



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART II

EFFECT OF CUSTODIAL SENTENCES

CHAPTER I

DETERMINATE SENTENCES

Special cases

19 Young offenders

- (1) Subject to the provisions of this section, this Chapter applies to—
 - (a) a sentence of detention in a young offender institution; and
 - (b) a determinate sentence of detention under section 53 of the Children and Young Persons Act 1933 (“the 1933 Act”),
as it applies to an equivalent sentence of imprisonment.
- (2) References in this Chapter to prisoners, or to prison or imprisonment, shall be construed in accordance with subsection (1) above.
- (3) Section 9 above applies to periods of detention which offenders are liable to serve under secure training orders as it applies to sentences of imprisonment; and sections 9, 13 and 15 above apply to persons—
 - (a) remanded or committed to local authority accommodation under section 23 of the 1969 Act or section 37 of the Magistrates' Courts Act 1980 (“the 1980 Act”); and
 - (b) placed and kept in secure accommodation,
as they apply to persons remanded in or committed to custody by an order of a court.

Status: This is the original version (as it was originally enacted).

- (4) For each assessment period for the purposes of section 11 above during the whole or part of which the prisoner—
- (a) is under 16; or
 - (b) is detained in local authority accommodation, or a home provided by the Secretary of State under section 82(5) of the Children Act 1989,
- the prescribed person shall assume, for the purposes of subsection (2) or (3) of that section, that the prisoner’s behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (5) For each assessment period for the purposes of section 13 above during the whole or part of which the accused—
- (a) is under 16; or
 - (b) is a person to whom section 9 applies by virtue of subsection (3) above,
- the prescribed person shall assume, for the purposes of subsection (2) or (3) of section 11 above as modified by section 13(2) above, that the accused’s behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (6) In relation to a released offender who is under 22, section 16 above shall have effect as if—
- (a) in subsection (1), paragraph (c) and, in paragraph (a), the words “of twelve months or more” were omitted; and
 - (b) in subsection (3)(a), the reference to supervision by a probation officer included a reference to supervision by a social worker of a local authority social services department.
- (7) Where a released offender who is under 18 and whose sentence was a determinate sentence of detention under section 53 of the 1933 Act commits an offence under section 17 above, the court may deal with him as if subsection (3) of section 53 applied; but no sentence of detention imposed by virtue of this subsection shall be for a term exceeding the relevant period within the meaning of section 17 above.
- (8) In relation to a released offender who is under 22 and whose sentence—
- (a) was a sentence of detention in a young offender institution, or a sentence of detention under section 53 of the 1933 Act, for a term of less than 12 months; and
 - (b) was not imposed in respect of a sexual offence committed after the commencement of this Chapter,
- section 17 above shall have effect as if the relevant period for the purposes of that section were a period of 30 days.
- (9) Where an offender is released from a sentence of detention imposed under section 17 above as modified by subsection (8) above, he shall not be liable to a release supervision order in consequence of his conviction under that section.
- (10) In this section “secure accommodation” has the same meaning as in section 23 of the 1969 Act, and—
- (a) any reference to a sentence of detention in a young offender institution includes a reference to a sentence under a custodial order within the meaning of section 71AA of the Army Act 1955 or the Air Force Act 1955 or section 43AA of the Naval Discipline Act 1957; and

- (b) any reference (however expressed) to a determinate sentence of detention under section 53 of the 1933 Act includes a reference to a sentence of detention under subsection (4) of section 71A of the Army Act 1955 or the Air Force Act 1955 or section 43A of the Naval Discipline Act 1957.

20 Sexual offenders

- (1) Subsection (2) below applies where—
 - (a) there is released under this Chapter an offender who has been sentenced to imprisonment for a term in respect of a sexual offence committed after the commencement of this Chapter; and
 - (b) the court by which he was so sentenced gave a direction under subsection (3) below.
- (2) Section 16 above shall have effect in relation to the offender as if—
 - (a) in subsection (1), paragraph (c) and, in paragraph (a), the words “of twelve months or more” were omitted; and
 - (b) for subsection (2) there were substituted the following subsection—
 - “(2) On his release, the offender shall be subject to a release supervision order—
 - (a) where he is released otherwise than under section 10 above, for such period as is specified in the direction under section 20(3) below;
 - (b) where he is released under section 10 above, for a period equal to the aggregate of—
 - (i) the period mentioned in paragraph (a) above; and
 - (ii) a period equal to so much of the remainder of his term as he would have been liable to serve but for his release under section 10 above;and in applying paragraph (b) above account shall be taken of any early release or additional days awarded to the offender before his release.”
- (3) Where a court sentences an offender to imprisonment for a term in respect of a sexual offence committed after the commencement of this Chapter, it shall give a direction under this subsection unless it is of the opinion that there are exceptional circumstances which justify its not doing so.
- (4) Where the court does not give a direction under subsection (3) above, it shall state in open court that it is of that opinion and what the exceptional circumstances are.
- (5) A direction under subsection (3) above shall direct that the offender’s release supervision period shall be such period as is specified in the direction.
- (6) The period so specified shall be—
 - (a) a period equal to 50 per cent of the offender’s term of imprisonment (rounded up to the nearest whole day) or a period of twelve months, whichever is the longer; or
 - (b) if the court considers a longer period necessary for the purpose of preventing the commission by the offender of further offences and of securing his rehabilitation, such longer period, not exceeding ten years, as it may determine.

