



Powers of Criminal Courts (Sentencing) Act 2000

2000 CHAPTER 6

PART V

CUSTODIAL SENTENCES ETC.

CHAPTER I

GENERAL PROVISIONS

Meaning of “custodial sentence”

76 Meaning of “custodial sentence”.

- (1) In this Act “custodial sentence” means—
- (a) a sentence of imprisonment (as to which, see section 89(1)(a) below);
 - (b) a sentence of detention under section 90 or 91 below;
 - [^{F1}(bb) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003;
 - (bc) a sentence of detention under section [^{F2}226B or] 228 of that Act;]
 - (c) a sentence of custody for life under section 93 or 94 below;
 - (d) a sentence of detention in a young offender institution (under section 96 below or otherwise); or
 - (e) a detention and training order (under section 100 below).
- (2) In subsection (1) above “sentence of imprisonment” does not include a committal for contempt of court or any kindred offence.

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000, Part V is up to date with all changes known to be in force on or before 16 January 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)*

Textual Amendments

- F1** S. 76(1)(bb)(bc) inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 108](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))
- F2** Words in s. 76(1)(bc) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 10](#); [S.I. 2012/2906](#), art. 2(s)

Liability to imprisonment on conviction on indictment

77 Liability to imprisonment on conviction on indictment.

Where a person is convicted on indictment of an offence against any enactment and is for that offence liable to be sentenced to imprisonment, but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

General limit on magistrates' courts' powers

78 General limit on magistrates' court's power to impose imprisonment or detention in a young offender institution.

- [^{F3}(1) A magistrates' court shall not have power to impose imprisonment, or detention in a young offender institution, for more than six months in respect of any one offence.
- (2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment or detention in a young offender institution for more than six months.
- (3) Subsection (1) above is without prejudice to section 133 of the ^{M1}Magistrates' Courts Act 1980 (consecutive terms of imprisonment).
- (4) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient distress to satisfy a fine, shall not be limited by virtue of subsection (1) above.
- (5) In subsection (4) above "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.
- (6) In this section "impose imprisonment" means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone.
- (7) Section 132 of the ^{M2}Magistrates' Courts Act 1980 contains provision about the minimum term of imprisonment which may be imposed by a magistrates' court.]

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Textual Amendments

F3 Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

Marginal Citations

M1 [1980 c. 43](#).
M2 [1980 c. 43](#).

General restrictions on discretionary custodial sentences

F379 **General restrictions on imposing discretionary custodial sentences.**

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Textual Amendments

F3 Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

F380 **Length of discretionary custodial sentences: general provision.**

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Textual Amendments

F3 Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

Procedural requirements for imposing discretionary custodial sentences

F381 **Pre-sentence reports and other requirements.**

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Textual Amendments

F3 Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

^{F3}82 Additional requirements in case of mentally disordered offender.

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Textual Amendments

F3 Ss. 78-82 repealed (4.4.2005 for the purpose of the repeals of ss. 79-82) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

[^{F4} Life sentences]

Textual Amendments

F4 S. 82A and cross-heading inserted (30.11.2000) by [2000 c. 43](#), [ss. 60\(1\), 80\(3\)](#)

^{F5}[82A Determination of tariffs.

- (1) This section applies if a court passes a life sentence in circumstances [^{F6}where the sentence is not fixed by law].
- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the ^{M3}Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
 - (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
 - (b) the effect of any direction which it would have given under [^{F7}[^{F8}section 240ZA] of the Criminal Justice Act 2003][^{F9}(crediting periods of remand in custody) or under section 246 of the Armed Forces Act 2006 (equivalent provision for service courts)][^{F10}or under section 240A of that Act of 2003 (crediting periods of remand on bail subject to certain types of condition)] if it had sentenced him to a term of imprisonment; and

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- (c) the early release provisions as compared with [F11]section 244(1) of the Criminal Justice Act 2003].
- (4) If [F12]the offender was aged 21 or over when he committed the offence and] the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, [F13]..., the early release provisions shall not apply to the offender.
- [F14](4A)
- [F15](5)
- [F15](6)
- (7) In this section—
“court” includes [F16]the Court Martial];
[F17]“life sentence” means a sentence mentioned in subsection (2) of section 34 of the Crime (Sentences) Act 1997 other than a sentence mentioned in paragraph (d) or (e) of that subsection.]
- (8) So far as this section relates to sentences passed by [F18]the Court Martial], section 167(1) below does not apply.]

Textual Amendments

- F5** S. 82A and cross-heading inserted (30.11.2000) by 2000 c. 43, **ss. 60(1)**, 80(3)
- F6** Words in s. 82A(1) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(2)**
- F7** Words in s. 82A(3)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 109(3)(a)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))
- F8** Words in s. 82A(3)(b) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 13 para. 10**; S.I. 2012/2906, art. 2(k)
- F9** Words in s. 82A(3)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 163(2)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F10** Words in s. 82A(3)(b) inserted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 22(5)**, 153(7); S.I. 2008/2712, art. 2, Sch. para. 2
- F11** Words in s. 82A(3)(c) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(3)(b)**
- F12** Words in s. 82A(4) inserted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(4)(a)**
- F13** Words in s. 82A(4) repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 109(4)(b), **Sch. 37 Pt. 8**
- F14** S. 82A(4A) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 21 para. 11(2)**; S.I. 2012/2906, art. 2(s)
- F15** S. 82A(5)(6) repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 109(5), **Sch. 37 Pt. 8**
- F16** Words in s. 82A(7) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), s. 383(2), **Sch. 16 para. 163(3)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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F17 Words in s. 82A(7) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 21 para. 11(3); S.I. 2012/2906, art. 2(s)**

F18 Words in s. 82A(8) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52), s. 383(2), Sch. 16 para. 163(3); S.I. 2009/812, art. 3(a)(b)** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

C1 S. 82A modified (30.11.2000) by **2000 c. 43, ss. 60(4), 80(3)**

Marginal Citations

M3 1997 c. 43.

Other restrictions

83 Restriction on imposing custodial sentences on persons not legally represented.

- (1) A magistrates' court on summary conviction, or the Crown Court on committal for sentence or on conviction on indictment, shall not pass a sentence of imprisonment on a person who—
- (a) is not legally represented in that court, and
 - (b) has not been previously sentenced to that punishment by a court in any part of the United Kingdom,
- unless he is a person to whom subsection (3) below applies.
- (2) A magistrates' court on summary conviction, or the Crown Court on committal for sentence or on conviction on indictment, shall not—
- (a) pass a sentence of detention under section 90 or 91 below,
 - (b) pass a sentence of custody for life under section 93 or 94 below,
 - (c) pass a sentence of detention in a young offender institution, or
 - (d) make a detention and training order,
- on or in respect of a person who is not legally represented in that court unless he is a person to whom subsection (3) below applies.
- (3) This subsection applies to a person if either—
- (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct [^{F19}or because it appeared that his financial resources were such that he was not eligible to be granted such a right];
 - [^{F20}(aa) he applied for such representation and the application was refused because it appeared that his financial resources were such that he was not eligible to be granted a right to it; or]
 - (b) having been informed of his right to apply for such representation and having had the opportunity to do so, he refused or failed to apply.
- (4) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced.
- (5) For the purposes of subsection (1)(b) above a previous sentence of imprisonment which has been suspended and which has not taken effect under section 119 below or

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under section 19 of the ^{M4}Treatment of Offenders Act (Northern Ireland) 1968 shall be disregarded.

(6) In this section “sentence of imprisonment” does not include a committal for contempt of court or any kindred offence.

Textual Amendments

F19 Words in s. 83(3) inserted (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), s. 4(2)(c), (3)(a), 5(2); S.I. 2006/2491, art. 2

F20 S. 83(3)(aa) substituted for preceding word (2.10.2006) by [Criminal Defence Service Act 2006 \(c. 9\)](#), s. 4(2)(c), (3)(b), 5(2); S.I. 2006/2491, art. 2

Marginal Citations

M4 1968 c. 29 (N.I.)

