



# Criminal Justice Act 1991

## 1991 CHAPTER 53

### PART III

#### CHILDREN AND YOUNG PERSONS

##### *Children's evidence*

#### 52 Competence of children as witnesses.

(1) After section 33 of the 1988 Act there shall be inserted the following section—

**“33A Evidence given by children.**

- (1) A child's evidence in criminal proceedings shall be given unsworn.
- (2) A deposition of a child's unsworn evidence may be taken for the purposes of criminal proceedings as if that evidence had been given on oath.
- (3) In this section “child” means a person under fourteen years of age.”

<sup>F1</sup>(2) .....

#### Textual Amendments

**F1** S. 52(2) repealed (3.2.1995) by 1994 c. 33, s. 168(3), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix C.

#### Commencement Information

**II** S. 52 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

*Status: Point in time view as at 01/04/2000.*

*Changes to legislation: Criminal Justice Act 1991, Part III is up to date with all changes known to be in force on or before 28 December 2023. 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)*

### 53 Notices of transfer in certain cases involving children.

- (1) If a person has been charged with an offence to which section 32(2) of the 1988 Act applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions is of the opinion—
- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;
  - (b) that a child who is alleged—
    - (i) to be a person against whom the offence was committed; or
    - (ii) to have witnessed the commission of the offence,
 will be called as a witness at the trial; and
  - (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court,
- a notice (“notice of transfer”) certifying that opinion may be [F<sup>2</sup>given] by or [F<sup>2</sup>to] behalf of the Director on the magistrates’ court in whose jurisdiction the offence has been charged.
- (2) A notice of transfer shall be [F<sup>3</sup>given] before the magistrates’ court begins to inquire into the case as examining justices.
- (3) On the [F<sup>4</sup>giving] of a notice of transfer the functions of the magistrates’ court shall cease in relation to the case except as provided by paragraphs 2 and 3 of Schedule 6 to this Act or by section 20(4) of the <sup>M1</sup>Legal Aid Act 1988.
- (4) The decision to [F<sup>5</sup>give] a notice of transfer shall not be subject to appeal or liable to be questioned in any court.
- (5) Schedule 6 to this Act (which makes further provision in relation to notices of transfer) shall have effect.
- (6) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) of the 1988 Act, is under fourteen years of age or, if he was under that age when any such video recording as is mentioned in section 32A(2) of that Act was made in respect of him, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) of that Act, is under seventeen years of age or, if he was under that age when any such video recording was made in respect of him, is under eighteen years of age.
- (7) Any reference in subsection (6) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) of that Act includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- [F<sup>6</sup>(8) This section shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.]

#### Textual Amendments

- F2** Words in s. 53(1) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(a)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F3** Words in s. 53(2) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(b)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.

*Status: Point in time view as at 01/04/2000.*

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- F4** Words in s. 53(3) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(c)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F5** Words in s. 53(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 49(d)**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.
- F6** S. 53(8) inserted (4.1.1998 for certain purposes, otherwise 15.1.2001) by 1998 c. 37, s. 119, **Sch. 8 para.93**; S.I. 1998/2327, **art. 4(2)(c)**; S.I. 2000/3283, **art. 2(c)** (subject to art. 3).

#### Commencement Information

- I2** S. 53 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

- M1** 1988 c. 34.

## 54 Video recordings of testimony from child witnesses.

After section 32 of the 1988 Act (evidence through television links) there shall be inserted the following section—

### “32A Video recordings of testimony from child witnesses.

- (1) This section applies in relation to the following proceedings, namely—
- trials on indictment for any offence to which section 32(2) above applies;
  - appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968 in respect of any such offence; and
  - proceedings in youth courts for any such offence and appeals to the Crown Court arising out of such proceedings.
- (2) In any such proceedings a video recording of an interview which—
- is conducted between an adult and a child who is not the accused or one of the accused (“the child witness”); and
  - relates to any matter in issue in the proceedings,
- may, with the leave of the court, be given in evidence in so far as it is not excluded by the court under subsection (3) below.
- (3) Where a video recording is tendered in evidence under this section, the court shall (subject to the exercise of any power of the court to exclude evidence which is otherwise admissible) give leave under subsection (2) above unless—
- it appears that the child witness will not be available for cross-examination;
  - any rules of court requiring disclosure of the circumstances in which the recording was made have not been complied with to the satisfaction of the court; or
  - the court is of the opinion, having regard to all the circumstances of the case, that in the interests of justice the recording ought not to be admitted;
- and where the court gives such leave it may, if it is of the opinion that in the interests of justice any part of the recording ought not to be admitted, direct that that part shall be excluded.

