



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 10 U.K.

CUSTODIAL SENTENCES

CHAPTER 8 E+W

EFFECT OF LIFE SENTENCES

321 Life sentence: minimum term order or whole life order E+W

- (1) Where a court passes a life sentence, it must make an order under this section.
- (2) The order must be a minimum term order unless the court is required to make a whole life order under subsection (3).
- (3) The order must be a whole life order if—
 - (a) ^[F1]the case is within subsection (3A) or (3B)], and
 - (b) the court is of the opinion that, because of the seriousness of—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,it should not make a minimum term order.

^[F2](3A) A case is within this subsection if the offender was aged 21 or over when the offence was committed.

- (3B) A case is within this subsection if—
- (a) the offence was committed on or after the day on which section 126 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
 - (b) the offender was aged 18 or over but under 21 when the offence was committed.

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- (3C) In a case within subsection (3B), the court may arrive at the opinion set out in subsection (3)(b) only if it considers that the seriousness of the offence, or combination of offences, is exceptionally high even by the standard of offences which would normally result in a whole life order in a case within subsection (3A).]
- (4) A minimum term order is an order that the early release provisions (see section 324) are to apply to the offender as soon as the offender has served the part of the sentence which is specified in the order in accordance with section 322 or 323 (“the minimum term”).
- (5) A whole life order is an order that the early release provisions are not to apply to the offender.

Textual Amendments

- F1** Words in s. 321(3)(a) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 126\(2\)\(a\)](#), 208(5)(l)
- F2** S. 321(3A)-(3C) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 126\(2\)\(b\)](#), 208(5)(l)

Modifications etc. (not altering text)

- C1** Ss. 321-324 modified by 2006 c. 52, s. 261A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 25 para. 60](#) (with [s. 416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)) (as amended (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(2\)](#), 208(1); [S.I. 2022/520, reg. 5\(1\)](#))

Commencement Information

- I1** S. 321 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

322 Mandatory life sentences: further provision E+W

- (1) This section applies where a court passes a life sentence for an offence the sentence for which is fixed by law.

Minimum term

- (2) If the court makes a minimum term order, the minimum term must be such part of the offender's sentence as the court considers appropriate taking into account—
- (a) the seriousness of—
 - (i) the offence, or
 - (ii) the combination of the offence and any one or more offences associated with it, and
 - (b) the effect that the following would have if the court had sentenced the offender to a term of imprisonment—
 - (i) section 240ZA of the Criminal Justice Act 2003 (crediting periods of remand in custody);
 - (ii) and section 240A of that Act (crediting periods on bail subject to certain restrictions);
 including the effect of any declaration that the court would have made under section 325 or 327 (specifying periods of remand on bail subject to certain restrictions or in custody pending extradition).

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Determination of seriousness

- (3) In considering the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, under—
- (a) section 321(3) [^{F3}or (3C)] (determining whether to make a whole life order), or
 - (b) subsection (2) (determining the minimum term),
- the court must have regard to—
- (i) the general principles set out in Schedule 21, and
 - (ii) any sentencing guidelines relating to offences in general which are relevant to the case and are not incompatible with the provisions of Schedule 21.

Duty to give reasons for minimum term order or whole life order

- (4) Where the court makes a minimum term order or a whole life order, in complying with the duty under section 52(2) to state its reasons for deciding on the order made, the court must in particular—
- (a) state which of the starting points in Schedule 21 it has chosen and its reasons for doing so, and
 - (b) state its reasons for any departure from that starting point.

Textual Amendments

- F3** Words in s. 322(3)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 126(3), 208(5)(l)

Modifications etc. (not altering text)

- C1** Ss. 321-324 modified by 2006 c. 52, s. 261A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 60](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)) (as amended (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 129(2), 208(1); [S.I. 2022/520, reg. 5\(l\)](#))

Commencement Information

- I2** S. 322 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

323 Minimum term order: other life sentences E+W

- (1) This section applies where a court—
- (a) passes a life sentence in circumstances in which the sentence is not fixed by law, and
 - (b) makes a minimum term order.