^{F21}84 Restriction on consecutive sentences for released prisoners.

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Textual Amendments

F21 S. 84 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))

Sexual and violent offences: licences etc.

^{F22}85 Sexual or violent offences: extension of certain custodial sentences for licence purposes.

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Textual Amendments

F22 S. 85 repealed (4.4.2005 except in relation to a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 303(d) (ii), 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 22](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))

^{F23}86 Sexual offences committed before 30th September 1998.

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Textual Amendments

- F23** S. 86 repealed (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(4\), 151\(1\)](#); [S.I. 2012/2906](#), art. 2(d)

PROSPECTIVE

Crediting of periods of remand in custody

- F24** **87** **Crediting of periods of remand in custody: terms of imprisonment and detention.**
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Textual Amendments

- F24** S. 87 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(iii\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

- F25** **88** **Meaning of “remand in custody”.**
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Textual Amendments

- F25** S. 88 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), [ss. 303\(d\)\(iii\), 336\(3\)\(4\)](#), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 22](#) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

CHAPTER II

DETENTION AND CUSTODY OF YOUNG OFFENDERS

Modifications etc. (not altering text)

- C2** Pt. 5 Ch. 2 power to modify, amend or repeal conferred (30.9.2003) by [Armed Forces Act 2001 \(c. 19\)](#), [ss. 31\(1\)\(a\)\(3\)\(6\)\(7\), 39\(2\)](#); [S.I. 2003/2268](#), art. 2

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Restriction on imposing imprisonment on persons under 21

89 Restriction on imposing imprisonment on persons under 21.

- (1) Subject to subsection (2) below, no court shall—
- (a) pass a sentence of imprisonment on a person for an offence if he is aged under 21 when convicted of the offence; or
 - (b) commit a person aged under 21 to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person aged under 21 who is—
- (a) remanded in custody;
 - (b) committed in custody for [^{F26}trial or] sentence; or
 - (c) sent in custody for trial under section 51 [^{F27}or 51A] of the ^{M5}Crime and Disorder Act 1998.

Textual Amendments

- F26** Words in s. 89(2)(b) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 74(3) (a), [Sch. 37 Pt. 4](#); S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(d)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F27** Words in s. 89(2)(c) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(3\)\(b\)](#); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

Marginal Citations

- M5** 1998 c. 37.

Detention at Her Majesty's pleasure or for specified period

90 Offenders who commit murder [^{F28}etc.] when under 18: duty to detain at Her Majesty's pleasure.

Where a person convicted of murder [^{F28}or any other offence the sentence for which is fixed by law as life imprisonment] appears to the court to have been aged under 18 at the time the offence was committed, the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure.

Textual Amendments

- F28** Words in s. 90 and the sidenote inserted (30.11.2000) by [2000 c. 43](#), s. [60\(2\)\(3\)](#)

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000, Part V is up to date with all changes known to be in force on or before 16 January 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)

91 Offenders under 18 convicted of certain serious offences: power to detain for specified period.

(1) Subsection (3) below applies where a person aged under 18 is convicted on indictment of—

- (a) an offence punishable in the case of a person aged 21 or over with imprisonment for 14 years or more, not being an offence the sentence for which is fixed by law; or
- [^{F29}(b) an offence under section 3 of the Sexual Offences Act 2003 (in this section, “the 2003 Act”) (sexual assault); or
- (c) an offence under section 13 of the 2003 Act (child sex offences committed by children or young persons); or
- (d) an offence under section 25 of the 2003 Act (sexual activity with a child family member); or
- (e) an offence under section 26 of the 2003 Act (inciting a child family member to engage in sexual activity).]

[^{F30}(1A) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted on indictment of an offence—
 - (i) under subsection (1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of section 5 of the Firearms Act 1968 (prohibited weapons), or
 - (ii) under subsection (1A)(a) of that section,
- (b) the offence was committed after the commencement of section 51A of that Act and [^{F31}for the purposes of subsection (3) of that section] at a time when he was aged 16 or over, and
- (c) the court is of the opinion mentioned in section 51A(2) of that Act (exceptional circumstances which justify its not imposing required custodial sentence).]

[^{F32}(1B) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted on indictment of an offence under the Firearms Act 1968 that is listed in section 51A(1A)(b), (e) or (f) of that Act and was committed in respect of a firearm or ammunition specified in section 5(1) (a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or section 5(1A)(a) of that Act;
- (b) the offence was committed after the commencement of section 30 of the Violent Crime Reduction Act 2006 and for the purposes of section 51A(3) of the Firearms Act 1968 at a time when he was aged 16 or over; and
- (c) the court is of the opinion mentioned in section 51A(2) of the Firearms Act 1968.

(1C) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted of an offence under section 28 of the Violent Crime Reduction Act 2006 (using someone to mind a weapon);
- (b) section 29(3) of that Act applies (minimum sentences in certain cases); and
- (c) the court is of the opinion mentioned in section 29(6) of that Act (exceptional circumstances which justify not imposing the minimum sentence).]

[^{F33}(2)]

(3) If the court is of the opinion that [^{F34}neither [^{F35}a youth rehabilitation order] nor a detention and training order] is suitable, the court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment with

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which the offence is punishable in the case of a person aged 21 or over, as may be specified in the sentence.

(4) Subsection (3) above is subject to (in particular) [^{F36}section 152 and 153 of the Criminal Justice Act 2003].

[^{F37}(5) Where

[^{F38}(a) subsection (2) of section 51A of the Firearms Act 1968, or

(b) subsection (6) of section 29 of the Violent Crime Reduction Act 2006,

requires the imposition of a sentence of detention under this section for a term of at least the term provided for in that section, the court shall sentence the offender to be detained for such period, of at least the term so provided for] but not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 or over, as may be specified in the sentence.]

Textual Amendments

- F29** S. 91(1)(b)-(e) substituted for s. 91(1)(b)(c) (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), s. 141, Sch. 6 para. 43\(2\)](#); S.I. 2004/874, art. 2
- F30** S. 91(1A) inserted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 289\(1\)\(2\), 336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)
- F31** Words in s. 91(1A)(b) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 66\(2\), Sch. 1 para. 7\(1\)](#); S.I. 2007/858, art. 2(g)
- F32** S. 91(1B)(1C) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 66\(2\), Sch. 1 para. 7\(2\)](#); S.I. 2007/858, art. 2(g)
- F33** S. 91(2) repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7](#); S.I. 2004/829, art. 2(1)(2)(1)(iii)
- F34** Words in s. 91(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 110\(2\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F35** Words in s. 91(3) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 56](#) (with Sch. 27 paras. 15); S.I. 2009/3074, art. 2(p)(vii)
- F36** Words in s. 91(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 110\(3\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F37** S. 91(5) inserted (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 289\(1\)\(3\), 336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)
- F38** Words in s. 91(5) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\), s. 66\(2\), Sch. 1 para. 7\(3\)](#); S.I. 2007/858, art. 2(g)

Modifications etc. (not altering text)

- C3** S. 91(1A)(c): power to repeal conferred (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 291\(1\)\(b\), 336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)
- C4** S. 91(5): power to repeal conferred (22.1.2004) by [Criminal Justice Act 2003 \(c. 44\), ss. 291\(1\)\(b\), 336\(3\)\(4\)](#); S.I. 2004/81, art. 3(1)(2)(b)

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92 Detention under sections 90 and 91: place of detention etc.

- (1) A person sentenced to be detained under section 90 or 91 above shall be liable to be detained in such place and under such conditions—
- (a) as the Secretary of State may direct; or
 - (b) as the Secretary of State may arrange with any person.
- (2) A person detained pursuant to the directions or arrangements made by the Secretary of State under this section shall be deemed to be in legal custody.

^{F39}(3)

Textual Amendments

F39 S. 92(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 26 para. 44, [Sch. 28 Pt. 2](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(o)

Custody for life

93 Duty to impose custody for life in certain cases where offender under 21.

Where a person aged under 21 is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 90 above.