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- (4) In considering whether any part of a recording ought to be excluded under subsection (3) above, the court shall consider whether any prejudice to the accused, or one of the accused, which might result from the admission of that part is outweighed by the desirability of showing the whole, or substantially the whole, of the recorded interview.
- (5) Where a video recording is admitted under this section—
- (a) the child witness shall be called by the party who tendered it in evidence;
  - (b) that witness shall not be examined in chief on any matter which, in the opinion of the court, has been dealt with in his recorded testimony.
- (6) Where a video recording is given in evidence under this section, any statement made by the child witness which is disclosed by the recording shall be treated as if given by that witness in direct oral testimony; and accordingly—
- (a) any such statement shall be admissible evidence of any fact of which such testimony from him would be admissible;
  - (b) no such statement shall be capable of corroborating any other evidence given by him;
- and in estimating the weight, if any, to be attached to such a statement, regard shall be had to all the circumstances from which any inference can reasonably be drawn (as to its accuracy or otherwise).
- (7) In this section “child” means a person who—
- (a) in the case of an offence falling within section 32(2)(a) or (b) above, is under fourteen years of age or, if he was under that age when the video recording was made, is under fifteen years of age; or
  - (b) in the case of an offence falling within section 32(2)(c) above, is under seventeen years of age or, if he was under that age when the video recording was made, is under eighteen years of age.
- (8) Any reference in subsection (7) above to an offence falling within paragraph (a), (b) or (c) of section 32(2) above includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.
- (9) In this section—
- “statement” includes any representation of fact, whether made in words or otherwise;
- “video recording” means any recording, on any medium, from which a moving image may by any means be produced and includes the accompanying sound-track.
- (10) A magistrates’ court inquiring into an offence as examining justices under section 6 of the Magistrates’ Courts Act 1980 may consider any video recording as respects which leave under subsection (2) above is to be sought at the trial, notwithstanding that the child witness is not called at the committal proceedings.
- (11) Without prejudice to the generality of any enactment conferring power to make rules of court, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this section.

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(12) Nothing in this section shall prejudice the admissibility of any video recording which would be admissible apart from this section.”

#### Commencement Information

**I3** S. 54 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### 55 Further amendments of enactments relating to children’s evidence.

(1) In section 103 of the 1980 Act (evidence of children in committal proceedings) subsection (3)(a) shall cease to have effect and for subsection (5) there shall be substituted the following subsection—

“(5) In this section “child” has the same meaning as in section 53 of the Criminal Justice Act 1991.”

(2) In subsection (1) of section 32 of the 1988 Act (evidence through television links)—

(a) for the words from “on a trial” to “1968” there shall be substituted the words “in proceedings to which subsection (1A) below applies”; and

(b) for paragraph (b) there shall be substituted the following paragraph—

“(b) the witness is a child, or is to be cross-examined following the admission under section 32A below of a video recording of testimony from him, and the offence is one to which subsection (2) below applies.”.

(3) After that subsection there shall be inserted the following subsection—

“(1A) This subsection applies—

(a) to trials on indictment, appeals to the criminal division of the Court of Appeal and hearings of references under section 17 of the Criminal Appeal Act 1968; and

(b) to proceedings in youth courts and appeals to the Crown Court arising out of such proceedings.”

(4) After subsection (3) of that section there shall be inserted the following subsections—

“(3A) Where, in the case of any proceedings before a youth court—

(a) leave is given by virtue of subsection (1)(b) above for evidence to be given through a television link; and

(b) suitable facilities for receiving such evidence are not available at any petty-sessional court-house in which the court can (apart from this subsection) lawfully sit,

the court may sit for the purposes of the whole or any part of those proceedings at any place at which such facilities are available and which has been appointed for the purposes of this subsection by the justices acting for the petty sessions area for which the court acts.

(3B) A place appointed under subsection (3) above may be outside the petty sessions area for which it is appointed; but it shall be deemed to be in that area for the purpose of the jurisdiction of the justices acting for that area.”

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(5) In subsection (5) of that section, for paragraphs (a) and (b) there shall be substituted the words “Magistrates’ Courts Rules, Crown Court Rules and Criminal Appeal Rules”.

(6) After subsection (5) of that section there shall be inserted the following subsection—

“(6) Subsection (7) of section 32A below shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”

(7) After section 34 of the 1988 Act there shall be inserted the following section—

**“34A Cross-examination of alleged child victims.**

(1) No person who is charged with an offence to which section 32(2) above applies shall cross-examine in person any witness who—

(a) is alleged—

(i) to be a person against whom the offence was committed; or

(ii) to have witnessed the commission of the offence; and

(b) is a child, or is to be cross-examined following the admission under section 32A above of a video recording of testimony from him.

