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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Powers of Criminal Courts (Sentencing) Act 2000

2000 CHAPTER 6

An Act to consolidate certain enactments relating to the powers of courts to deal with offenders and defaulters and to the treatment of such persons, with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission. [25th May 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

POWERS EXERCISABLE BEFORE SENTENCE

Deferment of sentence

1 Deferment of sentence.

(1) The Crown Court or a magistrates' court may defer passing sentence on an offender for the purpose of enabling the court, or any other court to which it falls to deal with him, to have regard in dealing with him to—

(a) his conduct after conviction (including, where appropriate, the making by him of reparation for his offence); or

(b) any change in his circumstances;

but this is subject to subsections (2) and (3) below.

(2) The power conferred by subsection (1) above shall be exercisable only if—

(a) the offender consents; and

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(b) the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to exercise the power.

(3) Any deferment under this section shall be until such date as may be specified by the court, not being more than six months after the date on which the deferment is announced by the court; and, subject to section 2(7) below, where the passing of sentence has been deferred under this section it shall not be further so deferred.

(4) Notwithstanding any enactment, a court which under this section defers passing sentence on an offender shall not on the same occasion remand him.

(5) Where the passing of sentence on an offender has been deferred by a court under this section, the court's power under this section to deal with the offender at the end of the period of deferment—

(a) is power to deal with him, in respect of the offence for which passing of sentence has been deferred, in any way in which it could have dealt with him if it had not deferred passing sentence; and

(b) without prejudice to the generality of paragraph (a) above, in the case of a magistrates' court includes the power conferred by section 3 below to commit him to the Crown Court for sentence.

(6) Nothing in this section or section 2 below shall affect—

(a) the power of the Crown Court to bind over an offender to come up for judgment when called upon; or

(b) the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

2 Further powers of courts where sentence deferred under section 1.

(1) A court which under section 1 above has deferred passing sentence on an offender may deal with him before the end of the period of deferment if during that period he is convicted in Great Britain of any offence.

(2) Subsection (3) below applies where a court has under section 1 above deferred passing sentence on an offender in respect of one or more offences and during the period of deferment the offender is convicted in England or Wales of any offence ("the later offence").

(3) Where this subsection applies, then (without prejudice to subsection (1) above and whether or not the offender is sentenced for the later offence during the period of deferment), the court which passes sentence on him for the later offence may also, if this has not already been done, deal with him for the offence or offences for which passing of sentence has been deferred, except that—

(a) the power conferred by this subsection shall not be exercised by a magistrates' court if the court which deferred passing sentence was the Crown Court; and

(b) the Crown Court, in exercising that power in a case in which the court which deferred passing sentence was a magistrates' court, shall not pass any sentence which could not have been passed by a magistrates' court in exercising that power.

(4) Where—

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(a) a court which under section 1 above has deferred passing sentence on an offender proposes to deal with him, whether on the date originally specified by the court or by virtue of subsection (1) above before that date, or

(b) the offender does not appear on the date so specified,

the court may issue a summons requiring him to appear before the court, or may issue a warrant for his arrest.

(5) In deferring the passing of sentence under section 1 above a magistrates' court shall be regarded as exercising the power of adjourning the trial conferred by section 10(1) of the [M1]Magistrates' Courts Act 1980, and accordingly sections 11(1) and 13(1) to (3A) and (5) of that Act (non-appearance of the accused) apply (without prejudice to subsection (4) above) if the offender does not appear on the date specified under section 1(3) above.

(6) Any power of a court under this section to deal with an offender in a case where the passing of sentence has been deferred under section 1 above—

(a) is power to deal with him, in respect of the offence for which passing of sentence has been deferred, in any way in which the court which deferred passing sentence could have dealt with him; and

(b) without prejudice to the generality of paragraph (a) above, in the case of a magistrates' court includes the power conferred by section 3 below to commit him to the Crown Court for sentence.

(7) Where—

(a) the passing of sentence on an offender in respect of one or more offences has been deferred under section 1 above, and

(b) a magistrates' court deals with him in respect of the offence or any of the offences by committing him to the Crown Court under section 3 below,

the power of the Crown Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the court.

Marginal Citations

M1 1980 c. 43.

Committal to Crown Court for sentence

3 Committal for sentence on summary trial of offence triable either way.

(1) Subject to subsection (4) below, this section applies where on the summary trial of an offence triable either way a person aged 18 or over is convicted of the offence.

(2) If the court is of the opinion—

(a) that the offence or the combination of the offence and one or more offences associated with it was so serious that greater punishment should be inflicted for the offence than the court has power to impose, or

(b) in the case of a violent or sexual offence, that a custodial sentence for a term longer than the court has power to impose is necessary to protect the public from serious harm from him,

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the court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 5(1) below.

(3) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.

(4) This section does not apply in relation to an offence as regards which this section is excluded by section 33 of the [M2]Magistrates' Courts Act 1980 (certain offences where value involved is small).

(5) The preceding provisions of this section shall apply in relation to a corporation as if—
- (a) the corporation were an individual aged 18 or over; and
- (b) in subsection (2) above, paragraph (b) and the words "in custody or on bail" were omitted.

Marginal Citations
M2 1980 c. 43.

4 Committal for sentence on indication of guilty plea to offence triable either way.

(1) This section applies where—
- (a) a person aged 18 or over appears or is brought before a magistrates' court ("the court") on an information charging him with an offence triable either way ("the offence");
- (b) he or his representative indicates that he would plead guilty if the offence were to proceed to trial; and
- (c) proceeding as if section 9(1) of the [M3]Magistrates' Courts Act 1980 were complied with and he pleaded guilty under it, the court convicts him of the offence.

(2) If the court has committed the offender to the Crown Court for trial for one or more related offences, that is to say, one or more offences which, in its opinion, are related to the offence, it may commit him in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 5(1) below.

(3) If the power conferred by subsection (2) above is not exercisable but the court is still to inquire, as examining justices, into one or more related offences—
- (a) it shall adjourn the proceedings relating to the offence until after the conclusion of its inquiries; and
- (b) if it commits the offender to the Crown Court for trial for one or more related offences, it may then exercise that power.

(4) Where the court—
- (a) under subsection (2) above commits the offender to the Crown Court to be dealt with in respect of the offence, and
- (b) does not state that, in its opinion, it also has power so to commit him under section 3(2) above,

section 5(1) below shall not apply unless he is convicted before the Crown Court of one or more of the related offences.

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(5) Where section 5(1) below does not apply, the Crown Court may deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of the offence.

(6) Where the court commits a person under subsection (2) above, section 6 below (which enables a magistrates' court, where it commits a person under this section in respect of an offence, also to commit him to the Crown Court to be dealt with in respect of certain other offences) shall apply accordingly.

(7) For the purposes of this section one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.

Marginal Citations

M3 1980 c. 43.

5 Power of Crown Court on committal for sentence under sections 3 and 4.

(1) Where an offender is committed by a magistrates' court for sentence under section 3 or 4 above, the Crown Court shall inquire into the circumstances of the case and may deal with the offender in any way in which it could deal with him if he had just been convicted of the offence on indictment before the court.

(2) In relation to committals under section 4 above, subsection (1) above has effect subject to section 4(4) and (5) above.

6 Committal for sentence in certain cases where offender committed in respect of another offence.

(1) This section applies where a magistrates' court ("the committing court") commits a person in custody or on bail to the Crown Court under any enactment mentioned in subsection (4) below to be sentenced or otherwise dealt with in respect of an offence ("the relevant offence").

(2) Where this section applies and the relevant offence is an indictable offence, the committing court may also commit the offender, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of any other offence whatsoever in respect of which the committing court has power to deal with him (being an offence of which he has been convicted by that or any other court).

(3) Where this section applies and the relevant offence is a summary offence, the committing court may commit the offender, in custody or on bail as the case may require, to the Crown Court to be dealt with in respect of—

(a) any other offence of which the committing court has convicted him, being either—

(i) an offence punishable with imprisonment; or

(ii) an offence in respect of which the committing court has a power or duty to order him to be disqualified under section 34, 35 or 36 of the [M4]Road Traffic Offenders Act 1988 (disqualification for certain motoring offences); or

(b) any suspended sentence in respect of which the committing court has under section 120(1) below power to deal with him.

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(4) The enactments referred to in subsection (1) above are—

(a) the [M5]Vagrancy Act 1824 (incorrigible rogues);

(b) sections 3 and 4 above (committal for sentence for offences triable either way);

(c) section 13(5) below (conditionally discharged person convicted of further offence);

(d) section 116(3)(b) below (offender convicted of offence committed during currency of original sentence); and

(e) section 120(2) below (offender convicted during operational period of suspended sentence).

Marginal Citations

M4 1988 c. 53.

M5 1824 c. 83.

7 Power of Crown Court on committal for sentence under section 6.

(1) Where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence, the Crown Court may after inquiring into the circumstances of the case deal with him in any way in which the magistrates' court could deal with him if it had just convicted him of the offence.

(2) Subsection (1) above does not apply where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of a suspended sentence, but in such a case the powers under section 119 below (power of court to deal with suspended sentence) shall be exercisable by the Crown Court.

(3) Without prejudice to subsections (1) and (2) above, where under section 6 above or any enactment mentioned in subsection (4) of that section a magistrates' court commits a person to be dealt with by the Crown Court, any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court shall not be discharged or exercised by that court but shall instead be discharged or may instead be exercised by the Crown Court.

(4) Where under section 6 above a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence triable only on indictment in the case of an adult (being an offence which was tried summarily because of the offender's being under 18 years of age), the Crown Court's powers under subsection (1) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—

(a) to impose a fine not exceeding £5,000;

(b) to deal with the offender in respect of the offence in any way in which the magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

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Remission for sentence: young offenders etc.

8 Power and duty to remit young offenders to youth courts for sentence.

(1) Subsection (2) below applies where a child or young person (that is to say, any person aged under 18) is convicted by or before any court of an offence other than homicide.

(2) The court may and, if it is not a youth court, shall unless satisfied that it would be undesirable to do so, remit the case—

(a) if the offender was committed for trial or sent to the Crown Court for trial under section 51 of the [M6]Crime and Disorder Act 1998, to a youth court acting for the place where he was committed for trial or sent to the Crown Court for trial;

(b) in any other case, to a youth court acting either for the same place as the remitting court or for the place where the offender habitually resides;

but in relation to a magistrates' court other than a youth court this subsection has effect subject to subsection (6) below.

(3) Where a case is remitted under subsection (2) above, the offender shall be brought before a youth court accordingly, and that court may deal with him in any way in which it might have dealt with him if he had been tried and convicted by that court.

(4) A court by which an order remitting a case to a youth court is made under subsection (2) above—

(a) may, subject to section 25 of the [M7]Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary with respect to the custody of the offender or for his release on bail until he can be brought before the youth court; and

(b) shall cause to be transmitted to the justices' chief executive for the youth court a certificate setting out the nature of the offence and stating—

(i) that the offender has been convicted of the offence; and

(ii) that the case has been remitted for the purpose of being dealt with under the preceding provisions of this section.

(5) Where a case is remitted under subsection (2) above, the offender shall have no right of appeal against the order of remission, but shall have the same right of appeal against any order of the court to which the case is remitted as if he had been convicted by that court.

(6) Without prejudice to the power to remit any case to a youth court which is conferred on a magistrates' court other than a youth court by subsections (1) and (2) above, where such a magistrates' court convicts a child or young person of an offence it must exercise that power unless the case falls within subsection (7) or (8) below.

(7) The case falls within this subsection if the court would, were it not so to remit the case, be required by section 16(2) below to refer the offender to a youth offender panel (in which event the court may, but need not, so remit the case).

(8) The case falls within this subsection if it does not fall within subsection (7) above but the court is of the opinion that the case is one which can properly be dealt with by means of—

(a) an order discharging the offender absolutely or conditionally, or

(b) an order for the payment of a fine, or

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(c) an order (under section 150 below) requiring the offender's parent or guardian to enter into a recognizance to take proper care of him and exercise proper control over him,

with or without any other order that the court has power to make when absolutely or conditionally discharging an offender.

(9) In subsection (8) above "care" and "control" shall be construed in accordance with section 150(11) below.

(10) A document purporting to be a copy of an order made by a court under this section shall, if it purports to be certified as a true copy by the justices' chief executive for the court, be evidence of the order.

Marginal Citations

M6 1998 c. 37.

M7 1994 c. 33.

9 Power of youth court to remit offender who attains age of 18 to magistrates' court other than youth court for sentence.

(1) Where a person who appears or is brought before a youth court charged with an offence subsequently attains the age of 18, the youth court may, at any time after conviction and before sentence, remit him for sentence to a magistrates' court (other than a youth court) acting for the same petty sessions area as the youth court.

(2) Where an offender is remitted under subsection (1) above, the youth court shall adjourn proceedings in relation to the offence, and—

(a) section 128 of the [M8]Magistrates' Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings shall have effect, in relation to the youth court's power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and

(b) subject to subsection (3) below, the court to which the offender is remitted ("the other court") may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the offence which took place before the youth court had taken place before the other court.

(3) Where an offender is remitted under subsection (1) above, section 8(6) above (duty of adult magistrates' court to remit young offenders to youth court for sentence) shall not apply to the court to which he is remitted.

(4) Where an offender is remitted under subsection (1) above he shall have no right of appeal against the order of remission (but without prejudice to any right of appeal against an order made in respect of the offence by the court to which he is remitted).

(5) In this section—

(a) "enactment" includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act; and

(b) "bail in criminal proceedings" has the same meaning as in the [M9]Bail Act 1976.

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Marginal Citations

M8 1980 c. 43.

M9 1976 c. 63.

10 Power of magistrates' court to remit case to another magistrates' court for sentence.

(1) Where a person aged 18 or over ("the offender") has been convicted by a magistrates' court ("the convicting court") of an offence to which this section applies ("the instant offence") and—

(a) it appears to the convicting court that some other magistrates' court ("the other court") has convicted him of another such offence in respect of which the other court has neither passed sentence on him nor committed him to the Crown Court for sentence nor dealt with him in any other way, and

(b) the other court consents to his being remitted under this section to the other court,

the convicting court may remit him to the other court to be dealt with in respect of the instant offence by the other court instead of by the convicting court.

(2) This section applies to—

(a) any offence punishable with imprisonment; and

(b) any offence in respect of which the convicting court has a power or duty to order the offender to be disqualified under section 34, 35 or 36 of the [M10]Road Traffic Offenders Act 1988 (disqualification for certain motoring offences).

(3) Where the convicting court remits the offender to the other court under this section, it shall adjourn the trial of the information charging him with the instant offence, and—

(a) section 128 of the [M11]Magistrates' Courts Act 1980 (remand in custody or on bail) and all other enactments, whenever passed, relating to remand or the granting of bail in criminal proceedings shall have effect, in relation to the convicting court's power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the court to which he is being remitted; and

(b) subject to subsection (7) below, the other court may deal with the case in any way in which it would have power to deal with it if all proceedings relating to the instant offence which took place before the convicting court had taken place before the other court.

(4) The power conferred on the other court by subsection (3)(b) above includes, where applicable, the power to remit the offender under this section to another magistrates' court in respect of the instant offence.

(5) Where the convicting court has remitted the offender under this section to the other court, the other court may remit him back to the convicting court; and the provisions of subsections (3) and (4) above (so far as applicable) shall apply with the necessary modifications in relation to any remission under this subsection.

(6) The offender, if remitted under this section, shall have no right of appeal against the order of remission (but without prejudice to any right of appeal against any other order made in respect of the instant offence by the court to which he is remitted).

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(7) Nothing in this section shall preclude the convicting court from making any order which it has power to make under section 148 below (restitution orders) by virtue of the offender's conviction of the instant offence.

(8) In this section—

(a) "conviction" includes a finding under section 11(1) below (remand for medical examination) that the person in question did the act or made the omission charged, and "convicted" shall be construed accordingly;

(b) "enactment" includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act; and

(c) "bail in criminal proceedings" has the same meaning as in the [M12]Bail Act 1976.

Marginal Citations

M10 1988 c. 53.
M11 1980 c. 43.
M12 1976 c. 63.

Remand by magistrates' court for medical examination

11 Remand by magistrates' court for medical examination.

(1) If, on the trial by a magistrates' court of an offence punishable on summary conviction with imprisonment, the court—

(a) is satisfied that the accused did the act or made the omission charged, but

(b) is of the opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined,

the court shall adjourn the case to enable a medical examination and report to be made, and shall remand him.

(2) An adjournment under subsection (1) above shall not be for more than three weeks at a time where the court remands the accused in custody, nor for more than four weeks at a time where it remands him on bail.

(3) Where on an adjournment under subsection (1) above the accused is remanded on bail, the court shall impose conditions under paragraph (d) of section 3(6) of the [M13]Bail Act 1976 and the requirements imposed as conditions under that paragraph shall be or shall include requirements that the accused—

(a) undergo medical examination by a registered medical practitioner or, where the inquiry is into his mental condition and the court so directs, two such practitioners; and

(b) for that purpose attend such an institution or place, or on such practitioner, as the court directs and, where the inquiry is into his mental condition, comply with any other directions which may be given to him for that purpose by any person specified by the court or by a person of any class so specified.

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Marginal Citations

M13 1976 c. 63.

PART II

ABSOLUTE AND CONDITIONAL DISCHARGE

12 Absolute and conditional discharge.

(1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) below) is of the opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, the court may make an order either—

(a) discharging him absolutely; or

(b) if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified in the order.

(2) Subsection (1)(b) above has effect subject to section 66(4) of the [M14]Crime and Disorder Act 1998 (effect of reprimands and warnings).

(3) An order discharging a person subject to such a condition as is mentioned in subsection (1)(b) above is in this Act referred to as an "order for conditional discharge"; and the period specified in any such order is in this Act referred to as "the period of conditional discharge".

(4) Before making an order for conditional discharge, the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(5) If (by virtue of section 13 below) a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

(6) On making an order for conditional discharge, the court may, if it thinks it expedient for the purpose of the offender's reformation, allow any person who consents to do so to give security for the good behaviour of the offender.

(7) Nothing in this section shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of any offence, from making an order for costs against the offender or imposing any disqualification on him or from making in respect of the offence an order under section 130, 143 or 148 below (compensation orders, deprivation orders and restitution orders).

Modifications etc. (not altering text)

C1 S. 12 restricted (28.8.2000) by 1989 c. 37, **s. 14A(5)** (as substituted (28.8.2000) by 2000 c. 25, s. 1, **Sch. 1 para. 2**; S.I. 2000/2125, **art. 2**)

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Marginal Citations
M14 1998 c. 37.

13 Commission of further offence by person conditionally discharged.

(1) If it appears to the Crown Court, where that court has jurisdiction in accordance with subsection (2) below, or to a justice of the peace having jurisdiction in accordance with that subsection, that a person in whose case an order for conditional discharge has been made—

(a) has been convicted by a court in Great Britain of an offence committed during the period of conditional discharge, and

(b) has been dealt with in respect of that offence,

that court or justice may, subject to subsection (3) below, issue a summons requiring that person to appear at the place and time specified in it or a warrant for his arrest.

(2) Jurisdiction for the purposes of subsection (1) above may be exercised—

(a) if the order for conditional discharge was made by the Crown Court, by that court;

(b) if the order was made by a magistrates' court, by a justice acting for the petty sessions area for which that court acts.

(3) A justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.

(5) If a person in whose case an order for conditional discharge has been made by the Crown Court is convicted by a magistrates' court of an offence committed during the period of conditional discharge, the magistrates' court—

(a) may commit him to custody or release him on bail until he can be brought or appear before the Crown Court; and

(b) if it does so, shall send to the Crown Court a copy of the minute or memorandum of the conviction entered in the register, signed by the justices' chief executive by whom the register is kept.

(6) Where it is proved to the satisfaction of the court by which an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with him, for the offence for which the order was made, in any way in which it could deal with him if he had just been convicted by or before that court of that offence.

(7) If a person in whose case an order for conditional discharge has been made by a magistrates' court—

(a) is convicted before the Crown Court of an offence committed during the period of conditional discharge, or

(b) is dealt with by the Crown Court for any such offence in respect of which he was committed for sentence to the Crown Court,

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the Crown Court may deal with him, for the offence for which the order was made, in any way in which the magistrates' court could deal with him if it had just convicted him of that offence.

(8) If a person in whose case an order for conditional discharge has been made by a magistrates' court is convicted by another magistrates' court of any offence committed during the period of conditional discharge, that other court may, with the consent of the court which made the order, deal with him, for the offence for which the order was made, in any way in which the court could deal with him if it had just convicted him of that offence.

(9) Where an order for conditional discharge has been made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (6), (7) or (8) above by that or any other court in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—

(a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;

(b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

(10) The reference in subsection (6) above to a person's having been convicted of an offence committed during the period of conditional discharge is a reference to his having been so convicted by a court in Great Britain.

14 Effect of discharge.

(1) Subject to subsection (2) below, a conviction of an offence for which an order is made under section 12 above discharging the offender absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under section 13 above.

(2) Where the offender was aged 18 or over at the time of his conviction of the offence in question and is subsequently sentenced (under section 13 above) for that offence, subsection (1) above shall cease to apply to the conviction.

(3) Without prejudice to subsections (1) and (2) above, the conviction of an offender who is discharged absolutely or conditionally under section 12 above shall in any event be disregarded for the purposes of any enactment or instrument which—

(a) imposes any disqualification or disability upon convicted persons; or

(b) authorises or requires the imposition of any such disqualification or disability.

(4) Subsections (1) to (3) above shall not affect—

(a) any right of an offender discharged absolutely or conditionally under section 12 above to rely on his conviction in bar of any subsequent proceedings for the same offence;

(b) the restoration of any property in consequence of the conviction of any such offender; or

(c) the operation, in relation to any such offender, of any enactment or instrument in force on 1st July 1974 which is expressed to extend to persons dealt with

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under section 1(1) of the [M15]Probation of Offenders Act 1907 as well as to convicted persons.

(5) In subsections (3) and (4) above—

"enactment" includes an enactment contained in a local Act; and

"instrument" means an instrument having effect by virtue of an Act.

(6) Subsection (1) above has effect subject to section 50(1A) of the [M16]Criminal Appeal Act 1968 and section 108(1A) of the [M17]Magistrates' Courts Act 1980 (rights of appeal); and this subsection shall not be taken to prejudice any other enactment that excludes the effect of subsection (1) or (3) above for particular purposes.

(7) Without prejudice to paragraph 1(3) of Schedule 11 to this Act (references to provisions of this Act to be construed as including references to corresponding old enactments), in this section—

(a) any reference to an order made under section 12 above discharging an offender absolutely or conditionally includes a reference to an order which was made under any provision of Part I of the [M18]Powers of Criminal Courts Act 1973 (whether or not reproduced in this Act) discharging the offender absolutely or conditionally;

(b) any reference to an offender who is discharged absolutely or conditionally under section 12 includes a reference to an offender who was discharged absolutely or conditionally under any such provision.

Modifications etc. (not altering text)

C2 S. 14 restricted (28.8.2000) by 1989 c. 37, **s. 14A(5)** (as substituted (28.8.2000) by 2000 c. 25, s. 1, **Sch. 1 para. 2**; S.I. 2000/2125, **art. 2**)

Marginal Citations

M15 1907 c. 17.
M16 1968 c. 19.
M17 1980 c. 43.
M18 1973 c. 62.

15 Discharge: supplementary.

(1) The Secretary of State may by order direct that subsection (1) of section 12 above shall be amended by substituting, for the maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.

(2) Where an order for conditional discharge has been made on appeal, for the purposes of section 13 above it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

(3) In proceedings before the Crown Court under section 13 above, any question whether any person in whose case an order for conditional discharge has been made has been

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convicted of an offence committed during the period of conditional discharge shall be determined by the court and not by the verdict of a jury.

PART III

MANDATORY AND DISCRETIONARY REFERRAL OF YOUNG OFFENDERS

Referral orders

16 Duty and power to refer certain young offenders to youth offender panels.

(1) This section applies where a youth court or other magistrates' court is dealing with a person aged under 18 for an offence and—

(a) neither the offence nor any connected offence is one for which the sentence is fixed by law;

(b) the court is not, in respect of the offence or any connected offence, proposing to impose a custodial sentence on the offender or make a hospital order (within the meaning of the [M19]Mental Health Act 1983) in his case; and

(c) the court is not proposing to discharge him absolutely in respect of the offence.

(2) If—

(a) the compulsory referral conditions are satisfied in accordance with section 17 below, and

(b) referral is available to the court,

the court shall sentence the offender for the offence by ordering him to be referred to a youth offender panel.

(3) If—

(a) the discretionary referral conditions are satisfied in accordance with section 17 below, and

(b) referral is available to the court,

the court may sentence the offender for the offence by ordering him to be referred to a youth offender panel.

(4) For the purposes of this Part an offence is connected with another if the offender falls to be dealt with for it at the same time as he is dealt with for the other offence (whether or not he is convicted of the offences at the same time or by or before the same court).

(5) For the purposes of this section referral is available to a court if—

(a) the court has been notified by the Secretary of State that arrangements for the implementation of referral orders are available in the area in which it appears to the court that the offender resides or will reside; and

(b) the notice has not been withdrawn.

(6) An order under subsection (2) or (3) above is in this Act referred to as a "referral order".

(7) No referral order may be made in respect of any offence committed before the commencement of section 1 of the [M20]Youth Justice and Criminal Evidence Act 1999.

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Marginal Citations

M19 1983 c. 20.

M20 1999 c. 23.

17 The referral conditions.

(1) For the purposes of section 16(2) above the compulsory referral conditions are satisfied in relation to an offence if **[**[F1]the offence is an offence punishable with imprisonment and**]** the offender—

(a) pleaded guilty to the offence and to any connected offence;

(b) has never been convicted by or before a court in the United Kingdom of any offence other than the offence and any connected offence; and

(c) has never been bound over in criminal proceedings in England and Wales or Northern Ireland to keep the peace or to be of good behaviour.

