



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 7

FINANCIAL ORDERS AND ORDERS RELATING TO PROPERTY

CHAPTER 1

FINES

Availability

118 Availability of fine: magistrates' court

- (1) A fine is available to a magistrates' court dealing with an offender for an offence if under the relevant offence provision a person who is convicted of that offence is liable to a fine.
- (2) If under the relevant offence provision the offender is liable to—
 - (a) a fine of a specified amount,
 - (b) a fine of not more than a specified amount,the amount of the fine—
 - (i) must not be more than that amount, but
 - (ii) may be less than that amount (unless an Act passed after 31 December 1879 expressly provides to the contrary).
- (3) This is subject to—
 - (a) section 121 (availability: fines not to be combined with certain other orders);
 - (b) section 123 (limit on fines imposed by magistrates' courts in respect of young offenders).
- (4) In this section “relevant offence provision”, in relation to an offence, means—

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- (a) the enactment creating the offence or specifying the penalty to which a person convicted of the offence is liable, or
- (b) that provision read in accordance with—
 - (i) section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates’ court) and regulations under that section;
 - (ii) section 86 of that Act (power to increase certain other fines on conviction by magistrates’ court) and regulations under that section;
 - (iii) section 32 of the Magistrates’ Courts Act 1980 (penalties on summary conviction for offences triable either way);
 - (iv) section 119 (power of magistrates’ court to fine where only imprisonment etc specified);
 - (v) section 122 (standard scale of fines),

and, for this purpose, “enactment” includes an enactment contained in a local Act or in any order, regulation or other instrument having effect by virtue of an Act.

119 Power of magistrates’ court to fine where only imprisonment etc specified

- (1) This section applies where under an enactment a magistrates’ court has power to sentence an offender to imprisonment or other detention but not to a fine.

It is immaterial whether the enactment was passed or made before or after the commencement of this Act.

- (2) The magistrates’ court may impose a fine instead of sentencing the offender to imprisonment or other detention (unless an Act passed after 31 December 1879 expressly provides to the contrary).
- (3) In the case of an offence which—
- (a) is triable either way, and
 - (b) was committed before 12 March 2015,
- a fine imposed under subsection (2) may not exceed the prescribed sum (within the meaning of section 32 of the Magistrates’ Courts Act 1980).
- (4) In the case of a fine imposed under subsection (2) for a summary offence—
- (a) the amount of the fine may not exceed level 3 on the standard scale, and
 - (b) the default term must not be longer than the term of imprisonment or detention to which the offender is liable on conviction of the offence.

For this purpose, “default term” means the term of imprisonment or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 to which the offender would be subject in default of payment of the fine.

- (5) In this section “enactment” includes an enactment contained in a local Act or in any order, regulation or other instrument having effect by virtue of an Act.

120 General power of Crown Court to fine offender convicted on indictment

- (1) A fine is available to the Crown Court where it is dealing with an offender who is convicted on indictment for an offence—
- (a) instead of, or
 - (b) in addition to,

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dealing with the offender in any other way which is available to the court.

(2) Subsection (1)—

- (a) does not apply where the offence is one in relation to which a mandatory sentence requirement applies by virtue of any of the following provisions of section 399—
 - (i) paragraph (a) (life sentence for murder etc),
 - (ii) paragraph (b) (other mandatory life sentences), or
 - (iii) paragraph (c)(iv) (minimum sentence for third domestic burglary offence),
- (b) is subject to any other enactment requiring the offender to be dealt with in a particular way, and
- (c) does not apply if the court is precluded from sentencing the offender by its exercise of some other power.

(3) Nothing in subsection (1) affects the maximum amount of a fine to which a person is liable for an offence committed before the commencement date.

121 Availability of fine: effect of other orders

For circumstances in which a fine is not available, see—

- (a) section 37(8) of the Mental Health Act 1983 (hospital order or guardianship order in case where person convicted of offence punishable with imprisonment);
- (b) section 89 (making of referral order: effect on court’s other sentencing powers).

