



Powers of Criminal Courts Act 1973

1973 CHAPTER 62

PART I

POWERS OF COURTS TO DEAL WITH OFFENDERS

Suspended sentences of imprisonment

22 Suspended sentences of imprisonment

- (1) Subject to subsection (2) below, a court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than two years from the date of the order, the offender commits in Great Britain another offence punishable with imprisonment and thereafter a court having power to do so orders under section 23 of this Act that the original sentence shall take effect; and in this Part of this Act "operational period", in relation to a suspended sentence, means the period so specified.
- (2) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in which a sentence of imprisonment would have been appropriate in the absence of any power to suspend such a sentence by an order under subsection (1) above.
- (3) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.
- (4) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 23 of this Act if during the operational period he commits an offence punishable with imprisonment.
- (5) Where a court has passed a suspended sentence on any person, and that person is subsequently sentenced to Borstal training, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent sentence or any conviction or finding on which it was passed is quashed on appeal.

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- (6) Subject to any provision to the contrary contained in the Criminal Justice Act 1967, this Act or any enactment passed or instrument made under any enactment after 31st December 1967—
- (a) a suspended sentence which has not taken effect under section 23 of this Act shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and
 - (b) where a suspended sentence has taken effect under that section, the offender shall be treated for the purposes of the enactments and instruments excepted by paragraph (a) above as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

23 Power of court on conviction of further offence to deal with suspended sentence

- (1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under section 24 of this Act to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods:—
- (a) the court may order that the suspended sentence shall take effect with the original term unaltered;
 - (b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;
 - (c) it may by order vary the original order under section 22(1) of this Act by substituting for the period specified therein a period expiring not later than two years from the date of the variation; or
 - (d) it may make no order with respect to the suspended sentence;
- and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.
- (2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.
- (3) Where under subsection (1)(a) or (b) above a court orders that a suspended sentence shall take effect with a term of not more than six months and the court would have had power to sentence the offender to be detained in a detention centre for that term if it had convicted him of the original offence on the occasion of the order, the order may include a direction that he shall serve the sentence in a detention centre.
- (4) Without prejudice to subsection (3) above, where under subsection (1)(a) or (b) above a court orders that a suspended sentence shall take effect with a term of less than three months, the court may include such a direction in the order if the offender is then liable to be detained in a detention centre by virtue of an order or warrant made or issued by that or another court.

- (5) An order under subsection (1)(a) or (b) above which includes such a direction shall be treated for all purposes as an order under section 4 of the Criminal Justice Act 1961 (detention of offenders under twenty-one) for the detention of the offender in a detention centre, and subsection (2) above shall not apply in relation to any such order.
- (6) In proceedings for dealing with an offender in respect of a suspended sentence which take place before the Crown Court any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.
- (7) Where a court deals with an offender under this section in respect of a suspended sentence the appropriate officer of the court shall notify the appropriate officer of the court which passed the sentence of the method adopted.
- (8) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the appropriate officer of the court shall record that fact.
- (9) For the purposes of any enactment conferring rights of appeal in criminal cases any order made by a court with respect to a suspended sentence shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

24 Court by which suspended sentence may be dealt with

- (1) An offender may be dealt with in respect of a suspended sentence by the Crown Court or, where the sentence was passed by a magistrates' court, by any magistrates' court before which he appears or is brought.
- (2) Where an offender is convicted by a magistrates' court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Crown Court—
 - (a) the court may, if it thinks fit, commit him in custody or on bail to the Crown Court; and
 - (b) if it does not, shall give written notice of the conviction to the appropriate officer of the Crown Court.
- (3) For the purposes of this section and of section 25 of this Act a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

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

- (1) If it appears to the Crown Court, where that court has jurisdiction in accordance with subsection (2) below, or to a justice of the peace having jurisdiction in accordance with that subsection, that an offender has been convicted in Great Britain of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, that court or justice may, subject to the following provisions of this section, issue a summons requiring the offender to appear at the place and time specified therein, or a warrant for his arrest.
- (2) Jurisdiction for the purposes of subsection (1) above may be exercised—

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- (a) if the suspended sentence was passed by the Crown Court, by that court;
 - (b) if it was passed by a magistrates' court, by a justice acting for the area for which that court acted.
- (3) Where an offender is convicted by a court in Scotland of an offence punishable with imprisonment and the court is informed that the offence was committed during the operational period of a suspended sentence passed in England or Wales, the court shall give written notice of the conviction to the appropriate officer of the court by which the suspended sentence was passed.
- (4) Unless he is acting in consequence of a notice under subsection (3) above, a justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.
- (5) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed.

26 Suspended sentence supervision orders

- (1) Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order (in this Act referred to as "a supervision order") placing the offender under the supervision of a supervising officer for a period specified in the order, being a period not exceeding the operational period of the suspended sentence.
- (2) The Secretary of State may by order—
- (a) direct that subsection (1) above be amended by substituting, for the number of months specified in the subsection as originally enacted or as previously amended under this paragraph, such other number (not more than six) as the order may specify; or
 - (b) make in that subsection the repeals necessary to enable a court to make a supervision order thereunder in the case of any suspended sentence, whatever the length of the term.
- (3) A supervision order shall specify the petty sessions area in which the offender resides or will reside; and the supervising officer shall be a probation officer appointed for or assigned to the area for the time being specified in the order (whether under this subsection or by virtue of subsection (6) below).
- (4) An offender in respect of whom a supervision order is in force shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.
- (5) The court by which a supervision order is made shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy to the offender and the supervising officer; and the court shall, except where it is itself a magistrates' court acting for the petty sessions area specified in the order, send to the clerk to the justices for the petty sessions area specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order.
- (6) If a magistrates' court acting for the petty sessions area for the time being specified in a supervision order is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area, the court may,

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and on the application of the supervising officer shall, amend the order by substituting the other petty sessions area for the area specified in the order.

- (7) Where a supervision order is amended by a court under subsection (6) above the court shall send to the clerk to the justices for the new area specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order.
- (8) A supervision order shall cease to have effect if before the end of the period specified in it—
 - (a) a court orders under section 23 of this Act that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
 - (b) the order is discharged or replaced under the subsequent provisions of this section.
- (9) A supervision order may be discharged, on the application of the supervising officer or the offender—
 - (a) if it was made by the Crown Court and includes a direction reserving the power of discharging it to that court, by the Crown Court;
 - (b) in any other case by a magistrates' court acting for the petty sessions area for the time being specified in the order.
- (10) Where under section 23 of this Act a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a supervision order in respect of the offender—
 - (a) in place of any such order made when the suspended sentence was passed ; or
 - (b) if the court which passed the sentence could have made such an order but did not do so; or
 - (c) if that court could not then have made such an order but would have had power to do so if subsection (1) above had then had effect as it has effect at the time when the offender is dealt with under section 23.
- (11) On making a supervision order the court shall in ordinary language explain its effect to the offender.

27 Breach of requirement of suspended sentence supervision order

- (1) If at any time while a supervision order is in force in respect of an offender it appears on information to a justice of the peace acting for the petty sessions area for the time being specified in the order that the offender has failed to comply with any of the requirements of section 26(4) of this Act, the justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before a magistrates' court acting for the petty sessions area for the time being specified in the supervision order.
- (3) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that he has failed without reasonable cause to comply with any of the requirements of section 26(4) the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding £50.

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- (4) A fine imposed under this section shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.