94 Power to impose custody for life in certain other cases where offender at least 18 but under 21.

- (1) Where a person aged at least 18 but under 21 is convicted of an offence—
- (a) for which the sentence is not fixed by law, but
 - (b) for which a person aged 21 or over would be liable to imprisonment for life,
- the court shall, if it considers that a sentence for life would be appropriate, sentence him to custody for life.
- (2) Subsection (1) above is subject to (in particular) sections 79 and 80 above, but this subsection does not apply in relation to a sentence which falls to be imposed under section 109(2) below.

95 Custody for life: place of detention.

- (1) Subject to section 22(2)(b) of the ^{M6}Prison Act 1952 (removal to hospital etc.), an offender sentenced to custody for life shall be detained in a young offender institution unless a direction under subsection (2) below is in force in relation to him.
- (2) The Secretary of State may from time to time direct that an offender sentenced to custody for life shall be detained in a prison or remand centre instead of a young offender institution.

Marginal Citations

M6 1952 c. 52.

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
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Detention in a young offender institution

96 Detention in a young offender institution for other cases where offender at least 18 but under 21.

Subject to sections 90, 93 and 94 above, where—

- (a) a person aged at least 18 but under 21 is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
- (b) the court is of the opinion that either or both of paragraphs (a) and (b) of section 79(2) above apply or the case falls within section 79(3),

the sentence that the court is to pass is a sentence of detention in a young offender institution.

97 Term of detention in a young offender institution, and consecutive sentences.

(1) The maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.

(2) Subject to subsection (3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than 21 days.

(3) A court may pass a sentence of detention in a young offender institution for less than 21 days for an offence under section 65(6) of the ^{M7}Criminal Justice Act 1991 (breach of requirement imposed on young offender on his release from detention).

(4) Where—

- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution, or
- (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence,

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

(5) Subject to section 84 above (restriction on consecutive sentences for released prisoners), where an offender who—

- (a) is serving a sentence of detention in a young offender institution, and
- (b) is aged 21 or over,

is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.

Modifications etc. (not altering text)

C5 S. 97(1)(2) applied (temp.) (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 2 para. 9\(2\)](#)

Marginal Citations

M7 1991 c. 53.

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
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98 Detention in a young offender institution: place of detention.

- (1) Subject to section 22(2)(b) of the ^{M8}Prison Act 1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under subsection (2) below is in force in relation to him.
- (2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution.

Marginal Citations

M8 1952 c. 52.

^{F40}*Conversion of sentence of detention to sentence of imprisonment*

Textual Amendments

F40 S. 99 and cross-heading substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 236, 336(3)(4)**; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 18 (with Sch. 2) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(1))

99 Conversion of sentence of detention to sentence of imprisonment

- (1) Subject to the following provisions of this section, where an offender has been sentenced by a relevant sentence of detention to a term of detention and either—
 - (a) he has attained the age of 21, or
 - (b) he has attained the age of 18 and has been reported to the Secretary of State by the [^{F41}independent monitoring board] of the institution in which he is detained as exercising a bad influence on the other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates,

the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.
 - (2) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of detention imposed under the relevant sentence of detention which he has already served shall be deemed to have been a portion of a term of imprisonment.
 - (3) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 the offender shall be treated as if he had been sentenced under section 225 of that Act^{F42}....
- ^{F43}(3A) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving an extended sentence of detention imposed under Chapter 5 of Part 12 of the Criminal Justice Act 2003—

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- (a) if the sentence was imposed under section 226B of that Act, the offender shall be treated as if the offender had been sentenced under section 226A of that Act, and
 - (b) if the sentence was imposed under section 228 of that Act, the offender shall be treated as if the offender had been sentenced under section 227 of that Act.]
- (4) Rules under section 47 of the Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a relevant sentence of detention shall continue to have effect after a direction under subsection (1) has been given in relation to him.
- (5) In this section “relevant sentence of detention” means—
- (a) a sentence of detention under section 90 or 91 above,
 - [^{F44}(aa) a sentence of detention under section 209 or 218 of the Armed Forces Act 2006,]
 - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003, or
 - (c) an extended sentence of detention under section [^{F45}226B or] 228 of that Act.]
- [^{F46}(6) References in this section to a sentence under section 226 [^{F47}, 226B] or 228 of the Criminal Justice Act 2003 include such a sentence passed as a result of section 221 [^{F48}, 221A] or 222 of the Armed Forces Act 2006.]

Textual Amendments

- F41** Words in s. 99(1)(b) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 3 para. 9](#); S.I. 2007/3001, art. 2(1)(r)
- F42** Words in s. 99(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 12\(2\)](#); S.I. 2012/2906, art. 2(s)
- F43** S. 99(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 12\(3\)](#); S.I. 2012/2906, art. 2(s)
- F44** S. 99(5)(aa) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 164\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F45** Words in s. 99(5)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 12\(4\)](#); S.I. 2012/2906, art. 2(s)
- F46** S. 99(6) added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 164\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F47** Words in s. 99(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 22 para. 15\(a\)](#); S.I. 2012/2906, art. 2(t)
- F48** Words in s. 99(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 22 para. 15\(b\)](#); S.I. 2012/2906, art. 2(t)

Modifications etc. (not altering text)

- C6** S. 99(5)(aa) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), art. 1\(3\), Sch. 1 para. 45\(1\)](#)

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Detention and training orders

100 Offenders under 18: detention and training orders.

(1) [^{F49}Subject to sections 90 and 91 above, sections 226 and [^{F50}226B] of the Criminal Justice Act 2003, and subsection (2)] below, where—

(a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and

[^{F51}(b) the court is of the opinion that subsection (2) of section 152 of the Criminal Justice Act 2003 applies or the case falls within subsection (3) of that section,] the sentence that the court is to pass is a detention and training order.

[^{F52}(1A) Subsection (1) applies with the omission of paragraph (b) in the case of an offence the sentence for which falls to be imposed under these provisions—

(a) section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public);

(b) section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon).]

(2) A court shall not make a detention and training order—

(a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender;

(b) in the case of an offender under the age of 12 at that time, unless—
(i) it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him; and
(ii) the offence was committed on or after such date as the Secretary of State may by order appoint.

(3) A detention and training order is an order that the offender in respect of whom it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

^{F53}(4)

Textual Amendments

F49 Words in s. 100(1) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 111\(2\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F50 Word in s. 100(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 13](#); S.I. 2012/2906, art. 2(s)

F51 S. 100(1)(b) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 111\(2\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F52 S. 100(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 26 para. 11](#); S.I. 2012/2770, art. 2(f)

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F53 S. 100(4) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 111(3), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

101 Term of order, consecutive terms and taking account of remands.

- (1) Subject to subsection (2) below, the term of a detention and training order made in respect of an offence (whether by a magistrates' court or otherwise) shall be 4, 6, 8, 10, 12, 18 or 24 months.
- (2) The term of a detention and training order may not exceed the maximum term of imprisonment that the Crown Court could (in the case of an offender aged 21 or over) impose for the offence.
- (3) Subject to subsections (4) and (6) below, a court making a detention and training order may order that its term shall commence on the expiry of the term of any other detention and training order made by that or any other court.
- (4) A court shall not make in respect of an offender a detention and training order the effect of which would be that he would be subject to detention and training orders for a term which exceeds 24 months.
- (5) Where the term of the detention and training orders to which an offender would otherwise be subject exceeds 24 months, the excess shall be treated as remitted.
- (6) A court making a detention and training order shall not order that its term shall commence on the expiry of the term of a detention and training order under which the period of supervision has already begun (under section 103(1) below).
- (7) Where a detention and training order ("the new order") is made in respect of an offender who is subject to a detention and training order under which the period of supervision has begun ("the old order"), the old order shall be disregarded in determining—
 - (a) for the purposes of subsection (4) above whether the effect of the new order would be that the offender would be subject to detention and training orders for a term which exceeds 24 months; and
 - (b) for the purposes of subsection (5) above whether the term of the detention and training orders to which the offender would (apart from that subsection) be subject exceeds 24 months.
- (8) In determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded ^{F54}—
 - (a) in custody, or
 - (b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003),]in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.
- (9) Where a court proposes to make detention and training orders in respect of an offender for two or more offences—