(2) Subsection (7) of section 32A above shall apply for the purposes of this section as it applies for the purposes of that section, but with the omission of the references to a person being, in the cases there mentioned, under the age of fifteen years or under the age of eighteen years.”

**Commencement Information**

**I4** S. 55 wholly in force at 1.10.1992, see s. 102(2)(3) and [S.I. 1992/333](#), [art. 2\(2\)](#), [Sch. 2](#).

*Responsibilities of parent or guardian*

**56 Attendance at court of parent or guardian.**

Subsection (1) of section 34 (attendance at court of parent or guardian) of the 1933 Act shall cease to have effect and after that section there shall be inserted the following section—

**“34A Attendance at court of parent or guardian.**

(1) Where a child or young person is charged with an offence or is for any other reason brought before a court, the court—

(a) may in any case; and

(b) shall in the case of a child or a young person who is under the age of sixteen years,

require a person who is a parent or guardian of his to attend at the court during all the stages of the proceedings, unless and to the extent that the court is satisfied that it would be unreasonable to require such attendance, having regard to the circumstances of the case.

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(2) In relation to a child or young person for whom a local authority have parental responsibility and who—

- (a) is in their care; or
- (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,

the reference in subsection (1) above to a person who is a parent or guardian of his shall be construed as a reference to that authority or, where he is allowed to live with such a person, as including such a reference.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.”

**Commencement Information**

**I5** S. 56 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**57 Responsibility of parent or guardian for financial penalties.**

(1) After subsection (1A) of section 55 of the 1933 Act (power to order parent or guardian to pay fine etc. instead of child or young person) there shall be inserted the following subsection—

“(1B) In the case of a young person who has attained the age of sixteen years, subsections (1) and (1A) above shall have effect as if, instead of imposing a duty, they conferred a power to make such an order as is mentioned in those subsections.”

(2) After subsection (4) of that section there shall be inserted the following subsection—

“(5) In relation to a child or young person for whom a local authority have parental responsibility and who—

- (a) is in their care; or
- (b) is provided with accommodation by them in the exercise of any functions (in particular those under the Children Act 1989) which stand referred to their social services committee under the Local Authority Social Services Act 1970,

references in this section to his parent or guardian shall be construed as references to that authority.

In this subsection “local authority” and “parental responsibility” have the same meanings as in the Children Act 1989.”

[<sup>F7</sup>(3) For the purposes of any order under that section made against the parent or guardian of a child or young person—

- (a) sections 18 and 21 above; and
- (b) [<sup>F8</sup>Section 35(4)] of the 1973 Act (fixing amount of compensation order),

shall have effect (so far as applicable) as if any reference to the financial circumstances of the offender, or (as the case may be) to the means of the person against whom the

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compensation order is made, were a reference to the financial circumstances of the parent or guardian.

- (4) For the purposes of any such order made against a local authority (as defined for the purposes of the <sup>M2</sup>Children Act 1989)—
- (a) section 18(1) above, and [<sup>F8</sup>section 35(4)] of the 1973 Act, shall not apply, . . .
- <sup>F9</sup>(b) . . . . .]

#### Textual Amendments

- F7** S. 57(3)(4) substituted (20.9.1993) by 1993 c. 36, s. 65(3)(4), **Sch. 3 para. 5**; S.I. 1993/1968, art. 2(2), **Sch. 2**
- F8** Words in s. 57(3)(b)(4)(a) substituted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para.44**; S.I. 1998/2327, **art.2(1)(w)**.
- F9** S. 57(4)(b) together with the word "and" preceding it repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), **Sch. 9 para. 42(4)(5)**, **Sch. 11**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A, Appendix C.

#### Commencement Information

- I6** S. 57 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

#### Marginal Citations

- M2** 1989 c. 41.

## 58 Binding over of parent or guardian.

- (1) Where a child or young person (“the relevant minor”) is convicted of an offence, the powers conferred by this section shall be exercisable by the court by which he is sentenced for that offence; and it shall be the duty of the court, in a case where the relevant minor has not attained the age of 16 years—
- (a) to exercise those powers if it is satisfied, having regard to the circumstances of the case, that their exercise would be desirable in the interests of preventing the commission by him of further offences; and
- (b) where it does not exercise them, to state in open court that it is not satisfied as mentioned in paragraph (a) above and why it is not so satisfied.
- (2) The powers conferred by this section are as follows—
- (a) with the consent of the relevant minor’s parent or guardian, to order the parent or guardian to enter into a recognisance to take proper care of him and exercise proper control over him; and
- (b) if the parent or guardian refuses consent and the court considers the refusal unreasonable, to order the parent or guardian to pay a fine not exceeding £1,000.

