



Criminal Justice Act 1982

1982 CHAPTER 48

PART I

TREATMENT OF YOUNG OFFENDERS

Custody and detention of persons under 21

1 General restriction on custodial sentences

- (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under 21 years of age or commit such a person to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person under 21 years of age who is remanded in custody or committed in custody for trial or sentence.
- (3) No court shall pass a sentence of Borstal training.
- (4) Where a person under 21 years of age is convicted or found guilty of an offence, the court may not—
 - (a) make a detention centre order in respect of him under section 4 below;
 - (b) pass a youth custody sentence on him under section 6 below; or
 - (c) pass a sentence of custody for life on him under section 8(2) below,unless it is of the opinion that no other method of dealing with him is appropriate because it appears to the court that he is unable or unwilling to respond to non-custodial penalties or because a custodial sentence is necessary for the protection of the public or because the offence was so serious that a non-custodial sentence cannot be justified.
- (5) No court shall commit a person under 21 years of age to be detained under section 9 below unless it is of the opinion that no other method of dealing with him is appropriate.
- (6) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State his age shall be deemed to be

Status: This is the original version (as it was originally enacted).

that which it appears to the court or the Secretary of State (as the case may be) to be after considering any available evidence.

2 Social inquiry reports etc.

- (1) For the purpose of determining whether there is any appropriate method of dealing with a person under 21 years of age other than a method whose use in the case of such a person is restricted by section 1(4) or (5) above the court shall obtain and consider information about the circumstances and shall take into account any information before the court which is relevant to his character and his physical and mental condition.
- (2) Subject to subsection (3) below, the court shall in every case obtain a social inquiry report for the purpose of determining whether there is any appropriate method of dealing with a person other than a method whose use is restricted by section 1 (4) above.
- (3) Subsection (2) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a social inquiry report.
- (4) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(4) above, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate because it appears to the court that he is unable or unwilling to respond to non-custodial penalties or because a custodial sentence is necessary for the protection of the public or because the offence was so serious that a non-custodial sentence cannot be justified.
- (5) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(5) above, it shall state in open court the reason for its opinion that no other method of dealing with him is appropriate.
- (6) Where a magistrates' court deals with a person under 21 years of age by a method whose use in the case of such a person is restricted by section 1(4) above without obtaining a social inquiry report, it shall state in open court the reason for its opinion that it was unnecessary to obtain such a report.
- (7) A magistrates' court shall cause a reason stated under subsection (4), (5) or (6) above to be specified in the warrant of commitment and to be entered in the register.
- (8) No sentence or order shall be invalidated by the failure of a court to comply with subsection (2) above, but any other court on appeal from that court shall obtain a social inquiry report if none was obtained by the court below, unless it is of the opinion that in the circumstances of the case it is unnecessary to do so.
- (9) In determining whether it should deal with the appellant by a method different from that by which the court below dealt with him the court hearing the appeal shall consider any social inquiry report obtained by it or by the court below.
- (10) In this section " social inquiry report" means a report about a person and his circumstances made by a probation officer or by a social worker of a local authority social services department.

3 Restriction on imposing custodial sentences on persons under 21 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—
- (a) make a detention centre order under section 4 below ;
 - (b) pass a youth custody sentence under section 6 below ;
 - (c) pass a sentence of custody for life under section 8(2) below; or
 - (d) make an order for detention under section 53(2) of the Children and Young Persons Act 1933, in respect of or on a person who is not legally represented in that court, unless either—
 - (i) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance ;
or
 - (ii) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
- (2) 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, and in subsection (1)(i) and (ii) above " legal aid " means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.

4 Orders for detention of male offenders aged 14 to 20

- (1) Where—
- (a) a male offender under 21 but not less than 14 years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
 - (b) the court considers—
 - (i) that the only appropriate method of dealing with him is to pass a custodial sentence on him; but
 - (ii) that the term of such a sentence should be no more than 4 months, the order that the court is to make, subject to the provisions of this section and to section 5(2) below, is an order for his detention in a detention centre for such period, not exceeding 4 months, as it considers appropriate.
- (2) If the maximum term of imprisonment that a court could impose for an offence is less than 4 months, the maximum term of detention it may specify for that offence in a detention centre order is the same as the maximum term of imprisonment.
- (3) Subject to subsection (4) below, no order may be made under this section for the detention of an offender in a detention centre for less than 21 days.
- (4) A court may order the detention of an offender in a detention centre for less than 21 days for an offence under section 15(11) below.

Status: This is the original version (as it was originally enacted).

- (5) Subject to subsection (6) below, a court shall not make an order under this section for the detention of an offender in a detention centre—
- (a) if it considers that his detention in such a centre would be unsuitable because of his mental or physical condition ; or
 - (b) if he is serving or has ever served a sentence—
 - (i) of imprisonment;
 - (ii) of detention under section 53 of the Children and Young Persons Act 1933 (detention on conviction of certain grave crimes);
 - (iii) of Borstal training ;
 - (iv) of youth custody under section 6 below ; or
 - (v) of custody for life under section 8 below.
- (6) A court may make an order under this section for the detention in a detention centre of an offender who has served a sentence of a description specified in subsection (5)(b) above if it appears to the court that there are special circumstances (whether relating to the offence or to the offender) which warrant the making of such an order in his case.
- (7) An order under this section is referred to in this Act as a " detention centre order " .