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- (a) subsection (8) above shall not apply; but
 - (b) in determining the total term of the detention and training orders it proposes to make in respect of the offender, the court shall take account of the total period (if any) for which he has been remanded [^{F55}as mentioned in that subsection] in connection with any of those offences, or any other offence the charge for which was founded on the same facts or evidence.
- (10) Once a period of remand has, under subsection (8) or (9) above, been taken account of in relation to a detention and training order made in respect of an offender for any offence or offences, it shall not subsequently be taken account of (under either of those subsections) in relation to such an order made in respect of the offender for any other offence or offences.
- (11) Any reference in subsection (8) or (9) above to an offender's being remanded in custody is a reference to his being—
- (a) held in police detention;
 - (b) remanded in or committed to custody by an order of a court;
 - [^{F56}(c) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; or]
 - (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the ^{M9}Mental Health Act 1983.
- (12) A person is in police detention for the purposes of subsection (11) above—
- (a) at any time when he is in police detention for the purposes of the ^{M10}Police and Criminal Evidence Act 1984; and
 - (b) at any time when he is detained under [^{F57}section 41 of the Terrorism Act 2000];
- ^{F58} ...
- [^{F59}(12A) Section 243 of the Criminal Justice Act 2003 (persons extradited to the United Kingdom) applies in relation to a person sentenced to a detention and training order as it applies in relation to a fixed-term prisoner, with [^{F60}the reference in subsection (2A) of that section to section 240ZA] being read as a reference to subsection (8) above.]
- (13) For the purpose of any reference in sections 102 to 105 below to the term of a detention and training order, consecutive terms of such orders and terms of such orders which are wholly or partly concurrent shall be treated as a single term if—
- (a) the orders were made on the same occasion; or
 - (b) where they were made on different occasions, the offender has not been released (by virtue of subsection (2), (3), (4) or (5) of section 102 below) at any time during the period beginning with the first and ending with the last of those occasions.

Textual Amendments

- F54** Words in s. 101(8) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 22\(6\)\(a\), 153\(7\); S.I. 2008/2712, art. 2, Sch. para. 2](#)
- F55** Words in s. 101(9) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 22\(6\)\(b\), 153\(7\); S.I. 2008/2712, art. 2, Sch. para. 2](#)
- F56** S. 101(11)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 12 para. 43\(a\); S.I. 2012/2906, art. 2\(j\) \(with art. 7\(2\)\(3\)\)](#)

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- F57** Words in s. 101(12)(b) substituted (19.2.2001) by 2000 c. 11, s. 125(1), **Sch. 15 para. 20(3)**; S.I. 2001/421, **art. 2**
- F58** Words in s. 101(12) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 12 para. 43(b)**; S.I. 2012/2906, art. 2(j) (with art. 7(2)(3))
- F59** S. 101(12A) inserted (15.1.2007) by **Police and Justice Act 2006 (c. 48)**, s. 53(1), **Sch. 13 para. 32**; S.I. 2006/3364, art. 2(e)
- F60** Words in s. 101(12A) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, s. 151(1), **Sch. 13 para. 11**; S.I. 2012/2906, art. 2(k)

Modifications etc. (not altering text)

- C7** S. 101(3)-(10) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 213(1)(2), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C8** S. 101(3)-(7) applied (with modifications) (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059)**, arts. 1(3), **87(2)-(5)**
- C9** S. 101(8) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C10** S. 101(9) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C11** S. 101(11) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C12** S. 101(12) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, ss. 213(3), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C13** S. 101(13) applied (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, ss. 215(1), 383(2) (with s. 385); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C14** S. 101(13) modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, s. 213(1)(2), 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M9** 1983 c. 20.
M10 1984 c. 60.

102 The period of detention and training.

- (1) An offender shall serve the period of detention and training under a detention and training order in such [^{F61}youth detention] accommodation as may be determined by the Secretary of State ^{F62}....
- (2) Subject to subsections (3) to (5) below, the period of detention and training under a detention and training order shall be one-half of the term of the order.
- (3) The Secretary of State may at any time release the offender if he is satisfied that exceptional circumstances exist which justify the offender's release on compassionate grounds.
- (4) The Secretary of State may release the offender—

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- (a) in the case of an order for a term of 8 months or more but less than 18 months, [^{F63}at any time during the period of one month ending with] the half-way point of the term of the order; and
 - (b) in the case of an order for a term of 18 months or more, [^{F64}at any time during the period of two months ending with] that point.
- (5) If a youth court so orders on an application made by the Secretary of State for the purpose, the Secretary of State shall release the offender—
- (a) in the case of an order for a term of 8 months or more but less than 18 months, one month after the half-way point of the term of the order; and
 - (b) in the case of an order for a term of 18 months or more, one month or two months after that point.
- (6) An offender detained in pursuance of a detention and training order shall be deemed to be in legal custody.

Textual Amendments

- F61** Words in s. 102(1) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(2)(a)**, 41(1); S.I. 2007/3001, art. 2(1)(k)
- F62** Words in s. 102(1) omitted (1.11.2007) by virtue of [Offender Management Act 2007 \(c. 21\)](#), **ss. 34(2)(b)**, 41(1); S.I. 2007/3001, art. 2(1)(k)
- F63** Words in s. 102(4)(a) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 33(1)(a)**, 41(1) (with s. 33(2)); S.I. 2007/3001, art. 2(1)(j)
- F64** Words in s. 102(4)(b) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 33(1)(b)**, 41(1) (with s. 33(2)); S.I. 2007/3001, art. 2(1)(j)

Modifications etc. (not altering text)

- C15** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 213(1)**, 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

103 The period of supervision.

- (1) The period of supervision of an offender who is subject to a detention and training order—
- (a) shall begin with the offender's release, whether at the half-way point of the term of the order or otherwise; and
 - (b) subject to subsection (2) below, shall end when the term of the order ends.
- (2) The Secretary of State may by order provide that the period of supervision shall end at such point during the term of a detention and training order as may be specified in the order under this subsection.
- (3) During the period of supervision, the offender shall be under the supervision of—
- (a) [^{F65}an officer of a local probation board][^{F66}or an officer of a provider of probation services] ;
 - (b) a social worker of a local authority ^{F67}...; or
 - (c) a member of a youth offending team;
- and the category of person to supervise the offender shall be determined from time to time by the Secretary of State.

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- (4) Where the supervision is to be provided by [^{F65}an officer of a local probation board], [^{F65}the officer of a local probation board] shall be an officer appointed for or assigned to the [^{F68}local justice area] within which the offender resides for the time being.
- [^{F69}(4A) Where the supervision is to be provided by an officer of a provider of probation services, the officer of a provider of probation services shall be an officer acting in the local justice area within which the offender resides for the time being.]
- (5) Where the supervision is to be provided by—
- (a) a social worker of a local authority ^{F70}..., or
 - (b) a member of a youth offending team,
- the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.
- (6) The offender shall be given a notice from the Secretary of State specifying—
- (a) the category of person for the time being responsible for his supervision; and
 - (b) any requirements with which he must for the time being comply.
- (7) A notice under subsection (6) above shall be given to the offender—
- (a) before the commencement of the period of supervision; and
 - (b) before any alteration in the matters specified in subsection (6)(a) or (b) above comes into effect.