Magistrates' court

122 The standard scale of fines for summary offences

(1) The standard scale of fines for summary offences, which is known as “the standard scale”, as it has effect for Code offences, is as follows—

<i>Level on the scale</i>	<i>Amount of fine</i>	
	<i>Offence committed on or after 11 April 1983 and before 1 October 1992</i>	<i>Offence committed on or after 1 October 1992</i>
1	£25	£200
2	£50	£500
3	£200	£1,000
4	£500	£2,500
5	£1,000	£5,000.

(2) In relation to a Code offence, a relevant reference to a particular level on the standard scale is to be read as referring to that level on the scale set out in the column of the table in subsection (1) that applies to offences committed on the date on which the offence was committed.

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- (3) In relation to—
- (a) a relevant reference in an enactment or instrument passed or made before 12 March 2015 to level 5 on the standard scale, and
 - (b) an offence committed on or after that date,
- subsection (2) is subject to section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (removal of limit on certain fines on conviction by magistrates' court).
- (4) A reference to a level on the standard scale in an enactment or instrument made under an enactment (whenever passed or made) is a “relevant reference” to that level if—
- (a) the enactment or instrument provides that a person convicted of a summary offence is liable on conviction to a fine or maximum fine by reference to that level, or
 - (b) it is a reference in an enactment which confers power by subordinate instrument to make a person liable on conviction of a summary offence (whether or not created by the instrument) to a fine or maximum fine by reference to that level.

In this section, “Code offence” is an offence of which the offender is convicted after the Code comes into force.

123 Limit on fines imposed by magistrates' courts in respect of young offenders

- (1) This section applies where an offender—
- (a) was convicted by a magistrates' court,
 - (b) was under 18 when convicted, and
 - (c) is before that court to be sentenced.
- (2) The court may not impose a fine of more than—
- (a) £250, if the offender was under 14 when convicted, or
 - (b) £1,000, if the offender was 14 or over when convicted.

Exercise of powers

124 Fixing of fine: duty of court to inquire into individual offender's circumstances

- (1) Before fixing the amount of any fine to be imposed on an offender who is an individual, a court must inquire into the offender's financial circumstances.
- (2) For the power to make a financial circumstances order, see section 35.
- (3) For modifications of this section where the court also makes an order under section 380 (power to order parent or guardian to pay fine, costs, compensation or surcharge), see section 128.

125 Exercise of court's powers to impose fine and fix amount

- (1) The amount of any fine fixed by a court must be such as, in the opinion of the court, reflects the seriousness of the offence.

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- (2) In fixing the amount of any fine to be imposed on an offender (whether an individual or other person), a court must take into account the circumstances of the case including, in particular, the financial circumstances of the offender so far as they are known, or appear, to the court.
- (3) Subsection (2) applies whether taking into account the financial circumstances of the offender has the effect of increasing or reducing the amount of the fine.
- (4) In applying subsection (2), a court must not reduce the amount of a fine on account of any surcharge it orders the offender to pay under section 42, except to the extent that the offender has insufficient means to pay both.
- (5) For modifications of this section where the court also makes an order under section 380 (power to order parent or guardian to pay fine, costs, compensation or surcharge), see section 128.
- (6) For the effect of proceedings in relation to confiscation orders on the court's powers to impose or fix the amount of a fine, see the following provisions of the Proceeds of Crime Act 2002—
 - (a) section 13(4) (where confiscation order has been made);
 - (b) section 15 (where proceedings on a confiscation order have been postponed).

126 Power to determine financial circumstances where offender is absent or fails to provide information

- (1) This section applies where an offender—
 - (a) has been convicted in the offender's absence—
 - (i) in pursuance of section 11 or 12 of the Magistrates' Courts Act 1980 (non-appearance of accused), or
 - (ii) in proceedings conducted in accordance with section 16A of that Act (trial by single justice on the papers), or
 - (b) has failed—
 - (i) to provide a statement of the offender's financial circumstances in response to a request which is an official request for the purposes of section 20A of the Criminal Justice Act 1991 (offence of making false statement as to financial circumstances),
 - (ii) to comply with an order under section 35(2) (statement as to offender's financial circumstances), or
 - (iii) otherwise to co-operate with the court in its inquiry into the offender's financial circumstances.
- (2) If the court considers that it has insufficient information to make a proper determination of the financial circumstances of the offender for the purposes of section 125, it may make such determination as it considers appropriate.