[[F2](1A) For the purposes of section 16(3) above, the discretionary referral conditions are satisfied in relation to an offence if the offence is not an offence punishable with imprisonment but the offender meets the conditions in paragraphs (a) to (c) of subsection (1) above.**]**

(2) For the purposes of section 16(3) above the discretionary referral conditions are **[**[F3]also**]** satisfied in relation to an offence if—

(a) the offender is being dealt with by the court for the offence and one or more connected offences **[**[F4](whether or not any of them is an offence punishable with imprisonment)**]** ;

(b) although he pleaded guilty to at least one of the offences mentioned in paragraph (a) above, he also pleaded not guilty to at least one of them;

(c) he has never been convicted by or before a court in the United Kingdom of any offence other than the offences mentioned in paragraph (a) above; and

(d) he has never been bound over in criminal proceedings in England and Wales or Northern Ireland to keep the peace or to be of good behaviour.

(3) The Secretary of State may by regulations make such amendments of this section as he considers appropriate for altering in any way the descriptions of offenders in the case of which the compulsory referral conditions or the discretionary referral conditions fall to be satisfied for the purposes of section 16(2) or (3) above (as the case may be).

(4) Any description of offender having effect for those purposes by virtue of such regulations may be framed by reference to such matters as the Secretary of State considers appropriate, including (in particular) one or more of the following—

(a) the offender's age;

(b) how the offender has pleaded;

(c) the offence (or offences) of which the offender has been convicted;

(d) the offender's previous convictions (if any);

(e) how (if at all) the offender has been previously punished or otherwise dealt with by any court; and

(f) any characteristics or behaviour of, or circumstances relating to, any person who has at any time been charged in the same proceedings as the offender (whether or not in respect of the same offence).

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(5) For the purposes of this section an offender who has been convicted of an offence in respect of which he was conditionally discharged (whether by a court in England and Wales or in Northern Ireland) shall be treated, despite—

(a) section 14(1) above (conviction of offence for which offender so discharged deemed not a conviction), or

(b) Article 6(1) of the [M21]Criminal Justice (Northern Ireland) Order 1996 (corresponding provision for Northern Ireland),

as having been convicted of that offence.

Textual Amendments

F1 Words in s. 17(1) inserted (18.8.2003) by The Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605), regs. 1(1), **2(1)**

F2 S. 17(1A) inserted (18.8.2003) by The Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605), regs. 1(1), **2(2)**

F3 Word in s. 17(2) inserted (18.8.2003) by The Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605), regs. 1(1), **2(3)(a)**

F4 Words in s. 17(2)(a) inserted (18.8.2003) by The Referral Orders (Amendment of Referral Conditions) Regulations 2003 (S.I. 2003/1605), regs. 1(1), **2(3)(b)**

Marginal Citations

M21 S.I. 1996/3160 (N.I. 24).

18 Making of referral orders: general.

(1) A referral order shall—

(a) specify the youth offending team responsible for implementing the order;

(b) require the offender to attend each of the meetings of a youth offender panel to be established by the team for the offender; and

(c) specify the period for which any youth offender contract taking effect between the offender and the panel under section 23 below is to have effect (which must not be less than three nor more than twelve months).

(2) The youth offending team specified under subsection (1)(a) above shall be the team having the function of implementing referral orders in the area in which it appears to the court that the offender resides or will reside.

(3) On making a referral order the court shall explain to the offender in ordinary language—

(a) the effect of the order; and

(b) the consequences which may follow—

(i) if no youth offender contract takes effect between the offender and the panel under section 23 below; or

(ii) if the offender breaches any of the terms of any such contract.

(4) Subsections (5) to (7) below apply where, in dealing with an offender for two or more connected offences, a court makes a referral order in respect of each, or each of two or more, of the offences.

(5) The orders shall have the effect of referring the offender to a single youth offender panel; and the provision made by them under subsection (1) above shall accordingly

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be the same in each case, except that the periods specified under subsection (1)(c) may be different.

(6) The court may direct that the period so specified in either or any of the orders is to run concurrently with or be additional to that specified in the other or any of the others; but in exercising its power under this subsection the court must ensure that the total period for which such a contract as is mentioned in subsection (1)(c) above is to have effect does not exceed twelve months.

(7) Each of the orders mentioned in subsection (4) above shall, for the purposes of this Part, be treated as associated with the other or each of the others.

19 Making of referral orders: effect on court's other sentencing powers.

(1) Subsections (2) to (5) below apply where a court makes a referral order in respect of an offence.

(2) The court may not deal with the offender for the offence in any of the prohibited ways.

(3) The court—
- (a) shall, in respect of any connected offence, either sentence the offender by making a referral order or make an order discharging him absolutely; and
- (b) may not deal with the offender for any such offence in any of the prohibited ways.

(4) For the purposes of subsections (2) and (3) above the prohibited ways are—
- (a) imposing a community sentence on the offender;
- (b) ordering him to pay a fine;
- (c) making a reparation order in respect of him; and
- (d) making an order discharging him conditionally.

(5) The court may not make, in connection with the conviction of the offender for the offence or any connected offence—
- (a) an order binding him over to keep the peace or to be of good behaviour; **[**[F5]or**]**
- (b) an order under section 150 below (binding over of parent or guardian); [F6]...
- [F6](c) . . . . . .

(6) Subsections (2), (3) and (5) above do not affect the exercise of any power to deal with the offender conferred by paragraph 5 (offender referred back to court by panel) or paragraph 14 (powers of a court where offender convicted while subject to referral) of Schedule 1 to this Act.

(7) Where section 16(2) above requires a court to make a referral order, the court may not under section 1 above defer passing sentence on him, but section 16(2) and subsection (3)(a) above do not affect any power or duty of a magistrates' court under—
- (a) section 8 above (remission to youth court, or another such court, for sentence);
- (b) section 10(3) of the [M22]Magistrates' Courts Act 1980 (adjournment for inquiries); or
- (c) section 35, 38, 43 or 44 of the [M23]Mental Health Act 1983 (remand for reports, interim hospital orders and committal to Crown Court for restriction order).

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Textual Amendments

F5 Word in s. 19(5)(a) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 34 para. 3(a)**; S.I. 2004/81, art. 5(1)(2)(d)

F6 S. 19(5)(c) and word repealed (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 34 para. 3(b), **Sch. 37 Pt. 12**; S.I. 2004/81, art. 5(1)(2)(d)

Marginal Citations

M22 1980 c. 43.

M23 1983 c. 20.

20 Making of referral orders: attendance of parents etc.

(1) A court making a referral order may make an order requiring—

(a) the appropriate person, or

(b) in a case where there are two or more appropriate persons, any one or more of them,

to attend the meetings of the youth offender panel.

(2) Where an offender is aged under 16 when a court makes a referral order in his case—

(a) the court shall exercise its power under subsection (1) above so as to require at least one appropriate person to attend meetings of the youth offender panel; and

(b) if the offender falls within subsection (6) below, the person or persons so required to attend those meetings shall be or include a representative of the local authority mentioned in that subsection.

(3) The court shall not under this section make an order requiring a person to attend meetings of the youth offender panel—

(a) if the court is satisfied that it would be unreasonable to do so; or

(b) to an extent which the court is satisfied would be unreasonable.

(4) Except where the offender falls within subsection (6) below, each person who is a parent or guardian of the offender is an "appropriate person" for the purposes of this section.

(5) Where the offender falls within subsection (6) below, each of the following is an "appropriate person" for the purposes of this section—

(a) a representative of the local authority mentioned in that subsection; and

(b) each person who is a parent or guardian of the offender with whom the offender is allowed to live.

(6) An offender falls within this subsection if he is (within the meaning of the [M24]Children Act 1989) a child who is looked after by a local authority.

(7) If, at the time when a court makes an order under this section—

(a) a person who is required by the order to attend meetings of a youth offender panel is not present in court, or

(b) a local authority whose representative is so required to attend such meetings is not represented in court,

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the court must send him or (as the case may be) the authority a copy of the order forthwith.

Marginal Citations
M24 1989 c. 41.

Youth offender panels

21 Establishment of panels.

(1) Where a referral order has been made in respect of an offender (or two or more associated referral orders have been so made), it is the duty of the youth offending team specified in the order (or orders)—
  (a) to establish a youth offender panel for the offender;
  (b) to arrange for the first meeting of the panel to be held for the purposes of section 23 below; and
  (c) subsequently to arrange for the holding of any further meetings of the panel required by virtue of section 25 below (in addition to those required by virtue of any other provision of this Part).

(2) A youth offender panel shall—
  (a) be constituted,
  (b) conduct its proceedings, and
  (c) discharge its functions under this Part (and in particular those arising under section 23 below),
  in accordance with guidance given from time to time by the Secretary of State.

(3) At each of its meetings a panel shall, however, consist of at least—
  (a) one member appointed by the youth offending team from among its members; and
  (b) two members so appointed who are not members of the team.

(4) The Secretary of State may by regulations make provision requiring persons appointed as members of a youth offender panel to have such qualifications, or satisfy such other criteria, as are specified in the regulations.

(5) Where it appears to the court which made a referral order that, by reason of either a change or a prospective change in the offender's place or intended place of residence, the youth offending team for the time being specified in the order ("the current team") either does not or will not have the function of implementing referral orders in the area in which the offender resides or will reside, the court may amend the order so that it instead specifies the team which has the function of implementi g such orders in that area ("the new team").

(6) Where a court so amends a referral order—
  (a) subsection (1)(a) above shall apply to the new team in any event;
  (b) subsection (1)(b) above shall apply to the new team if no youth offender contract has (or has under paragraph (c) below been treated as having) taken effect under section 23 below between the offender and a youth offender panel established by the current team;

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(c) if such a contract has (or has previously under this paragraph been treated as having) so taken effect, it shall (after the amendment) be treated as if it were a contract which had taken effect under section 23 below between the offender and the panel being established for the offender by the new team.

(7) References in this Part to the meetings of a youth offender panel (or any such meeting) are to the following meetings of the panel (or any of them)—

(a) the first meeting held in pursuance of subsection (1)(b) above;

(b) any further meetings held in pursuance of section 25 below;

(c) any progress meeting held under section 26 below; and

(d) the final meeting held under section 27 below.

22 Attendance at panel meetings.

(1) The specified team shall, in the case of each meeting of the panel established for the offender, notify—

(a) the offender, and

(b) any person to whom an order under section 20 above applies,

of the time and place at which he is required to attend that meeting.

(2) If the offender fails to attend any part of such a meeting the panel may—

(a) adjourn the meeting to such time and place as it may specify; or

(b) end the meeting and refer the offender back to the appropriate court;

and subsection (1) above shall apply in relation to any such adjourned meeting.

[[F7](2A) If—

(a) a parent or guardian of the offender fails to comply with an order under section 20 above (requirement to attend the meetings of the panel), and

(b) the offender is aged under 18 at the time of the failure,

the panel may refer that parent or guardian to a youth court acting for the petty sessions area in which it appears to the panel that the offender resides or will reside.**]**

(3) One person aged 18 or over chosen by the offender, with the agreement of the panel, shall be entitled to accompany the offender to any meeting of the panel (and it need not be the same person who accompanies him to every meeting).

(4) The panel may allow to attend any such meeting—

(a) any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, in respect of which the offender was referred to the panel;

(b) any person who appears to the panel to be someone capable of having a good influence on the offender.

(5) Where the panel allows any such person as is mentioned in subsection (4)(a) above ("the victim") to attend a meeting of the panel, the panel may allow the victim to be accompanied to the meeting by one person chosen by the victim with the agreement of the panel.

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Textual Amendments

F7 S. 22(2A) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 34 para. 4**; S.I. 2004/81, art. 5(1)(2)(d)

Youth offender contracts

23 First meeting: agreement of contract with offender.

(1) At the first meeting of the youth offender panel established for an offender the panel shall seek to reach agreement with the offender on a programme of behaviour the aim (or principal aim) of which is the prevention of re-offending by the offender.

(2) The terms of the programme may, in particular, include provision for any of the following—

(a) the offender to make financial or other reparation to any person who appears to the panel to be a victim of, or otherwise affected by, the offence, or any of the offences, for which the offender was referred to the panel;

(b) the offender to attend mediation sessions with any such victim or other person;

(c) the offender to carry out unpaid work or service in or for the community;

(d) the offender to be at home at times specified in or determined under the programme;

(e) attendance by the offender at a school or other educational establishment or at a place of work;

(f) the offender to participate in specified activities (such as those designed to address offending behaviour, those offering education or training or those assisting with the rehabilitation of persons dependent on, or having a propensity to misuse, alcohol or drugs);

(g) the offender to present himself to specified persons at times and places specified in or determined under the programme;

(h) the offender to stay away from specified places or persons (or both);

(i) enabling the offender's compliance with the programme to be supervised and recorded.

(3) The programme may not, however, provide—

(a) for the electronic monitoring of the offender's whereabouts; or

(b) for the offender to have imposed on him any physical restriction on his movements.

(4) No term which provides for anything to be done to or with any such victim or other affected person as is mentioned in subsection (2)(a) above may be included in the programme without the consent of that person.

(5) Where a programme is agreed between the offender and the panel, the panel shall cause a written record of the programme to be produced forthwith—

(a) in language capable of being readily understood by, or explained to, the offender; and

(b) for signature by him.

(6) Once the record has been signed—

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(a) by the offender, and
(b) by a member of the panel on behalf of the panel,

the terms of the programme, as set out in the record, take effect as the terms of a "youth offender contract" between the offender and the panel; and the panel shall cause a copy of the record to be given or sent to the offender.

24 First meeting: duration of contract.

(1) This section applies where a youth offender contract has taken effect under section 23 above between an offender and a youth offender panel.

(2) The day on which the contract so takes effect shall be the first day of the period for which it has effect.

(3) Where the panel was established in pursuance of a single referral order, the length of the period for which the contract has effect shall be that of the period specified under section 18(1)(c) above in the referral order.

(4) Where the panel was established in pursuance of two or more associated referral orders, the length of the period for which the contract has effect shall be that resulting from the court's directions under section 18(6) above.

(5) Subsections (3) and (4) above have effect subject to—
(a) any order under paragraph 11 or 12 of Schedule 1 to this Act extending the length of the period for which the contract has effect; and
(b) subsection (6) below.

(6) If the referral order, or each of the associated referral orders, is revoked (whether under paragraph 5(2) of Schedule 1 to this Act or by virtue of paragraph 14(2) of that Schedule), the period for which the contract has effect expires at the time when the order or orders is or are revoked unless it has already expired.

25 First meeting: failure to agree contract.

(1) Where it appears to a youth offender panel to be appropriate to do so, the panel may—
(a) end the first meeting (or any further meeting held in pursuance of paragraph (b) below) without having reached agreement with the offender on a programme of behaviour of the kind mentioned in section 23(1) above; and
(b) resume consideration of the offender's case at a further meeting of the panel.

(2) If, however, it appears to the panel at the first meeting or any such further meeting that there is no prospect of agreement being reached with the offender within a reasonable period after the making of the referral order (or orders)—
(a) subsection (1)(b) above shall not apply; and
(b) instead the panel shall refer the offender back to the appropriate court.

(3) If at a meeting of the panel—
(a) agreement is reached with the offender but he does not sign the record produced in pursuance of section 23(5) above, and
(b) his failure to do so appears to the panel to be unreasonable,

the panel shall end the meeting and refer the offender back to the appropriate court.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

26 Progress meetings.

(1) At any time—

(a) after a youth offender contract has taken effect under section 23 above, but

(b) before the end of the period for which the contract has effect,

the specified team shall, if so requested by the panel, arrange for the holding of a meeting of the panel under this section ("a progress meeting").

(2) The panel may make a request under subsection (1) above if it appears to the panel to be expedient to review—

(a) the offender's progress in implementing the programme of behaviour contained in the contract; or

(b) any other matter arising in connection with the contract.

(3) The panel shall make such a request if—

(a) the offender has notified the panel that—

(i) he wishes to seek the panel's agreement to a variation in the terms of the contract; or

(ii) he wishes the panel to refer him back to the appropriate court with a view to the referral order (or orders) being revoked on account of a significant change in his circumstances (such as his being taken to live abroad) making compliance with any youth offender contract impractical; or

(b) it appears to the panel that the offender is in breach of any of the terms of the contract.

(4) At a progress meeting the panel shall do such one or more of the following things as it considers appropriate in the circumstances, namely—

(a) review the offender's progress or any such other matter as is mentioned in subsection (2) above;

(b) discuss with the offender any breach of the terms of the contract which it appears to the panel that he has committed;

(c) consider any variation in the terms of the contract sought by the offender or which it appears to the panel to be expedient to make in the light of any such review or discussion;

(d) consider whether to accede to any request by the offender that he be referred back to the appropriate court.

(5) Where the panel has discussed with the offender such a breach as is mentioned in subsection (4)(b) above—

(a) the panel and the offender may agree that the offender is to continue to be required to comply with the contract (either in its original form or with any agreed variation in its terms) without being referred back to the appropriate court; or

(b) the panel may decide to end the meeting and refer the offender back to that court.

(6) Where a variation in the terms of the contract is agreed between the offender and the panel, the panel shall cause a written record of the variation to be produced forthwith—

(a) in language capable of being readily understood by, or explained to, the offender; and

(b) for signature by him.

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(7) Any such variation shall take effect once the record has been signed—
  (a) by the offender; and
  (b) by a member of the panel on behalf of the panel;

and the panel shall cause a copy of the record to be given or sent to the offender.

(8) If at a progress meeting—
  (a) any such variation is agreed but the offender does not sign the record produced in pursuance of subsection (6) above, and
  (b) his failure to do so appears to the panel to be unreasonable,

the panel may end the meeting and refer the offender back to the appropriate court.

(9) Section 23(2) to (4) above shall apply in connection with what may be provided for by the terms of the contract as varied under this section as they apply in connection with what may be provided for by the terms of a programme of behaviour of the kind mentioned in section 23(1).

(10) Where the panel has discussed with the offender such a request as is mentioned in subsection (4)(d) above, the panel may, if it is satisfied that there is (or is soon to be) such a change in circumstances as is mentioned in subsection (3)(a)(ii) above, decide to end the meeting and refer the offender back to the appropriate court.

27 Final meeting.

(1) Where the compliance period in the case of a youth offender contract is due to expire, the specified team shall arrange for the holding, before the end of that period, of a meeting of the panel under this section ("the final meeting").

(2) At the final meeting the panel shall—
  (a) review the extent of the offender's compliance to date with the terms of the contract; and
  (b) decide, in the light of that review, whether his compliance with those terms has been such as to justify the conclusion that, by the time the compliance period expires, he will have satisfactorily completed the contract;

and the panel shall give the offender written confirmation of its decision.

(3) Where the panel decides that the offender's compliance with the terms of the contract has been such as to justify that conclusion, the panel's decision shall have the effect of discharging the referral order (or orders) as from the end of the compliance period.

(4) Otherwise the panel shall refer the offender back to the appropriate court.

(5) Nothing in section 22(2) above prevents the panel from making the decision mentioned in subsection (3) above in the offender's absence if it appears to the panel to be appropriate to do that instead of exercising either of its powers under section 22(2).

(6) Section 22(2)(a) above does not permit the final meeting to be adjourned (or re-adjourned) to a time falling after the end of the compliance period.

(7) In this section "the compliance period", in relation to a youth offender contract, means the period for which the contract has effect in accordance with section 24 above.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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Further court proceedings

28 [F8Offender or parent referred back to court: offender] convicted while subject to referral order.

Schedule 1 to this Act, which—

(a) in Part I makes provision for what is to happen when a youth offender panel refers an offender back to the appropriate court, and

[F9(aa) in Part 1A makes provision for what is to happen when a youth offender panel refers a parent or guardian to the court under section 22(2A) above, and**]**

(b) in Part II makes provision for what is to happen when an offender is convicted of further offences while for the time being subject to a referral order,

shall have effect.

Textual Amendments

F8 Words in s. 28 heading substituted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 34 para. 5(2)**; S.I. 2004/81, art. 5(1)(2)(d)

F9 S. 28(aa) inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 34 para. 5(3)**; S.I. 2004/81, art. 5(1)(2)(d)

Supplementary

29 Functions of youth offending teams.

(1) The functions of a youth offending team responsible for implementing a referral order include, in particular, arranging for the provision of such administrative staff, accommodation or other facilities as are required by the youth offender panel established in pursuance of the order.

(2) During the period for which a youth offender contract between a youth offender panel and an offender has effect—

(a) the specified team shall make arrangements for supervising the offender's compliance with the terms of the contract; and

(b) the person who is the member of the panel referred to in section 21(3)(a) above shall ensure that records are kept of the offender's compliance (or non-compliance) with those terms.

(3) In implementing referral orders a youth offending team shall have regard to any guidance given from time to time by the Secretary of State.

30 Regulations under Part III.

(1) Any power of the Secretary of State to make regulations under section 17(3) or 21(4) above or paragraph 13(8) of Schedule 1 to this Act shall be exercisable by statutory instrument.

(2) A statutory instrument containing any regulations under section 21(4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) No regulations shall be made under—

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(a) section 17(3), or
(b) paragraph 13(8) of Schedule 1,

unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.

(4) Any regulations made by the Secretary of State under section 17(3) or 21(4) or paragraph 13(8) of Schedule 1 may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

31 Rules of court.

(1) Rules of court may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Part (and nothing in this section shall be taken to affect the generality of any enactment conferring power to make such rules).

(2) In this section "rules of court" means—
(a) Magistrates' Courts Rules;
(b) Crown Court Rules;
(c) Criminal Appeal Rules.

32 Definitions for purposes of Part III.

In this Part—

"the appropriate court" shall be construed in accordance with paragraph 1(2) of Schedule 1 to this Act;

"associated", in relation to referral orders, shall be construed in accordance with section 18(7) above;

"connected", in relation to offences, shall be construed in accordance with section 16(4) above;

"meeting", in relation to a youth offender panel, shall be construed in accordance with section 21(7) above;

"the specified team", in relation to an offender to whom a referral order applies (or two or more associated referral orders apply), means the youth offending team for the time being specified in the order (or orders).

PART IV

COMMUNITY ORDERS AND REPARATION ORDERS

Modifications etc. (not altering text)

C3 Pt. IV applied (with modifications) (25.8.2000) by 1997 c. 43, **s. 35(4)(b)(5)** (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(3)**)

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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CHAPTER I

COMMUNITY ORDERS: GENERAL PROVISIONS

33 Meaning of "community order" and "community sentence".

(1) In this Act, "community order" means any of the following orders—

(a) a curfew order;

(b) a **[**[F10]community rehabilitation order**]**;

(c) a **[**[F11]community punishment order**]**;

(d) a **[**[F12]community punishment and rehabilitation order**]**;

(e) a drug treatment and testing order;

[[F13](ee) a drug abstinence order**]**

(f) an attendance centre order;

(g) a supervision order;

(h) an action plan order.

(2) In this Act, "community sentence" means a sentence which consists of or includes one or more community orders.

Textual Amendments

F10 Words in s. 33(1)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F11 Words in s. 33(1)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**

F12 Words in s. 33(1)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**

F13 S. 33(1)(e) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 161(b)**; S.I. 2001/2232, **art. 2(k)(m)(iii)**

34 Community orders not available where sentence fixed by law etc.

None of the powers to make community orders which are conferred by this Part is exercisable in respect of an offence for which the sentence—

(a) is fixed by law; or

(b) falls to be imposed under section 109(2), 110(2) or 111(2) below (requirement to impose custodial sentences for certain repeated offences committed by offenders aged 18 or over).

35 Restrictions on imposing community sentences.

(1) A court shall not pass a community sentence on an offender unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence.

(2) In consequence of the provision made by section 51 below with respect to **[**[F14]community punishment and rehabilitation orders**]**, a community sentence shall not consist of or include both a **[**[F15]community rehabilitation order**]** and a **[**[F16]community punishment order**]**.

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(3) Subject to subsection (2) above and to section 69(5) below (which limits the community orders that may be combined with an action plan order), where a court passes a community sentence—

(a) the particular order or orders comprising or forming part of the sentence shall be such as in the opinion of the court is, or taken together are, the most suitable for the offender; and

(b) the restrictions on liberty imposed by the order or orders shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

(4) Subsections (1) and (3)(b) above have effect subject to section 59 below (curfew orders and **[**[F16]community punishment orders**]** for persistent petty offenders).

Textual Amendments

F14 Words in s. 35(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F15 Words in s. 35(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F16 Words in s. 35(2)(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

36 Procedural requirements for community sentences: pre-sentence reports etc.

(1) In forming any such opinion as is mentioned in subsection (1) or (3)(b) of section 35 above, a court shall take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it, including any aggravating or mitigating factors.

(2) In forming any such opinion as is mentioned in subsection (3)(a) of that section, a court may take into account any information about the offender which is before it.

(3) The following provisions of this section apply in relation to—

(a) a **[**[F17]community rehabilitation order**]** which includes additional requirements authorised by Schedule 2 to this Act;

(b) a **[**[F18]community punishment order**]**;

(c) a **[**[F19]community punishment and rehabilitation order**]**;

(d) a drug treatment and testing order;

(e) a supervision order which includes requirements authorised by Schedule 6 to this Act.

(4) Subject to subsection (5) below, a court shall obtain and consider a pre-sentence report before forming an opinion as to the suitability for the offender of one or more of the orders mentioned in subsection (3) above.

(5) Subsection (4) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(6) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (5) above unless—

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(a) there exists a previous pre-sentence report obtained in respect of the offender; and

(b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.

(7) No community sentence which consists of or includes such an order as is mentioned in subsection (3) above shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion as to the suitability of the order for the offender, but any court on an appeal against such a sentence—

(a) shall, subject to subsection (8) below, obtain a pre-sentence report if none was obtained by the court below; and

(b) shall consider any such report obtained by it or by that court.

(8) Subsection (7)(a) above does not apply if the court is of the opinion—

(a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report; or

(b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.

(9) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (8) above unless—

(a) there exists a previous pre-sentence report obtained in respect of the offender; and

(b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.

(10) Section 156 below (disclosure of pre-sentence report to offender etc.) applies to any pre-sentence report obtained in pursuance of this section.

Textual Amendments

F17 Words in s. 36(3)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F18 Words in s. 36(3)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F19 Words in s. 36(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

[F20 36A Pre-sentence drug testing.

(1) Where a person aged 18 or over is convicted of an offence and the court is considering passing a community sentence, it may make an order under subsection (2) below for the purpose of ascertaining whether the offender has any specified Class A drug in his body.

(2) The order shall require the offender to provide, in accordance with the order, samples of any description specified in the order.

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(3) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.

In this subsection, "level 4" means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.