[<sup>F10</sup>Where the court has passed on the relevant minor a community sentence (within the meaning of section 6 above) it may include in the recognisance a provision that the minor’s parent or guardian ensure that the minor complies with the requirements of that sentence.]

- (3) An order under this section shall not require the parent or guardian to enter into a recognisance—
- (a) for an amount exceeding £1,000; or



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- (b) for a period exceeding three years or, where the relevant minor will attain the age of 18 years in a period shorter than three years, for a period exceeding that shorter period;

and section 120 of the 1980 Act (which relates to the forfeiture of recognisances) shall apply in relation to a recognisance entered into in pursuance of such an order as it applies to a recognisance to keep the peace.

[<sup>F11</sup>(4) A fine imposed under subsection (2)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.]

- (5) In fixing the amount of a recognisance under this section, the court shall take into account among other things the means of the parent or guardian so far as they appear or are known to the court; and this subsection applies whether taking into account the means of the parent or guardian has the effect of increasing or reducing the amount of the recognisance.

- (6) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates' court.

- (7) A parent or guardian may appeal to the Court of Appeal against an order under this section made by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.

- (8) A court may vary or revoke an order made by it under this section if, on the application of the parent or guardian, it appears to the court, having regard to any change in the circumstances since the order was made, to be in the interests of justice to do so.

[<sup>F12</sup>(9) For the purposes of this section—

- (a) “guardian” has the same meaning as in the 1933 Act; and  
(b) taking “care” of a person includes giving him protection and guidance and “control” includes discipline.]

#### Textual Amendments

**F10** Words in s. 58(2) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 50**; S.I. 1995/127, art. 2(1), **Sch. 1**, Appendix A.

**F11** S. 58(4) substituted (20.9.1993) by 1993 c. 36, s. 65(3)(4), **Sch. 3 para. 6(6)**; S.I. 1993/1968, art. 2(2), **Sch. 2**

**F12** Words in s. 58(8) added (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para.45**; S.I. 1998/2327, **art.2(1) (w)**.

#### Commencement Information

**I7** S. 58 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

### *Detention etc. pending trial*

## 59 Detention at a police station.

In section 38 of the <sup>M3</sup>Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for subsections (6) and (6A) there shall be substituted the following subsections—

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“(6) Where a custody officer authorises an arrested juvenile to be kept in police detention under subsection (1) above, the custody officer shall, unless he certifies—

- (a) that, by reason of such circumstances as are specified in the certificate, it is impracticable for him to do so; or
- (b) in the case of an arrested juvenile who has attained the age of 15 years, that no secure accommodation is available and that keeping him in other local authority accommodation would not be adequate to protect the public from serious harm from him,

secure that the arrested juvenile is moved to local authority accommodation.

(6A) In this section—

“local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989);

“secure accommodation” means accommodation provided for the purpose of restricting liberty;

“sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;

and any reference, in relation to an arrested juvenile charged with a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.”

#### Commencement Information

**I8** S. 59 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### Marginal Citations

**M3** 1984 c. 60.

## 60 Remands and committals to local authority accommodation.

(1) For section 23 of the 1969 Act there shall be substituted the following section—

### “23 Remands and committals to local authority accommodation.

(1) Where—

- (a) a court remands a child or young person charged with or convicted of one or more offences or commits him for trial or sentence; and
- (b) he is not released on bail,

the remand or committal shall be to local authority accommodation; and in the following provisions of this section, any reference (however expressed) to a remand shall be construed as including a reference to a committal.

(2) A court remanding a person to local authority accommodation shall designate the local authority who are to receive him; and that authority shall be—

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- (a) in the case of a person who is being looked after by a local authority, that authority; and
  - (b) in any other case, the local authority in whose area it appears to the court that he resides or the offence or one of the offences was committed.
- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.
- (4) Subject to subsection (5) below, a court remanding a person to local authority accommodation may, after consultation with the designated authority, require that authority to comply with a security requirement, that is to say, a requirement that the person in question be placed and kept in secure accommodation.
- (5) A court shall not impose a security requirement except in respect of a young person who has attained the age of fifteen, and then only if—
  - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
  - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only such a requirement would be adequate to protect the public from serious harm from him.
- (6) Where a court imposes a security requirement in respect of a person, it shall be its duty—
  - (a) to state in open court that it is of such opinion as is mentioned in subsection (5) above; and
  - (b) to explain to him in open court and in ordinary language why it is of that opinion;and a magistrates' court shall cause a reason stated by it under paragraph (b) above to be specified in the warrant of commitment and to be entered in the register.
- (7) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, require that person to comply with any such conditions as could be imposed under section 3(6) of the Bail Act 1976 if he were then being granted bail.
- (8) Where a court imposes on a person any such conditions as are mentioned in subsection (7) above, it shall be its duty to explain to him in open court and in ordinary language why it is imposing those conditions; and a magistrates' court shall cause a reason stated by it under this subsection to be specified in the warrant of commitment and to be entered in the register.
- (9) A court remanding a person to local authority accommodation without imposing a security requirement may, after consultation with the designated authority, impose on that authority requirements—