Textual Amendments

- F65** Words in s. 103(3)(a)(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F66** Words in s. 103(3)(a) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 1, **Sch. 1 para. 14(16)(a)**
- F67** Words in s. 103(3)(b) repealed (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004 (c. 31)**, **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)
- F68** Words in s. 103(4) substituted (1.4.2005) by **The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886)**, art. 1, **Sch. para. 76**
- F69** S. 103(4A) inserted (1.4.2008) by **The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912)**, art. 1, **Sch. 1 para. 14(16)(b)**
- F70** Words in s. 103(5)(a) repealed (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004 (c. 31)**, **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(h)

Modifications etc. (not altering text)

- C15** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by **Armed Forces Act 2006 (c. 52)**, **ss. 213(1)**, 383(2); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

104 Breach of supervision requirements.

- (1) Where a detention and training order is in force in respect of an offender and it appears on information to a justice of the peace ^{F71}... that the offender has failed to comply with requirements under section 103(6)(b) above, the justice—
- (a) may issue a summons requiring the offender to appear at the place and time specified in the summons ^{F72}... or

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- (b) if the information is in writing and on oath, may issue a warrant for the offender's arrest ^{F73}....
- [^{F74}(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—
- (a) before a youth court acting in the local justice which the offender resides; or
- (b) if it is not known where the offender resides, before a youth court acting in the same local justice area as the justice who issued the summons or warrant.]
- (3) If it is proved to the satisfaction of the youth court before which an offender appears or is brought under this section that he has failed to comply with requirements under section 103(6)(b) above, that court may—
- [^{F75}(a) order the offender to be detained, in such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding the maximum period found under subsection (3A) below, as the court may specify;
- (aa) order the offender to be subject to such period of supervision, not exceeding the maximum period found under subsection (3A) below, as the court may specify; or]
- (b) impose on the offender a fine not exceeding level 3 on the standard scale.
- [^{F76}(3A) The maximum period referred to in subsection (3)(a) and (aa) above is the shorter of—
- (a) three months, and
- (b) the period beginning with the date of the offender's failure and ending with the last day of the term of the detention and training order.
- (3B) For the purposes of subsection (3A) above a failure that is found to have occurred over two or more days is to be taken to have occurred on the first of those days.
- (3C) A court may order a period of detention or supervision, or impose a fine, under subsection (3) above before or after the end of the term of the detention and training order.
- (3D) A period of detention or supervision ordered under subsection (3) above—
- (a) begins on the date the order is made, and
- (b) may overlap to any extent with the period of supervision under the detention and training order.]
- (4) An offender detained in pursuance of an order under subsection (3)(a) above shall be deemed to be in legal custody.
- [^{F77}(4A) Where an order under subsection (3)(a) above is made in the case of a person who has attained the age of 18, the order has effect to require the person to be detained in prison for the period specified by the court.]
- (5) A fine imposed under subsection (3)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- [^{F78}(5A) Sections 104A and 104B below make further provision about the operation of orders under subsection (3) above.]
- (6) An offender may appeal to the Crown Court against any order made under subsection (3)(a) [^{F79}, (aa)] or (b) above.

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Textual Amendments

- F71** Words in s. 104(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(a\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F72** Words in s. 104(1)(a) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(b\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F73** Words in s. 104(1)(b) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(c\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F74** S. 104(2) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(3\)](#) (as amended (1.4.2005) by S.I. 2005/886, Sch. para. 113(a)(ii)); S.I. 2005/579, [art. 3\(d\)](#)
- F75** S. 104(3)(a)(aa) substituted for s. 104(3)(a) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(2\), 151\(1\)](#) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)
- F76** S. 104(3A)-(3D) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(3\), 151\(1\)](#) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)
- F77** S. 104(4A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(4\), 151\(1\)](#) (with s. 80(8)(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)
- F78** S. 104(5A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(5\), 151\(1\)](#) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)
- F79** Words in s. 104(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(6\), 151\(1\)](#) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)

Modifications etc. (not altering text)

- C15** Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), ss. 213\(1\), 383\(2\)](#); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- C16** S. 104(4A) modified (temp.) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 80\(8\), 151\(1\)](#) (with s. 80(10)(11)); S.I. 2012/2906, [art. 2\(a\)](#)

^{F80}104A Application of sections 103 to 105 in relation to orders under section 104(3)(aa)

- (1) Subsections (3) to (7) of section 103 above apply in relation to a period of supervision to which an offender is subject by virtue of an order under section 104(3)(aa) above as they apply to the period of supervision under a detention and training order.
- (2) In the application of section 103 above by virtue of subsection (1) above, subsection (7)(a) of that section is to be read as requiring a notice to be given to the offender as soon as is reasonably practicable after the order under section 104(3)(aa) above is made.
- (3) Section 104 above and section 105 below apply where an offender is subject to a period of supervision under section 104(3)(aa) above as they apply where a detention and training order is in force in respect of an offender.
- (4) In the application of section 104 above by virtue of subsection (3) above—
 - (a) the references in that section to section 103(6)(b) above are to be read as references to that provision as applied by subsection (1) above,
 - (b) the references in subsections (3A)(b) and (3C) of that section to the term of the detention and training order are to be read as references to the term of the period of supervision under section 104(3)(aa) above, and

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- (c) the reference in subsection (3D)(b) of that section to the period of supervision under the detention and training order is to be read as including a reference to the period of supervision under section 104(3)(aa) above.
- (5) In the application of section 105 below by virtue of subsection (3) above—
- (a) paragraph (a) of subsection (1) of that section is to be read as if the words “after his release and” were omitted, and
 - (b) the reference in that paragraph to the date on which the term of the detention and training order ends is to be read as a reference to the date on which the period of supervision under section 104(3)(aa) ends.

Textual Amendments

F80 S. 104A - S. 104B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 80(7), 151(1)** (with s. 80(10)(11)); S.I. 2012/2906, art. 2(a)

104B Interaction of orders under section 104(3)(a) with other sentences

- (1) Where a court makes a detention and training order in the case of an offender who is subject to a period of detention under section 104(3)(a) above, the detention and training order takes effect—
 - (a) at the beginning of the day on which it is made, or
 - (b) if the court so orders, at the time when the period of detention under section 104(3)(a) above ends.
- (2) Where a court orders an offender who is subject to a detention and training order to be subject to a period of detention under section 104(3)(a) above for a failure to comply with requirements under a different detention and training order, the period of detention takes effect as follows—
 - (a) if the offender has been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the order for the period of detention is made, and
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102 above.
- (3) Subject to subsection (4) below, where at any time an offender is subject concurrently—
 - (a) to a detention and training order, and
 - (b) to a period of detention under section 104(3)(a) above,
 the offender is to be treated for the purposes of sections 102 to 105 of this Act as if the offender were subject only to the detention and training order.
- (4) Nothing in subsection (3) above requires the offender to be released in respect of either the order or the period of detention unless and until the offender is required to be released in respect of each of them.
- (5) The Secretary of State may by regulations make provision about the interaction between a period of detention under section 104(3)(a) above and a custodial sentence in a case where—
 - (a) an offender who is subject to such a period of detention becomes subject to a custodial sentence, or

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- (b) an offender who is subject to a custodial sentence becomes subject to such a period of detention.
- (6) The provision that may be made by regulations under subsection (5) above includes—
 - (a) provision as to the time at which the period of detention under section 104(3)(a) above or the custodial sentence is to take effect;
 - (b) provision for the offender to be treated, for the purposes of the enactments specified in the regulations, as subject only to the period of detention or the custodial sentence;
 - (c) provision about the effect of enactments relating to the person's release from detention or imprisonment in a case where that release is not to take effect immediately by virtue of provision in the regulations.
- (7) The power of the Secretary of State to make regulations under subsection (5) above—
 - (a) is exercisable by statutory instrument;
 - (b) includes power to make supplementary, incidental, transitional, transitory or saving provision.
- (8) A statutory instrument containing regulations under subsection (5) above is subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F80 S. 104A - S. 104B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 80\(7\), 151\(1\)](#) (with [s. 80\(10\)\(11\)](#)); S.I. 2012/2906, art. 2(a)

105 Offences during currency of order.

- (1) This section applies to a person subject to a detention and training order if—
 - (a) after his release and before the date on which the term of the order ends, he commits an offence punishable with imprisonment in the case of a person aged 21 or over (“the new offence”); and
 - (b) whether before or after that date, he is convicted of the new offence.
- (2) Subject to section 8(6) above (duty of adult magistrates’ court to remit young offenders to youth court for sentence), the court by or before which a person to whom this section applies is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be detained in such [^{F81}youth detention] accommodation as the Secretary of State may determine for the whole or any part of the period which—
 - (a) begins with the date of the court’s order; and
 - (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) above.
- (3) The period for which a person to whom this section applies is ordered under subsection (2) above to be detained in [^{F82}youth detention] accommodation—
 - (a) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, any sentence imposed for the new offence; and
 - (b) in either case, shall be disregarded in determining the appropriate length of that sentence.