[^{F4}(1A) The starting point, in determining the minimum term, is the relevant portion of the notional determinate sentence.

(1B) The “notional determinate sentence”, in relation to a life sentence, is the custodial sentence that the court would have imposed if the court had not imposed the life sentence.

(1C) The “relevant portion” of the notional determinate sentence is—

- (a) where that sentence is within section 247A(2A) of the Criminal Justice Act 2003 (terrorist prisoners not entitled to early release), the term that the court

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- would have determined as the appropriate custodial term (within the meaning given by subsection (8) of that section);
- (b) where that sentence is a sentence under section 252A, 254, 265, 266, 278 or 279 (and is not within paragraph (a)), two-thirds of the term that the court would have determined as the appropriate custodial term under that section;
 - (c) where that sentence is any other custodial sentence, two-thirds of the term of the sentence.]
- (2) [^{F5}The minimum term must be the starting point adjusted as the court considers appropriate, taking into account—]
- (a) the seriousness of—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 - (b) ^{F6} ... and
 - (c) the effect that the following would have if the court had sentenced the offender to a term of imprisonment—
 - (i) section 240ZA of the Criminal Justice Act 2003 (crediting periods of remand in custody);
 - (ii) section 240A of that Act (crediting periods of remand on bail subject to certain restrictions);
 including the effect of any declaration which the court would have made under section 325 or 327 (specifying periods of remand on bail subject to certain restrictions or in custody pending extradition).
- [^{F7}(3) Subsection (2) is subject to the requirement that the minimum term in a serious terrorism case must be at least 14 years.
- This is subject to subsections (5) and (6).
- (4) A “serious terrorism case” is a case where, but for the fact that the court passes a life sentence, the court would be required by section 268B(2) or 282B(2) to impose a serious terrorism sentence (assuming for this purpose that the court is not of the opinion mentioned in section 268B(2) or 282B(2)).
 - (5) The minimum term may be less than 14 years if the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender, and
 - (b) justify a lesser period.
 - (6) The minimum term may be less than 14 years if the court considers it appropriate, taking into account—
 - (a) the matters mentioned in subsection (2)(c), and
 - (b) the effect that the following would, if the court had sentenced the offender under section 268B(2) or 282B(2), have had in relation to the appropriate custodial term for that sentence—
 - (i) section 73 (reductions for guilty pleas), and
 - (ii) section 74 (reductions for assistance to the prosecution).]

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Textual Amendments

- F4** S. 323(1A)-(1C) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(1\)\(a\)](#), 208(1); S.I. 2022/520, reg. 5(n)
- F5** Words in s. 323(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(1\)\(b\)\(i\)](#), 208(1); S.I. 2022/520, reg. 5(n)
- F6** S. 323(2)(b) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(1\)\(b\)\(ii\)](#), 208(1); S.I. 2022/520, reg. 5(n)
- F7** S. 323(3)-(6) inserted (29.6.2021 for specified purposes) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), [ss. 11](#), 50(2)(f)(3)(b)

Modifications etc. (not altering text)

- C1** Ss. 321-324 modified by 2006 c. 52, s. 261A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 25 para. 60](#) (with [s. 416\(7\)](#), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)) (as amended (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(2\)](#), 208(1); S.I. 2022/520, reg. 5(1))

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- I3** S. 323 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

324 Life sentences: interpretation **E+W**

In this Chapter—

“the early release provisions” means section 28(5) to (8) of the Crime (Sentences) Act 1997;

“life sentence” means—

- (a) a sentence of imprisonment for life,
- (b) a sentence of detention for life or during Her Majesty's pleasure (see sections 250 and 259), or
- (c) a sentence of custody for life (see sections 272 and 275);

“minimum term order” and “minimum term” have the meanings given by section 321(4);

“whole life order” has the meaning given by section 321(5).

Modifications etc. (not altering text)

- C1** Ss. 321-324 modified by 2006 c. 52, s. 261A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 25 para. 60](#) (with [s. 416\(7\)](#), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)) (as amended (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 129\(2\)](#), 208(1); S.I. 2022/520, reg. 5(1))

Commencement Information

- I4** S. 324 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)