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- (a) for securing compliance with any conditions imposed on that person under subsection (7) above; or
  - (b) stipulating that he shall not be placed with a named person.
- (10) Where a person is remanded to local authority accommodation, a relevant court—
- (a) may, on the application of the designated authority, impose on that person any such conditions as could be imposed under subsection (7) above if the court were then remanding him to such accommodation; and
  - (b) where it does so, may impose on that authority any requirements for securing compliance with the conditions so imposed.
- (11) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority or that person, vary or revoke any conditions or requirements imposed under subsection (7), (9) or (10) above.
- (12) In this section—
- “court” and “magistrates’ court” include a justice;
  - “imprisonable offence” means an offence punishable in the case of an adult with imprisonment;
  - “relevant court”, in relation to a person remanded to local authority accommodation, means the court by which he was so remanded, or any magistrates’ court having jurisdiction in the place where he is for the time being;
  - “secure accommodation” means accommodation which is provided in a community home for the purpose of restricting liberty, and is approved for that purpose by the Secretary of State;
  - “sexual offence” and “violent offence” have the same meanings as in Part I of the Criminal Justice Act 1991;
  - “young person” means a person who has attained the age of fourteen years and is under the age of seventeen years.
- (13) In this section—
- (a) any reference to a person who is being looked after by a local authority shall be construed in accordance with section 22 of the Children Act 1989;
  - (b) any reference to consultation shall be construed as a reference to such consultation (if any) as is reasonably practicable in all the circumstances of the case; and
  - (c) any reference, in relation to a person charged with or convicted of a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.
- (14) This section has effect subject to—
- (a) section 37 of the Magistrates’ Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and

*Status: Point in time view as at 01/04/2000.*

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(b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),

but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours.”

(2) In section 37 of the 1980 Act (committal of young person to Crown Court for sentence)

(a) in subsection (1), for the words “17 years old” there shall be substituted the words “18 years old”;

(b) in subsection (2), for the words “A person committed in custody under subsection (1) above” there shall be substituted the words “Where a person committed in custody under subsection (1) above is not less than 17 years old, he”; and

(c) after that subsection there shall be inserted the following subsection—

“(3) Where a person committed in custody under subsection (1) above is less than 17 years old—

(a) he shall be committed to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989) and

(b) the court by which he is so committed shall impose a security requirement within the meaning of section 23 of the Children and Young Persons Act 1969.”

(3) In the case of a child or young person who has been remanded or committed to local authority accommodation by a youth court or a magistrates’ court other than a youth court, any application under section 25 of the <sup>M4</sup>Children Act 1989 (use of accommodation for restricting liberty) shall, notwithstanding anything in section 92(2) of that Act or section 65 of the 1980 Act, be made to that court.

**Commencement Information**

**I9** S. 60 wholly in force at 1.6.1999; s. 60(3) in force at 14.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(1), **Sch. 1**; s. 60(1)(2)(a) in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**; s. 60(2)(b)(c) in force at 1.6.1999 by S.I. 1999/1280, art. 3, **Sch. 2**.  
S. 60(2)(b)(c) shall come into force on the day appointed by the Secretary of State by order under s. 62(1) see S.I. 1992/333, art. 2(5), Sch. 3(which art. 2(5), Sch. 3 was revoked (16.1999) by S.I. 1999/1280, art. 2)

**Marginal Citations**

**M4** 1989 c. 41.

**61 Provision by local authorities of secure accommodation.**

(1) It shall be the duty of every local authority to secure that they are in a position to comply with any security requirement which may be imposed on them under—

(a) section 23(4) of the 1969 Act (remands and committals to local authority accommodation); <sup>F13</sup> . . .

<sup>F13</sup>(b) . . . . .

*Status: Point in time view as at 01/04/2000.*

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- (2) A local authority may discharge their duty under subsection (1) above either by providing secure accommodation themselves or by making arrangements with other local authorities for the provision by them of such accommodation [<sup>F14</sup>or by making arrangements with voluntary organisations or persons carrying on a registered childrens' home for the provision or use by them of such accommodation or by making arrangements with the Secretary of State for the use by them of a home provided by him under section 82(5) of the Children Act 1989].
- (3) The Secretary of State may by regulations make provision as to the co-operation required of local authorities in the provision of secure accommodation.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section expressions used in section 23 of the 1969 Act have the same meanings as in that section [<sup>F15</sup>and expressions, other than "local authority", used in the <sup>M5</sup>Children Act 1989 have the same meanings as in that Act.].