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- (4) Where the new offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (5) A person detained in pursuance of an order under subsection (2) above shall be deemed to be in legal custody.

Textual Amendments

F81 Words in s. 105(2) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(4\), 41\(1\); S.I. 2007/3001, art. 2\(1\)\(k\)](#)

F82 Words in s. 105(3) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(4\), 41\(1\); S.I. 2007/3001, art. 2\(1\)\(k\)](#)

Modifications etc. (not altering text)

C15 Ss. 102-105 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), ss. 213\(1\), 383\(2\); S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059; S.I. 2009/1167, art. 4](#))

106 Interaction with sentences of detention in a young offender institution.

- (1) Where a court passes a sentence of detention in a young offender institution in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—
 - (a) if the offender has been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which it is passed;
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.

^{F83}(2)

^{F83}(3)

- (4) Subject to subsection (5) below, where at any time an offender is subject concurrently—
 - (a) to a detention and training order, and
 - (b) to a sentence of detention in a young offender institution,
 he shall be treated for the purposes of sections 102 to 105 above and of section 98 above (place of detention), Chapter IV of this Part (return to detention) and Part II of the ^{M11}Criminal Justice Act 1991 (early release) as if he were subject only to the one of them that was imposed on the later occasion.
- (5) Nothing in subsection (4) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.
- (6) Where, by virtue of any enactment giving a court power to deal with a person in a way in which a court on a previous occasion could have dealt with him, a detention and training order for any term is made in the case of a person who has attained the age of 18, the person shall be treated as if he had been sentenced to detention in a young offender institution for the same term.

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Textual Amendments

F83 S. 106(2)(3) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 112, Sch. 37 Pt. 7; S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906](#), art. 2(l))

Modifications etc. (not altering text)

C17 S. 106(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), art. 1\(3\), Sch. 2 para. 10](#)

Marginal Citations

M11 [1991 c. 53](#).

[^{F84}106A Interaction with sentences of detention

- (1) In this section—
- “the 2003 Act” means the Criminal Justice Act 2003;
 - “sentence of detention” means—
 - (a) a sentence of detention under section 91 above [^{F85}or section 209 of the Armed Forces Act 2006], or
 - (b) a sentence of detention under section [^{F86}226B or] 228 of the 2003 Act (extended sentence for certain violent or sexual offences: persons under 18).
- [^{F87}and references in this section to a sentence of detention under section [^{F88}226B or] 228 of the 2003 Act include such a sentence passed as a result of section [^{F89}221A or] 222 of the Armed Forces Act 2006.]
- (2) Where a court passes a sentence of detention in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—
- (a) if the offender has at any time been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the sentence is passed, and
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.
- (3) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention, the order shall take effect as follows—
- (a) if the offender has at any time been released under Chapter 6 of Part 12 of the 2003 Act (release on licence of fixed-term prisoners), at the beginning of the day on which the order is made, and
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Chapter.
- (4) Where an order under section 102(5) above is made in the case of a person in respect of whom a sentence of detention is to take effect as mentioned in subsection (2)(b) above, the order is to be expressed as an order that the period of detention attributable

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- to the detention and training order is to end at the time determined under section 102(5) (a) or (b) above.
- (5) In determining for the purposes of subsection (3)(b) the time when an offender would otherwise be released under Chapter 6 of Part 12 of the 2003 Act, section 246 of that Act (power of Secretary of State to release prisoners on licence before he is required to do so) is to be disregarded.
- (6) Where by virtue of subsection (3)(b) above a detention and training order made in the case of a person who is subject to a sentence of detention under section [F90 226B or] 228 of the 2003 Act is to take effect at the time when he would otherwise be released under Chapter 6 of Part 12 of that Act, any direction by the Parole Board under [F91 subsection (5)(b) of section 246A or (as the case may be)] subsection (2) (b) of section 247 of that Act in respect of him is to be expressed as a direction that the Board would, but for the detention and training order, have directed his release under that section.
- (7) Subject to subsection (9) below, where at any time an offender is subject concurrently—
- (a) to a detention and training order, and
 - (b) to a sentence of detention,
- he shall be treated for the purposes of the provisions specified in subsection (8) below as if he were subject only to the sentence of detention.
- (8) Those provisions are—
- (a) sections 102 to 105 above,
 - (b) section 92 above [F92, section 235 of the 2003 Act and section 210 of the Armed Forces Act 2006 (place of detention etc),] and
 - (c) Chapter 6 of Part 12 of the 2003 Act. [F93, and
 - (d) section 214 of the Armed Forces Act 2006 (offences committed during a detention and training order under that Act).]
- (9) Nothing in subsection (7) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.]

Textual Amendments

- F84** S. 106A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 113](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))
- F85** Words in s. 106A(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 165\(2\)\(a\)](#); [S.I. 2009/812](#), art. 3(a) (b) (with transitional provisions in [S.I. 2009/1059](#); [S.I. 2009/1167](#), art. 4
- F86** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 14\(2\)](#); [S.I. 2012/2906](#), art. 2(s)
- F87** Words in s. 106A(1) inserted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 165\(2\)\(b\)](#); [S.I. 2009/812](#), art. 3(a) (b) (with transitional provisions in [S.I. 2009/1059](#); [S.I. 2009/1167](#), art. 4
- F88** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 22 para. 16\(a\)](#); [S.I. 2012/2906](#), art. 2(t)

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- F89** Words in s. 106A(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 22 para. 16\(b\)](#); S.I. 2012/2906, art. 2(t)
- F90** Words in s. 106A(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 14\(3\)\(a\)](#); S.I. 2012/2906, art. 2(s)
- F91** Words in s. 106A(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 21 para. 14\(3\)\(b\)](#); S.I. 2012/2906, art. 2(s)
- F92** Words in s. 106A(8)(b) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 165\(3\)\(a\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F93** S. 106A(8)(d) and word added (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\), Sch. 16 para. 165\(3\)\(b\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C18** S. 106A modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 213\(1\)\(2\), 383\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- C19** S. 106A modified (24.4.2009 for specified purposes) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), art. 1\(3\), Sch. 1 para. 45\(2\)](#)

107 Meaning of “[^{F94}youth detention] accommodation” and references to terms.

- (1) In sections 102, 104 and 105 above [^{F95}“ youth detention accommodation ”] means—
- a secure training centre;
 - a young offender institution;
 - accommodation provided by [^{F96}or on behalf of] a local authority for the purpose of restricting the liberty of children and young persons;
 - accommodation provided for that purpose under subsection (5) of section 82 of the ^{M12}Children Act 1989 (financial support by the Secretary of State); or
 - [^{F97}such other accommodation or descriptions of accommodation as the Secretary of State may by order specify.]
- (2) In sections 102 to 105 above references to the term of a detention and training order shall be construed in accordance with section 101(13) above.

Textual Amendments

- F94** Words in s. 107 heading heading substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(5\), 41\(1\)](#); S.I. 2007/3001, art. 2(1)(k)
- F95** Words in s. 107(1) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(6\)\(a\), 41\(1\)](#); S.I. 2007/3001, art. 2(1)(k)
- F96** Words in s. 107(1)(c) inserted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(6\)\(b\), 41\(1\)](#); S.I. 2007/3001, art. 2(1)(k)
- F97** S. 107(1)(e) substituted (1.11.2007) by [Offender Management Act 2007 \(c. 21\), ss. 34\(6\)\(c\), 41\(1\)](#); S.I. 2007/3001, art. 2(1)(k)

Modifications etc. (not altering text)

- C20** S. 107 modified (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), ss. 213\(1\), 383\(2\)](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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Marginal Citations

M12 1989 c. 41.