(4) The court shall not make an order under subsection (2) above unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.**]**

Textual Amendments

F20 S. 36A inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 48**; S.I. 2001/2232, **art. 2(b)**

[[F21]36B Electronic monitoring of requirements in community orders.

(1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender's compliance with any other requirements imposed by the order.

(2) A court shall not include in a community order a requirement under subsection (1) above unless the court—

(a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and

(b) is satisfied that the necessary provision can be made under those arrangements.

(3) Where—

(a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but

(b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,

the requirement shall not be included in the order without that person's consent.

(4) Where—

(a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender's compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but

(b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,

the requirement shall not be included in the order without that person's consent.

(5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(6) The Secretary of State may make rules for regulating—

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(a) the electronic monitoring of compliance with requirements included in a community order; and

(b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.

(7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.

In this subsection, "place", in relation to an exclusion order, has the same meaning as in section 40A below.

(8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—

(a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;

(b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;

(c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.

(9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.

(10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.**]**

Textual Amendments

F21 S. 36B inserted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes otherwise*prosp.*) by 2000 c. 43, **ss. 52**, 80(1); S.I. 2001/2232, **art. 2(e)**

CHAPTER II

COMMUNITY ORDERS AVAILABLE FOR OFFENDERS OF ANY AGE

Curfew orders

37 Curfew orders.

(1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order requiring him to remain, for periods specified in the order, at a place so specified.

(2) An order under subsection (1) above is in this Act referred to as a "curfew order".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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(3) A curfew order may specify different places or different periods for different days, but shall not specify—
  (a) periods which fall outside the period of six months beginning with the day on which it is made; or
  (b) periods which amount to less than two hours or more than twelve hours in any one day.

(4) In relation to an offender aged under 16 on conviction, subsection (3)(a) above shall have effect as if the reference to six months were a reference to three months.

(5) The requirements in a curfew order shall, as far as practicable, be such as to avoid—
  (a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and
  (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(6) A curfew order shall include provision for making a person responsible for monitoring the offender's whereabouts during the curfew periods specified in the order; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(7) A court shall not make a curfew order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender's whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.

(8) Before making a curfew order, the court shall obtain and consider information about the place proposed to be specified in the order (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).

(9) Before making a curfew order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.

(10) Before making a curfew order, the court shall explain to the offender in ordinary language—
  (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with **[**[F22]section 36B above**]** (electronic monitoring));
  (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and
  (c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application either of the offender or of the responsible officer.

(11) The court by which a curfew order is made shall give a copy of the order to the offender and to the responsible officer.

(12) In this Act, "responsible officer", in relation to an offender subject to a curfew order, means the person who is responsible for monitoring the offender's whereabouts during the curfew periods specified in the order.

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Textual Amendments

F22 Words in s. 37(10)(a) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 162**; S.I. 2001/2232, **art. 2(k)(m)(iv)**

Modifications etc. (not altering text)

C4 S. 37(1)(3)(5)-(8)(10)-(12) applied (with modifications) (25.8.2000) by 1997 c. 43, **s. 35(7)(8)** (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(4)**)

[F23]38 Electronic monitoring of curfew orders.

. . . . . .

Textual Amendments

F23 S. 38 repealed (20.6.2001 for specified purposes, otherwise 2.7.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 163, **Sch. 8**; S.I. 2001/2232, **art. 2(k)(m)(iv)(n)**

39 Breach, revocation and amendment of curfew orders.

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to curfew orders.

40 Curfew orders: supplementary.

(1) The Secretary of State may make rules for regulating—

(a) the monitoring of the whereabouts of persons who are subject to curfew orders [F24]. . .; and

(b) without prejudice to the generality of paragraph (a) above, the functions of the responsible officers of persons who are subject to curfew orders.

(2) The Secretary of State may by order direct—

(a) that subsection (3) of section 37 above shall have effect with the substitution, for any period there specified, of such period as may be specified in the order; or

(b) that subsection (5) of that section shall have effect with such additional restrictions as may be so specified.

[[F25](3) An order under subsection (2)(a) above may make in paragraphs 2A(4) and (5) and 19(3) of Schedule 3 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.**]**

Textual Amendments

F24 Words in s. 40(1)(a) repealed (1.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 164(a), **Sch. 8**; S.I. 2001/2232, **art. 2(k)(m)(v)(n)**

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

F25 S. 40(3) inserted (20.6.2001 for certain purposes and 2.7.2001 for certain further purposes and otherwise*prosp.*) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 164(b)**; S.I. 2001/2232, **art. 2(m)(v)**

CHAPTER III

COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED 16 OR OVER

Probation orders

41 [F26community rehabilitation orders].

(1) Where a person aged 16 or over is convicted of an offence and the court by or before which he is convicted is of the opinion that his supervision is desirable in the interests of—

(a) securing his rehabilitation, or

(b) protecting the public from harm from him or preventing the commission by him of further offences,

the court may (subject to sections 34 to 36 above) make an order requiring him to be under supervision for a period specified in the order of not less than six months nor more than three years.

(2) An order under subsection (1) above is in this Act referred to as a **[**F27"community rehabilitation order"**]**.

(3) A **[**F26community rehabilitation order**]** shall specify the petty sessions area in which the offender resides or will reside.

(4) If the offender is aged 18 or over at the time when the **[**F26community rehabilitation order**]** is made, he shall, subject to paragraph 18 of Schedule 3 to this Act (offender's change of area), be required to be under the supervision of **[**F28an officer of a local probation board**]** appointed for or assigned to the petty sessions area specified in the order.

(5) If the offender is aged under 18 at that time, he shall, subject to paragraph 18 of Schedule 3, be required to be under the supervision of—

(a) **[**F28an officer of a local probation board**]** appointed for or assigned to the petty sessions area specified in the order; or

(b) a member of a youth offending team established by a local authority specified in the order;

and if an order specifies a local authority for the purposes of paragraph (b) above, the authority specified must be the local authority within whose area it appears to the court that the offender resides or will reside.

(6) In this Act, "responsible officer", in relation to an offender who is subject to a **[**F26community rehabilitation order**]**, means **[**F28the officer of a local probation board**]** or member of a youth offending team responsible for his supervision.

(7) Before making a **[**F26community rehabilitation order**]**, the court shall explain to the offender in ordinary language—

(a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 42 below);

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(b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and

(c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application either of the offender or of the responsible officer.

(8) On making a **[**[F26]community rehabilitation order**]**, the court may, if it thinks it expedient for the purpose of the offender's reformation, allow any person who consents to do so to give security for the good behaviour of the offender.

(9) The court by which a **[**[F26]community rehabilitation order**]** is made shall forthwith give copies of the order to—

(a) if the offender is aged 18 or over, **[**[F28]an officer of a local probation board**]** assigned to the court, or

(b) if the offender is aged under 18, **[**[F28]an officer of a local probation board**]** or member of a youth offending team so assigned,

and he shall give a copy to the offender, to the responsible officer and to the person in charge of any institution in which the offender is required by the order to reside.

(10) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the **[**[F29]justices' chief executive**]** for that area—

(a) a copy of the order; and

(b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.

(11) An offender in respect of whom a **[**[F26]community rehabilitation order**]** is made shall keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer, and shall notify him of any change of address.

Textual Amendments

F26 Words in s. 41(3)(4)(6)-(9)(11) and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F27 Words in s. 41(2) substituted (1.4.2001) by 2000 c. 43, **s. 43(3)(a)**; S.I. 2001/919, **art. 2(b)**

F28 Words in s. 41(4)(5)(a)(6)(9) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F29 Words in s. 41(10) substituted (1.4.2001) by S.I. 2001/618, **art. 5(2)**

Modifications etc. (not altering text)

C5 S. 41(1) amended (1.4.2001) by 2000 c. 43, **s. 43(1)**; S.I. 2001/919, **art. 2(b)**

42 Additional requirements which may be included in [F30community rehabilitation orders].

(1) Subject to subsection (3) below, a **[**[F30]community rehabilitation order**]** may in addition require the offender to comply during the whole or any part of the **[**[F31]community rehabilitation period**]** with such requirements as the court, having regard to the circumstances of the case, considers desirable in the interests of—

(a) securing the rehabilitation of the offender; or

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(b) protecting the public from harm from him or preventing the commission by him of further offences.

(2) Without prejudice to the generality of subsection (1) above,

[[F32](a)**]** the additional requirements which may be included in a **[**[F30]community rehabilitation order**]** shall include the requirements which are authorised by Schedule 2 to this Act..

[[F33](b) subject to subsections (2D) and (2F) below, the order shall, if the first set of conditions is satisfied, include a drug abstinence requirement and may include such a requirement if the second set of conditions is satisfied.

(2A) For the purposes of this Part of this Act, a drug abstinence requirement is a requirement for the offender—

(a) to abstain from misusing specified Class A drugs; and

(b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.

(2B) The first set of conditions is—

(a) that the offender was aged 18 or over on the date of his conviction for the offence;

(b) that, in the opinion of the court, the offender is dependent on or has a propensity to misuse specified Class A drugs; and

(c) that the offence is a trigger offence.

(2C) The second set of conditions is—

(a) that the offender was aged 18 or over on the date of his conviction for the offence; and

(b) that, in the opinion of the court—

(i) the offender is dependent on or has a propensity to misuse specified Class A drugs; and

(ii) the misuse by the offender of any specified Class A drug caused or contributed to the offence.

(2D) The order may not include a drug abstinence requirement if—

(a) the community rehabilitation order includes any requirement in respect of drugs under paragraph 6 of Schedule 2 to this Act; or

(b) the community sentence includes a drug treatment and testing order or a drug abstinence order.

(2E) The function of giving instructions for the purposes of subsection (2A)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.

(2F) The court shall not include a drug abstinence requirement in the order unless the court has been notified by the Secretary of State that arrangements for implementing such requirements are available in the area proposed to be specified under section 41(3) above and the notice has not been withdrawn.**]**

(3) Without prejudice to the power of the court under section 130 below to make a compensation order, the payment of sums by way of damages for injury or

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compensation for loss shall not be included among the additional requirements of a **[**[F30]community rehabilitation order**]**.

Textual Amendments

F30 Words in s. 42 and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F31 Words in s. 42(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 166**; S.I. 2001/919, **art. 2(f)(ii)**

F32 Words in s. 42(2) renumbered as s. 42(2)(a) (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 49(1)(a)**; S.I. 2001/2232, **art. 2(c)**

F33 S. 42(2)(b)(2A)-(2F) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 49(1)(b)**; S.I. 2001/2232, **art. 2(c)**

43 Breach, revocation and amendment of [[F34]community rehabilitation orders].

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to **[**[F34]community rehabilitation orders**]**.

Textual Amendments

F34 Words in s. 43 and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

44 Offenders residing in Scotland or Northern Ireland.

Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to **[**[F35]community rehabilitation orders**]**.

Textual Amendments

F35 Words in s. 44 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

45 [[F36]Community rehabilitation orders]: supplementary.

(1) The Secretary of State may by order direct that subsection (1) of section 41 above shall be amended by substituting, for the minimum or maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.

(2) An order under subsection (1) above may make in paragraph 19(2)(a) of Schedule 3 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Textual Amendments

F36 Words in the sidenote to s. 45 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

[F37 Community punishment orders]

Textual Amendments

F37 Words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

46 [F38 Community punishment orders].

(1) Where a person aged 16 or over is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order requiring him to perform unpaid work in accordance with section 47 below.

(2) An order under subsection (1) above is in this Act referred to as a **[**F39"community punishment order"**]**.

(3) The number of hours which a person may be required to work under a **[**F38community punishment order**]** shall be specified in the order and shall be in the aggregate—
   (a) not less than 40; and
   (b) not more than 240.

(4) A court shall not make a **[**F38community punishment order**]** in respect of an offender unless, after hearing (if the court thinks it necessary) an appropriate officer, the court is satisfied that the offender is a suitable person to perform work under such an order.

(5) In subsection (4) above "an appropriate officer" means—
   (a) in the case of an offender aged 18 or over, **[**F40an officer of a local probation board**]** or social worker of a local authority social services department; and
   (b) in the case of an offender aged under 18, **[**F40an officer of a local probation board**]**, a social worker of a local authority social services department or a member of a youth offending team.

(6) A court shall not make a **[**F38community punishment order**]** in respect of an offender unless it is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the petty sessions area in which he resides or will reside.

(7) Subsection (6) above has effect subject to paragraphs 3 and 4 of Schedule 4 to this Act (transfer of order to Scotland or Northern Ireland).

(8) Where a court makes **[**F38community punishment orders**]** in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent shall not exceed the maximum specified in subsection (3)(b) above.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(9) A **[**[F38]community punishment order**]**—

(a) shall specify the petty sessions area in which the offender resides or will reside; and

(b) where the offender is aged under 18 at the time the order is made, may also specify a local authority for the purposes of section 47(5)(b) below (cases where functions are to be discharged by member of a youth offending team);

and if the order specifies a local authority for those purposes, the authority specified must be the local authority within whose area it appears to the court that the offender resides or will reside.

(10) Before making a **[**[F38]community punishment order**]**, the court shall explain to the offender in ordinary language—

(a) the purpose and effect of the order (and in particular the requirements of the order as specified in section 47(1) to (3) below);

(b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements; and

(c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application either of the offender or of the responsible officer.

(11) The court by which a **[**[F38]community punishment order**]** is made shall forthwith give copies of the order to—

(a) if the offender is aged 18 or over, **[**[F40]an officer of a local probation board**]** assigned to the court, or

(b) if the offender is aged under 18, **[**[F40]an officer of a local probation board**]** or member of a youth offending team so assigned,

and he shall give a copy to the offender and to the responsible officer.

(12) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the **[**[F41]justices' chief executive**]** for that area—

(a) a copy of the order; and

(b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.

(13) In this section and Schedule 3 to this Act "responsible officer", in relation to an offender subject to a **[**[F38]community punishment order**]**, means the person mentioned in subsection (4) **[**[F42]. . .**]** or (5)(b) of section 47 below who, as respects the order, is responsible for discharging the functions conferred by that section.

Textual Amendments

F38 Words in s. 46(3)(4)(6)(8)(11)(13) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F39 Words in s. 46(2) substituted (1.4.2001) by 2000 c. 43, **s. 44(3)(a)**; S.I. 2001/919, **art. 2(b)**

F40 Words in s. 46(5)(11) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F41 Words in s. 46(12) substituted (1.4.2001) by S.I. 2001/618, **art. 5(3)**

F42 Words in s. 46(13) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 168, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Modifications etc. (not altering text)

C6 S. 46(1) applied (with modifications) (25.8.2000) by 1997 c. 43, **s. 35(4)** (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(3)**)
S. 46(1) amended (1.4.2001) by 2000 c. 43, **s. 44(1)**; S.I. 2001/919, **art. 2(b)**

47 Obligations of person subject to [F43community punishment order].

(1) An offender in respect of whom a **[**F43community punishment order**]** is in force shall—

(a) keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer and notify him of any change of address; and

(b) perform for the number of hours specified in the order such work at such times as he may be instructed by the responsible officer.

(2) The instructions given by the responsible officer under this section shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(3) Subject to paragraph 22 of Schedule 3 to this Act (power to extend order), the work required to be performed under a **[**F43community punishment order**]** shall be performed during the period of twelve months beginning with the date of the order; but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it.

[F44(3A) Subject to subsection (3B) below, the community punishment order shall, if the set of conditions in section 42(2B) above is satisfied, include a drug abstinence requirement and may include such a requirement if the set of conditions in section 42(2C) above is satisfied.

(3B) The order may not include a drug abstinence requirement if the community sentence includes a drug treatment and testing order or a drug abstinence order.

(3C) Subsections (2E) and (2F) of section 42 above apply for the purposes of this section as they apply for the purposes of that.**]**

(4) If the offender is aged 18 or over at the time when the order is made, the functions conferred by this section on "the responsible officer" shall be discharged by **[**F45an officer of a local probation board appointed for or assigned to the petty sessions area specified in the order**]**

(5) If the offender is aged under 18 at that time, those functions shall be discharged by—

(a) a person mentioned in subsection (4) **[**F46(a) or (b)**]**above; or

(b) a member of a youth offending team established by a local authority specified in the order.

(6) The reference in subsection (4) above to the petty sessions area specified in the order and the reference in subsection (5) above to a local authority so specified are references to the area or an authority for the time being so specified, whether under section 46(9) above or by virtue of Part IV of Schedule 3 to this Act (power to amend orders).

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Textual Amendments

F43 Words in s. 47(1)(3) and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F44 S. 47(3A)-(3C) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 49(2)**; S.I. 2001/2232, **art. 2(c)**

F45 Words in s. 47(4) substituted (1.4.2001) for s. 47(4)(a)(b) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 169(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F46 Words in s. 47(5)(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. I para. 169(b), **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)**

48 Breach, revocation and amendment of [F47community punishment orders].

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to **[**F47community punishment orders**]**.

Textual Amendments

F47 Words in s. 48 and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

49 Offenders residing in Scotland or Northern Ireland.

Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to **[**F48community punishment orders**]**.

Textual Amendments

F48 Words in s. 49 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

50 [F49Community punishment orders]: supplementary.

The Secretary of State may by order direct that subsection (3) of section 46 above shall be amended by substituting, for the maximum number of hours for the time being specified in paragraph (b) of that subsection, such number of hours as may be specified in the order.

Textual Amendments

F49 Words in the sidenote to s. 50 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

[F50 Community punishment and rehabilitation orders]

Textual Amendments

F50 Words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

51 [F51 Community punishment and rehabilitation orders].

F52 (1) Where a person aged 16 or over is convicted of an offence punishable with imprisonment and the court by or before which he is convicted is of the opinion mentioned in subsection (3) below, the court may (subject to sections 34 to 36 above) make an order requiring him both—

(a) to be under supervision for a period specified in the order, being not less than twelve months nor more than three years; and

(b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than 40 nor more than 100.

(2) An order under subsection (1) above is in this Act referred to as a **[**F53"community punishment and rehabilitation order"**]**.

(3) The opinion referred to in subsection (1) above is that the making of a **[**F51community punishment and rehabilitation order**]** is desirable in the interests of—

(a) securing the rehabilitation of the offender; or

(b) protecting the public from harm from him or preventing the commission by him of further offences.

(4) Subject to subsection (1) above, sections 41, 42, 46 and 47 above and Schedule 2 to this Act shall apply in relation to **[**F51community punishment and rehabilitation orders**]**—

(a) in so far as those orders impose such a requirement as is mentioned in paragraph (a) of subsection (1) above, as if they were **[**F54community rehabilitation orders**]**; and

(b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were **[**F55community punishment orders**]**.

(5) Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to **[**F51community punishment and rehabilitation orders**]**.

(6) Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to **[**F51community punishment and rehabilitation orders**]**.

Textual Amendments

F51 Words in s. 51(3)-(6) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F52 S. 51(1) amended (E.W.) (1.4.2001) by 2000 c. 43, **s. 45(1)**; S.I. 2001/919, **art. 2(b)**

F53 Words in s. 51(2) substituted (E.W.) (1.4.2001) by 2000 c. 43, **s. 45(3)(a)**; S.I. 2001/919, **art. 2(b)**

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

F54 Words in s. 51(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F55 Words in s. 51(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Drug treatment and testing orders

52 Drug treatment and testing orders.

(1) Where a person aged 16 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which—

(a) has effect for a period specified in the order of not less than six months nor more than three years ("the treatment and testing period"); and

(b) includes the requirements and provisions mentioned in sections 53 and 54 below;

but this section does not apply in relation to an offence committed before 30th September 1998.

(2) An order under subsection (1) above is in this Act referred to as a "drug treatment and testing order".

(3) A court shall not make a drug treatment and testing order in respect of an offender unless it is satisfied—

(a) that he is dependent on or has a propensity to misuse drugs; and

(b) that his dependency or propensity is such as requires and may be susceptible to treatment.

(4) For the purpose of ascertaining for the purposes of subsection (3) above whether the offender has any drug in his body, the court may by order require him to provide samples of such description as it may specify; but the court shall not make such an order unless the offender expresses his willingness to comply with its requirements.

(5) A court shall not make a drug treatment and testing order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the order under section 54(1) below and the notice has not been withdrawn.

(6) Before making a drug treatment and testing order, the court shall explain to the offender in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements;

(c) that the order will be periodically reviewed at intervals as provided for in the order (by virtue of section 54(6) below); and

(d) that the order may be reviewed (under Parts III and IV of Schedule 3) on the application either of the offender or of the responsible officer;

and "responsible officer" here has the meaning given by section 54(3) below.

(7) A court shall not make a drug treatment and testing order unless the offender expresses his willingness to comply with its requirements.

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53 The treatment and testing requirements.

(1) A drug treatment and testing order shall include a requirement ("the treatment requirement") that the offender shall submit, during the whole of the treatment and testing period, to treatment by or under the direction of a specified person having the necessary qualifications or experience ("the treatment provider") with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs.

(2) The required treatment for any particular period shall be—

(a) treatment as a resident in such institution or place as may be specified in the order; or

(b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.

(3) A court shall not make a drug treatment and testing order unless it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).

(4) A drug treatment and testing order shall include a requirement ("the testing requirement") that, for the purpose of ascertaining whether he has any drug in his body during the treatment and testing period, the offender shall during that period, at such times or in such circumstances as may (subject to the provisions of the order) be determined by the treatment provider, provide samples of such description as may be so determined.

(5) The testing requirement shall specify for each month the minimum number of occasions on which samples are to be provided.

54 Provisions of order as to supervision and periodic review.

(1) A drug treatment and testing order shall include a provision specifying the petty sessions area in which it appears to the court making the order that the offender resides or will reside.

(2) A drug treatment and testing order shall provide that, for the treatment and testing period, the offender shall be under the supervision of **[**[F56]an officer of a local probation board**]** appointed for or assigned to the petty sessions area specified in the order.

(3) In this Act "responsible officer", in relation to an offender who is subject to a drug treatment and testing order, means **[**[F56]the officer of a local probation board**]** responsible for his supervision.

(4) A drug treatment and testing order shall—

(a) require the offender to keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer, and to notify him of any change of address; and

(b) provide that the results of the tests carried out on the samples provided by the offender in pursuance of the testing requirement shall be communicated to the responsible officer.

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(5) Supervision by the responsible officer shall be carried out to such extent only as may be necessary for the purpose of enabling him—

(a) to report on the offender's progress to the court responsible for the order;

(b) to report to that court any failure by the offender to comply with the requirements of the order; and

(c) to determine whether the circumstances are such that he should apply to that court for the revocation or amendment of the order.

(6) A drug treatment and testing order shall—

(a) provide for the order to be reviewed periodically at intervals of not less than one month;

(b) provide for each review of the order to be made, subject to section 55(6) below, at a hearing held for the purpose by the court responsible for the order (a "review hearing");

(c) require the offender to attend each review hearing;

(d) provide for the responsible officer to make to the court responsible for the order, before each review, a report in writing on the offender's progress under the order; and

(e) provide for each such report to include the test results communicated to the responsible officer under subsection (4)(b) above and the views of the treatment provider as to the treatment and testing of the offender.

(7) In this section references to the court responsible for a drug treatment and testing order are references to—

(a) where a court is specified in the order in accordance with subsection (8) below, that court;

(b) in any other case, the court by which the order is made.

(8) Where the area specified in a drug treatment and testing order made by a magistrates' court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purposes of subsection (7) above a magistrates' court which acts for the area specified in the order.

(9) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of subsection (7)(b) above it shall be deemed to have been made by the Crown Court.

Textual Amendments

F56 Words in s. 54(2)(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

55 Periodic reviews.

(1) At a review hearing (within the meaning given by subsection (6) of section 54 above) the court may, after considering the responsible officer's report referred to in that subsection, amend any requirement or provision of the drug treatment and testing order.

(2) The court—

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(a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended;

(b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 52(1) above, or to increase it above the maximum so specified; and

(c) except with the consent of the offender, shall not amend any requirement or provision of the order while an appeal against the order is pending.

(3) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—

(a) revoke the order; and

(b) deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by the court of the offence.

(4) In dealing with the offender under subsection (3)(b) above, the court—

(a) shall take into account the extent to which the offender has complied with the requirements of the order; and

(b) may impose a custodial sentence (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) below.

(5) Where the order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (3)(b) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—

(a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;

(b) to deal with the offender for that offence in any way in which the court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

(6) If at a review hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is satisfactory, the court may so amend the order as to provide for each subsequent review to be made by the court without a hearing.

(7) If at a review without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.

(8) At that hearing the court, after considering that report, may—

(a) exercise the powers conferred by this section as if the hearing were a review hearing; and

(b) so amend the order as to provide for each subsequent review to be made at a review hearing.

(9) In this section any reference to the court, in relation to a review without a hearing, shall be construed—

(a) in the case of the Crown Court, as a reference to a judge of the court;

(b) in the case of a magistrates' court, as a reference to a justice of the peace acting for the commission area for which the court acts.

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56 Breach, revocation and amendment of drug treatment and testing orders.

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to drug treatment and testing orders.

57 Copies of orders.

(1) Where a drug treatment and testing order is made, the court making the order shall (subject to subsection (3) below) forthwith give copies of the order to **[**[F57]an officer of a local probation board**]** assigned to the court.

(2) Where such an order is amended under section 55(1) above, the court amending the order shall **[**[F58](subject to subsection (3A) below)**]** forthwith give copies of the order as amended to **[**[F57]an officer of a local probation board**]** so assigned.

(3) Where a drug treatment and testing order is made by a magistrates' court and another magistrates' court is responsible for the order (within the meaning given by section 54(7) above) by virtue of being specified in the order in accordance with section 54(8)—

(a) the court making the order shall not give copies of it as mentioned in subsection (1) above but shall forthwith send copies of it to the court responsible for the order; and

(b) that court shall, as soon as reasonably practicable after the order is made, give copies of it to **[**[F57]an officer of a local probation board**]** assigned to that court.

[[F59](3A) Where—

(a) a magistrates' court amends a drug treatment and testing order under section 55(1) above; and

(b) the order as amended provides for a magistrates' court other than that mentioned in paragraph (a) above to be responsible for the order;

the court amending the order shall not give copies of the order as amended as mentioned in subsection (2) above but shall forthwith send copies of it to the court responsible for the order and that court shall, as soon as reasonably practicable after the order is amended, give copies to an officer of a local probation board assigned to that court.**]**

(4) **[**[F57]an officer of a local probation board**]** to whom copies of an order are given under this section shall give a copy to—

(a) the offender;

(b) the treatment provider; and

(c) the responsible officer.