127 Remission of fines following determination under section 126

- (1) This section applies where a court has, in fixing the amount of a fine, determined the offender's financial circumstances under section 126 (offender absent or failing to provide information).

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- (2) If on subsequently inquiring into the offender’s financial circumstances the court is satisfied that, had it had the results of that inquiry when sentencing the offender, it—
- (a) would have fixed a smaller amount, or
 - (b) would not have fined the offender,
- it may remit the whole or part of the fine.
- (3) Where under this section the court remits the whole or part of a fine after a term of imprisonment, or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000, has been fixed under—
- (a) section 129, or
 - (b) section 82(5) of the Magistrates’ Courts Act 1980 (magistrates’ powers in relation to default),
- it must reduce the term by the corresponding proportion.
- (4) In calculating any reduction required by subsection (3), any fraction of a day is to be ignored.
- (5) Subsection (6) applies where—
- (a) under this section the court remits the whole or part of a fine,
 - (b) the offender was ordered under section 42 to pay a surcharge, and
 - (c) the amount of the surcharge was set by reference to the amount of the fine.
- (6) The court must—
- (a) determine how much the surcharge would have been if the fine had not included the amount remitted, and
 - (b) remit the balance of the surcharge.

Fines: payment

128 Fine imposed on offender aged under 18: payment by parent or guardian

- (1) This section applies where a court—
- (a) is dealing with an offender for an offence,
 - (b) the offender is aged under 18 when convicted, and
 - (c) but for this subsection, the court would impose a fine on the offender in respect of the offence.
- (2) Section 380 (order for payment by parent or guardian) applies to the fine.
- (3) Subsections (4) to (6) apply for the purposes of any order made under section 380 against the offender’s parent or guardian.
- (4) The following provisions are to be read as if any reference to the financial circumstances of the offender were a reference to the financial circumstances of the offender’s parent or guardian—
- (a) section 124 (duty of court to inquire into individual offender’s financial circumstances);
 - (b) subsections (2) and (3) of section 125 (fixing of fine: exercise of court’s powers).

This is subject to subsection (7).

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- (5) Section 126 (power to determine financial circumstances where offender is absent or fails to provide information) does not apply (but see section 382).
- (6) The reference to the offender’s means in section 125(4) (insufficient means to pay fine and surcharge) is to be read as a reference to the means of the offender’s parent or guardian.
- (7) For the purposes of any order under section 380 made against a local authority, section 124 does not apply.

129 Fine imposed on offender by Crown Court: duty to make term in default order

- (1) This section applies when the Crown Court imposes a fine on an offender who is aged 18 or over when convicted of the offence.

But it does not apply in relation to a fine imposed by the Crown Court on appeal against a decision of a magistrates’ court.

- (2) Subsections (3) to (5) also apply in relation to a fine imposed on such an offender—
 - (a) by the criminal division of the Court of Appeal, or
 - (b) by the Supreme Court on appeal from that division.
- (3) The court must make an order (a “term in default order”) fixing a term—
 - (a) of imprisonment, or
 - (b) of detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000,which the offender is to undergo if any sum which the offender is liable to pay is not duly paid or recovered.
- (4) Column 3 of the following table sets out the maximum term of imprisonment or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 which may be fixed by a term in default order in relation to a sum that is—
 - (a) more than the corresponding entry (if any) in column 1, but
 - (b) not more than the corresponding entry (if any) in column 2.

<i>Amount of sum</i>		<i>Maximum term</i>
<i>More than</i>	<i>Not more than</i>	
	£200	7 days
£200	£500	14 days
£500	£1,000	28 days
£1,000	£2,500	45 days
£2,500	£5,000	3 months
£5,000	£10,000	6 months
£10,000	£20,000	12 months
£20,000	£50,000	18 months
£50,000	£100,000	2 years

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<i>Amount of sum</i>		<i>Maximum term</i>
<i>More than</i>	<i>Not more than</i>	
£100,000	£250,000	3 years
£250,000	£1,000,000	5 years
£1,000,000		10 years.