#### Textual Amendments

- F13** S. 61(b) and the word "or" immediately preceding it repealed (1.4.2000) by 1998 c. 37, s. 120(1), 121(2), **Sch.10**; S.I. 1999/3426, **art. 3(c)(v)**
- F14** Words in s. 61(2) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(a); S.I. 1995/1378, **art. 2**.
- F15** Words in s. 61(5) inserted (30.5.1995) by 1994 c. 33, s. 19(3)(b); S.I. 1995/1378, **art. 2**.

#### Commencement Information

- I10** S. 61 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

#### Marginal Citations

- M5** 1989 c. 41.

#### [<sup>F16</sup>61A Cost of secure accommodation.

- (1) The Secretary of State may, in relation to any costs incurred by a local authority in discharging their duty under section 61(1) above—
  - (a) defray such costs to such extent as he considers appropriate in any particular case;
  - (b) defray a proportion to be determined by him from time to time of such costs; and
  - (c) defray or contribute to such costs in accordance with a tariff to be determined by him from time to time.
- (2) The Secretary of State may require any person providing secure accommodation to transmit to him, at such times and in such form as he may direct, such particulars as he may require with respect to any costs to which this section applies.
- (3) Payments under this section shall be made out of money provided by Parliament.]

#### Textual Amendments

- F16** S. 61A inserted (3.2.1995) by 1994 c. 33, **ss.21**, 172(2); S.I. 1995/127, **art. 2(1)**, **Sch. 1**.

*Status: Point in time view as at 01/04/2000.*

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**Modifications etc. (not altering text)**

C1 S. 61A: transfer of functions (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(f)

**62** <sup>F17</sup> **Transitory provisions pending provision of secure accommodation.**

- (1) In relation to any time before such day as the Secretary of State may by order made by statutory instrument appoint, section 23 of the 1969 Act as substituted by section 60(1) above shall have effect with the following modifications.
- (2) In subsection (1), immediately before the words “the remand” there shall be inserted the words “then, unless he is declared by the court, after consultation with a probation officer or a social worker of a local authority social services department, to be a person to whom subsection (5) below applies”.
- (3) For subsections (4) and (5) there shall be substituted the following subsections—
  - “(4) Where a court declares a person to be one to whom subsection (5) below applies, it shall remand him—
    - (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
    - (b) to a prison, if it has not been so notified.
  - (4A) A court shall not declare a person who is not legally represented in the court to be a person to whom subsection (5) below applies unless—
    - (a) 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
    - (b) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.
  - (5) This subsection applies to a young person who is male and has attained the age of fifteen, but only if—
    - (a) he is charged with or has been convicted of a violent or sexual offence, or an offence punishable in the case of an adult with imprisonment for a term of fourteen years or more; or
    - (b) he has a recent history of absconding while remanded to local authority accommodation, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded,and (in either case) the court is of opinion that only remanding him to a remand centre or prison would be adequate to protect the public from serious harm from him.”
- (4) In subsection (6)—
  - (a) for the words “imposes a security requirement in respect of a young person” there shall be substituted the words “declares a person to be one to whom subsection (5) above applies”; and
  - (b) for the words “subsection (5) above” there shall be substituted the words “that subsection”.
- (5) In subsections (7) and (9), the words “without imposing a security requirement” shall be omitted.

*Status: Point in time view as at 01/04/2000.*

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(6) After subsection (9) there shall be inserted the following subsection—

“(9A) Where a person is remanded to local authority accommodation, a relevant court may, on the application of the designated authority, declare him to be a person to whom subsection (5) above applies; and on its doing so, he shall cease to be remanded to local authority accommodation and subsection (4) above shall apply.”

(7) In subsection (12), the definition of “secure accommodation” shall be omitted.

#### Textual Amendments

**F17** S. 62 repealed and superseded (1.6.1999) by 1998 c. 37, ss. 98(7), 120(1), **Sch. 10**; S.I. 1999/1279, **art. 2**

### *Young offenders*

#### **63 Custodial sentences under 1982 Act.**

(1) Part I of the 1982 Act (treatment of young offenders) shall be amended as follows.