Textual Amendments

F57 Words in s. 57(1)-(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F58 Words in s. 57(2) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 171(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F59 S. 57(3A) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 171(b)**; S.I. 2001/919, **art. 2(f)(ii)**

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58 Drug treatment and testing orders: supplementary.

The Secretary of State may by order amend subsection (1) of section 52 above by substituting a different period for the minimum or maximum period for the time being specified in that subsection.

[F60 Drug abstinence orders]

Textual Amendments

F60 Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 47**; S.I. 2001/2232, **art. 2(a)**

F61 58A [Drug abstinence orders.]

(1) Where a person aged 18 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which requires the offender—
   (a) to abstain from misusing specified Class A drugs; and
   (b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.

(2) An order under subsection (1) above is in this Act referred to as a "drug abstinence order".

(3) The court shall not make a drug abstinence order in respect of an offender unless—
   (a) in the opinion of the court, the offender is dependent on, or has a propensity to misuse, specified Class A drugs; and
   (b) the offence in question is a trigger offence or, in the opinion of the court, the misuse by the offender of any specified Class A drug caused or contributed to the offence in question.

(4) A drug abstinence order shall provide that, for the period for which the order has effect, the offender shall be under the supervision of a person, being a person of a description specified in an order made by the Secretary of State.

(5) In this Act, "responsible officer", in relation to an offender who is subject to a drug abstinence order, means the person who is responsible for his supervision.

(6) The function of giving instructions for the purposes of subsection (1)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State.

(7) A drug abstinence order shall have effect for a period specified in the order of not less than six months nor more than three years.

(8) The Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.

(9) A court shall not make a drug abstinence order unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the order under section 54(1) above (as applied by section 58B(2) below) and the notice has not been withdrawn.

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Textual Amendments

F61 Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 47**; S.I. 2001/2232, **art. 2(a)**

[F62 58B Drug abstinence orders: supplementary.

(1) Before making a drug abstinence order, the court shall explain to the offender in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements; and

(c) that the order may be reviewed (under Parts III and IV of that Schedule) on the application either of the offender or of the responsible officer.

(2) Section 54 above (except subsections (2), (3) and (6)) and section 57 above (except subsections (2), (3A) and (4)(b)) shall apply for the purposes of section 58A above and this section as if references to drug treatment and testing orders were references to drug abstinence orders.

(3) Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to drug abstinence orders.**]**

Textual Amendments

F62 Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 47**; S.I. 2001/2232, **art. 2(a)**

Orders for persistent petty offenders

59 Curfew orders and [F63 community punishment orders] for persistent petty offenders.

(1) This section applies where—

(a) a person aged 16 or over is convicted of an offence;

(b) the court by or before which he is convicted is satisfied that each of the conditions mentioned in subsection (2) below is fulfilled; and

(c) if it were not so satisfied, the court would be minded to impose a fine in respect of the offence.

(2) The conditions are that—

(a) one or more fines imposed on the offender in respect of one or more previous offences have not been paid; and

(b) if a fine were imposed in an amount which was commensurate with the seriousness of the offence, the offender would not have sufficient means to pay it.

(3) The court may—

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(a) subject to subsections (5) and (7) below, make a curfew order under section 37(1) above, or

(b) subject to subsections (6) and (7) below, make a **[**[F63]community punishment order**]** under section 46(1) above,

in respect of the offender instead of imposing a fine.

(4) Subsection (3) above applies notwithstanding anything in subsections (1) and (3)(b) of section 35 above (restrictions on imposing community sentences).

(5) Section 37(1) above (curfew orders) shall apply for the purposes of subsection (3)(a) above as if for the words from the beginning to "make" there were substituted " Where section 59 below applies, the court may make in respect of the offender "; and—

(a) section 37(3), (5) to (8) and (10) to (12), and

(b) so far as applicable, the other provisions of this Part relating to curfew orders,

have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any other curfew order.

(6) Section 46(1) above (**[**[F63]community punishment orders**]**) shall apply for the purposes of subsection (3)(b) above as if for the words from the beginning to "make" there were substituted " Where section 59 below applies, the court may make in respect of the offender "; and—

(a) section 46(3) and (4), and

(b) so far as applicable, the following provisions of section 46 and the other provisions of this Part relating to **[**[F63]community punishment orders**]**,

have effect in relation to a **[**[F63]community punishment order**]** made by virtue of this section as they have effect in relation to any other community service order.

(7) A court shall not make an order by virtue of subsection (3)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing orders so made are available in the relevant area and the notice has not been withdrawn.

(8) In subsection (7) above "the relevant area" means—

(a) in relation to a curfew order, the area in which the place proposed to be specified in the order is situated;

(b) in relation to a **[**[F63]community punishment order**]**, the area proposed to be specified in the order.

Textual Amendments

F63 Words in s. 59(3)(b)(6)(8)(b) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

CHAPTER IV

ATTENDANCE CENTRE ORDERS: OFFENDERS UNDER 21 AND DEFAULTERS

60 Attendance centre orders.

(1) Where—

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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(a) (subject to sections 34 to 36 above) a person aged under 21 is convicted by or before a court of an offence punishable with imprisonment, or

(b) a court would have power, but for section 89 below (restrictions on imprisonment of young offenders and defaulters), to commit a person aged under 21 to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone, or

(c) a court has power to commit a person aged at least 21 but under 25 to prison in default of payment of any sum of money,

the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception of persons of his description, order him to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.

(2) An order under subsection (1) above is in this Act referred to as an "attendance centre order".

(3) The aggregate number of hours for which an attendance centre order may require a person to attend at an attendance centre shall not be less than 12 except where—

(a) he is aged under 14; and

(b) the court is of the opinion that 12 hours would be excessive, having regard to his age or any other circumstances.

(4) The aggregate number of hours shall not exceed 12 except where the court is of the opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case—

(a) shall not exceed 24 where the person is aged under 16; and

(b) shall not exceed 36 where the person is aged 16 or over but under 21 or (where subsection (1)(c) above applies) under 25.

(5) A court may make an attendance centre order in respect of a person before a previous attendance centre order made in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—

(a) to the number specified in the previous order; or

(b) to the fact that that order is still in effect.

(6) An attendance centre order shall not be made unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.

(7) The times at which a person is required to attend at an attendance centre shall, as far as practicable, be such as to avoid—

(a) any conflict with his religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(8) The first time at which the person is required to attend at an attendance centre shall be a time at which the centre is available for his attendance in accordance with the notification of the Secretary of State, and shall be specified in the order.

(9) The subsequent times shall be fixed by the officer in charge of the centre, having regard to the person's circumstances.

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(10) A person shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

(11) Where a court makes an attendance centre order, the **[**[F64]justices' chief executive for**]** the court shall—

(a) deliver or send a copy of the order to the officer in charge of the attendance centre specified in it; and

(b) deliver a copy of the order to the person in respect of whom it is made or send a copy by registered post or the recorded delivery service addressed to his last or usual place of abode.

(12) Where a person ("the defaulter") has been ordered to attend at an attendance centre in default of the payment of any sum of money—

(a) on payment of the whole sum to any person authorised to receive it, the attendance centre order shall cease to have effect;

(b) on payment of a part of the sum to any such person, the total number of hours for which the defaulter is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part bears to the whole sum.

Textual Amendments

F64 Words in s. 60(11) substituted (1.4.2001) by S.I. 2001/618, **art. 5(4)**

61 Breach, revocation and amendment of attendance centre orders.

Schedule 5 to this Act (which makes provision for dealing with failures to comply with attendance centre orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect.

62 Provision, regulation and management of attendance centres.

(1) The Secretary of State may continue to provide attendance centres.

(2) In this Act "attendance centre" means a place at which offenders aged under 21 may be required to attend and be given under supervision appropriate occupation or instruction in pursuance of attendance centre orders.

(3) The Secretary of State may make rules for the regulation and management of attendance centres.

(4) For the purpose of providing attendance centres, the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority.

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CHAPTER V

COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED UNDER 18

Supervision orders

63 Supervision orders.

(1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order placing him under the supervision of—
  (a) a local authority designated by the order;
  (b) **[**[F65]an officer of a local probation board**]**; or
  (c) a member of a youth offending team.

(2) An order under subsection (1) above is in this Act referred to as a "supervision order".

(3) In this Act "supervisor", in relation to a supervision order, means the person under whose supervision the offender is placed or to be placed by the order.

(4) Schedule 6 to this Act (which specifies requirements that may be included in supervision orders) shall have effect.

(5) A court shall not make a supervision order unless it is satisfied that the offender resides or will reside in the area of a local authority; and a court shall be entitled to be satisfied that the offender will so reside if he is to be required so to reside by a provision to be included in the order in pursuance of paragraph 1 of Schedule 6 to this Act.

(6) A supervision order—
  (a) shall name the area of the local authority and the petty sessions area in which it appears to the court making the order (or to the court amending under Schedule 7 to this Act any provision included in the order in pursuance of this paragraph) that the offender resides or will reside; and
  (b) may contain such prescribed provisions as the court making the order (or amending it under that Schedule) considers appropriate for facilitating the performance by the supervisor of his functions under section 64(4) below, including any prescribed provisions for requiring visits to be made by the offender to the supervisor;

  and in paragraph (b) above "prescribed" means prescribed by rules under section 144 of the [M25]Magistrates' Courts Act 1980.

(7) A supervision order shall, unless it has previously been revoked, cease to have effect at the end of the period of three years, or such shorter period as may be specified in the order, beginning with the date on which the order was originally made.

(8) A court which makes a supervision order shall forthwith send a copy of its order—
  (a) to the offender and, if the offender is aged under 14, to his parent or guardian;
  (b) to the supervisor;
  (c) to any local authority who are not entitled by virtue of paragraph (b) above to such a copy and whose area is named in the supervision order in pursuance of subsection (6) above;

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(d) where the offender is required by the order to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and

(e) where a petty sessions area named in the order in pursuance of subsection (6) above is not that for which the court acts, to the justices' chief executive for the petty sessions area so named;

and, in a case falling within paragraph (e) above, shall also send to the justices' chief executive in question such documents and information relating to the case as the court considers likely to be of assistance to them.

(9) If a court makes a supervision order while another such order made by any court is in force in respect of the offender, the court making the new order may revoke the earlier order (and paragraph 10 of Schedule 7 to this Act (supplementary provision) shall apply to the revocation).

Textual Amendments

F65 Words in s. 63(1)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Marginal Citations

M25 1980 c. 43.

64 Selection and duty of supervisor and certain expenditure of his.

(1) A court shall not designate a local authority as the supervisor by a provision of a supervision order unless—

(a) the authority agree; or

(b) it appears to the court that the offender resides or will reside in the area of the authority.

(2) Where a provision of a supervision order places the offender under the supervision of **[**[F66]an officer of a local probation board**]**, the supervisor shall be **[**[F66]an officer of a local probation board**]** appointed for or assigned to the petty sessions area named in the order in pursuance of section 63(6) above [F67]. . ..

(3) Where a provision of a supervision order places the offender under the supervision of a member of a youth offending team, the supervisor shall be a member of a team established by the local authority within whose area it appears to the court that the offender resides or will reside.

(4) While a supervision order is in force, the supervisor shall advise, assist and befriend the offender.

(5) Where a supervision order—

(a) requires compliance with directions given by virtue of paragraph 2(1) of Schedule 6 to this Act, or

(b) includes by virtue of paragraph 3(2) of that Schedule a requirement which involves the use of facilities for the time being specified in a scheme in force under section 66 below for an area in which the offender resides or will reside,

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any expenditure incurred by the supervisor for the purposes of the directions or requirements shall be defrayed by the local authority whose area is named in the order in pursuance of section 63(6) above.

Textual Amendments

F66 Words in s. 64(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F67 Words in s. 64(2) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 174, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)(g)**

65 Breach, revocation and amendment of supervision orders.

Schedule 7 to this Act (which makes provision for dealing with failures to comply with supervision orders and for revoking and amending such orders) shall have effect.

66 Facilities for implementing supervision orders.

(1) A local authority shall, acting either individually or in association with other local authorities, make arrangements with such persons as appear to them to be appropriate for the provision by those persons of facilities for enabling—

(a) directions given by virtue of paragraph 2(1) of Schedule 6 to this Act to persons resident in their area, and

(b) requirements that (because of paragraph 3(7) of that Schedule) may only be included in a supervision order by virtue of paragraph 3(2) of that Schedule if they are for the time being specified in a scheme,

to be carried out effectively.

(2) The authority or authorities making any arrangements in accordance with subsection (1) above shall consult each relevant **[**[F68]local probation board**]** as to the arrangements.

(3) Any such arrangements shall be specified in a scheme made by the authority or authorities making them.

(4) A scheme shall come into force on a date to be specified in it.

(5) The authority or authorities making a scheme shall send copies of it to the justices' chief executive for each petty sessions area of which any part is included in the area to which the scheme relates.

(6) A copy of the scheme shall be kept available at the principal office of every authority who are a party to it for inspection by members of the public at all reasonable hours; and any such authority shall on demand by any person supply him with a copy of the scheme free of charge.

(7) The authority or authorities who made a scheme may at any time make a further scheme altering the arrangements or specifying arrangements to be substituted for those previously specified.

(8) A scheme which specifies arrangements to be substituted for those specified in a previous scheme shall revoke the previous scheme.

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(9) The powers conferred by subsection (7) above shall not be exercisable by an authority or authorities unless they have first consulted each relevant **[**[F68]local probation board**]**.

(10) The authority or authorities who made a scheme shall send to the justices' chief executive for each petty sessions area of which any part is included in the area for which arrangements under this section have been specified in the scheme notice of any exercise of a power conferred by subsection (7) above, specifying the date for the coming into force, and giving details of the effect, of the new or altered arrangements; and the new or altered arrangements shall come into force on that date.

(11) Arrangements shall not be made under this section for the provision of any facilities unless the facilities are approved or are of a kind approved by the Secretary of State for the purposes of this section.

(12) In this section "relevant **[**[F68]local probation board**]**" means a **[**[F68]local probation board**]** for an area of which any part is included in the area to which a scheme under this section relates.

Textual Amendments

F68 Words in s. 66(2)(9)(12) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 175**; S.I. 2001/919, **art. 2(f)(ii)**

67 Meaning of "local authority", "reside" and "parent".

(1) Unless the contrary intention appears, in sections 63 to 66 above and Schedules 6 and 7 to this Act—

"local authority" means the council of a county or of a county borough, metropolitan district or London borough or the Common Council of the City of London;

"reside" means habitually reside, and cognate expressions shall be construed accordingly except in paragraph 6(2) and (3) of Schedule 6.

(2) In the case of a child or young person—

(a) whose father and mother were not married to each other at the time of his birth, and

(b) with respect to whom a residence order is in force in favour of the father,

any reference in sections 63 to 66 and Schedules 6 and 7 to the parent of the child or young person includes a reference to the father.

(3) In subsection (2) above "residence order" has the meaning given by section 8(1) of the [M26]Children Act 1989, and subsection (2) above is without prejudice to the operation of section 1(1) of the [M27]Family Law Reform Act 1987 (construction of references to relationships) in relation to the provisions of this Act other than those mentioned in subsection (2).

Marginal Citations

M26 1989 c. 41.

M27 1987 c. 42.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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68 Isles of Scilly.

(1) In their application to the Isles of Scilly, the following provisions of this Act, namely—
  (a) sections 63 to 67 and Schedules 6 and 7, and
  (b) section 163 (definitions) in its application to those sections and Schedules,

shall have effect with such modifications as the Secretary of State may by order specify.

(2) An order under this section may—
  (a) make different provision for different circumstances;
  (b) provide for exemptions from any provisions of the order; and
  (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the order.

Action plan orders

69 Action plan orders.

(1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence and the court by or before which he is convicted is of the opinion mentioned in subsection (3) below, the court may (subject to sections 34 to 36 above) make an order which—
  (a) requires the offender, for a period of three months beginning with the date of the order, to comply with an action plan, that is to say, a series of requirements with respect to his actions and whereabouts during that period;
  (b) places the offender for that period under the supervision of the responsible officer; and
  (c) requires the offender to comply with any directions given by the responsible officer with a view to the implementation of that plan;

and the requirements included in the order, and any directions given by the responsible officer, may include requirements authorised by section 70 below.

(2) An order under subsection (1) above is in this Act referred to as an "action plan order".

(3) The opinion referred to in subsection (1) above is that the making of an action plan order is desirable in the interests of—
  (a) securing the rehabilitation of the offender; or
  (b) preventing the commission by him of further offences.

(4) In this Act "responsible officer", in relation to an offender subject to an action plan order, means one of the following who is specified in the order, namely—
  (a) **[**[F69]an officer of a local probation board**]**;
  (b) a social worker of a local authority social services department;
  (c) a member of a youth offending team.

(5) The court shall not make an action plan order in respect of the offender if—
  (a) he is already the subject of such an order; or
  (b) the court proposes to pass on him a custodial sentence or to make in respect of him a **[**[F70]community rehabilitation order**]**, a **[**[F71]community punishment order**]**, a **[**[F72]community punishment and rehabilitation order**]**, an attendance centre order, a supervision order or a referral order.

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(6) Before making an action plan order, the court shall obtain and consider—

(a) a written report by **[**[F69]an officer of a local probation board**]**, a social worker of a local authority social services department or a member of a youth offending team indicating—

(i) the requirements proposed by that person to be included in the order;

(ii) the benefits to the offender that the proposed requirements are designed to achieve; and

(iii) the attitude of a parent or guardian of the offender to the proposed requirements; and

(b) where the offender is aged under 16, information about the offender's family circumstances and the likely effect of the order on those circumstances.

(7) The court shall not make an action plan order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be named in the order under subsection (8) below and the notice has not been withdrawn.

(8) An action plan order shall name the petty sessions area in which it appears to the court making the order (or to the court amending under Schedule 8 to this Act any provision included in the order in pursuance of this subsection) that the offender resides or will reside.

(9) Where an action plan order specifies **[**[F69]an officer of a local probation board**]** under subsection (4) above, the officer specified must be an officer appointed for or assigned to the petty sessions area named in the order.

(10) Where an action plan order specifies under that subsection—

(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 specified must be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the offender resides or will reside.

(11) Before making an action plan order, the court shall explain to the offender in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under Schedule 8 to this Act) if he fails to comply with any of those requirements; and

(c) that the court has power (under that Schedule) to review the order on the application either of the offender or of the responsible officer.

Textual Amendments

F69 Words in s. 69(4)(a)(6)(a)(9) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F70 Words in s. 69(5)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F71 Words in s. 69(5)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F72 Words in s. 69(5)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

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70 Requirements which may be included in action plan orders and directions.

(1) Requirements included in an action plan order, or directions given by a responsible officer, may require the offender to do all or any of the following things, namely—

(a) to participate in activities specified in the requirements or directions at a time or times so specified;

(b) to present himself to a person or persons specified in the requirements or directions at a place or places and at a time or times so specified;

(c) subject to subsection (2) below, to attend at an attendance centre specified in the requirements or directions for a number of hours so specified;

(d) to stay away from a place or places specified in the requirements or directions;

(e) to comply with any arrangements for his education specified in the requirements or directions;

(f) to make reparation specified in the requirements or directions to a person or persons so specified or to the community at large; and

(g) to attend any hearing fixed by the court under section 71 below.

(2) Subsection (1)(c) above applies only where the offence committed by the offender is an offence punishable with imprisonment.

(3) In subsection (1)(f) above "make reparation", in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation.

(4) A person shall not be specified in requirements or directions under subsection (1)(f) above unless—

(a) he is identified by the court or (as the case may be) the responsible officer as a victim of the offence or a person otherwise affected by it; and

(b) he consents to the reparation being made.

(5) Requirements included in an action plan order and directions given by a responsible officer shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

71 Action plan orders: power to fix further hearings.

(1) Immediately after making an action plan order, a court may—

(a) fix a further hearing for a date not more than 21 days after the making of the order; and

(b) direct the responsible officer to make, at that hearing, a report as to the effectiveness of the order and the extent to which it has been implemented.

(2) At a hearing fixed under subsection (1) above, the court—

(a) shall consider the responsible officer's report; and

(b) may, on the application of the responsible officer or the offender, amend the order—

(i) by cancelling any provision included in it; or

(ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that the court could originally have included in it.

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72 Breach, revocation and amendment of action plan orders.

Schedule 8 to this Act (which makes provision for dealing with failures to comply with action plan orders and reparation orders and for revoking and amending such orders) shall have effect so far as relating to action plan orders.

CHAPTER VI

REPARATION ORDERS FOR YOUNG OFFENDERS

73 Reparation orders.

(1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence other than one for which the sentence is fixed by law, the court by or before which he is convicted may make an order requiring him to make reparation specified in the order—

(a) to a person or persons so specified; or

(b) to the community at large;

and any person so specified must be a person identified by the court as a victim of the offence or a person otherwise affected by it.

(2) An order under subsection (1) above is in this Act referred to as a "reparation order".

(3) In this section and section 74 below "make reparation", in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation; and the requirements that may be specified in a reparation order are subject to section 74(1) to (3).

(4) The court shall not make a reparation order in respect of the offender if it proposes—

(a) to pass on him a custodial sentence; or

(b) to make in respect of him a **[**[F73]community punishment order**]**, a **[**[F74]community punishment and rehabilitation order**]**, a supervision order which includes requirements authorised by Schedule 6 to this Act, an action plan order or a referral order.

(5) Before making a reparation order, a court shall obtain and consider a written report by **[**[F75]an officer of a local probation board**]**, a social worker of a local authority social services department or a member of a youth offending team indicating—

(a) the type of work that is suitable for the offender; and

(b) the attitude of the victim or victims to the requirements proposed to be included in the order.

(6) The court shall not make a reparation order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be named in the order under section 74(4) below and the notice has not been withdrawn.

(7) Before making a reparation order, the court shall explain to the offender in ordinary language—

(a) the effect of the order and of the requirements proposed to be included in it;

(b) the consequences which may follow (under Schedule 8 to this Act) if he fails to comply with any of those requirements; and

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(c) that the court has power (under that Schedule) to review the order on the application either of the offender or of the responsible officer;

and "responsible officer" here has the meaning given by section 74(5) below.

(8) The court shall give reasons if it does not make a reparation order in a case where it has power to do so.

Textual Amendments

F73 Words in s. 73(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F74 Words in s. 73(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F75 Words in s. 73(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

74 Requirements and provisions of reparation order, and obligations of person subject to it.

(1) A reparation order shall not require the offender—

(a) to work for more than 24 hours in aggregate; or

(b) to make reparation to any person without the consent of that person.

(2) Subject to subsection (1) above, requirements specified in a reparation order shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

(3) Requirements so specified shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(4) A reparation order shall name the petty sessions area in which it appears to the court making the order (or to the court amending under Schedule 8 to this Act any provision included in the order in pursuance of this subsection) that the offender resides or will reside.

(5) In this Act "responsible officer", in relation to an offender subject to a reparation order, means one of the following who is specified in the order, namely—

(a) **[**[F76]an officer of a local probation board**]**;

(b) a social worker of a local authority social services department;

(c) a member of a youth offending team.

(6) Where a reparation order specifies **[**[F76]an officer of a local probation board**]** under subsection (5) above, the officer specified must be an officer appointed for or assigned to the petty sessions area named in the order.

(7) Where a reparation order specifies under that subsection—

(a) a social worker of a local authority social services department, or

(b) a member of a youth offending team,

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the social worker or member specified must be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the offender resides or will reside.

(8) Any reparation required by a reparation order—

(a) shall be made under the supervision of the responsible officer; and

(b) shall be made within a period of three months from the date of the making of the order.

Textual Amendments

F76 Words in s. 74(5)(a)(6) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

75 Breach, revocation and amendment of reparation orders.

Schedule 8 to this Act (which makes provision for dealing with failures to comply with action plan orders and reparation orders and for revoking and amending such orders) shall have effect so far as relating to reparation orders.

PART V

CUSTODIAL SENTENCES ETC.

CHAPTER I

GENERAL PROVISIONS

Meaning of "custodial sentence"

76 Meaning of "custodial sentence".

(1) In this Act "custodial sentence" means—

(a) a sentence of imprisonment (as to which, see section 89(1)(a) below);

(b) a sentence of detention under section 90 or 91 below;

(c) a sentence of custody for life under section 93 or 94 below;

(d) a sentence of detention in a young offender institution (under section 96 below or otherwise); or

(e) a detention and training order (under section 100 below).

(2) In subsection (1) above "sentence of imprisonment" does not include a committal for contempt of court or any kindred offence.

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Liability to imprisonment on conviction on indictment

77 Liability to imprisonment on conviction on indictment.

Where a person is convicted on indictment of an offence against any enactment and is for that offence liable to be sentenced to imprisonment, but the sentence is not by any enactment either limited to a specified term or expressed to extend to imprisonment for life, the person so convicted shall be liable to imprisonment for not more than two years.

General limit on magistrates' courts' powers

78 General limit on magistrates' court's power to impose imprisonment or detention in a young offender institution.

(1) A magistrates' court shall not have power to impose imprisonment, or detention in a young offender institution, for more than six months in respect of any one offence.

(2) Unless expressly excluded, subsection (1) above shall apply even if the offence in question is one for which a person would otherwise be liable on summary conviction to imprisonment or detention in a young offender institution for more than six months.

(3) Subsection (1) above is without prejudice to section 133 of the [M28]Magistrates' Courts Act 1980 (consecutive terms of imprisonment).

(4) Any power of a magistrates' court to impose a term of imprisonment for non-payment of a fine, or for want of sufficient distress to satisfy a fine, shall not be limited by virtue of subsection (1) above.

(5) In subsection (4) above "fine" includes a pecuniary penalty but does not include a pecuniary forfeiture or pecuniary compensation.

(6) In this section "impose imprisonment" means pass a sentence of imprisonment or fix a term of imprisonment for failure to pay any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone.

(7) Section 132 of the [M29]Magistrates' Courts Act 1980 contains provision about the minimum term of imprisonment which may be imposed by a magistrates' court.

Marginal Citations
M28 1980 c. 43.
M29 1980 c. 43.

General restrictions on discretionary custodial sentences

79 General restrictions on imposing discretionary custodial sentences.

(1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one—
(a) fixed by law; or

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(b) falling to be imposed under section 109(2), 110(2) or 111(2) below.