- (5) The offender may not be committed to prison, or detained, by virtue of a term in default order on the same occasion as the fine is imposed unless—
- (a) the offence to which the fine relates is punishable with imprisonment and the offender appears to the court to have sufficient means to pay the sum forthwith,
 - (b) it appears to the court that the offender is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods,
 - (c) on that occasion the court sentences the offender to immediate imprisonment, custody for life or detention in a young offender institution for that or another offence, or
 - (d) the offender is already serving a sentence of custody for life or a term—
 - (i) of imprisonment,
 - (ii) of detention in a young offender institution, or
 - (iii) of detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention in default).
- (6) Where any person liable for the payment of a fine to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term (“the current term”)—
- (a) of imprisonment,
 - (b) of detention in a young offender institution, or
 - (c) of detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention in default),
- the court may order that any term of imprisonment or detention fixed by a term in default order is not to begin to run until after the end of the current term.
- (7) Nothing in any enactment which authorises the Crown Court to deal with an offender in any way in which a magistrates’ court might have dealt, or could deal, with the offender restricts the powers conferred by this section.

This is subject to subsection (8).

- (8) Where—
- (a) the Crown Court imposes a fine in exercise of powers to deal with an offender in any way in which a magistrates’ court might have dealt, or could deal, with the offender, and
 - (b) section 149(1) of the Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines) specifies a period that would have applied to the fine had it been imposed by a magistrates’ court,

the term imposed by the Crown Court under subsection (3) in relation to the fine must not exceed that period.

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- (9) For the purposes of any reference in this section, however expressed, to the term of imprisonment or other detention—
- (a) to which a person has been sentenced, or
 - (b) which, or part of which, the person has served,
- consecutive terms and terms which are wholly or partly concurrent are treated as a single term, unless the context otherwise requires.
- (10) Any reference in this section, however expressed, to a previous sentence is to be read as a reference to a previous sentence passed by a court in Great Britain.

130 Fine imposed by Crown Court: power to allow time for payment or payment by instalments

When the Crown Court imposes a fine on an offender, it may make an order—

- (a) allowing time for the payment of the fine, or
- (b) directing payment of the fine by instalments of the amounts and on the dates specified in the order.

131 Fine imposed by Crown Court: power to search offender

See section 142 of the Powers of Criminal Courts (Sentencing) Act 2000 for the power of the Crown Court to search an offender on whom it imposes a fine.

132 Enforcement of fines imposed on offenders by Crown Court

- (1) A fine imposed on an offender by the Crown Court is to be treated for the purposes of collection, enforcement and remission as having been imposed—
- (a) by a magistrates' court specified in an order made by the Crown Court, or
 - (b) if no such order is made, by the magistrates' court by which the offender was sent to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998,
- and as having been so imposed on conviction by the magistrates' court in question.

This is subject to subsection (5).

- (2) Subsection (3) applies where a magistrates' court issues a warrant of commitment on a default in the payment of a fine imposed by the Crown Court on an offender.
- (3) The term of imprisonment, or detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000, specified in the warrant of commitment as the term which the offender is liable to serve is to be—
- (a) the term fixed by the Crown Court under section 129(3), or
 - (b) if that term has been reduced under section 79(2) of the Magistrates' Courts Act 1980 (part payment) or section 85(2) of that Act (remission), that term as so reduced,
- even if that term exceeds the period applicable to the case under section 149(1) of the Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).
- (4) Subsections (1) to (3) apply in relation to a fine imposed on an offender—
- (a) by the criminal division of the Court of Appeal, or

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(b) by the Supreme Court on appeal from that division,
as they apply in relation to a fine imposed by the Crown Court.

References in those subsections to the Crown Court (except the reference in subsection (1)(b)) are to be read accordingly.

- (5) A magistrates' court must not, under section 85(1) of the Magistrates' Courts Act 1980 as applied by subsection (1), remit the whole or any part of a fine imposed by—
- (a) the Crown Court,
 - (b) the criminal division of the Court of Appeal, or
 - (c) the Supreme Court on appeal from that division,
- without the consent of the Crown Court.
- (6) Where payment of a fine is enforceable by a magistrates' court by virtue of this section, the fine is to be treated for the purposes of section 38 of the Courts Act 2003 (application of receipts of designated officers) as having been imposed by a magistrates' court.