



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART I

MANDATORY AND MINIMUM CUSTODIAL SENTENCES

1 Conditions relating to mandatory and minimum custodial sentences

- (1) This section has effect for the purposes of setting out the basis on which the court shall carry out its sentencing functions under this Part.
- (2) Under section 2 below, when determining whether it would be appropriate not to impose a life sentence the court shall have regard to the circumstances relating to either of the offences or to the offender.
- (3) Under sections 3 and 4 below, when determining whether it would be appropriate not to impose a custodial sentence of at least seven years under section 3(2) or, as the case may be, of at least three years under section 4(2) the court shall have regard to the specific circumstances which—
 - (a) relate to any of the offences or to the offender; and
 - (b) would make the prescribed custodial sentence unjust in all the circumstances.

2 Mandatory life sentence for second serious offence

- (1) This section applies where—
 - (a) a person is convicted of a serious offence committed after the commencement of this section; and
 - (b) at the time when that offence was committed, he was 18 or over and had been convicted in any part of the United Kingdom of another serious offence.
- (2) The court shall impose a life sentence, that is to say—
 - (a) where the person is 21 or over, a sentence of imprisonment for life;
 - (b) where he is under 21, a sentence of custody for life under section 8(2) of the Criminal Justice Act 1982 (“the 1982 Act”),

Status: This is the original version (as it was originally enacted).

unless the court is of the opinion that there are exceptional circumstances relating to either of the offences or to the offender which justify its not doing so.

- (3) Where the court does not impose a life sentence, it shall state in open court that it is of that opinion and what the exceptional circumstances are.
- (4) An offence the sentence for which is imposed under subsection (2) above shall not be regarded as an offence the sentence for which is fixed by law.
- (5) An offence committed in England and Wales is a serious offence for the purposes of this section if it is any of the following, namely—
 - (a) an attempt to commit murder, a conspiracy to commit murder or an incitement to murder;
 - (b) an offence under section 4 of the Offences Against the Person Act 1861 (soliciting murder);
 - (c) manslaughter;
 - (d) an offence under section 18 of the Offences Against the Person Act 1861 (wounding, or causing grievous bodily harm, with intent);
 - (e) rape or an attempt to commit rape;
 - (f) an offence under section 5 of the Sexual Offences Act 1956 (intercourse with a girl under 13);
 - (g) an offence under section 16 (possession of a firearm with intent to injure), section 17 (use of a firearm to resist arrest) or section 18 (carrying a firearm with criminal intent) of the Firearms Act 1968; and
 - (h) robbery where, at some time during the commission of the offence, the offender had in his possession a firearm or imitation firearm within the meaning of that Act.
- (6) An offence committed in Scotland is a serious offence for the purposes of this section if the conviction for it was obtained on indictment in the High Court of Justiciary and it is any of the following, namely—
 - (a) culpable homicide;
 - (b) attempted murder, incitement to commit murder or conspiracy to commit murder;
 - (c) rape or attempted rape;
 - (d) clandestine injury to women or an attempt to cause such injury;
 - (e) sodomy, or an attempt to commit sodomy, where the complainer, that is to say, the person against whom the offence was committed, did not consent;
 - (f) assault where the assault—
 - (i) is aggravated because it was carried out to the victim's severe injury or the danger of the victim's life; or
 - (ii) was carried out with an intention to rape or to ravish the victim;
 - (g) robbery where, at some time during the commission of the offence, the offender had in his possession a firearm or imitation firearm within the meaning of the Firearms Act 1968;
 - (h) an offence under section 16 (possession of a firearm with intent to injure), section 17 (use of a firearm to resist arrest) or section 18 (carrying a firearm with criminal intent) of that Act;
 - (i) lewd, libidinous or indecent behaviour or practices; and
 - (j) an offence under section 5(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (unlawful intercourse with a girl under 13).

- (7) An offence committed in Northern Ireland is a serious offence for the purposes of this section if it is any of the following, namely—
- (a) an offence falling within any of paragraphs (a) to (e) of subsection (5) above;
 - (b) an offence under section 4 of the Criminal Law Amendment Act 1885 (intercourse with a girl under 14);
 - (c) an offence under Article 17 (possession of a firearm with intent to injure), Article 18(1) (use of a firearm to resist arrest) or Article 19 (carrying a firearm with criminal intent) of the Firearms (Northern Ireland) Order 1981; and
 - (d) robbery where, at some time during the commission of the offence, the offender had in his possession a firearm or imitation firearm within the meaning of that Order.

3 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 the commencement of this section;
 - (b) at the time when that offence was committed, he was 18 or over and had been convicted in any part of the United Kingdom of two other class A drug trafficking offences; and
 - (c) one of those other offences was committed after he had been convicted of the other.
- (2) The court shall impose a custodial sentence for a term of at least seven years except where the court is of the opinion that there are specific circumstances which—
- (a) relate to any of the offences or to the offender; and
 - (b) would make the prescribed custodial sentence unjust in all the circumstances.
- (3) Where the court does not impose such a sentence, it shall state in open court that it is of that opinion and what the specific circumstances are.
- (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
 - (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 Misuse of Drugs Act 1971;
 - “drug trafficking offence” means a drug trafficking offence within the meaning of the Drug Trafficking Act 1994, the Proceeds of Crime (Scotland) Act 1995 or the Proceeds of Crime (Northern Ireland) Order 1996.
- (6) In this section and section 4 below “custodial sentence” means—
- (a) in relation to a person who is 21 or over, a sentence of imprisonment;
 - (b) in relation to a person who is under 21, a sentence of detention in a young offender institution.

4 Minimum of three years for third domestic burglary

- (1) This section applies where—
- (a) a person is convicted of a domestic burglary committed after the commencement of this section;
 - (b) at the time when that burglary was committed, he was 18 or over and had been convicted in England and Wales of two other domestic burglaries; and
 - (c) one of those other burglaries was committed after he had been convicted of the other, and both of them were committed after the commencement of this section.
- (2) The court shall impose a custodial sentence for a term of at least three years except where the court is of the opinion that there are specific circumstances which—
- (a) relate to any of the offences or to the offender; and
 - (b) would make the prescribed custodial sentence unjust in all the circumstances.
- (3) Where the court does not impose such a sentence, it shall state in open court that it is of that opinion and what the specific circumstances are.
- (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.

5 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 2, 3 or 4 above; and
 - (b) any previous conviction of his without which that sentence would not have been applied has been subsequently set aside on appeal.
- (2) Notwithstanding anything in section 18 of the 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.

6 Certificates of convictions for purposes of Part I

- (1) Where—
- (a) on any date after the commencement of this section a person is convicted in England and Wales of a serious offence, a class A drug trafficking offence or 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, that he was convicted of such an offence on that date.

(2) Where—

- (a) after the commencement of this section a person is convicted in England and Wales of a class A drug trafficking offence or 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, that the offence was committed on that day or over, or at some time during, that period.

(3) In this section—

“serious offence”, “class A drug trafficking offence” and “domestic burglary” have the same meanings as in sections 2, 3 and 4 respectively; and
“the relevant section”, in relation to any such offence, shall be construed accordingly.

7 Offences under service law

(1) Where—

- (a) a person has at any time been convicted of an offence under section 70 of the Army Act 1955 or the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957; and
- (b) the corresponding civil offence (within the meaning of that Act) was a serious offence, a class A drug trafficking offence or a domestic burglary,

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

- (2) Subsection (3) of section 6 above applies for the purposes of this section as it applies for the purposes of that section.