(2) Subject to subsection (3) below, the court shall not pass a custodial sentence on the offender unless it is of the opinion—

(a) that the offence, or the combination of the offence and one or more offences associated with it, was so serious that only such a sentence can be justified for the offence; or

(b) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from him.

(3) Nothing in subsection (2) above shall prevent the court from passing a custodial sentence on the offender if he fails to express his willingness to comply with—

(a) a requirement which is proposed by the court to be included in a **[**[F77]community rehabilitation order**]** or supervision order and which requires an expression of such willingness; or

(b) a requirement which is proposed by the court to be included in a drug treatment and testing order or an order under section 52(4) above (order to provide samples).

(4) Where a court passes a custodial sentence, it shall—

(a) in a case not falling within subsection (3) above, state in open court that it is of the opinion that either or both of paragraphs (a) and (b) of subsection (2) above apply and why it is of that opinion; and

(b) in any case, explain to the offender in open court and in ordinary language why it is passing a custodial sentence on him.

(5) A magistrates' court shall cause a reason stated by it under subsection (4) above to be specified in the warrant of commitment and to be entered in the register.

Textual Amendments

F77 Words in s. 79(3)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

80 Length of discretionary custodial sentences: general provision.

(1) This section applies where a court passes a custodial sentence other than one fixed by law or falling to be imposed under section 109(2) below.

(2) Subject to sections 110(2) and 111(2) below, the custodial sentence shall be—

(a) for such term (not exceeding the permitted maximum) as in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it; or

(b) where the offence is a violent or sexual offence, for such longer term (not exceeding that maximum) as in the opinion of the court is necessary to protect the public from serious harm from the offender.

(3) Where the court passes a custodial sentence for a term longer than is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it, the court shall—

(a) state in open court that it is of the opinion that subsection (2)(b) above applies and why it is of that opinion; and

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(b) explain to the offender in open court and in ordinary language why the sentence is for such a term.

(4) A custodial sentence for an indeterminate period shall be regarded for the purposes of subsections (2) and (3) above as a custodial sentence for a term longer than any actual term.

(5) Subsection (3) above shall not apply in any case where the court passes a custodial sentence falling to be imposed under subsection (2) of section 110 or 111 below which is for the minimum term specified in that subsection.

Procedural requirements for imposing discretionary custodial sentences

81 Pre-sentence reports and other requirements.

(1) Subject to subsection (2) below, a court shall obtain and consider a pre-sentence report before forming any such opinion as is mentioned in subsection (2) of section 79 or 80 above.

(2) Subsection (1) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(3) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (2) above unless—

(a) there exists a previous pre-sentence report obtained in respect of the offender; and

(b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.

(4) In forming any such opinion as is mentioned in subsection (2) of section 79 or 80 above, a court—

(a) shall take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it, including any aggravating or mitigating factors; and

(b) in the case of any such opinion as is mentioned in paragraph (b) of that subsection, may take into account any information about the offender which is before it.

(5) No custodial sentence shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in subsection (1) above, but any court on an appeal against such a sentence—

(a) shall, subject to subsection (6) below, obtain a pre-sentence report if none was obtained by the court below; and

(b) shall consider any such report obtained by it or by that court.

(6) Subsection (5)(a) above does not apply if the court is of the opinion—

(a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report; or

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(b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.

(7) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (6) above unless—

(a) there exists a previous pre-sentence report obtained in respect of the offender; and

(b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.

(8) Section 156 below (disclosure of pre-sentence report to offender etc.) applies to any pre-sentence report obtained in pursuance of this section.

82 Additional requirements in case of mentally disordered offender.

(1) Subject to subsection (2) below, in any case where the offender is or appears to be mentally disordered, the court shall obtain and consider a medical report before passing a custodial sentence other than one fixed by law or falling to be imposed under section 109(2) below.

(2) Subsection (1) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a medical report.

(3) Before passing a custodial sentence, other than one fixed by law or falling to be imposed under section 109(2) below, on an offender who is or appears to be mentally disordered, a court shall consider—

(a) any information before it which relates to his mental condition (whether given in a medical report, a pre-sentence report or otherwise); and

(b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.

(4) No custodial sentence which is passed in a case to which subsection (1) above applies shall be invalidated by the failure of a court to comply with that subsection, but any court on an appeal against such a sentence—

(a) shall obtain a medical report if none was obtained by the court below; and

(b) shall consider any such report obtained by it or by that court.

(5) In this section, "mentally disordered", in relation to any person, means suffering from a mental disorder within the meaning of the [M30]Mental Health 83.

(6) In this section, "medical report" means a report as to an offender's mental condition made or submitted orally or in writing by a registered medical practitioner who is approved for the purposes of section 12 of the [M31]Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder.

(7) Nothing in this section shall be taken as prejudicing the generality of section 81 above.

Marginal Citations

M30 1983 c. 20.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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M31 1983 c. 20.

[F78 Life sentences]

Textual Amendments

F78 S. 82A and cross-heading inserted (30.11.2000) by 2000 c. 43, **ss. 60(1)**, 80(3)

F79[82A Determination of tariffs.

(1) This section applies if a court passes a life sentence in circumstances **[**F80where the sentence is not fixed by law**]**.

(2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the M32Crime (Sentences) Act 1997 (referred to in this section as the "early release provisions") shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.

(3) The part of his sentence shall be such as the court considers appropriate taking into account—

(a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;

(b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and

(c) the early release provisions as compared with **[**F81section 244(1) of the Criminal Justice Act 2003**]** .

(4) If **[**F82the offender was aged 21 or over when he committed the offence and**]** the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that, F83..., the early release provisions shall not apply to the offender.

F84(5) . . . . . .

F84(6) . . . . . .

(7) In this section—

"court" includes a court-martial;

"life sentence" has the same meaning as in Chapter II of Part II of the M33Crime (Sentences) Act 1997.

(8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.**]**

Textual Amendments

F79 S. 82A and cross-heading inserted (30.11.2000) by 2000 c. 43, **ss. 60(1)**, 80(3)

F80 Words in s. 82A(1) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(2)**

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F81 Words in s. 82A(3)(c) substituted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(3)(b)**

F82 Words in s. 82A(4) inserted (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 32 para. 109(4)(a)**

F83 Words in s. 82A(4) repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 109(4)(b), **Sch. 37 Pt. 8**

F84 S. 82A(5)(6) repealed (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), Sch. 32 para. 109(5), **Sch. 37 Pt. 8**

Modifications etc. (not altering text)

C7 S. 82A modified (30.11.2000) by 2000 c. 43, **ss. 60(4)**, 80(3)

Marginal Citations

M32 1997 c. 43.

M33 1997 c. 43.

Other restrictions

83 Restriction on imposing custodial sentences on persons 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 pass a sentence of imprisonment on a person who—

(a) is not legally represented in that court, and

(b) has not been previously sentenced to that punishment by a court in any part of the United Kingdom,

unless he is a person to whom subsection (3) below applies.

(2) A magistrates' court on summary conviction, or the Crown Court on committal for sentence or on conviction on indictment, shall not—

(a) pass a sentence of detention under section 90 or 91 below,

(b) pass a sentence of custody for life under section 93 or 94 below,

(c) pass a sentence of detention in a young offender institution, or

(d) make a detention and training order,

on or in respect of a person who is not legally represented in that court unless he is a person to whom subsection (3) below applies.

(3) This subsection applies to a person if either—

(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or

(b) having been informed of his right to apply for such representation and having had the opportunity to do so, he refused or failed to apply.

(4) 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.

(5) For the purposes of subsection (1)(b) above a previous sentence of imprisonment which has been suspended and which has not taken effect under section 119 below or

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under section 19 of the [M34]Treatment of Offenders Act (Northern Ireland) 1968 shall be disregarded.

(6) In this section "sentence of imprisonment" does not include a committal for contempt of court or any kindred offence.

Marginal Citations
M34 1968 c. 29 (N.I.)

84 Restriction on consecutive sentences for released prisoners.

(1) A court sentencing a person to a term of imprisonment shall not order or direct that the term shall commence on the expiry of any other sentence of imprisonment from which he has been released under Part II of the [M35]Criminal Justice Act 1991 (early release of prisoners).

(2) Expressions used in this section shall be construed as if they were contained in that Part.

(3) Without prejudice to the generality of subsection (2) above, any reference in this section to imprisonment shall be construed in accordance with section 43 (young offenders) and section 45 (fine defaulters and contemnors) of that Act.

Marginal Citations
M35 1991 c. 53.

Sexual and violent offences: licences etc.

85 Sexual or violent offences: extension of certain custodial sentences for licence purposes.

(1) This section applies where a court—
- (a) proposes to impose a custodial sentence for a sexual or violent offence committed on or after 30th September 1998; and
- (b) considers that the period (if any) for which the offender would, apart from this section, be subject to a licence would not be adequate for the purpose of preventing the commission by him of further offences and securing his rehabilitation.

(2) Subject to subsections (3) to (5) below, the court may pass on the offender an extended sentence, that is to say, a custodial sentence the term of which is equal to the aggregate of—
- (a) the term of the custodial sentence that the court would have imposed if it had passed a custodial sentence otherwise than under this section ("the custodial term"); and
- (b) a further period ("the extension period") for which the offender is to be subject to a licence and which is of such length as the court considers necessary for the purpose mentioned in subsection (1) above.

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(3) Where the offence is a violent offence, the court shall not pass an extended sentence the custodial term of which is less than four years.

(4) The extension period shall not exceed—
  (a) ten years in the case of a sexual offence; and
  (b) five years in the case of a violent offence.

(5) The term of an extended sentence passed in respect of an offence shall not exceed the maximum term permitted for that offence.

(6) Subsection (2) of section 80 above (length of discretionary custodial sentences) shall apply as if the term of an extended sentence did not include the extension period.

(7) The Secretary of State may by order amend paragraph (b) of subsection (4) above by substituting a different period, not exceeding ten years, for the period for the time being specified in that paragraph.

(8) In this section "licence" means a licence under Part II of the [M36]Criminal Justice Act 1991 (early release of prisoners).

Marginal Citations
M36 1991 c. 53.

86 Sexual offences committed before 30th September 1998.

(1) Where, in the case of a long-term or short-term prisoner—
  (a) the whole or any part of his sentence was imposed for a sexual offence committed before 30th September 1998, and
  (b) the court by which he was sentenced for that offence, having had regard to the matters mentioned in section 32(6)(a) and (b) of the [M37]Criminal Justice Act 1991, ordered that this section should apply,

sections 33(3) and 37(1) of that Act shall each have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.

(2) Expressions used in this section shall be construed as if they were contained in Part II of the [M38]Criminal Justice Act 1991.

(3) The reference in subsection (1) above to section 33(3) of the [M39]Criminal Justice Act 1991 is to section 33(3) as it has effect without the amendment made by section 104(1) of the [M40]Crime and Disorder Act 1998 (which substituted the words " on licence " for the word "unconditionally" and does not apply in relation to a prisoner whose sentence or any part of whose sentence was imposed for an offence committed before 30th September 1998).

Marginal Citations
M37 1991 c. 53.
M38 1991 c. 53.
M39 1991 c. 53.
M40 1998 c. 37.

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PROSPECTIVE

Crediting of periods of remand in custody

F85 87 Crediting of periods of remand in custody: terms of imprisonment and detention.

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Textual Amendments

F85 S. 87 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(iii), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F86 88 Meaning of "remand in custody".

. . . . . .

Textual Amendments

F86 S. 88 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 303(d)(iii), 336(3)(4), **Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 para. 22 (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

CHAPTER II

DETENTION AND CUSTODY OF YOUNG OFFENDERS

Modifications etc. (not altering text)

C8 Pt. 5 Ch. 2 power to modify, amend or repeal conferred (30.9.2003) by Armed Forces Act 2001 (c. 19), **ss. 31(1)(a)**(3)(6)(7), 39(2); S.I. 2003/2268, art. 2

Restriction on imposing imprisonment on persons under 21

89 Restriction on imposing imprisonment on persons under 21.

(1) Subject to subsection (2) below, no court shall—

(a) pass a sentence of imprisonment on a person for an offence if he is aged under 21 when convicted of the offence; or

(b) commit a person aged under 21 to prison for any reason.

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(2) Nothing in subsection (1) above shall prevent the committal to prison of a person aged under 21 who is—
  (a) remanded in custody;
  (b) committed in custody for trial or sentence; or
  (c) sent in custody for trial under section 51 of the [M41]Crime and Disorder Act 1998.

Marginal Citations
M41 1998 c. 37.

Detention at Her Majesty's pleasure or for specified period

90 Offenders who commit murder [[F87]etc.] when under 18: duty to detain at Her Majesty's pleasure.

Where a person convicted of murder **[**[F87]or any other offence the sentence for which is fixed by law as life imprisonment**]** appears to the court to have been aged under 18 at the time the offence was committed, the court shall (notwithstanding anything in this or any other Act) sentence him to be detained during Her Majesty's pleasure.

Textual Amendments
F87 Words in s. 90 and the sidenote inserted (30.11.2000) by 2000 c. 43, **s. 60(2)(3)**

91 Offenders under 18 convicted of certain serious offences: power to detain for specified period.

(1) Subsection (3) below applies where a person aged under 18 is convicted on indictment of—
  (a) an offence punishable in the case of a person aged 21 or over with imprisonment for 14 years or more, not being an offence the sentence for which is fixed by law; or
  (b) an offence under section 14 of the [M42]Sexual Offences Act 1956 (indecent assault on a woman); or
  (c) an offence under section 15 of that Act (indecent assault on a man) committed after 30th September 1997.

[[F88](1A) Subsection (3) below also applies where—
  (a) a person aged under 18 is convicted on indictment of an offence—
    (i) under subsection (1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of section 5 of the Firearms Act 1968 (prohibited weapons), or
    (ii) under subsection (1A)(a) of that section,
  (b) the offence was committed after the commencement of section 51A of that Act and at a time when he was aged 16 or over, and
  (c) the court is of the opinion mentioned in section 51A(2) of that Act (exceptional circumstances which justify its not imposing required custodial sentence).**]**

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(2) Subsection (3) below also applies where a person aged at least 14 but under 18 is convicted of an offence under—

(a) section 1 of the [M43]Road Traffic Act 1988 (causing death by dangerous driving); or

(b) section 3A of that Act (causing death by careless driving while under influence of drink or drugs).

(3) If the court is of the opinion that none of the other methods in which the case may legally be dealt with is suitable, the court may sentence the offender to be detained for such period, not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 21 or over, as may be specified in the sentence.

(4) Subsection (3) above is subject to (in particular) sections 79 and 80 above.

[[F89](5) Where subsection (2) of section 51A of the Firearms Act 1968 requires the imposition of a sentence of detention under this section for a term of at least the required minimum term (within the meaning of that section), the court shall sentence the offender to be detained for such period, of at least that term but not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 or over, as may be specified in the sentence.**]**

Textual Amendments

F88 S. 91(1A) inserted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 289(1)**(2), 336(3)(4); S.I. 2004/81, art. 3(1)(2)(b)

F89 S. 91(5) inserted (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 289(1)**(3), 336(3)(4); S.I. 2004/81, art. 3(1)(2)(b)

Modifications etc. (not altering text)

C9 S. 91(1A)(c): power to repeal conferred (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 291(1)(b)**, 336(3)(4); S.I. 2004/81, art. 3(1)(2)(b)

C10 S. 91(5): power to repeal conferred (22.1.2004) by Criminal Justice Act 2003 (c. 44), **ss. 291(1)(b)**, 336(3)(4); S.I. 2004/81, art. 3(1)(2)(b)

Marginal Citations

M42 1956 c. 69.

M43 1988 c. 52.

92 Detention under sections 90 and 91: place of detention etc.

(1) A person sentenced to be detained under section 90 or 91 above shall be liable to be detained in such place and under such conditions—

(a) as the Secretary of State may direct; or

(b) as the Secretary of State may arrange with any person.

(2) A person detained pursuant to the directions or arrangements made by the Secretary of State under this section shall be deemed to be in legal custody.

(3) A direction of the Secretary of State under this section may be signified only—

(a) under the hand of the Secretary of State or an Under-Secretary of State or an Assistant Under-Secretary; or

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(b) under the hand of an authorised officer;

and arrangements of the Secretary of State under this section may be signified only as mentioned in paragraph (a) above.

Custody for life

93 Duty to impose custody for life in certain cases where offender under 21.

Where a person aged under 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 90 above.

94 Power to impose custody for life in certain other cases where offender at least 18 but under 21.

(1) Where a person aged at least 18 but under 21 is convicted of an offence—

(a) for which the sentence is not fixed by law, but

(b) for which a person aged 21 or over would be liable to imprisonment for life,

the court shall, if it considers that a sentence for life would be appropriate, sentence him to custody for life.

(2) Subsection (1) above is subject to (in particular) sections 79 and 80 above, but this subsection does not apply in relation to a sentence which falls to be imposed under section 109(2) below.

95 Custody for life: place of detention.

(1) Subject to section 22(2)(b) of the [M44]Prison Act 1952 (removal to hospital etc.), an offender sentenced to custody for life shall be detained in a young offender institution unless a direction under subsection (2) below is in force in relation to him.

(2) The Secretary of State may from time to time direct that an offender sentenced to custody for life shall be detained in a prison or remand centre instead of a young offender institution.

Marginal Citations

M44 1952 c. 52.

Detention in a young offender institution

96 Detention in a young offender institution for other cases where offender at least 18 but under 21.

Subject to sections 90, 93 and 94 above, where—

(a) a person aged at least 18 but under 21 is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and

(b) the court is of the opinion that either or both of paragraphs (a) and (b) of section 79(2) above apply or the case falls within section 79(3),

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the sentence that the court is to pass is a sentence of detention in a young offender institution.

97 Term of detention in a young offender institution, and consecutive sentences.

(1) The maximum term of detention in a young offender institution 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 (3) below, a court shall not pass a sentence for an offender's detention in a young offender institution for less than 21 days.

(3) A court may pass a sentence of detention in a young offender institution for less than 21 days for an offence under section 65(6) of the [M45]Criminal Justice Act 1991 (breach of requirement imposed on young offender on his release from detention).

(4) Where—

(a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution, or

(b) an offender who is serving a sentence of detention in a young offender institution 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 sentences of detention in a young offender institution as if they were sentences of imprisonment.

(5) Subject to section 84 above (restriction on consecutive sentences for released prisoners), where an offender who—

(a) is serving a sentence of detention in a young offender institution, and

(b) is aged 21 or over,

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 sentence of detention in a young offender institution.

Marginal Citations

M45 1991 c. 53.

98 Detention in a young offender institution: place of detention.

(1) Subject to section 22(2)(b) of the [M46]Prison Act 1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under subsection (2) below is in force in relation to him.

(2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution.

Marginal Citations

M46 1952 c. 52.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Conversion of sentence of detention or custody to sentence of imprisonment

99 Conversion of sentence of detention or custody to sentence of imprisonment.

(1) Subject to the following provisions of this section, where an offender has been sentenced to a term of detention in a young offender institution and either—
  (a) he has attained the age of 21, or
  (b) he has attained the age of 18 and has been reported to the Secretary of State by the board of visitors of the institution in which he is detained as exercising a bad influence on the other inmates of the institution or as behaving in a disruptive manner to the detriment of those inmates,

the Secretary of State may direct that he shall be treated as if he had been sentenced to imprisonment for the same term.

(2) An offender who by virtue of this section falls to be treated as if he had been sentenced to imprisonment instead of detention in a young offender institution shall not be so treated for the purposes of section 65 of the [M47]Criminal Justice Act 1991 (supervision of young offenders after release).

(3) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of detention in a young offender institution imposed by the sentence of detention in a young offender institution which he has already served shall be deemed to have been a portion of a term of imprisonment.

(4) Rules under section 47 of the [M48]Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a sentence of detention in a young offender institution shall continue to have effect after a direction under subsection (1) above has been given in relation to him.

(5) This section applies to a person—
  (a) who is detained under section 90 or 91 above, or
  (b) who is serving a sentence of custody for life,

as it applies to a person serving a sentence of detention in a young offender institution.

Marginal Citations
M47 1991 c. 53.
M48 1952 c. 52.

Detention and training orders

100 Offenders under 18: detention and training orders.

(1) Subject to sections 90, 91 and 93 above and subsection (2) below, where—
  (a) a child or young person (that is to say, any person aged under 18) is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over, and
  (b) the court is of the opinion that either or both of paragraphs (a) and (b) of section 79(2) above apply or the case falls within section 79(3),

the sentence that the court is to pass is a detention and training order.

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(2) A court shall not make a detention and training order—

(a) in the case of an offender under the age of 15 at the time of the conviction, unless it is of the opinion that he is a persistent offender;

(b) in the case of an offender under the age of 12 at that time, unless—

(i) it is of the opinion that only a custodial sentence would be adequate to protect the public from further offending by him; and

(ii) the offence was committed on or after such date as the Secretary of State may by order appoint.

(3) A detention and training order is an order that the offender in respect of whom it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

(4) On making a detention and training order in a case where subsection (2) above applies, it shall be the duty of the court (in addition to the duty imposed by section 79(4) above) to state in open court that it is of the opinion mentioned in paragraph (a) or, as the case may be, paragraphs (a) and (b)(i) of that subsection.

101 Term of order, consecutive terms and taking account of remands.

(1) Subject to subsection (2) below, the term of a detention and training order made in respect of an offence (whether by a magistrates' court or otherwise) shall be 4, 6, 8, 10, 12, 18 or 24 months.

(2) The term of a detention and training order may not exceed the maximum term of imprisonment that the Crown Court could (in the case of an offender aged 21 or over) impose for the offence.

(3) Subject to subsections (4) and (6) below, a court making a detention and training order may order that its term shall commence on the expiry of the term of any other detention and training order made by that or any other court.

(4) A court shall not make in respect of an offender a detention and training order the effect of which would be that he would be subject to detention and training orders for a term which exceeds 24 months.

(5) Where the term of the detention and training orders to which an offender would otherwise be subject exceeds 24 months, the excess shall be treated as remitted.

(6) A court making a detention and training order shall not order that its term shall commence on the expiry of the term of a detention and training order under which the period of supervision has already begun (under section 103(1) below).

(7) Where a detention and training order ("the new order") is made in respect of an offender who is subject to a detention and training order under which the period of supervision has begun ("the old order"), the old order shall be disregarded in determining—

(a) for the purposes of subsection (4) above whether the effect of the new order would be that the offender would be subject to detention and training orders for a term which exceeds 24 months; and

(b) for the purposes of subsection (5) above whether the term of the detention and training orders to which the offender would (apart from that subsection) be subject exceeds 24 months.

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(8) In determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded in custody in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.

(9) Where a court proposes to make detention and training orders in respect of an offender for two or more offences—
  (a) subsection (8) above shall not apply; but
  (b) in determining the total term of the detention and training orders it proposes to make in respect of the offender, the court shall take account of the total period (if any) for which he has been remanded in custody in connection with any of those offences, or any other offence the charge for which was founded on the same facts or evidence.

(10) Once a period of remand has, under subsection (8) or (9) above, been taken account of in relation to a detention and training order made in respect of an offender for any offence or offences, it shall not subsequently be taken account of (under either of those subsections) in relation to such an order made in respect of the offender for any other offence or offences.

(11) Any reference in subsection (8) or (9) above to an offender's being remanded in custody is a reference to his being—
  (a) held in police detention;
  (b) remanded in or committed to custody by an order of a court;
  (c) remanded or committed to local authority accommodation under section 23 of the [M49]Children and Young Persons Act 1969 and placed and kept in secure accommodation **[**[F90]or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section**]**; or
  (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the [M50]Mental Health Act 1983.

(12) A person is in police detention for the purposes of subsection (11) above—
  (a) at any time when he is in police detention for the purposes of the [M51]Police and Criminal Evidence Act 1984; and
  (b) at any time when he is detained under **[**[F91]section 41 of the Terrorism Act 2000**]**;

  and in that subsection "secure accommodation" has the same meaning as in section 23 of the [M52]Children and Young Persons Act 1969.

(13) For the purpose of any reference in sections 102 to 105 below to the term of a detention and training order, consecutive terms of such orders and terms of such orders which are wholly or partly concurrent shall be treated as a single term if—
  (a) the orders were made on the same occasion; or
  (b) where they were made on different occasions, the offender has not been released (by virtue of subsection (2), (3), (4) or (5) of section 102 below) at any time during the period beginning with the first and ending with the last of those occasions.

Textual Amendments

F90 Words in s. 101(11)(c) inserted (1.12.2001) by 2001 c. 16, **s. 133(3)**; S.I. 2001/3736, **art. 2(d)**

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F91 Words in s. 101(12)(b) substituted (19.2.2001) by 2000 c. 11, s. 125(1), **Sch. 15 para. 20(3)**; S.I. 2001/421, **art. 2**

Marginal Citations

M49 1969 c. 54.
M50 1983 c. 20.
M51 1984 c. 60.
M52 1969 c. 54.

102 The period of detention and training.

(1) An offender shall serve the period of detention and training under a detention and training order in such secure accommodation as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose.

(2) Subject to subsections (3) to (5) below, the period of detention and training under a detention and training order shall be one-half of the term of the order.

(3) The Secretary of State may at any time release the offender if he is satisfied that exceptional circumstances exist which justify the offender's release on compassionate grounds.

(4) The Secretary of State may release the offender—
- (a) in the case of an order for a term of 8 months or more but less than 18 months, one month before the half-way point of the term of the order; and
- (b) in the case of an order for a term of 18 months or more, one month or two months before that point.

(5) If a youth court so orders on an application made by the Secretary of State for the purpose, the Secretary of State shall release the offender—
- (a) in the case of an order for a term of 8 months or more but less than 18 months, one month after the half-way point of the term of the order; and
- (b) in the case of an order for a term of 18 months or more, one month or two months after that point.

(6) An offender detained in pursuance of a detention and training order shall be deemed to be in legal custody.

103 The period of supervision.

(1) The period of supervision of an offender who is subject to a detention and training order—
- (a) shall begin with the offender's release, whether at the half-way point of the term of the order or otherwise; and
- (b) subject to subsection (2) below, shall end when the term of the order ends.

(2) The Secretary of State may by order provide that the period of supervision shall end at such point during the term of a detention and training order as may be specified in the order under this subsection.