Detention of persons aged at least 18 but under 21 for default or contempt

108 Detention of persons aged at least 18 but under 21 for default or contempt.

- (1) In any case where, but for section 89(1) above, a court would have power—
- (a) to commit a person aged at least 18 but under 21 to prison for default in payment of a fine or any other sum of money, or
 - (b) to make an order fixing a term of imprisonment in the event of such a default by such a person, or
 - (c) to commit such a person to prison for contempt of court or any kindred offence,
- the court shall have power, subject to subsection (3) below, to commit him to be detained under this section or, as the case may be, to make an order fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.
- (2) For the purposes of subsection (1) above, the power of a court to order a person to be imprisoned under section 23 of the ^{M13}Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.
- (3) No court shall commit a person to be detained under this section unless it is of the opinion that no other method of dealing with him is appropriate; and in forming any such opinion, the court—
- (a) shall take into account all such information about the circumstances of the default or contempt (including any aggravating or mitigating factors) as is available to it; and
 - (b) may take into account any information about that person which is before it.
- (4) Where a magistrates' court commits a person to be detained under this section, it shall—
- (a) state in open court the reason for its opinion that no other method of dealing with him is appropriate; and
 - (b) cause that reason to be specified in the warrant of commitment and to be entered in the register.
- (5) Subject to section 22(2)(b) of the ^{M14}Prison Act 1952 (removal to hospital etc.), a person in respect of whom an order has been made under this section is to be detained—
- (a) in a remand centre,
 - (b) in a young offender institution, or
 - (c) in any place in which a person aged 21 or over could be imprisoned or detained for default in payment of a fine or any other sum of money,
- as the Secretary of State may from time to time direct.

Marginal Citations

M13 1971 c. 32.

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M14 1952 c. 52.

CHAPTER III

REQUIRED CUSTODIAL SENTENCES FOR CERTAIN OFFENCES

^{F98}109 Life sentence for second serious offence.

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Textual Amendments

F98 S. 109 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(iv), 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

110 Minimum of seven years for third class A drug trafficking offence.

- (1) This section applies where—
- (a) a person is convicted of a class A drug trafficking offence committed after 30th September 1997;
 - (b) at the time when that offence was committed, he was 18 or over and had [^{F99}2 relevant drug convictions; and]
 - (c) one of those other offences was committed after he had been convicted of the other.
- (2) The court shall impose an appropriate custodial sentence for a term of at least seven years except where the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender; and
 - (b) would make it unjust to do so in all the circumstances.

[^{F100}(2A) For the purposes of subsection (1)—

- (a) a “relevant drug conviction” means—
 - (i) a conviction in any part of the United Kingdom of a class A drug trafficking offence, or
 - (ii) a conviction in another member State of an offence which was committed after the relevant date and would, if done in the United Kingdom at the time of the conviction, have constituted a class A drug trafficking offence; and
- (b) “the relevant date” means the date on which this subsection comes into force.]

^{F101}(3)

- (4) Where—
- (a) a person is charged with a class A drug trafficking offence (which, apart from this subsection, would be triable either way), and

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- (b) the circumstances are such that, if he were convicted of the offence, he could be sentenced for it under subsection (2) above, the offence shall be triable only on indictment.
- (5) In this section “class A drug trafficking offence” means a drug trafficking offence committed in respect of a class A drug; and for this purpose—
 “class A drug” has the same meaning as in the ^{M15}Misuse of Drugs Act 1971;
 [F102“ drug trafficking offence ” means an offence which is specified in—
 (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
 (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.]
- (6) In this section “an appropriate custodial sentence” means—
 (a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;
 (b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

Textual Amendments

- F99** Words in s. 110(1)(b) substituted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(2)(a)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F100** S. 110(2A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(2)(b)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F101** S. 110(3) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 114, **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F102** Words in s. 110(5) substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 37(2)**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Modifications etc. (not altering text)

- C21** S. 110(2) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by Armed Forces Act 2006 (c. 52), **ss. 239(5)**, 383(2) (with s. 271(1)); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Marginal Citations

- M15** 1971 c. 38.

111 Minimum of three years for third domestic burglary.

- (1) This section applies where—
 (a) a person is convicted of a domestic burglary committed after 30th November 1999;
 (b) at the time when that burglary was committed, he was 18 or over and had [F103² relevant domestic burglary convictions; and]

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- (c) one of those other burglaries was committed after he had been convicted of the other, and both of them were committed after [^{F104}the relevant date].
- (2) The court shall impose an appropriate custodial sentence for a term of at least three years except where the court is of the opinion that there are particular circumstances which—
 - (a) relate to any of the offences or to the offender; and
 - (b) would make it unjust to do so in all the circumstances.
- [^{F105}(2A) For the purposes of subsection (1)—
 - (a) a “relevant domestic burglary conviction” means—
 - (i) a conviction in England and Wales of a domestic burglary, or
 - (ii) a conviction in any other part of the United Kingdom or any other member State of an offence which would, if done in England and Wales at the time of the conviction, have constituted domestic burglary;
 - (b) “the relevant date”, in relation to a relevant domestic burglary conviction, means—
 - (i) in respect of a conviction in England and Wales, 30 November 1999, and
 - (ii) in any other case, the day on which this subsection comes into force.]
- [^{F106}(3)
- (4) Where—
 - (a) a person is charged with a domestic burglary which, apart from this subsection, would be triable either way, and
 - (b) the circumstances are such that, if he were convicted of the burglary, he could be sentenced for it under subsection (2) above,the burglary shall be triable only on indictment.
- (5) In this section “domestic burglary” means a burglary committed in respect of a building or part of a building which is a dwelling.
- (6) In this section “an appropriate custodial sentence” means—
 - (a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;
 - (b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

Textual Amendments

- F103** Words in s. 111(1)(b) substituted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(3)(a)(i)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F104** Words in s. 111(1)(c) substituted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(3)(a)(ii)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F105** S. 111(2A) inserted (15.8.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 17 para. 10(3)(b)** (with s. 180, Sch. 22 para. 41); S.I. 2010/1858, art. 3(d)(iv)
- F106** S. 111(3) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 32 para. 115, **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2;

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(3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

Modifications etc. (not altering text)

C22 S. 111(2) excluded (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), **ss. 239(5)**, 383(2) (with s. 271(1)); [S.I. 2009/812](#), art. 3(a)(b) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4

112 Appeals where previous convictions set aside.

(1) This section applies where—

- (a) a sentence has been imposed on any person under subsection (2) of section ^{F107}... 110 or 111 above; and
- (b) any previous conviction of his without which that section would not have applied has been subsequently set aside on appeal.

(2) Notwithstanding anything in section 18 of the ^{M16}Criminal Appeal Act 1968, notice of appeal against the sentence may be given at any time within 28 days from the date on which the previous conviction was set aside.

Textual Amendments

F107 Word in s. 112(1)(a) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 37 Pt. 7**; [S.I. 2005/950](#), art. 2(1), **Sch. 1** para. 44(4)(r) (with **Sch. 2**) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; [S.I. 2008/1586](#), Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; [S.I. 2012/2906](#), art. 2(l))

Marginal Citations

M16 1968 c. 19.

113 Certificates of convictions for purposes of Chapter III.

(1) Where—

- (a) on any date after 30th September 1997 a person is convicted in England and Wales of ^{F108}... a class A drug trafficking offence, or on any date after 30th November 1999 a person is convicted in England and Wales of a domestic burglary, and
- (b) the court by or before which he is so convicted states in open court that he has been convicted of such an offence on that date, and
- (c) that court subsequently certifies that fact,

the certificate shall be evidence, for the purposes of the relevant section of this Chapter, that he was convicted of such an offence on that date.

[^{F109}(1A) Where—

- (a) a person is convicted—
 - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
 - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or

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- (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
 - (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the person has been convicted of such an offence on that date, and
 - (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, the fact that the person has been convicted of such an offence on that date,
- the certificate is evidence, for the purposes of the relevant section of this Chapter, that the person was convicted of such an offence on that date.]