(2) In section 1A (detention in a young offender institution)—

- (a) in subsection (1), for the words “a male offender under 21 but not less than 14 years of age or a female offender under 21 but not less than 15 years of age” there shall be substituted the words “an offender under 21 but not less than 15 years of age”;
- (b) in subsection (2), for the words “section 1B(1) and (2)” there shall be substituted the words “section 1B(2)”;
- (c) in subsection (3), the words “and section 1B(3) below” shall cease to have effect and for the words “21 days” there shall be substituted the words “the minimum period applicable to the offender under subsection (4A) below”;
- (d) in subsection (4), for the words “21 days” there shall be substituted the words “the minimum period applicable”; and
- (e) after subsection (4) there shall be inserted the following subsection—

“(4A) For the purposes of subsections (3) and (4) above, the minimum period of detention applicable to an offender is—

- (a) in the case of an offender under 21 but not less than 18 years of age, the period of 21 days; and
- (b) in the case of an offender under 18 years of age, the period of two months.”

(3) In section 1B (special provision for offenders under 17)—

- (a) subsections (1) and (3) shall cease to have effect;
- (b) in subsection (2), for the words “aged 15 or 16” there shall be substituted the words “aged 15, 16 or 17”; and
- (c) for subsections (4) and (5) there shall be substituted the following subsections—

“(4) A court shall not pass on an offender aged 15, 16 or 17 a sentence of detention in a young offender institution whose effect would be



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that the offender would be sentenced to a total term which exceeds 12 months.

- (5) Where the total term of detention in a young offender institution to which an offender aged 15, 16 or 17 is sentenced exceeds 12 months, so much of the term as exceeds 12 months shall be treated as remitted.”
- (4) In section 1C (accommodation of offenders in a young offender institution), for the words “under 17” there shall be substituted the words “under 18”.
- (5) In section 8 (custody for life) and section 9 (detention of persons aged 17 to 20 for default or contempt), for the words “17 years” there shall be substituted the words “18 years”.

#### Commencement Information

**III** S. 63 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

<sup>F18</sup>64 .....

#### Textual Amendments

**F18** S. 64 repealed (9.1.1995) by 1993 c. 33, s. 168(3), Sch.11; S.I. 1994/3192, art.2, Sch.

### 65 Supervision of young offenders after release.

- (1) Where a person under the age of 22 years (“the offender”) is released from a term of detention in a young offender institution or under section 53 of the 1933 Act, he shall be under the supervision of
- [<sup>F19</sup>(a) a probation officer;
- (b) a social worker of a local authority social services department; or
- (c) in the case of a person under the age of 18 years on his release, a member of a youth offending team.]
- [<sup>F20</sup>(1A) Where the supervision is to be provided by a probation officer, the probation officer shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.
- (1B) Where the supervision is to be provided by—
- (a) a social worker of a local authority social services department; 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.]
- (2) The supervision period ends on the offender’s 22nd birthday if it has not ended before.
- (3) Subject to subsection (2) above, where the offender is released otherwise than on licence under Part II of this Act, the supervision period begins on his release and ends three months from his release.

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- (4) Subject to subsection (2) above, where the offender is released on licence under Part II of this Act and the licence expires less than three months from his release, the supervision period begins on the expiry of the licence and ends three months from his release.
- (5) Where a person is under supervision under this section, he shall comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (6) A person who without reasonable excuse fails to comply with a requirement imposed under subsection (5) above shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; or
  - (b) to an appropriate custodial sentence for a period not exceeding 30 days, but not liable to be dealt with in any other way.
- (7) In subsection (6) above “appropriate custodial sentence” means—
- (a) a sentence of imprisonment, if the offender has attained the age of 21 years when he is sentenced; and
  - (b) a sentence of detention in a young offender institution, if he has not attained that age.
- (8) A person released from a custodial sentence passed under subsection (6) above shall not be liable to a period of supervision in consequence of his conviction under that subsection, but his conviction shall not prejudice any liability to supervision to which he was previously subject, and that liability shall accordingly continue until the end of the supervision period.

#### Textual Amendments

- F19** S. 65(1)(a)(b)(c) substituted for words in s. 65(1) (30.9.1998 for areas specified in S.I. 1998/2327, Sch. 1 subject to art. 9 of that S.I., otherwise 1.4.2000) by 1998 c. 37, s. 119, Sch. 8 para. 94(1); S.I. 1998/2327, arts.3(1)(b), 9, Sch. 1; S.I. 2000/924, art. 2(c)
- F20** S. 65(1A)(1B) inserted (30.9.1998 for areas specified in S.I. 1998/2327, Sch. 1 and subject to art. 9 of that S.I., and otherwise 1.4.2000 ) by 1998 c. 37, s. 119, Sch. 8 para. 94(2); S.I. 1998/2327, arts.3(1)(b), 9, Sch. 1; S.I. 2000/924, art. 2(c)

#### Modifications etc. (not altering text)

- C2** S. 65 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1, Pt. II paras. 8(2)(4), 9(2)(4), Sch. 5 paras. 9(1)(a)(b), 10(1)(b)(c); S.I. 1997/2200, art. 2(1).  
S. 65 modified (*prosp.*) by 1997 c. 43, ss. 56(1), 57(4), Sch. 5, para. 2(3)(9)(by 1998 c. 37, s. 120(2), Sch.10 in the said Sch. 5 paras. 1-4 are repealed (30.9.1998); S.I. 1998/2327, art.2(1)(aa)(3)(x)).