(3) During the period of supervision, the offender shall be under the supervision of—
- (a) **[**[F92]an officer of a local probation board**]**;
- (b) a social worker of a local authority social services department; or

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(c) a member of a youth offending team;

and the category of person to supervise the offender shall be determined from time to time by the Secretary of State.

(4) Where the supervision is to be provided by **[**[F92]an officer of a local probation board**]**, **[**[F92]the officer of a local probation board**]** shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.

(5) 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.

(6) The offender shall be given a notice from the Secretary of State specifying—

(a) the category of person for the time being responsible for his supervision; and

(b) any requirements with which he must for the time being comply.

(7) A notice under subsection (6) above shall be given to the offender—

(a) before the commencement of the period of supervision; and

(b) before any alteration in the matters specified in subsection (6)(a) or (b) above comes into effect.

Textual Amendments

F92 Words in s. 103(3)(a)(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

104 Breach of supervision requirements.

(1) Where a detention and training order is in force in respect of an offender and it appears on information to a justice of the peace acting for a relevant petty sessions area that the offender has failed to comply with requirements under section 103(6)(b) above, the justice—

(a) may issue a summons requiring the offender to appear at the place and time specified in the summons before a youth court acting for the area; or

(b) if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.

(2) For the purposes of this section a petty sessions area is a relevant petty sessions area in relation to a detention and training order if—

(a) the order was made by a youth court acting for it; or

(b) the offender resides in it for the time being.

(3) If it is proved to the satisfaction of the youth court before which an offender appears or is brought under this section that he has failed to comply with requirements under section 103(6)(b) above, that court may—

(a) order the offender to be detained, in such secure accommodation as the Secretary of State may determine, for such period, not exceeding the shorter

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of three months or the remainder of the term of the detention and training order, as the court may specify; or

(b) impose on the offender a fine not exceeding level 3 on the standard scale.

(4) An offender detained in pursuance of an order under subsection (3)(a) above shall be deemed to be in legal custody.

(5) A fine imposed under subsection (3)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(6) An offender may appeal to the Crown Court against any order made under subsection (3)(a) or (b) above.

105 Offences during currency of order.

(1) This section applies to a person subject to a detention and training order if—

(a) after his release and before the date on which the term of the order ends, he commits an offence punishable with imprisonment in the case of a person aged 21 or over ("the new offence"); and

(b) whether before or after that date, he is convicted of the new offence.

(2) Subject to section 8(6) above (duty of adult magistrates' court to remit young offenders to youth court for sentence), the court by or before which a person to whom this section applies is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be detained in such secure accommodation as the Secretary of State may determine for the whole or any part of the period which—

(a) begins with the date of the court's order; and

(b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) above.

(3) The period for which a person to whom this section applies is ordered under subsection (2) above to be detained in secure accommodation—

(a) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, any sentence imposed for the new offence; and

(b) in either case, shall be disregarded in determining the appropriate length of that sentence.

(4) Where the new offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(5) A person detained in pursuance of an order under subsection (2) above shall be deemed to be in legal custody.

106 Interaction with sentences of detention in a young offender institution.

(1) Where a court passes a sentence of detention in a young offender institution in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—

(a) if the offender has been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which it is passed;

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(b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.

(2) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention in a young offender institution, the order shall take effect as follows—

(a) if the offender has been released under Part II of the [M53]Criminal Justice Act 1991 (early release of prisoners), at the beginning of the day on which it is made;

(b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Part.

(3) Subsection (1)(a) above has effect subject to section 105(3)(a) above and subsection (2)(a) above has effect subject to section 116(6)(b) below.

(4) Subject to subsection (5) below, where at any time an offender is subject concurrently—

(a) to a detention and training order, and

(b) to a sentence of detention in a young offender institution,

he shall be treated for the purposes of sections 102 to 105 above and of section 98 above (place of detention), Chapter IV of this Part (return to detention) and Part II of the [M54]Criminal Justice Act 1991 (early release) as if he were subject only to the one of them that was imposed on the later occasion.

(5) Nothing in subsection (4) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.

(6) Where, by virtue of any enactment giving a court power to deal with a person in a way in which a court on a previous occasion could have dealt with him, a detention and training order for any term is made in the case of a person who has attained the age of 18, the person shall be treated as if he had been sentenced to detention in a young offender institution for the same term.

Marginal Citations

M53 1991 c. 53.

M54 1991 c. 53.

107 Meaning of "secure accommodation" and references to terms.

(1) In sections 102, 104 and 105 above "secure accommodation" means—

(a) a secure training centre;

(b) a young offender institution;

(c) accommodation provided by a local authority for the purpose of restricting the liberty of children and young persons;

(d) accommodation provided for that purpose under subsection (5) of section 82 of the [M55]Children Act 1989 (financial support by the Secretary of State); or

(e) such other accommodation provided for the purpose of restricting liberty as the Secretary of State may direct.

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(2) In sections 102 to 105 above references to the term of a detention and training order shall be construed in accordance with section 101(13) above.

Marginal Citations
M55 1989 c. 41.

Detention of persons aged at least 18 but under 21 for default or contempt

108 Detention of persons aged at least 18 but under 21 for default or contempt.

(1) In any case where, but for section 89(1) above, a court would have power—
(a) to commit a person aged at least 18 but under 21 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 subsection (3) below, 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 [M56]Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.

(3) No court shall commit a person to be detained under this section unless it is of the opinion that no other method of dealing with him is appropriate; and in forming any such opinion, the court—
(a) shall take into account all such information about the circumstances of the default or contempt (including any aggravating or mitigating factors) as is available to it; and
(b) may take into account any information about that person which is before it.

(4) Where a magistrates' court commits a person to be detained under this section, it shall—
(a) state in open court the reason for its opinion that no other method of dealing with him is appropriate; and
(b) cause that reason to be specified in the warrant of commitment and to be entered in the register.

(5) Subject to section 22(2)(b) of the [M57]Prison Act 1952 (removal to hospital etc.), a person in respect of whom an order has been made under this section is to be detained—
(a) in a remand centre,
(b) in a young offender institution, or
(c) in any place in which a person aged 21 or over could be imprisoned or detained for default in payment of a fine or any other sum of money,

as the Secretary of State may from time to time direct.

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Marginal Citations

M56 1971 c. 32.

M57 1952 c. 52.

CHAPTER III

REQUIRED CUSTODIAL SENTENCES FOR CERTAIN OFFENCES

109 Life sentence for second serious offence.

(1) This section applies where—

(a) a person is convicted of a serious offence committed after 30th September 1997; 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 offender is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment for life,

(b) where he is under 21 at that time, a sentence of custody for life under section 94 above,

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 [M58]Person Act 1861 (soliciting murder);

(c) manslaughter;

(d) an offence under section 18 of the Offences Against the [M59]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 [M60]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 [M61]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.

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(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 [M62]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 [M63]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 [M64]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 [M65]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.

Marginal Citations

M58 1861 c. 100.
M59 1861 c. 100.
M60 1956 c. 69.
M61 1968 c. 27.
M62 1968 c. 27.
M63 1995 c. 39.
M64 1885 c. 69.
M65 S.I. 1981/155 (N.I. 2).

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110 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 30th September 1997;

(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 an appropriate custodial sentence for a term of at least seven years except where the court is of the opinion that there are particular circumstances which—

(a) relate to any of the offences or to the offender; and

(b) would make it unjust to do so 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 particular 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 [M66]Misuse of Drugs Act 1971;

[[F93]" drug trafficking offence " means an offence which is specified in—

((a)) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or

((b)) so far as it relates to that paragraph, paragraph 10 of that Schedule.**]**

(6) In this section "an appropriate custodial sentence" means—

(a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;

(b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

Textual Amendments

F93 Words in s. 110(5) substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 37(2)**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Marginal Citations

M66 1971 c. 38.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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111 Minimum of three years for third domestic burglary.

(1) This section applies where—

(a) a person is convicted of a domestic burglary committed after 30th November 1999;

(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 30th November 1999.

(2) The court shall impose an appropriate custodial sentence for a term of at least three years except where the court is of the opinion that there are particular circumstances which—

(a) relate to any of the offences or to the offender; and

(b) would make it unjust to do so 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 particular 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.

(6) In this section "an appropriate custodial sentence" means—

(a) in relation to a person who is 21 or over when convicted of the offence mentioned in subsection (1)(a) above, a sentence of imprisonment;

(b) in relation to a person who is under 21 at that time, a sentence of detention in a young offender institution.

112 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 109, 110 or 111 above; and

(b) any previous conviction of his without which that section would not have applied has been subsequently set aside on appeal.

(2) Notwithstanding anything in section 18 of the [M67]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.

Marginal Citations

M67 1968 c. 19.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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113 Certificates of convictions for purposes of Chapter III.

(1) Where—

(a) on any date after 30th September 1997 a person is convicted in England and Wales of a serious offence or a class A drug trafficking offence, or on any date after 30th November 1999 a person is convicted in England and Wales of 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 of this Chapter, that he was convicted of such an offence on that date.

(2) Where—

(a) after 30th September 1997 a person is convicted in England and Wales of a class A drug trafficking offence or after 30th November 1999 a person is convicted in England and Wales of 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 of this Chapter, 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 109, 110 and 111 respectively; and

"the relevant section of this Chapter", in relation to any such offence, shall be construed accordingly.

114 Offences under service law.

(1) Where—

(a) a person has at any time been convicted of an offence under section 70 of the [M68]Army Act 1955, section 70 of the [M69]Air Force Act 1955 or section 42 of the [M70]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 of this Chapter 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 113 above applies for the purposes of this section as it applies for the purposes of that section.

Marginal Citations

M68 1955 c. 18

M69 1955 c. 19.

M70 1957 c. 53.

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115 Determination of day when offence committed.

Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of sections 109, 110 and 111 above to have been committed on the last of those days.

CHAPTER IV

RETURN TO PRISON ETC. WHERE OFFENCE COMMITTED DURING ORIGINAL SENTENCE

116 Power to order return to prison etc. where offence committed during original sentence.

(1) This section applies to a person if—
- (a) he has been serving a determinate sentence of imprisonment which he began serving on or after 1st October 1992;
- (b) he is released under Part II of the [M71]Criminal Justice Act 1991 (early release of prisoners);
- (c) before the date on which he would (but for his release) have served his sentence in full, he commits an offence punishable with imprisonment ("the new offence"); and
- (d) whether before or after that date, he is convicted of the new offence.

(2) Subject to subsection (3) below, the court by or before which a person to whom this section applies is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be returned to prison for the whole or any part of the period which—
- (a) begins with the date of the order; and
- (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1)(c) above.

(3) A magistrates' court—
- (a) shall not have power to order a person to whom this section applies to be returned to prison for a period of more than six months; but
- (b) subject to section 25 of the [M72]Criminal Justice and Public Order Act 1994 (restrictions on granting bail), may commit him in custody or on bail to the Crown Court to be dealt with under subsection (4) below.

(4) Where a person is committed to the Crown Court under subsection (3) above, the Crown Court may order him to be returned to prison for the whole or any part of the period which—
- (a) begins with the date of the order; and
- (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1)(c) above.

(5) Subsection (3)(b) above shall not be taken to confer on the magistrates' court a power to commit the person to the Crown Court for sentence for the new offence, but this is without prejudice to any such power conferred on the magistrates' court by any other provision of this Act.

(6) The period for which a person to whom this section applies is ordered under subsection (2) or (4) above to be returned to prison—

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(a) shall be taken to be a sentence of imprisonment for the purposes of Part II of the [M73]Criminal Justice Act 1991 and this section;

(b) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, the sentence imposed for the new offence; and

(c) in either case, shall be disregarded in determining the appropriate length of that sentence.

(7) As a consequence of subsection (6)(a) above, the court shall not be prevented by section 84 above from making any direction authorised by subsection (6)(b) above.

(8) Where the new offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(9) For the purposes of sections 9 and 10 of the [M74]Criminal Appeal Act 1968 (rights of appeal), any order made in respect of a person by the Crown Court under subsection (2) or (4) above shall be treated as a sentence passed on him for the offence for which the sentence referred to in subsection (1) above was passed.

(10) This section and section 117 below apply to persons serving—

(a) determinate sentences of detention under section 91 above, or

(b) sentences of detention in a young offender institution,

as they apply to persons serving equivalent sentences of imprisonment; and references in this section and section 117 to imprisonment or prison shall be construed accordingly.

(11) In this section "sentence of imprisonment" does not include a committal for contempt of court or any kindred offence.

Marginal Citations

M71 1991 c. 53.
M72 1994 c. 33.
M73 1991 c. 53.
M74 1968 c. 19.

117 Treatment for purposes of section 116(1) of person serving two or more sentences or extended sentence.

(1) For the purposes of any reference in section 116(1) above (however expressed) to the term of imprisonment to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

(a) the sentences were passed on the same occasion; or

(b) where they were passed on different occasions, the person has not been released under Part II of the [M75]Criminal Justice Act 1991 at any time during the period beginning with the first and ending with the last of those occasions;

but this is subject to subsection (4) below.

(2) Where a suspended sentence of imprisonment is ordered to take effect, with or without any variation of the original term, the occasion on which that order is made shall be treated for the purposes of subsection (1) above as the occasion on which the sentence is passed.

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(3) Where a person has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term, the date mentioned in section 116(1)(c) above shall be taken to be that on which he would (but for his release) have served each of the sentences in full.

(4) Subsections (1) to (3) above apply only where one or more of the sentences concerned were passed on or after 30th September 1998; but where, by virtue of section 51(2) of the [M76]Criminal Justice Act 1991 as enacted, the terms of two or more sentences passed before 30th September 1998 have been treated as a single term for the purposes of Part II of that Act, they shall be treated as a single term for the purposes of section 116(1) above.

(5) Section 116(1) and subsection (3) above shall each have effect as if the term of an extended sentence (within the meaning of section 85 above) included the extension period (within the meaning of that section).

Marginal Citations

M75 1991 c. 53.

M76 1991 c. 53.

CHAPTER V

SUSPENDED SENTENCES OF IMPRISONMENT

Suspended sentences of imprisonment

118 Suspended sentences of imprisonment.

(1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence may (subject to subsection (4) below) order that the sentence shall not take effect unless, during a period specified in the order, the offender commits in Great Britain another offence punishable with imprisonment and thereafter a court having power to do so orders under section 119 below that the original sentence shall take effect.

(2) The period specified in an order under subsection (1) above must be a period of not less than one year nor more than two years beginning with the date of the order.

(3) In this Act—

"suspended sentence" means a sentence to which an order under subsection (1) above relates; and

"operational period", in relation to such a sentence, means the period specified in the order under subsection (1).

(4) A court shall not deal with an offender by means of a suspended sentence unless it is of the opinion—

(a) that the case is one in which a sentence of imprisonment would have been appropriate even without the power to suspend the sentence; and

(b) that the exercise of that power can be justified by the exceptional circumstances of the case.

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(5) A court which passes a suspended sentence on any person for an offence shall consider whether the circumstances of the case are such as to warrant in addition the imposition of a fine or the making of a compensation order.

(6) A court which passes a suspended sentence on any person for an offence shall not impose a community sentence in his case in respect of that offence or any other offence of which he is convicted by or before the court or for which he is dealt with by the court.

(7) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under section 119 below if during the operational period he commits an offence punishable with imprisonment.

(8) Subject to any provision to the contrary contained in the [M77]Criminal Justice Act 1967, this Act or any other enactment passed or instrument made under any enactment after 31st December 1967—

(a) a suspended sentence which has not taken effect under section 119 below shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and

(b) where a suspended sentence has taken effect under section 119, the offender shall be treated for the purposes of the enactments and instruments excepted by paragraph (a) above as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

Marginal Citations

M77 1967 c. 80.

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

(1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under section 120 below to deal with him in respect of the suspended sentence or he subsequently appears or is brought before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods—

(a) the court may order that the suspended sentence shall take effect with the original term unaltered;

(b) the court may order that the sentence shall take effect with the substitution of a lesser term for the original term;

(c) the court may by order vary the original order under section 118(1) above by substituting for the period specified in that order a period ending not later than two years from the date of the variation; or

(d) the court may make no order with respect to the suspended sentence.

(2) The court shall make an order under paragraph (a) of subsection (1) above unless it is of the opinion that it would be unjust to do so in view of all the circumstances,

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including the facts of the subsequent offence; and where it is of that opinion the court shall state its reasons.

(3) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term of that sentence shall commence on the expiry of another term of imprisonment passed on the offender by that or another court.

(4) The power to make an order under subsection (3) above has effect subject to section 84 above (restriction on consecutive sentences for released prisoners).

(5) In proceedings for dealing with an offender in respect of a suspended sentence which take place before the Crown Court, any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.

(6) Where a court deals with an offender under this section in respect of a suspended sentence, the appropriate officer of the court shall notify the appropriate officer of the court which passed the sentence of the method adopted.

(7) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the appropriate officer of the court shall record that fact.

(8) For the purposes of any enactment conferring rights of appeal in criminal cases, any order made by a court with respect to a suspended sentence shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

120 Court by which suspended sentence may be dealt with.

(1) An offender may be dealt with in respect of a suspended sentence by the Crown Court or, where the sentence was passed by a magistrates' court, by any magistrates' court before which he appears or is brought.

(2) Where an offender is convicted by a magistrates' court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Crown Court—
   (a) the court may, if it thinks fit, commit him in custody or on bail to the Crown Court; and
   (b) if it does not, shall give written notice of the conviction to the appropriate officer of the Crown Court.

(3) For the purposes of this section and of section 121 below, a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

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

(1) If it appears to the Crown Court, where that court has jurisdiction in accordance with subsection (2) below, or to a justice of the peace having jurisdiction in accordance with that subsection—

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(a) that an offender has been convicted in Great Britain of an offence punishable with imprisonment committed during the operational period of a suspended sentence, and

(b) that he has not been dealt with in respect of the suspended sentence,

that court or justice may, subject to the following provisions of this section, issue a summons requiring the offender to appear at the place and time specified in it, or a warrant for his arrest.

(2) Jurisdiction for the purposes of subsection (1) above may be exercised—

(a) if the suspended sentence was passed by the Crown Court, by that court;

(b) if it was passed by a magistrates' court, by a justice acting for the area for which that court acted.

(3) Where—

(a) an offender is convicted by a court in Scotland of an offence punishable with imprisonment, and

(b) the court is informed that the offence was committed during the operational period of a suspended sentence passed in England or Wales,

the court shall give written notice of the conviction to the appropriate officer of the court by which the suspended sentence was passed.

(4) Unless he is acting in consequence of a notice under subsection (3) above, a justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(5) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed.

(6) In relation to a suspended sentence passed on appeal, this section is to be construed in accordance with section 120(3) above.

Suspended sentence supervision orders

122 Suspended sentence supervision orders.

(1) Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order, that is to say, an order placing the offender under the supervision of a supervising officer for a period which is specified in the order and does not exceed the operational period of the suspended sentence.

(2) A suspended sentence supervision order shall specify the petty sessions area in which the offender resides or will reside; and the supervising officer shall be **[**[F94]an officer of a local probation board**]** appointed for or assigned to the area for the time being specified in the order (whether under this subsection or by virtue of section 124(3) below (power to amend order)).

(3) An offender in respect of whom a suspended sentence supervision order is in force shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

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(4) On making a suspended sentence supervision order, the court shall explain its effect to the offender in ordinary language.

(5) The court by which a suspended sentence supervision order is made shall forthwith give copies of the order to **[**[F94]an officer of a local probation board**]** assigned to the court, and he shall give a copy to the offender and to the supervising officer.

(6) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the justices' chief executive for that area—

(a) a copy of the order; and

(b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.

(7) The Secretary of State may by order—

(a) direct that subsection (1) above be amended by substituting, for the number of months specified in that subsection as originally enacted or as previously amended under this paragraph, such other number (not more than six) as the order may specify; or

(b) make in that subsection the repeals necessary to enable a court to make a suspended sentence supervision order in the case of any suspended sentence, whatever the length of the term.

(8) Where under section 119 above a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a suspended sentence supervision order in respect of the offender—

(a) in place of any such order made when the suspended sentence was passed; or

(b) if the court which passed the sentence could have made such an order but did not do so; or

(c) if that court could not then have made such an order but would have had power to do so if subsection (1) above had then had effect as it has effect at the time when the offender is dealt with under section 119.

Textual Amendments

F94 Words in s. 122(2)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

123 Breach of requirement of suspended sentence supervision order.

(1) If, at any time while a suspended sentence supervision order is in force in respect of an offender, it appears on information to a justice of the peace acting for the petty sessions area for the time being specified in the order that the offender has failed to comply with any of the requirements of section 122(3) above, the justice may—

(a) issue a summons requiring the offender to appear at the place and time specified in it; or

(b) if the information is in writing and on oath, issue a warrant for his arrest.

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(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before a magistrates' court acting for the petty sessions area for the time being specified in the suspended sentence supervision order.

(3) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that he has failed without reasonable cause to comply with any of the requirements of section 122(3) above, the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding £1000.

(4) A fine imposed under subsection (3) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

124 Suspended sentence supervision orders: revocation, amendment and cessation.

(1) A suspended sentence supervision order may be revoked on the application of the supervising officer or the offender—
   (a) if it was made by the Crown Court and includes a direction reserving the power of revoking it to that court, by the Crown Court;
   (b) in any other case, by a magistrates' court acting for the petty sessions area for the time being specified in the order.

(2) Where a suspended sentence supervision order has been made on appeal, for the purposes of subsection (1) above it shall be deemed—
   (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
   (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

(3) If a magistrates' court acting for the petty sessions area for the time being specified in a suspended sentence supervision order is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area, the court may, and on the application of the supervising officer shall, amend the order by substituting the other petty sessions area for the area specified in the order.

(4) Where a suspended sentence supervision order is amended by a court under subsection (3) above, the court shall send to the justices' chief executive for the new area specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.

(5) A suspended sentence supervision order shall cease to have effect if before the end of the period specified in it—
   (a) a court orders under section 119 above that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
   (b) the order is revoked under subsection (1) above or replaced under section 122(8) above.

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Suspended sentences: supplementary

125 Suspended sentences: supplementary.

(1) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall, unless the context otherwise requires, be treated as a single term.

(2) Any reference in this Chapter, however expressed, to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in Great Britain and to a previous sentence passed by any such court.

(3) For the purposes of this Chapter a certificate purporting to be signed by or on behalf of the Lord Advocate that an offence is punishable in Scotland with imprisonment shall be evidence of the matter so certified.

PART VI

FINANCIAL PENALTIES AND ORDERS

Financial circumstances orders

126 Powers to order statement as to offender's financial circumstances.

(1) Where an individual has been convicted of an offence, the court may, before sentencing him, make a financial circumstances order with respect to him.

(2) Where a magistrates' court has been notified in accordance with section 12(4) of the [M78]Magistrates' Courts Act 1980 that an individual desires to plead guilty without appearing before the court, the court may make a financial circumstances order with respect to him.

(3) In this section "a financial circumstances order" means, in relation to any individual, an order requiring him to give to the court, within such period as may be specified in the order, such a statement of his financial circumstances as the court may require.

(4) An individual who without reasonable excuse fails to comply with a financial circumstances order shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) If an individual, in furnishing any statement in pursuance of a financial circumstances order—
   (a) makes a statement which he knows to be false in a material particular,
   (b) recklessly furnishes a statement which is false in a material particular, or
   (c) knowingly fails to disclose any material fact,

   he shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

(6) Proceedings in respect of an offence under subsection (5) above may, notwithstanding anything in section 127(1) of the [M79]Magistrates' Courts Act 1980 (limitation of time), be commenced at any time within two years from the date of the commission of the

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offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.

Marginal Citations
M78 1980 c. 43.
M79 1980 c. 43.

Fines: general

127 General power of Crown Court to fine offender convicted on indictment.

Where a person is convicted on indictment of any offence, other than an offence for which the sentence is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) above, the court, if not precluded from sentencing the offender by its exercise of some other power, may impose a fine instead of or in addition to dealing with him in any other way in which the court has power to deal with him, subject however to any enactment requiring the offender to be dealt with in a particular way.

128 Fixing of fines.

(1) Before fixing the amount of any fine to be imposed on an offender who is an individual, a court shall inquire into his financial circumstances.

(2) The amount of any fine fixed by a court shall be such as, in the opinion of the court, reflects the seriousness of the offence.

(3) In fixing the amount of any fine to be imposed on an offender (whether an individual or other person), a court shall take into account the circumstances of the case including, among other things, the financial circumstances of the offender so far as they are known, or appear, to the court.

(4) Subsection (3) above applies whether taking into account the financial circumstances of the offender has the effect of increasing or reducing the amount of the fine.

(5) Where—
(a) an offender has been convicted in his absence in pursuance of section 11 or 12 of the [M80]Magistrates' Courts Act 1980 (non-appearance of accused), or
(b) an offender—
(i) has failed to comply with an order under section 126(1) above, or
(ii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

and the court considers that it has insufficient information to make a proper determination of the financial circumstances of the offender, it may make such determination as it thinks fit.

Marginal Citations
M80 1980 c. 43.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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129 Remission of fines.

(1) This section applies where a court has, in fixing the amount of a fine, determined the offender's financial circumstances under section 128(5) above.

(2) If, on subsequently inquiring into the offender's financial circumstances, the court is satisfied that had it had the results of that inquiry when sentencing the offender it would—

(a) have fixed a smaller amount, or

(b) not have fined him,

it may remit the whole or any part of the fine.

(3) Where under this section the court remits the whole or part of a fine after a term of imprisonment has been fixed under section 139 below (powers of Crown Court in relation to fines) or section 82(5) of the [M81]Magistrates' Courts Act 1980 (magistrates' powers in relation to default), it shall reduce the term by the corresponding proportion.

(4) In calculating any reduction required by subsection (3) above, any fraction of a day shall be ignored.

Marginal Citations

M81 1980 c. 43.

Compensation orders

130 Compensation orders against convicted persons.

(1) A court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Act referred to as a "compensation order") requiring him—

(a) to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence; or

(b) to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road;

but this is subject to the following provisions of this section and to section 131 below.

(2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) above, subsection (1) above shall have effect as if the words "instead of or" were omitted.

(3) A court shall give reasons, on passing sentence, if it does not make a compensation order in a case where this section empowers it to do so.

(4) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.