21 Violent offenders

- (1) Subsection (2) below applies where—
- (a) there is released under this Chapter an offender who has been sentenced to imprisonment for a term of three years or more in respect of a violent offence committed after the commencement of this Chapter; and
 - (b) the court by which he was so sentenced gave a direction under subsection (3) below.
- (2) Section 16 above shall have effect in relation to the offender as if for subsection (2) there were substituted the following subsection—
- “(2) On his release, the offender shall be subject to a release supervision order—
- (a) where he is released otherwise than under section 10 above, for such period as is specified in the direction under section 21(3) below;
 - (b) where he is released under section 10 above, for a period equal to the aggregate of—
 - (i) the period mentioned in paragraph (a) above; and
 - (ii) a period equal to so much of the remainder of his term as he would have been liable to serve but for his release under section 10 above.”
- (3) Where a court sentences an offender to imprisonment for a term of three years or more in respect of a violent offence committed after the commencement of this Chapter, it may give a direction under this subsection if it considers a longer release supervision period necessary for the purpose of preventing the commission by the offender of further offences and of securing his rehabilitation.
- (4) A direction under subsection (3) above shall direct that the offender’s release supervision period shall be such period, not more than 50 per cent of the offender’s term of imprisonment, as is specified in the direction.
- (5) In this section “violent offence” has the same meaning as in Part I of the 1991 Act.

22 Mentally disordered offenders

- (1) Subject to subsection (3) below, sections 9 and 13 above apply to persons—
- (a) remanded to hospital under section 35 or 36 (remands to hospital) of the Mental Health Act 1983 (“the 1983 Act”);
 - (b) admitted to hospital under section 38 of that Act (interim hospital orders); or
 - (c) removed to hospital under section 48 of that Act (removal to hospital),
- as they apply to persons remanded in or committed to custody by an order of a court.
- (2) In the case of a prisoner who for any period is detained in a hospital under section 45A of the 1983 Act (power of courts to direct hospital admission), or under section 47 (removal of prisoners to hospital) and section 49 (restriction on discharge of prisoners removed to hospital) of that Act—
- (a) section 11 above shall apply as if references to the prescribed person in subsections (2) and (3) were references to the Secretary of State and subsection (6) were omitted; and
 - (b) the Secretary of State shall assume, for the purposes of subsection (2) or (3) of that section as so modified, that during that period—
 - (i) the prisoner had been in prison; and

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

- (ii) his behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (3) In the case of an accused who for any period is a person to whom section 13 above applies by virtue of subsection (1) above—
 - (a) that section shall apply as if references to the prescribed person in section 11(2) and (3) above as modified by section 13(2) above were references to the Secretary of State; and
 - (b) the Secretary of State shall assume, for the purposes of section 11(2) or (3) above as modified by section 13(2) above, that during that period—
 - (i) the accused had been in prison; and
 - (ii) his behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (4) Where, immediately before the expiration of his sentence, a prisoner is detained in a hospital under section 45A of the 1983 Act, or under section 47 and 49 of that Act, section 16 above shall have effect as if—
 - (a) the prisoner had been released on the expiration of his sentence;
 - (b) the reference in subsection (3)(a) to supervision by a probation officer included a reference to supervision by a social worker of a local authority social services department;
 - (c) the reference in subsection (4)(a) to an approved probation hostel included a reference to any hostel or home whose residents are subject to supervision; and
 - (d) subsection (4)(b) were omitted.
- (5) In this section references to the expiration of the prisoner's sentence shall be construed in accordance with subsection (3) of section 50 of the 1983 Act (prisoners under sentence).

23 Fine defaulters and contemnors

This Chapter (except sections 16 to 18 above) applies to persons committed to prison or to be detained under section 9 of the 1982 Act—

- (a) in default of payment of a sum adjudged to be paid by a conviction; or
- (b) for contempt of court or any kindred offence,

as it applies to persons serving equivalent sentences of imprisonment; and references in this Chapter to prisoners, or to prison or imprisonment, shall be construed accordingly.

24 Persons liable to removal from the United Kingdom

- (1) In relation to an offender who is liable to removal from the United Kingdom—
 - (a) section 12 above shall have effect as if, in subsection (2), for the words “shall, if recommended to do so by the Parole Board,” there were substituted the word “may”; and
 - (b) section 16 above shall have effect as if, in subsection (2), for the words “On his release, the offender shall” there were substituted the words “If the Secretary of State thinks fit, the offender shall, on his release,”.

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

- (2) An offender is liable to removal from the United Kingdom for the purposes of this section if—
- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 and has been notified of a decision to make a deportation order against him;
 - (b) he is liable to deportation under section 3(6) of that Act;
 - (c) he has been notified of a decision to refuse him leave to enter the United Kingdom; or
 - (d) he is an illegal entrant within the meaning of section 33(1) of that Act.

25 Persons extradited to the United Kingdom

- (1) A prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed—
 - (i) after having been extradited to the United Kingdom; and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
 - (b) he was kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) above.
- (2) If, in the case of an extradited prisoner, the court by which he was sentenced so ordered, this Chapter shall have effect in relation to him as if a number of days specified in the order were a number of days in relation to which a direction under section 9 above had been given.
- (3) The number of days that may be so specified is such number as in the opinion of the court is just in all the circumstances and does not exceed the number of days for which he was kept in custody as mentioned in subsection (1)(b) above.
- (4) In this section—
- “extradited to the United Kingdom” means returned to the United Kingdom—
- (i) in pursuance of extradition arrangements;
 - (ii) under any law of a designated Commonwealth country corresponding to the Extradition Act 1989;
 - (iii) under that Act as extended to a colony or under any corresponding law of a colony;
 - (iv) in pursuance of a warrant of arrest endorsed in the Republic of Ireland under the law of that country corresponding to the Backing of Warrants (Republic of Ireland) Act 1965; or
 - (v) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the Extradition Act 1870 is in force;
- “extradition arrangements” has the meaning given by section 3 of the Extradition Act 1989;
- “designated Commonwealth country” has the meaning given by section 5(1) of that Act.