#### Commencement Information

- I12** S. 65 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 66 Supervision orders.

For section 15 of the 1969 Act (variation and discharge of supervision orders) there shall be substituted the provisions set out in Schedule 7 to this Act.

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#### Commencement Information

**I13** S. 66 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

### 67 Attendance centre orders.

- (1) In section 17 of the 1982 Act (maximum number of hours at attendance centre for persons of different ages)—
  - (a) subsection (3) shall cease to have effect; and
  - (b) in subsection (5), for the words “17 years”, in both places where they occur, there shall be substituted the words “16 years”.
- (2) In section 18 of that Act (discharge and variation of attendance centre orders), after subsection (4) there shall be inserted the following subsection—

“(4A) The power to discharge an attendance centre order includes power to deal with the offender, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made.”
- (3) In subsection (6)(b) of that section, the words “if the court is satisfied that the offender proposes to change or has changed his residence” shall cease to have effect.
- (4) In subsection (3) of section 19 of that Act (breaches of attendance centre orders or attendance centre rules), after the words “that court” there shall be inserted the words “may, without prejudice to the continuation of the order, impose on him a fine not exceeding £1,000 or”.
- (5) After that subsection there shall be inserted the following subsection—

“(3A) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply for the purposes of subsection (3) above as if the failure to attend or the breach of the rules were a summary offence punishable by a fine not exceeding level 3 on the standard scale; and a fine imposed under that subsection shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.”
- (6) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) In dealing with an offender under subsection (3)(a) or (5) above, the court concerned—
  - (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre order; and
  - (b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.”

#### Commencement Information

**I14** S. 67 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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### Miscellaneous

#### 68 Persons aged 17 to be treated as young persons for certain purposes.

The following enactments, namely—

- (a) the Children and Young Persons Acts 1933 to 1969;
- (b) section 43(3) of the 1952 Act (remand centres, young offender institutions etc.);
- (c) section 5(2) of the <sup>M6</sup>Rehabilitation of Offenders Act 1974 (which provides for rehabilitation periods to be reduced by half for young offenders); and
- (d) the 1980 Act,

shall have effect subject to the amendments specified in Schedule 8 to this Act, being amendments which, for certain purposes of those enactments, have the effect of substituting the age of 18 years for the age of 17 years.

#### Commencement Information

**I15** S. 68 wholly in force (except for specified purposes see S.I. 1992/333, art. 2(4)) at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

#### Marginal Citations

**M6** 1974 c. 53.

#### 69 Non-appearance of persons aged 16 or 17: plea of guilty.

In section 12 of the 1980 Act (non-appearance of accused: plea of guilty), after subsection (1) there shall be inserted the following subsection—

“(1A) The reference in subsection (1) above to the issue of a summons requiring a person to appear before a magistrates’ court other than a youth court includes a reference to the issue of a summons requiring a person who has attained the age of 16 at the time when it is issued to appear before a youth court.”

#### Commencement Information

**I16** S. 69 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### 70 Renaming of juvenile courts etc.

- (1) Juvenile courts shall be renamed youth courts and juvenile court panels shall be renamed youth court panels.
- (2) Any reference to juvenile courts or juvenile court panels in any enactment passed or instrument made before the commencement of this section shall be construed in accordance with subsection (1) above.

#### Commencement Information

**I17** S. 70 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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## 71 Amendments to service law.

The enactments mentioned in Schedule 9 to this Act shall have effect subject to the amendments there specified (being amendments to service law corresponding to certain provisions of this Act).

### Commencement Information

**I18** S. 71 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

## 72 Repeal of certain provisions not brought in force.

The following provisions (none of which has been brought into force), namely—  
section 4 of the 1969 Act (prohibition of criminal proceedings for offences by children);  
in section 5 of that Act (restrictions on criminal proceedings for offences by young persons), subsections (1) to (7) and, in subsection (9), the definitions of “qualified informant” and “designated”;  
section 8 of that Act (fingerprinting of suspected young persons); and  
in section 37 of the <sup>M7</sup>Police and Criminal Evidence Act 1984, subsections (11) to (14) (duties of custody officer as respects young persons),  
shall cease to have effect.

### Commencement Information

**I19** S. 72 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), Sch. 2.

### Marginal Citations

**M7** 1984 c. 60.

**Status:**

Point in time view as at 01/04/2000.

**Changes to legislation:**

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