(2) Where—

- (a) after 30th September 1997 a person is convicted in England and Wales of a class A drug trafficking offence or after 30th November 1999 a person is convicted in England and Wales of a domestic burglary, and
- (b) the court by or before which he is so convicted states in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
- (c) that court subsequently certifies that fact,

the certificate shall be evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on that day or over, or at some time during, that period.

[^{F110}(2A) Where—

- (a) a person is convicted—
 - (i) in any part of the United Kingdom other than England and Wales of a class A drug trafficking offence,
 - (ii) in any member State other than the United Kingdom of a corresponding drug trafficking offence, or
 - (iii) in any part of the United Kingdom other than England and Wales, or in any other member State, of a corresponding domestic burglary offence,
- (b) in the case of a conviction by or before a court in the United Kingdom, it is stated in open court that the offence was committed on a particular day or over, or at some time during, a particular period, and
- (c) the court by or before which the person is convicted certifies, by way of a certificate signed by the proper officer of the court, that the offence was committed on a particular day or over, or at some time during, a particular period,

the certificate is evidence, for the purposes of the relevant section of this Chapter, that the offence was committed on that day or over, or at some time during, that period.]

(3) In this section—

[^{F111}“proper officer” means the clerk of the court, that clerk's deputy or any other person having custody of the court record;]

^{F112}... “class A drug trafficking offence” and “domestic burglary” have the same meanings as in sections ^{F112}... 110 and 111 respectively; ^{F113}...

[^{F114}“corresponding drug trafficking offence” means an offence within section 110(2A)(a)(ii);]

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
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“the relevant section of this Chapter”, in relation to any such offence, shall be construed accordingly.

Textual Amendments

- F108** Words in s. 113(1)(a) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F109** S. 113(1A) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(4\)\(a\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)
- F110** S. 113(2A) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(4\)\(b\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)
- F111** Words in s. 113(3) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(4\)\(c\)\(i\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)
- F112** Words in s. 113(3) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); S.I. 2005/950, art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by [2012 c. 10](#), Sch. 14 para. 17; S.I. 2012/2906, art. 2(1))
- F113** Word in s. 113(3) repealed (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(4\)\(c\)\(ii\)](#), [Sch. 23 Pt. 5](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(f)(iv)
- F114** Words in s. 113(3) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 17 para. 10\(4\)\(c\)\(ii\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, art. 3(d)(iv)

[^{F115}114 Offences under service law.

(1) Where—

- (a) a person has at any time been convicted of an offence under section 42 of the Armed Forces Act 2006, and
- (b) the corresponding offence under the law of England and Wales (within the meaning given by that section) was a class A drug trafficking offence or a domestic burglary,

the relevant section of this Chapter shall have effect as if he had at that time been convicted in England and Wales of that corresponding offence.

[^{F116}(1A) Where—

- (a) a person has at any time been found guilty of a member State service offence committed after the relevant date, and
- (b) the corresponding UK offence was a class A drug trafficking offence or a domestic burglary,

the relevant section of this Chapter and subsection (1) above shall have effect as if the person had at that time been convicted in England and Wales of that corresponding UK offence.

(1B) For the purposes of subsection (1A)—

- (a) “member State service offence” means an offence which—
 - (i) was the subject of proceedings under the service law of a member State other than the United Kingdom, and

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- (ii) at the time it was done would have constituted an offence under the law of any part of the United Kingdom, or an offence under section 42 of the Armed Forces Act 2006, if it had been done in any part of the United Kingdom by a member of Her Majesty's forces (“the corresponding UK offence”);
 - (b) “relevant date” means—
 - (i) where the corresponding UK offence was a class A drug trafficking offence, the relevant date referred to in section 110(2A)(b), and
 - (ii) where the corresponding UK offence was a domestic burglary, the relevant date referred to in section 111(2A)(b)(ii);
 - (c) “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006;
 - (d) “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.]
- (2) Subsection (3) of section 113 applies for the purposes of this section as it applies for the purposes of that section.
- (3) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy, [^{F117}encouragement and assistance] and aiding and abetting outside England and Wales) applies for the purposes of this section as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to this section.]

[^{F118}(4) Where—

- (a) the corresponding UK offence is an offence under section 42 of the Armed Forces Act 2006 by reason of section 43, 45, 46 or 47 of that Act (attempting, conspiring to commit, inciting, aiding, abetting, counselling or procuring criminal conduct); and
- (b) the act to which it relates (“the contemplated act”) is not an act that is (or that if done would have been) punishable by the law of England and Wales;

for the purposes of subsections (1A) and (1B) it must be assumed that the contemplated act amounted to the offence under the law of England and Wales that it would have amounted to if it had been the equivalent act in England or Wales.]

Textual Amendments

- F115** S. 114 substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 16 para. 166](#); [S.I. 2009/812, art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#)
- F116** S. 114(1A)(1B) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\)](#), [Sch. 17 para. 10\(5\)\(a\)](#) (with s. 180, [Sch. 22 para. 41](#)); [S.I. 2010/1858, art. 3\(d\)\(iv\)](#)
- F117** Words in s. 114(3) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\)](#), [Sch. 5 para. 3](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504, art. 2\(a\)](#)
- F118** S. 114(4) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(5\)](#), [Sch. 17 para. 10\(5\)\(b\)](#) (with s. 180, [Sch. 22 para. 41](#)); [S.I. 2010/1858, art. 3\(d\)\(iv\)](#)

Modifications etc. (not altering text)

- C23** S. 114(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\), art. 1\(3\)](#), [Sch. 1 para. 45\(3\)](#)

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115 Determination of day when offence committed.

Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of sections ^{F119}... 110 and 111 above to have been committed on the last of those days.

Textual Amendments

F119 Word in s. 115 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 44\(4\)\(r\) \(with Sch. 2\)](#) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#))

CHAPTER IV

RETURN TO PRISON ETC. WHERE OFFENCE COMMITTED DURING ORIGINAL SENTENCE

^{F120} 116 Power to order return to prison etc. where offence committed during original sentence.

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Textual Amendments

F120 S. 116 repealed (4.4.2005 except in relation to a person in a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005, or is for a term of less than twelve months) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 116, Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 paras. 42\(34\)44\(4\)\(r\) \(with Sch. 2\)](#) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#)); s. 116(1)(b), in so far as it is still in force, amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 45\(a\)](#); [S.I. 2008/1466, art. 2\(c\)\(iv\)](#); s. 116(7), in so far as it is still in force, amended (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 26 para. 45\(b\)](#); [S.I. 2008/1586, art. 2\(1\), Sch. 1 para. 48\(o\)](#))

^{F121} 117 Treatment for purposes of section 116(1) of person serving two or more sentences or extended sentence.

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Textual Amendments

F121 S. 117 repealed (4.4.2005 except in relation to a person in a case in which the sentence of imprisonment is imposed in respect of an offence committed before 4.4.2005, or is for a term of less than twelve months) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 116, Sch. 37 Pt. 7](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 paras. 42\(34\)44\(4\)\(r\) \(with Sch. 2\)](#) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I.](#)

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.
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2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

CHAPTER V

SUSPENDED SENTENCES OF IMPRISONMENT

Suspended sentences of imprisonment

^{F122}**118 Suspended sentences of imprisonment.**

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

^{F122}**119 Power of court on conviction of further offence to deal with suspended sentence.**

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

^{F122}**120 Court by which suspended sentence may be dealt with.**

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

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F122¹²¹ Procedure where court convicting of further offence does not deal with suspended sentence.

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Suspended sentence supervision orders

F122¹²² Suspended sentence supervision orders.

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F122¹²³ Breach of requirement of suspended sentence supervision order.

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F122¹²⁴ Suspended sentence supervision orders: revocation, amendment and cessation.

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Textual Amendments

F122 Pt. V Ch. V repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(v), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1

Status: Point in time view as at 03/12/2012. This version of this part contains provisions that are prospective.

Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000, Part V is up to date with all changes known to be in force on or before 16 January 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)

paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Suspended sentences: supplementary

^{F122}**125 Suspended sentences: supplementary.**

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Textual Amendments

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