5 Consecutive terms and aggregate periods of detention

- (1) Subject to the provisions of this section, any court which makes a detention centre order may direct that the term of detention under the order shall commence on the expiration of a term of detention under another detention centre order.
- (2) No court shall—
- (a) make a detention centre order in respect of an offender who is subject to another such order ; or
 - (b) give a direction under subsection (1) above,
 if the effect would be that the offender would be ordered to be detained in a detention centre for more than 4 months at a time.
- (3) If a court makes such an order or gives such a direction in respect of an offender aged less than 15 years, so much of the aggregate of all the terms of detention in a detention centre to which he is subject as exceeds 4 months shall be treated as remitted.
- (4) If a court makes such an order or gives such a direction in respect of an offender aged 15 years or over, he shall be treated for all purposes as if he had been sentenced to a term of youth custody equal to the aggregate of all the terms of detention in a detention centre to which he is subject.
- (5) Where
- (a) an offender not less than 15 years of age is serving a term of detention in a detention centre ; and
 - (b) on his conviction of an offence the court by which he is convicted considers that the only appropriate method of dealing with him is to pass a custodial sentence on him; and
 - (c) the length of sentence which the court considers appropriate is such that the period for which he would be ordered to be detained by virtue of the sentence, together with the period for which any detention centre order to which he is subject directed that he should be detained, would exceed 4 months,

the sentence that the court is to pass is a youth custody sentence for the term which it considers appropriate.

- (6) Where a court passes a youth custody sentence on an offender under subsection (5) above, it shall direct that any detention centre order to which he is subject at the time of the conviction for which the youth custody sentence is imposed shall be treated for all purposes as if it had been a sentence of youth custody.
- (7) Where a detention centre order is treated as a sentence of youth custody by virtue of this section, the portion of the term of detention imposed by the order which the offender has already served shall be deemed to have been a portion of a term of youth custody.

6 Youth custody: offenders aged 15 to 20

- (1) Subject to section 8 below and to section 53 of the Children and Young Persons Act 1933, where—
 - (a) a person under 21 but not less than 15 years of age is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
 - (b) the court considers for reasons which shall be stated in open court that the only appropriate method of dealing with the offender is to pass a custodial sentence ; and
 - (c) either—
 - (i) the court considers that it would be appropriate to sentence the offender to a term of more than 4 months, or where the offender has been convicted of more than one offence, to terms of more than 4 months in the aggregate ; or
 - (ii) the case falls within subsection (2) or (4) below,the sentence that the court is to pass is a sentence of youth custody.
- (2) A case falls within this subsection where the offender is male and the court determines—
 - (a) that a sentence of 4 months or less would be appropriate ; but
 - (b) that a detention centre order is precluded by section 4(5) above.
- (3) If a court passes a sentence of youth custody on an offender because it considers that his detention in a detention centre would be unsuitable because of his mental condition, it shall certify in the warrant of commitment that it passed the sentence of youth custody for that reason.
- (4) A case falls within this subsection if the offender is female and has attained the age of 17 years.
- (5) A sentence under this section is referred to in this Act as a " youth custody sentence ".

7 Youth custody: length of term

- (1) Subject to subsection (8) below, the maximum term of youth custody 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 (8) below, where—

Status: This is the original version (as it was originally enacted).

- (a) an offender is convicted of more than one offence for which he is liable to a sentence of youth custody ; or
 - (b) an offender who is serving a youth custody sentence 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 youth custody sentences as if they were sentences of imprisonment.
- (3) Where an offender who—
- (a) is serving a youth custody sentence ; and
 - (b) is aged over 21 years,
- 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 youth custody sentence.
- (4) Subject to subsections (6) and (7) below, a court shall not pass a youth custody sentence on an offender whose effect would be that he would be sentenced to a total term which is less than the usual term of youth custody.
- (5) The usual term of youth custody is a term exceeding 4 months.
- (6) If a case falls within section 6(2) or (4) above, the term of youth custody to which the offender is sentenced may be less than the usual term but not less than 21 days.
- (7) A court may pass a sentence of youth custody for less than 21 days for an offence under section 15(11) below.
- (8) An offender aged less than 17 years shall not be sentenced to a term of youth custody which exceeds 12 months at a time; and accordingly—
- (a) a court shall not pass a youth custody sentence on such an offender whose effect would be that he would be sentenced to a total term which exceeds 12 months; and
 - (b) so much of any such term for which such an offender is sentenced as exceeds 12 months shall be treated as remitted.
- (9) In subsections (4) and (8)(a) above " total term " means—
- (a) in the case of an offender sentenced to two or more terms of youth custody which are consecutive or wholly or partly concurrent, the aggregate of those terms ;
 - (b) in the case of any other offender, the term of the youth custody sentence in question.

8 Custody for life

- (1) Where a person under the age of 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 53(1) of the Children and Young Persons Act 1933 (detention of persons under 18 convicted of murder).
- (2) Where a person aged 17 years or over but under the age of 21 is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

9 Detention of persons aged 17 to 20 for default or contempt

- (1) In any case where, but for section 1(1) above, a court would have power—
- (a) to commit a person under 21 but not less than 17 years of age 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 section 1(5) above, 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 Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.

10 Computation of custodial sentences for young offenders

The following subsections shall be added at the end of section 67 of the Criminal Justice Act 1967 (reduction of custodial sentence by period already spent in custody)

-
- “(5) This section applies—
- (a) to orders made under section 4 of the Criminal Justice Act 1982 (detention centre orders); and
 - (b) to sentences passed by virtue of section 6 of the Criminal Justice Act 1982 (youth custody sentences),
- as it applies to sentences of imprisonment.
- (6) The reference in subsection (1) above to an offender being committed to custody by an order of a court includes a reference to his being committed to a remand centre or to prison under section 23 of the Children and Young Persons Act 1969 or section 37 of the Magistrates' Courts Act 1980 but does not include a reference to his being committed to the care of a local authority under the said section 23.”.