(5) In the case of an offence under the [M82]Theft Act 1968, where the property in question is recovered, any damage to the property occurring while it was out of the owner's

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possession shall be treated for the purposes of subsection (1) above as having resulted from the offence, however and by whomever the damage was caused.

(6) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if—

(a) it is in respect of damage which is treated by subsection (5) above as resulting from an offence under the [M83]Theft Act 1968; or

(b) it is in respect of injury, loss or damage as respects which—

(i) the offender is uninsured in relation to the use of the vehicle; and

(ii) compensation is not payable under any arrangements to which the Secretary of State is a party.

(7) Where a compensation order is made in respect of injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.

(8) A vehicle the use of which is exempted from insurance by section 144 of the [M84]Road Traffic Act 1988 is not uninsured for the purposes of subsection (6) above.

(9) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.

(10) A compensation order in respect of bereavement may be made only for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the [M85]Fatal Accidents Act 1976; and the amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of that Act.

(11) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.

(12) Where the court considers—

(a) that it would be appropriate both to impose a fine and to make a compensation order, but

(b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,

the court shall give preference to compensation (though it may impose a fine as well).

Marginal Citations

M82 1968 c. 60.
M83 1968 c. 60.
M84 1988 c. 52.
M85 1976 c. 30.

131 Limit on amount payable under compensation order of magistrates' court.

(1) The compensation to be paid under a compensation order made by a magistrates' court in respect of any offence of which the court has convicted the offender shall not exceed £5,000.

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(2) The compensation or total compensation to be paid under a compensation order or compensation orders made by a magistrates' court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between—
  (a) the amount or total amount which under subsection (1) above is the maximum for the offence or offences of which the offender has been convicted; and
  (b) the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

132 Compensation orders: appeals etc.

(1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.

(2) Rules under section 144 of the [M86]Magistrates' Courts Act 1980 may make provision regarding the way in which the magistrates' court for the time being having functions (by virtue of section 41(1) of the [M87]Administration of Justice Act 1970) in relation to the enforcement of a compensation order is to deal with money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.

(3) The Court of Appeal may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as varied.

(4) Where the House of Lords restores a conviction, it may make any compensation order which the court of trial could have made.

(5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
  (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
  (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

Marginal Citations
M86 1980 c. 43.
M87 1970 c. 31.

133 Review of compensation orders.

(1) The magistrates' court for the time being having functions in relation to the enforcement of a compensation order (in this section referred to as "the appropriate court") may, on the application of the person against whom the compensation order was made, discharge the order or reduce the amount which remains to be paid; but this is subject to subsections (2) to (4) below.

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(2) The appropriate court may exercise a power conferred by subsection (1) above only—
  (a) at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the compensation order could be varied or set aside; and
  (b) at a time before the person against whom the compensation order was made has paid into court the whole of the compensation which the order requires him to pay.

(3) The appropriate court may exercise a power conferred by subsection (1) above only if it appears to the court—
  (a) that the injury, loss or damage in respect of which the compensation order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
  (b) in the case of a compensation order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
  (c) that the means of the person against whom the compensation order was made are insufficient to satisfy in full both the order and a confiscation order under Part VI of the [M88]Criminal Justice Act 1988 **[**[F95], or Part 2 of the Proceeds of Crime Act 2002,**]** made against him in the same proceedings; or
  (d) that the person against whom the compensation order was made has suffered a substantial reduction in his means which was unexpected at the time when the order was made, and that his means seem unlikely to increase for a considerable period.

(4) Where the compensation order was made by the Crown Court, the appropriate court shall not exercise any power conferred by subsection (1) above in a case where it is satisfied as mentioned in paragraph (c) or (d) of subsection (3) above unless it has first obtained the consent of the Crown Court.

(5) Where a compensation order has been made on appeal, for the purposes of subsection (4) above it shall be deemed—
  (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
  (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

Textual Amendments

F95 Words in s. 133(3)(c) inserted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 37(3)**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Marginal Citations

M88 1988 c. 33.

134 Effect of compensation order on subsequent award of damages in civil proceedings.

(1) This section shall have effect where a compensation order, or a service compensation order or award, has been made in favour of any person in respect of any injury, loss or

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damage and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.

(2) The damages in the civil proceedings shall be assessed without regard to the order or award, but the plaintiff may only recover an amount equal to the aggregate of the following—

(a) any amount by which they exceed the compensation; and

(b) a sum equal to any portion of the compensation which he fails to recover,

and may not enforce the judgment, so far as it relates to a sum such as is mentioned in paragraph (b) above, without the leave of the court.

(3) In this section a "service compensation order or award" means—

(a) an order requiring the payment of compensation under paragraph 11 of Schedule 5A to the [M89]Army Act 1955, of Schedule 5A to the [M90]Air Force Act 1955 or of Schedule 4A to the [M91]Naval Discipline Act 1957; or

(b) an award of stoppages payable by way of compensation under any of those Acts.

Marginal Citations

M89 1955 c. 18.

M90 1955 c. 19.

M91 1957 c. 53.

Young offenders

135 Limit on fines imposed by magistrates' courts in respect of young offenders.

(1) Where a person aged under 18 is found guilty by a magistrates' court of an offence for which, apart from this section, the court would have power to impose a fine of an amount exceeding £1,000, the amount of any fine imposed by the court shall not exceed £1,000.

(2) In relation to a person aged under 14, subsection (1) above shall have effect as if for "£1,000", in both places where it occurs, there were substituted " £250 ".

136 Power to order statement as to financial circumstances of parent or guardian.

(1) Before exercising its powers under section 137 below (power to order parent or guardian to pay fine, costs or compensation) against the parent or guardian of an individual who has been convicted of an offence, the court may make a financial circumstances order with respect to the parent or (as the case may be) guardian.

(2) In this section "financial circumstances order" has the meaning given by subsection (3) of section 126 above, and subsections (4) to (6) of that section shall apply in relation to a financial circumstances order made under this section as they apply in relation to such an order made under that section.

137 Power to order parent or guardian to pay fine, costs or compensation.

(1) Where—

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(a) a child or young person (that is to say, any person aged under 18) is convicted of any offence for the commission of which a fine or costs may be imposed or a compensation order may be made, and

(b) the court is of the opinion that the case would best be met by the imposition of a fine or costs or the making of such an order, whether with or without any other punishment,

the court shall order that the fine, compensation or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

(i) that the parent or guardian cannot be found; or

(ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

(2) Where but for this subsection a court would impose a fine on a child or young person under—

(a) paragraph 4(1)(a) or 5(1)(a) of Schedule 3 to this Act (breach of curfew, probation, community service, combination or drug treatment and testing order),

(b) paragraph 2(1)(a) of Schedule 5 to this Act (breach of attendance centre order or attendance centre rules),

(c) paragraph 2(2)(a) of Schedule 7 to this Act (breach of supervision order),

(d) paragraph 2(2)(a) of Schedule 8 to this Act (breach of action plan order or reparation order),

(e) section 104(3)(b) above (breach of requirements of supervision under a detention and training order), or

(f) section 4(3)(b) of the [M92]Criminal Justice and Public Order Act 1994 (breach of requirements of supervision under a secure training order),

the court shall order that the fine be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

(i) that the parent or guardian cannot be found; or

(ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

(3) In the case of a young person aged 16 or over, subsections (1) and (2) 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.

(4) Subject to subsection (5) below, no order shall be made under this section without giving the parent or guardian an opportunity of being heard.

(5) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so.

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

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(a) is in their care, or

(b) is provided with accommodation by them in the exercise of any functions (in particular those under the [M93]Children Act 1989) which **[**[F96F97]are social services functions within the meaning of**]** the [M94]Local Authority Social Services Act 1970,

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

(9) In subsection (8) above "local authority" and "parental responsibility" have the same meanings as in the [M95]Children Act 1989.

Textual Amendments

F96 Words in s. 137(8)(b) substituted (E.) (11.7.2001) by S.I. 2001/2237, **art. 38**

F97 Words in s. 137(8)(b) substituted (W.) (1.4.2002) by S.I. 2002/808, **art. 34**

Marginal Citations

M92 1994 c. 33.

M93 1989 c. 41.

M94 1970 c. 42.

M95 1989 c. 41.

138 Fixing of fine or compensation to be paid by parent or guardian.

(1) For the purposes of any order under section 137 above made against the parent or guardian of a child or young person—

(a) section 128 above (fixing of fines) shall have effect as if any reference in subsections (1) to (4) to the financial circumstances of the offender were a reference to the financial circumstances of the parent or guardian, and as if subsection (5) were omitted;

(b) section 130(11) above (determination of compensation order) shall have effect as if any reference to the means of the person against whom the compensation order is made were a reference to the financial circumstances of the parent or guardian; and

(c) section 130(12) above (preference to be given to compensation if insufficient means to pay both compensation and a fine) shall have effect as if the reference to the offender were a reference to the parent or guardian;

but in relation to an order under section 137 made against a local authority this subsection has effect subject to subsection (2) below.

(2) For the purposes of any order under section 137 above made against a local authority, sections 128(1) (duty to inquire into financial circumstances) and 130(11) above shall not apply.

(3) For the purposes of any order under section 137 above, where the parent or guardian of an offender who is a child or young person—

(a) has failed to comply with an order under section 136 above, or

(b) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

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and the court considers that it has insufficient information to make a proper determination of the parent's or guardian's financial circumstances, it may make such determination as it thinks fit.

(4) Where a court has, in fixing the amount of a fine, determined the financial circumstances of a parent or guardian under subsection (3) above, subsections (2) to (4) of section 129 above (remission of fines) shall (so far as applicable) have effect as they have effect in the case mentioned in section 129(1), but as if the reference in section 129(2) to the offender's financial circumstances were a reference to the financial circumstances of the parent or guardian.

(5) In this section "local authority" has the same meaning as in the [M96]Children Act 1989.

Marginal Citations
M96 1989 c. 41.

Miscellaneous powers and duties of Crown Court in relation to fines etc.

139 Powers and duties of Crown Court in relation to fines and forfeited recognizances.

(1) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court may make an order—
  (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
  (b) directing payment of that amount by instalments of such amounts and on such dates as may be specified in the order;
  (c) in the case of a recognizance, discharging the recognizance or reducing the amount due under it.

(2) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 108 above (detention of persons aged 18 to 20 for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.

(3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by the Crown Court be committed to prison or detained in pursuance of an order under subsection (2) above unless—
  (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
  (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
  (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life or detention in a young offender institution for that or another offence, or so sentences him for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term—
    (i) of imprisonment;

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(ii) of detention in a young offender institution; or
(iii) of detention under section 108 above.

(4) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite them.

Table

An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years

(5) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment or detention in a young offender institution or a term of detention under section 108 above, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first-mentioned term.

(6) The power conferred by this section to discharge a recognizance or reduce the amount due under it shall be in addition to the powers conferred by any other Act relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited under recognizances.

(7) Subject to subsection (8) below, the powers conferred by this section shall not be taken as restricted by any enactment which authorises the Crown Court to deal with an offender in any way in which a magistrates' court might have dealt with him or could deal with him.

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(8) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the magistrates' court could have imposed, shall not exceed the period applicable to that fine (if imposed by the magistrates' court) under section 149(1) of the [M97]Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).

(9) This section shall not apply to a fine imposed by the Crown Court on appeal against a decision of a magistrates' court, but subsections (2) to (4) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the House of Lords on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court, and the references to the Crown Court in subsections (2) and (3) above shall be construed accordi gly.

(10) For the purposes of any reference in this section, however expressed, to the term of imprisonment or other detention to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall, unless the context otherwise requires, be treated as a single term.

(11) Any reference in this section, however expressed, to a previous sentence shall be construed as a reference to a previous sentence passed by a court in Great Britain.

Modifications etc. (not altering text)

C11 S. 139(2)-(4) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 35(2)**, 458(1); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

C12 S. 139(2)-(4) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 36(2)**, 458(1); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

C13 S. 139(9) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 36(2)**, 458(1); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

C14 S. 139(9) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 35(2)**, 458(1); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Marginal Citations

M97 1979 c. 2.

140 Enforcement of fines imposed and recognizances forfeited by Crown Court.

(1) Subject to subsection (5) below, a fine imposed or a recognizance forfeited by the Crown Court shall be treated for the purposes of collection, enforcement and remission of the fine or other sum as having been imposed or forfeited—

(a) by a magistrates' court specified in an order made by the Crown Court, or

(b) if no such order is made, by the magistrates' court by which the offender was committed to the Crown Court to be tried or dealt with or by which he was sent to the Crown Court for trial under section 51 of the [M98]Crime and Disorder Act 1998,

and, in the case of a fine, as having been so imposed on conviction by the magistrates' court in question.

(2) Subsection (3) below applies where a magistrates' court issues a warrant of commitment on a default in the payment of—

(a) a fine imposed by the Crown Court; or

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(b) a sum due under a recognizance forfeited by the Crown Court.

(3) In such a case, the term of imprisonment or detention under section 108 above specified in the warrant of commitment as the term which the offender is liable to serve shall be—

(a) the term fixed by the Crown Court under section 139(2) above, or

(b) if that term has been reduced under section 79(2) of the [M99]Magistrates' Courts Act 1980 (part payment) or section 85(2) of that Act (remission), that term as so reduced,

notwithstanding that that term exceeds the period applicable to the case under section 149(1) of the [M100]Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).

(4) Subsections (1) to (3) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the House of Lords on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court; and references in those subsections to the Crown Court (except the references in subsection (1)(b)) shall be construed accordingly.

(5) A magistrates' court shall not, under section 85(1) or 120 of the [M101]Magistrates' Courts Act 1980 as applied by subsection (1) above, remit the whole or any part of a fine imposed by, or sum due under a recognizance forfeited by—

(a) the Crown Court,

(b) the criminal division of the Court of Appeal, or

(c) the House of Lords on appeal from that division,

without the consent of the Crown Court.

(6) Any fine or other sum the payment of which is enforceable by a magistrates' court by virtue of this section shall be treated for the purposes of the Justices of the [M102]Peace Act 1997 and, in particular, section 60 of that Act (application of fines and fees) as having been imposed by a magistrates' court, or as being due under a recognizance forfeited by such a court.

Modifications etc. (not altering text)

C15 S. 140(1)-(4) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 35(2)**, 458(1); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Marginal Citations

M98 1998 c. 37.
M99 1980 c. 43.
M100 1979 c. 2.
M101 1980 c. 43.
M102 1997 c. 25.

141 Power of Crown Court to allow time for payment, or payment by instalments, of costs and compensation.

Where the Crown Court makes any such order as is mentioned in Part I of Schedule 9 to the [M103]Administration of Justice Act 1970 (orders against accused for the payment of costs or compensation), the court may—

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(a) allow time for the payment of the sum due under the order;
(b) direct payment of that sum by instalments of such amounts and on such dates as the court may specify.

Marginal Citations
M103 1970 c. 31.

142 Power of Crown Court to order search of persons before it.

(1) Where—
(a) the Crown Court imposes a fine on a person or forfeits his recognizance,
(b) the Crown Court makes against a person any such order as is mentioned in paragraph 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs),
(c) the Crown Court makes a compensation order against a person,
(d) the Crown Court makes against a person an order under section 137 above (order for parent or guardian to pay fine, costs or compensation), or
(e) on the determination of an appeal brought by a person under section 108 of the [M104]Magistrates' Courts Act 1980 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,

then, if that person is before it, the Crown Court may order him to be searched.

(2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.

Marginal Citations
M104 1980 c. 43.

PART VII

FURTHER POWERS OF COURTS

Powers to deprive offender of property used etc. for purposes of crime

143 Powers to deprive offender of property used etc. for purposes of crime.

(1) Where a person is convicted of an offence and the court by or before which he is convicted is satisfied that any property which has been lawfully seized from him, or which was in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued—
(a) has been used for the purpose of committing, or facilitating the commission of, any offence, or
(b) was intended by him to be used for that purpose,

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the court may (subject to subsection (5) below) make an order under this section in respect of that property.

(2) Where a person is convicted of an offence and the offence, or an offence which the court has taken into consideration in determining his sentence, consists of unlawful possession of property which—

(a) has been lawfully seized from him, or

(b) was in his possession or under his control at the time when he was apprehended for the offence of which he has been convicted or when a summons in respect of that offence was issued,

the court may (subject to subsection (5) below) make an order under this section in respect of that property.

(3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.

(4) Any power conferred on a court by subsection (1) or (2) above may be exercised—

(a) whether or not the court also deals with the offender in any other way in respect of the offence of which he has been convicted; and

(b) without regard to any restrictions on forfeiture in any enactment contained in an Act passed before 29th July 1988.

(5) In considering whether to make an order under this section in respect of any property, a court shall have regard—

(a) to the value of the property; and

(b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).

(6) Where a person commits an offence to which this subsection applies by—

(a) driving, attempting to drive, or being in charge of a vehicle, or

(b) failing to comply with a requirement made under section 7 **[**[F98]or 7A**]**of the [M105]Road Traffic Act 1988 (failure to provide specimen for analysis or laboratory test **[**[F98]or to give permission for such a test**]**) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or

(c) failing, as the driver of a vehicle, to comply with subsection (2) or (3) of section 170 of the [M106]Road Traffic Act 1988 (duty to stop and give information or report accident),

the vehicle shall be regarded for the purposes of subsection (1) above (and section 144(1)(b) below) as used for the purpose of committing the offence (and for the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence).

(7) Subsection (6) above applies to—

(a) an offence under the [M107]Road Traffic Act 1988 which is punishable with imprisonment;

(b) an offence of manslaughter; and

(c) an offence under section 35 of the Offences Against the [M108]Person Act 1861 (wanton and furious driving).

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(8) Facilitating the commission of an offence shall be taken for the purposes of subsection (1) above to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

Textual Amendments

F98 Words in s. 143(6)(b) inserted (1.10.2002) by 2002 c. 30, **s. 56(6)**; S.I. 2002/2306, **art. 2**

Marginal Citations

M105 1988 c. 52.
M106 1988 c. 52.
M107 1988 c. 52.
M108 1861 c. 100.

144 Property which is in possession of police by virtue of section 143.

(1) The [M109]Police (Property) Act 1897 shall apply, with the following modifications, to property which is in the possession of the police by virtue of section 143 above—

(a) no application shall be made under section 1(1) of that Act by any claimant of the property after the end of six months from the date on which the order in respect of the property was made under section 143 above; and

(b) no such application shall succeed unless the claimant satisfies the court either—

(i) that he had not consented to the offender having possession of the property; or

(ii) where an order is made under subsection (1) of section 143 above, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that subsection.

(2) In relation to property which is in the possession of the police by virtue of section 143 above, the power to make regulations under section 2 of the [M110]Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained and no order of a competent court has been made with respect to it) shall, subject to subsection (3) below, include power to make regulations for disposal (including disposal by vesting in the relevant authority) in cases where no applicatio by a claimant of the property has been made within the period specified in subsection (1)(a) above or no such application has succeeded.

(3) The regulations may not provide for the vesting in the relevant authority of property in relation to which an order has been made under section 145 below (court order as to application of proceeds of forfeited property).

(4) Nothing in subsection (2A)(a) or (3) of section 2 of the [M111]Police (Property) Act 1897 limits the power to make regulations under that section by virtue of subsection (2) above.

(5) In this section "relevant authority" has the meaning given by section 2(2B) of the [M112]Police (Property) Act 1897.

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Marginal Citations
M109 1897 c. 30.
M110 1897 c. 30.
M111 1897 c. 30.
M112 1897 c. 30.

145 Application of proceeds of forfeited property.

(1) Where a court makes an order under section 143 above in a case where—
  (a) the offender has been convicted of an offence which has resulted in a person suffering personal injury, loss or damage, or
  (b) any such offence is taken into consideration by the court in determining sentence,

the court may also make an order that any proceeds which arise from the disposal of the property and which do not exceed a sum specified by the court shall be paid to that person.

(2) The court may make an order under this section only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under which the offender would have been required to pay compensation of an amount not less than the specified amount.

(3) An order under this section has no effect—
  (a) before the end of the period specified in section 144(1)(a) above; or
  (b) if a successful application under section 1(1) of the [M113]Police (Property) Act 1897 has been made.

Marginal Citations
M113 1897 c. 30.

Driving disqualifications

146 Driving disqualification for any offence.

(1) The court by or before which a person is convicted of an offence committed after 31st December 1997 may, instead of or in addition to dealing with him in any other way, order him to be disqualified, for such period as it thinks fit, for holding or obtaining a driving licence.

(2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) above, subsection (1) above shall have effect as if the words "instead of or" were omitted.

(3) A court shall not make an order under subsection (1) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.

(4) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—

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(a) any such licence held by him together with its counterpart; or

(b) in the case where he holds a Community licence (within the meaning of Part III of the [M114]Road Traffic Act 1988), his Community licence and its counterpart (if any).

(5) In this section—

"driving licence" means a licence to drive a motor vehicle granted under Part III of the [M115]Road Traffic Act 1988;

"counterpart"—

(a) in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act; and

(b) in relation to a Community licence, has the meaning given by section 99B of that Act.

Marginal Citations

M114 1988 c. 52.

M115 1988 c. 52.

147 Driving disqualification where vehicle used for purposes of crime.

(1) This section applies where a person—

(a) is convicted before the Crown Court of an offence punishable on indictment with imprisonment for a term of two years or more; or

(b) having been convicted by a magistrates' court of such an offence, is committed under section 3 above to the Crown Court for sentence.

(2) This section also applies where a person is convicted by or before any court of common assault or of any other offence involving an assault (including an offence of aiding, abetting, counselling or procuring, or inciting to the commission of, an offence).

(3) If, in a case to which this section applies by virtue of subsection (1) above, the Crown Court is satisfied that a motor vehicle was used (by the person convicted or by anyone else) for the purpose of committing, or facilitating the commission of, the offence in question, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.

(4) If, in a case to which this section applies by virtue of subsection (2) above, the court is satisfied that the assault was committed by driving a motor vehicle, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.

(5) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—

(a) any such licence held by him together with its counterpart; or

(b) in the case where he holds a Community licence (within the meaning of Part III of the [M116]Road Traffic Act 1988), his Community licence and its counterpart (if any).

(6) Facilitating the commission of an offence shall be taken for the purposes of this section to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

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(7) In this section "driving licence" and "counterpart" have the meanings given by section 146(5) above.

Marginal Citations
M116 1988 c. 52.

Restitution orders

148 Restitution orders.

(1) This section applies where goods have been stolen, and either—
  (a) a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence); or
  (b) a person is convicted of any other offence, but such an offence as is mentioned in paragraph (a) above is taken into consideration in determining his sentence.

(2) Where this section applies, the court by or before which the offender is convicted may on the conviction (whether or not the passing of sentence is in other respects deferred) exercise any of the following powers—
  (a) the court may order anyone having possession or control of the stolen goods to restore them to any person entitled to recover them from him; or
  (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant; or
  (c) the court may order that a sum not exceeding the value of the stolen goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him;

  and in this subsection "the stolen goods" means the goods referred to in subsection (1) above.

(3) Where the court has power on a person's conviction to make an order against him both under paragraph (b) and under paragraph (c) of subsection (2) above with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.

(4) Where the court on a person's conviction makes an order under subsection (2)(a) above for the restoration of any goods, and it appears to the court that the person convicted—
  (a) has sold the goods to a person acting in good faith, or
  (b) has borrowed money on the security of them from a person so acting,

  the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.

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(5) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers.

(6) In subsection (5) above "the available documents" means—

(a) any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial; and

(b) such written statements, depositions and other documents as were tendered by or on behalf of the prosecutor at any committal proceedings.

(7) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 30 of the [M117]Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals).

(8) Subject to subsection (9) below, references in this section to stealing shall be construed in accordance with section 1(1) of the [M118]Theft Act 1968 (read with the provisions of that Act relating to the construction of section 1(1)).

(9) Subsections (1) and (4) of section 24 of that Act (interpretation of certain provisions) shall also apply in relation to this section as they apply in relation to the provisions of that Act relating to goods which have been stolen.

(10) In this section and section 149 below, "goods", except in so far as the context otherwise requires, includes money and every other description of property (within the meaning of the [M119]Theft Act 1968) except land, and includes things severed from the land by stealing.

(11) An order may be made under this section in respect of money owed by the Crown.

Marginal Citations

M117 1968 c. 19.
M118 1968 c. 60.
M119 1968 c. 60.

149 Restitution orders: supplementary.

(1) The following provisions of this section shall have effect with respect to section 148 above.

(2) The powers conferred by subsections (2)(c) and (4) of that section shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.

(3) Where an order is made under that section against any person in respect of an offence taken into consideration in determining his sentence—

(a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;

(b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

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(4) Any order under that section made by a magistrates' court shall be suspended—

(a) in any case until the end of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates' court;

(b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;

but this subsection shall not apply where the order is made under section 148(2)(a) or (b) and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.

Young offenders

150 Binding over of parent or guardian.

(1) Where a child or young person (that is to say, any person aged under 18) 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 where the offender is aged under 16 when sentenced it shall be the duty of that court—

(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) if 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;

but this subsection has effect subject to section 19(5) above and paragraph 13(5) of Schedule 1 to this Act (cases where referral orders made or extended).

(2) The powers conferred by this section are as follows—

(a) with the consent of the offender's parent or guardian, to order the parent or guardian to enter into a recognizance 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;

and where the court has passed a community sentence on the offender, it may include in the recognizance a provision that the offender's parent or guardian ensure that the offender complies with the requirements of that sentence.

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

(4) An order under this section shall not require the parent or guardian to enter into a recognizance—

(a) for a period exceeding three years; or

(b) where the offender will attain the age of 18 in a period shorter than three years, for a period exceeding that shorter period.

(5) Section 120 of the [M120]Magistrates' Courts Act 1980 (forfeiture of recognizances) shall apply in relation to a recognizance entered into in pursuance of an order under this section as it applies in relation to a recognizance to keep the peace.

(6) 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.

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(7) In fixing the amount of a recognizance 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 recognizance.

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

(9) 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.

(10) 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.

(11) For the purposes of this section, taking "care" of a person includes giving him protection and guidance and "control" includes discipline.

Marginal Citations
M120 1980 c. 43.

PART VIII

MISCELLANEOUS AND SUPPLEMENTARY

Factors to be taken into account in sentencing

151 Effect of previous convictions and of offending while on bail.

(1) In considering the seriousness of any offence, the court may take into account any previous convictions of the offender or any failure of his to respond to previous sentences.

