, and
 - (b) sections 387 to 389 (assistance for prosecution etc: review of sentence).
- (3) The Attorney General may revise any guidance issued under subsection (2).

Commencement Information

I73 S. 75 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Status: Point in time view as at 14/07/2022.

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Effect of Code on other powers of court in assessing seriousness

76 Effect of Chapter on other powers of court to consider seriousness

Nothing in this Chapter that requires or permits a court to take any matter into account for the purpose of sentencing an offender for an offence is to be taken to prevent a court taking any other matter into account for that purpose.

Commencement Information

I74 S. 76 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

77 Basis of opinion provisions not to affect power to mitigate sentences

- (1) Nothing in any of the basis of opinion provisions prevents a court from mitigating an offender's sentence by taking into account any matters that, in the opinion of the court, are relevant in mitigation of sentence.
- (2) Section 230(2) (threshold for imposing discretionary custodial sentence) does not prevent a court, after taking into account such matters, from passing a community sentence even though it is of the opinion that—
 - (a) the offence, or
 - (b) the combination of the offence and one or more offences associated with it,was so serious that a community sentence could not normally be justified for the offence.
- (3) Nothing in any of the basis of opinion provisions prevents a court—
 - (a) from mitigating any penalty included in an offender's sentence by taking into account any other penalty included in that sentence, and
 - (b) in the case of an offender who is convicted of one or more other offences, from mitigating the offender's sentence by applying any rule of law as to the totality of sentences.
- (4) Subsections (2) and (3) are not to be taken to limit subsection (1).
- (5) In this section “basis of opinion provision” means any of the following—
 - (a) section 30 or 33 (pre-sentence reports and other requirements);
 - (b) section 124, 125 or 126 (fixing of fine);
 - (c) section 179, 180 or 186(3) to (9) (exercise of power to impose youth rehabilitation order, with or without intensive supervision and surveillance or fostering, and other requirements);
 - (d) section 204 or 208(3) to (9) (exercise of power to impose community order, and community requirements);
 - (e) section 230, 231 or 232 (imposing custodial sentences).

Commencement Information

I75 S. 77 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status: Point in time view as at 14/07/2022.

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78 Basis of opinion provisions: offenders suffering from a mental disorder

- (1) Nothing in any of the basis of opinion provisions is to be taken—
- (a) as requiring a court to pass—
 - (i) a custodial sentence, or
 - (ii) any particular custodial sentence,on an offender suffering from a mental disorder, or
 - (b) as restricting any power (whether under the Mental Health Act 1983 or otherwise) which enables a court to deal with such an offender in the manner it considers to be most appropriate in all the circumstances.
- (2) In this section—
- “mental disorder” has the same meaning as in the Mental Health Act 1983 (see section 1 of that Act);
 - “basis of opinion provision” has the same meaning as in section 77.

Commencement Information

I76 S. 78 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status:

Point in time view as at 14/07/2022.

Changes to legislation:

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