(2) In considering the seriousness of any offence committed while the offender was on bail, the court shall treat the fact that it was committed in those circumstances as an aggravating factor.

(3) A probation order or conditional discharge order made before 1st October 1992 (which by virtue of section 2 or 7 of the [M121]Powers of Criminal Courts Act 1973 would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.

(4) A conditional discharge order made after 30th September 1992 (which by virtue of section 1A of the [M122]Powers of Criminal Courts Act 1973 or section 12 above would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.

(5) A conviction in respect of which a probation order was made before 1st October 1992 (which by virtue of section 13 of the [M123]Powers of Criminal Courts Act 1973 would

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otherwise not be a conviction for the purposes of this section) is to be treated as a conviction for those purposes.

(6) A conviction in respect of which an order discharging the offender absolutely or conditionally was made at any date (which by virtue of section 14 above would otherwise not be a conviction for the purposes of this section) is to be treated as a conviction for those purposes.

Marginal Citations

M121 1973 c. 62.
M122 1973 c. 62.
M123 1973 c. 62.

152 Reduction in sentences for guilty pleas.

(1) In determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court shall take into account—
   (a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty; and
   (b) the circumstances in which this indication was given.

(2) If, as a result of taking into account any matter referred to in subsection (1) above, the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, it shall state in open court that it has done so.

(3) In the case of an offence the sentence for which falls to be imposed under subsection (2) of section 110 or 111 above, nothing in that subsection shall prevent the court, after taking into account any matter referred to in subsection (1) above, from imposing any sentence which is not less than 80 per cent of that specified in that subsection.

153 Increase in sentences for [F99racial or religious aggravation].

(1) This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the M124Crime and Disorder Act 1998 ([F100racially or religiously aggravated assaults, criminal damage, public order offences and harassment etc).]

(2) If the offence was [F101racially or religiously aggravated], the court—
   (a) shall treat that fact as an aggravating factor (that is to say, a factor that increases the seriousness of the offence); and
   (b) shall state in open court that the offence was so aggravated.

(3) Section 28 of the M125Crime and Disorder Act 1998 (meaning of [F101"racially or religiously aggravated"]) applies for the purposes of this section as it applies for the purposes of sections 29 to 32 of that Act.

Textual Amendments

F99 S. 153: words in sidenote substituted (14.12.2001) by 2001 c. 24, **s. 39(7)(a)** (with s. 42)
F100 Words in s. 153(1) substituted (14.12.2001) by 2001 c. 24, **s. 39(7)(b)** (with s. 42)

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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F101 Words in s. 153(2)(3) substituted (14.12.2001) by 2001 c. 24, **s. 39(7)(c)** (with s. 42)

Marginal Citations
M124 1998 c. 37.
M125 1998 c. 37.

Commencement and alteration of Crown Court sentence

154 Commencement of Crown Court sentence.

(1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed, unless the court otherwise directs.

(2) The power to give a direction under subsection (1) above has effect subject to section 84 above (restriction on consecutive sentences for released prisoners).

(3) In this section "sentence" and "order" shall be construed in accordance with section 155(8) below.

155 Alteration of Crown Court sentence.

(1) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of 28 days beginning with the day on which the sentence or other order was imposed or made or, where subsection (2) below applies, within the time allowed by that subsection.

(2) Where two or more persons are jointly tried on an indictment, then, subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court on conviction of any of those persons on the indictment may be varied or rescinded by the Crown Court not later than the expiry of whichever is the shorter of the following periods, that is—
   (a) the period of 28 days beginning with the date of conclusion of the joint trial;
   (b) the period of 56 days beginning with the day on which the sentence or other order was imposed or made.

(3) For the purposes of subsection (2) above, the joint trial is concluded on the latest of the following dates, that is any date on which any of the persons jointly tried is sentenced or is acquitted or on which a special verdict is brought in.

(4) A sentence or other order shall not be varied or rescinded under this section except by the court constituted as it was when the sentence or other order was imposed or made, or, where that court comprised one or more justices of the peace, a court so constituted except for the omission of any one or more of those justices.

(5) Subject to subsection (6) below, where a sentence or other order is varied under this section the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.

(6) For the purposes of—
   (a) section 18(2) of the [M126]Criminal Appeal Act 1968 (time limit for notice of appeal or of application for leave to appeal), and

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(b) paragraph 1 of Schedule 3 to the [M127]Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act),

the sentence or other order shall be regarded as imposed or made on the day on which it is varied under this section.

(7) Crown Court Rules—

(a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictments, provide for extending the period fixed by subsection (1) above;

(b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by that court.

(8) In this section—

"sentence" includes a recommendation for deportation made when dealing with an offender;

"order" does not include an order under section 17(2) of the [M128]Access to Justice Act 1999.

Marginal Citations

M126 1968 c. 19.
M127 1988 c. 33.
M128 1999 c. 22.

Disclosure of pre-sentence reports etc.

156 Disclosure of pre-sentence reports.

(1) This section applies where a court obtains a pre-sentence report.

(2) Subject to subsections (3) and (4) below, the court shall give a copy of the report—

(a) to the offender or his counsel or solicitor; and

(b) to the prosecutor, that is to say, the person having the conduct of the proceedings in respect of the offence.

(3) If the offender is aged under 17 and is not represented by counsel or a solicitor, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

(4) If the prosecutor is not of a description prescribed by order made by the Secretary of State, a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for him to be given it.

(5) No information obtained by virtue of subsection (2)(b) above shall be used or disclosed otherwise than for the purpose of—

(a) determining whether representations as to matters contained in the report need to be made to the court; or

(b) making such representations to the court.

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157 [[F102]Other reports of officers of local probation boards and members of youth offending teams]

(1) This section applies where—

(a) a report by [[F103]an officer of a local probation board] or a member of a youth offending team is made to any court (other than a youth court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence; and

(b) the report is not a pre-sentence report (as defined by section 162 below).

(2) Subject to subsection (3) below, the court shall give a copy of the report to the offender or his counsel or solicitor.

(3) If the offender is aged under 17 and is not represented by counsel or a solicitor, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

Textual Amendments

F102 Sidenote to s. 157 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 195**; S.I. 2001/919, **art. 2(f)(ii)**

F103 Words in s. 157(1)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Supplementary

158 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders.

(1) Nothing in—

(a) sections 35 and 36 above (imposing community sentences),

(b) sections 79 to 82 above (imposing custodial sentences), or

(c) section 128 above (fixing of fines),

shall prevent a court from mitigating an offender's sentence by taking into account any such matters as, in the opinion of the court, are relevant in mitigation of sentence.

(2) Without prejudice to the generality of subsection (1) above, nothing in those sections shall prevent a court—

(a) from mitigating any penalty included in an offender's sentence by taking into account any other penalty included in that sentence; or

(b) in a case of an offender who is convicted of one or more other offences, from mitigating his sentence by applying any rule of law as to the totality of sentences.

(3) Nothing in those sections shall be taken—

(a) as requiring a court to pass a custodial sentence, or any particular custodial sentence, on a mentally disordered offender; or

(b) as restricting any power (whether under the [M129]Mental Health Act 1983 or otherwise) which enables a court to deal with such an offender in the manner it considers to be most appropriate in all the circumstances.

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(4) In subsection (3) above, "mentally disordered", in relation to any person, means suffering from a mental disorder within the meaning of the [M130]Mental Health Act 1983.

Marginal Citations
M129 1983 c. 20.
M130 1983 c. 20.

159 Execution of process between England and Wales and Scotland.

Section 4 of the [M131]Summary Jurisdiction (Process) Act 1881 (execution of process of English and Welsh courts in Scotland) shall apply to any process issued under—

section 2(4), 13(1), 104(1), 121(1) or 123(1) above,
paragraph 3(2) of Schedule 1 to this Act,
paragraph 3(1), 10(7) or 24(1) of Schedule 3 to this Act,
paragraph 6(6) of Schedule 4 to this Act,
paragraph 1(1) of Schedule 5 to this Act,
paragraph 7(2) of Schedule 7 to this Act, or
paragraph 6(2) of Schedule 8 to this Act,

as it applies to process issued under the [M132]Magistrates' Courts Act 1980 by a magistrates' court.

Marginal Citations
M131 1881 c. 24.
M132 1980 c. 43.

160 Rules and orders.

(1) Any power of the Secretary of State to make rules or orders under this Act shall be exercisable by statutory instrument.

(2) A statutory instrument containing—

(a) rules made by the Secretary of State under section **[**[F104]36B(6), 40(1), 40C(1), 42(2E), 58A(8) or 162 or paragraph 3, 7, or 8 of Schedule 2**]**, or

(b) any order made by the Secretary of State under section **[**[F105]40(2)(b), 40C(2), 68, 122(7) or 156(4) or paragraph 7(9) or 8(8) of Schedule 2**]**

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The Secretary of State shall not make—

(a) any order under section 15(1), **[**[F106]40(2)(a)**]** 45, 50, 58, **[**[F107]58A(4)**]** 85(7), 100(2)(b)(ii) **[**[F108]103(2) or paragraph 1(1A) of Schedule 3**]**, or

(b) rules under section 87(4),

unless a draft of the order or rules has been laid before, and approved by a resolution of, each House of Parliament.

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(4) A draft of any statutory instrument containing rules under section 62 shall be laid before Parliament.

[[F109](5) The following may make different provision for different cases or classes of case—

(a) any order under section 36B(5), 37(6), 40(2), 40A(6) or 40C(2) or paragraph 7 or 8 of Schedule 2;

(b) any rules under section 36B, 40(1), 40C(1), 42(2E), 47(3C), 58A(8) or 162 or paragraph 7 or 8 of Schedule 2.**]**

(6) Any order made by the Secretary of State under this Act may make such transitional provision as appears to him necessary or expedient in connection with any provision made by the order.

Textual Amendments

F104 Words in s. 160(2)(a) substituted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes and*prosp.* otherwise) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(a)**; S.I. 2001/2232, **art. 2(m)(vi)**

F105 Words in s. 160(2)(b) substituted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes and*prosp.* otherwise) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(b)**; S.I. 2001/2232, **art. 2(m)(vi)**

F106 Word in s. 160(3)(a) inserted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes and*prosp.* otherwise) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(c)(i)**; S.I. 2001/2232, **art. 2(m)(vi)**

F107 Word in s. 160(3)(a) inserted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes and*prosp.* otherwise) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(c)(ii)**; S.I. 2001/2232, **art. 2(m)(vi)**

F108 Words in s. 160(3)(a) substituted (20.6.2001 and 2.7.2001 for specified purposes) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(c)(iii)**; S.I. 2001/2232, **art. 2(m)(vi)**

F109 S. 160(5) substituted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes and*prosp.* otherwise) by 2000 c. 43, ss. 74, 80, **Sch. 7 Pt. II para. 196(d)**; S.I. 2001/2232, **art. 2(m)(vi)**

Interpretation

161 Meaning of "associated offence", "sexual offence", "violent offence" and "protecting the public from serious harm".

(1) For the purposes of this Act, an offence is associated with another if—

(a) the offender is convicted of it in the proceedings in which he is convicted of the other offence, or (although convicted of it in earlier proceedings) is sentenced for it at the same time as he is sentenced for that offence; or

(b) the offender admits the commission of it in the proceedings in which he is sentenced for the other offence and requests the court to take it into consideration in sentencing him for that offence.

(2) In this Act, "sexual offence" means any of the following—

(a) an offence under the [M133]Sexual Offences Act 1956, other than an offence under section 30, 31 or 33 to 36 of that Act;

(b) an offence under section 128 of the [M134]Mental Health Act 1959;

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(c) an offence under the [M135]Indecency with Children Act 1960;

(d) an offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape;

(e) an offence under section 54 of the [M136]Criminal Law Act 1977;

(f) an offence under the [M137]Protection of Children Act 1978;

(g) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit any of the offences in paragraphs (a) to (f) above;

(h) an offence under section 1 of the [M138]Criminal Attempts Act 1981 of attempting to commit any of those offences;

(i) an offence of inciting another to commit any of those offences.

(3) In this Act, "violent offence" means an offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, and includes an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).

(4) In this Act any reference, in relation to an offender 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.

Marginal Citations

M133 1956 c. 69.
M134 1959 c. 72.
M135 1960 c. 33.
M136 1977 c. 45.
M137 1978 c. 37.
M138 1981 c. 47.

162 Meaning of "pre-sentence report".

(1) In this Act "pre-sentence report" means a report in writing which—

(a) with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by an appropriate officer; and

(b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.

(2) In subsection (1) above "an appropriate officer" means—

(a) where the offender is aged 18 or over, **[**[F110]an officer of a local probation board**]** or a social worker of a local authority social services department;

(b) where the offender is aged under 18, **[**[F110]an officer of a local probation board**]**, a social worker of a local authority social services department or a member of a youth offending team.

Textual Amendments

F110 Words in s. 162(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

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163 General definitions.

In this Act, except where the contrary intention appears—

"action plan order" means an order under section 69(1) above;

"the appropriate officer of the court" means, in relation to a magistrates' court, the clerk of the court;

"associated", in relation to offences, shall be construed in accordance with section 161(1) above;

"attendance centre" has the meaning given by section 62(2) above;

"attendance centre order" means an order under section 60(1) above (and, except where the contrary intention is shown by paragraph 8 of Schedule 3 or paragraph 4 of Schedule 7 or 8 to this Act, includes orders made under section 60(1) by virtue of paragraph 4(1)(c) or 5(1)(c) of Schedule 3 or paragraph 2(2)(a) of Schedule 7 or 8);

"child" means a person under the age of 14;

[F111] . . .

"community order" has the meaning given by section 33(1) above;

[[F112]"community **[**[F113]punishment**]** order" **[**[F114]has the meaning given by section 44 of the Criminal Justice and Court Services Act 2000**]** (and, except where the contrary intention is shown by section 59 above or paragraph 7 of Schedule 3 to this Act or section 35 of the [M139]Crime (Sentences) Act 1997, includes orders made under section 46(1) by virtue of section 59 or paragraph 4(1)(b) or 5(1)(b) of Schedule 3 or the said section 35)**]**

[[F115]"community punishment and rehabilitation order" has the meaning given by section 45 of the Criminal Justice and Court Services Act 2000**]**

[[F116]"community rehabilitation order" has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000**]**

[[F117]"community rehabilitation period" means the period for which a person subject to a community rehabilitation or community punishment and rehabilitation order is placed under supervision by the order**]**

"community sentence" has the meaning given by section 33(2) above;

"compensation order" has the meaning given by section 130(1) above;

"court" does not include a court-martial;

"curfew order" means an order under section 37(1) above (and, except where the contrary intention is shown by section 59 above or paragraph 3 of Schedule 7 or 8 to this Act or section 35 of the [M140]Crime (Sentences) Act 1997, includes orders made under section 37(1) by virtue of section 59or paragraph 2(2)(a) of Schedule 7 or 8 or the said section 35);

"custodial sentence" has the meaning given by section 76 above;

"detention and training order" has the meaning given by section 100(3) above;

[[F118]"drug abstinence order" means an order under section 58A(1) above**]**

"drug treatment and testing order" means an order under section 52(1) above;

"falling to be imposed under section 109(2), 110(2) or 111(2)" shall be construed in accordance with section 164(3) below;

"guardian" has the same meaning as in the [M141]Children and Young Persons Act 1933;

"local authority accommodation" means accommodation provided by or on behalf of a local authority, and "accommodation provided by or on behalf of

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a local authority" here has the same meaning as it has in the [M142]Children Act 1989 by virtue of section 105 of that Act;

[[F117]"local probation board" means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000**]**

"offence punishable with imprisonment" shall be construed in accordance with section 164(2) below;

"operational period", in relation to a suspended sentence, has the meaning given by section 118(3) above;

"order for conditional discharge" has the meaning given by section 12(3) above;

"period of conditional discharge" has the meaning given by section 12(3) above;

"pre-sentence report" has the meaning given by section 162 above;

[F111] . . .

[F111] . . .

"protecting the public from serious harm" shall be construed in accordance with section 161(4) above;

"referral order" means an order under section 16(2) or (3) above;

"the register" means the register of proceedings before a magistrates' court required by rules under section 144 of the [M143]Magistrates' Courts Act 1980 to be kept by the **[**[F119]justices' chief executive for**]** the court;

"reparation order" means an order under section 73(1) above;

"responsible officer"—

(a) in relation to a curfew order, has the meaning given by section 37(12) above;

(b) in relation to a **[**[F120]community rehabilitation order**]**, has the meaning given by section 41(6) above;

(c) in relation to a **[**[F121]community punishment order**]**, has the meaning given by section 46(13) above;

(d) in relation to a **[**[F122]community punishment and rehabilitation order**]**, has (by virtue of section 51(4) above) the meaning given by section 41(6) or 46(13) above;

(e) in relation to a drug treatment and testing order, has the meaning given by section 54(3) above;

(ee) **[**[F123]in relation to a drug abstinence order, has the meaning given by section 58A(5) above**]**

(f) in relation to an action plan order, has the meaning given by section 69(4) above; and

(g) in relation to a reparation order, has the meaning given by section 74(5) above;

except that in section 47 above references to "the responsible officer" shall be construed in accordance with that section;

"review hearing", in relation to a drug treatment and testing order, has the meaning given by section 54(6) above;

"sentence of imprisonment" does not include a committal—

(a) in default of payment of any sum of money;

(b) for want of sufficient distress to satisfy any sum of money; or

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(c) for failure to do or abstain from doing anything required to be done or left undone;

and references to sentencing an offender to imprisonment shall be construed accordingly;

"sexual offence" has the meaning given by section 161(2) above;

[[F124]"specified Class A drug" has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000**]**

"supervision order" means an order under section 63(1) above;

"supervisor", in relation to a supervision order, has the meaning given by section 63(3) above;

"suspended sentence" has the meaning given by section 118(3) above;

"suspended sentence supervision order" has the meaning given by section 122(1) above;

"the testing requirement", in relation to a drug treatment and testing order, has the meaning given by section 53(4) above;

"the treatment provider", in relation to such an order, has the meaning given by section 53(1) above;

"the treatment requirement", in relation to such an order, has the meaning given by section 53(1) above;

"the treatment and testing period", in relation to such an order, has the meaning given by section 52(1) above;

[[F125]"trigger offence" has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000**]**

"violent offence" has the meaning given by section 161(3) above;

"young person" means a person aged at least 14 but under 18;

"youth offending team" means a team established under section 39 of the [M144]Crime and Disorder Act 1998.

Textual Amendments

F111 Definitions of "combination order", "probation order" and "probation period" in s. 163 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 197(b), **Sch. 8**; S.I. 2001/919, **art. 2(f)(iii)(g)**

F112 Definition of "community punishment order" in s. 163 moved (1.4.2001) by 2000 c. 43, **s. 44(5)**; S.I. 2001/919, **art. 2(b)**

F113 Definition of "community punishment order" in s. 163 substituted (1.4.2001) for definition of "community service order" by 2000 c. 43, **s. 44(5)(a)**; S.I. 2001/919, **art. 2(b)**

F114 Words in the definition of "community punishment order" in s. 163 substituted (1.4.2001) by 2000 c. 43, **s. 44(5)(b)**; S.I. 2001/919, **art. 2(b)**

F115 Definition of "community punishment and rehabilitation order" in s. 163 inserted (1.4.2001) by 2000 c. 43, **s. 45(5)**

F116 Definition of "community rehabilitation order" in s. 163 inserted (1.4.2001) by 2000 c. 43, **s. 43(5)**; S.I. 2001/919, **art. 2(b)**

F117 Definitions of "community rehabilitation period" and "local probation board" in s. 163 inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 197(f)**; S.I. 2001/919, **art. 2(f)(iii)**

F118 Definition of "drug abstinence order" in s. 163 inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 197(f)**; S.I. 2001/2232, **art. 2(m)(vii)**

F119 S. 163: words in the definition of "the register" substituted (1.4.2001) by S.I. 2001/618, **art. 5(5)**

F120 Words in para. (b) of the definition of "responsible officer" in s. 163 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

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F121 Words in para. (c) in the definition of "responsible officer" in s. 163 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F122 Words in para. (d) of the definition of "responsible officer" in s. 163 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F123 Para. (ee) in the definition of "responsible officer" in s. 163 inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 197(g)(ii)**; S.I. 2001/2232, **art. 2(m)(vii)**

F124 Definition of "specified Class A drug" in s. 163 inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 70(4)**; S.I. 2001/2232, **art. 2(j)**

F125 Definition of "trigger offence" in s. 163 inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 70(4)**; S.I. 2001/2232, **art. 2(j)**

Marginal Citations

M139 1997 c. 43.
M140 1997 c. 43.
M141 1933 c. 12.
M142 1989 c. 41.
M143 1980 c. 43.
M144 1998 c. 37.

164 Further interpretive provisions.

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

(2) Any reference in this Act to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under this or any Act on the imprisonment of young offenders.

(3) For the purposes of this Act, a sentence falls to be imposed under section 109(2), 110(2) or 111(2) above if it is required by that provision and the court is not of the opinion there mentioned.

Final provisions

165 Consequential amendments, transitory modifications, transitional provisions and repeals.

(1) Schedule 9 to this Act (which contains amendments consequential on this Act) shall have effect.

(2) Schedule 10 to this Act (which contains transitory modifications of this Act) shall have effect.

(3) Schedule 11 to this Act (which contains transitional provisions) shall have effect.

(4) The enactments mentioned in Part I of Schedule 12 to this Act and the instruments mentioned in Part II of that Schedule are hereby repealed or revoked to the extent specified in the third column of those Parts.

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166 Short title.

This Act may be cited as the Powers of Criminal Courts (Sentencing) Act 2000.

167 Extent.

(1) Subject to subsections (2) to (4) below, this Act extends to England and Wales only.

(2) The following provisions also extend to Scotland, namely—
section 14;
sections 44, 49 and 51(6);
section 121(3);
section 159;
this section; and
Schedule 4.

(3) The following provisions also extend to Northern Ireland, namely—
sections 44, 49 and 51(6);
this section; and
Schedule 4.

(4) The extent of any amendment, repeal or revocation made by this Act is the same as that of the enactment amended, repealed or revoked.

(5) For the purposes of the [M145]Scotland Act 1998, any provision of this Act which extends to Scotland is to be taken to be a pre-commencement enactment within the meaning of that Act.

Marginal Citations
M145 1998 c. 46.

168 Commencement.

(1) Subject to subsection (2) below and to paragraph 11 of Schedule 11 (special provisions relating to referral orders), this Act shall come into force at the end of the period of three months beginning with the day on which it is passed (and references to the commencement of this Act are to its coming into force then).

(2) Sections 87 and 88 above shall not come into force until such day as the Secretary of State may by order appoint; and different days may be appointed for different purposes.

(3) Section 160(6) above does not apply to an order under subsection (2) above, but an order under that subsection may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

SCHEDULES

SCHEDULE 1

Section 28.

YOUTH OFFENDER PANELS: FURTHER COURT PROCEEDINGS

PART I

REFERRAL BACK TO APPROPRIATE COURT

Introductory

1 (1) This Part of this Schedule applies where a youth offender panel refers an offender back to the appropriate court under section 22(2), 25(2) or (3), 26(5), (8) or (10) or 27(4) of this Act.

(2) For the purposes of this Part of this Schedule and the provisions mentioned in sub-paragraph (1) above the appropriate court is—

(a) in the case of an offender aged under 18 at the time when (in pursuance of the referral back) he first appears before the court, a youth court acting for the petty sessions area in which it appears to the youth offender panel that the offender resides or will reside; and

(b) otherwise, a magistrates' court (other than a youth court) acting for that area.

Mode of referral back to court

2 The panel shall make the referral by sending a report to the appropriate court explaining why the offender is being referred back to it.

Bringing the offender before the court

3 (1) Where the appropriate court receives such a report, the court shall cause the offender to appear before it.

(2) For the purpose of securing the attendance of the offender before the court, a justice acting for the petty sessions area for which the court acts may—

(a) issue a summons requiring the offender to appear at the place and time specified in it; or

(b) if the report is substantiated on oath, issue a warrant for the offender's arrest.

(3) Any summons or warrant issued under sub-paragraph (2) above shall direct the offender to appear or be brought before the appropriate court.

Detention and remand of arrested offender

4 (1) Where the offender is arrested in pursuance of a warrant under paragraph 3(2) above and cannot be brought immediately before the appropriate court—

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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(a) the person in whose custody he is may make arrangements for his detention in a place of safety (within the meaning given by section 107(1) of the [M146]Children and Young Persons Act 1933) for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and

(b) that person shall within that period bring him before a court which—

(i) if he is under the age of 18 when he is brought before the court, shall be a youth court; and

(ii) if he has then attained that age, shall be a magistrates' court other than a youth court.

(2) Sub-paragraphs (3) to (5) below apply where the court before which the offender is brought under sub-paragraph (1)(b) above ("the alternative court") is not the appropriate court.

(3) The alternative court may direct that he is to be released forthwith or remand him.

(4) Section 128 of the [M147]Magistrates' Courts Act 1980 (remand in custody or on bail) shall have effect where the alternative court has power under sub-paragraph (3) above to remand the offender as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the appropriate court.

(5) That section shall have effect where the alternative court has power so to remand him, or the appropriate court has (by virtue of sub-paragraph (4) above) power to further remand him, as if in subsection (1) there were inserted after paragraph (c) "or

(d) if he is aged under 18, remand him to accommodation provided by or on behalf of a local authority (within the meaning of the [M148]Children Act 1989) and, if it does so, shall designate as the authority who are to receive him the local authority for the area in which it appears to the court that he resides or will reside;".

Marginal Citations

M146 1933 c. 12.
M147 1980 c. 43.
M148 1989 c. 41.

Power of court where it upholds panel's decision

5 (1) If it is proved to the satisfaction of the appropriate court as regards any decision of the panel which resulted in the offender being referred back to the court—

(a) that, so far as the decision relied on any finding of fact by the panel, the panel was entitled to make that finding in the circumstances, and

(b) that, so far as the decision involved any exercise of discretion by the panel, the panel reasonably exercised that discretion in the circumstances,

the court may exercise the power conferred by sub-paragraph (2) below.

(2) That power is a power to revoke the referral order (or each of the referral orders).

(3) The revocation under sub-paragraph (2) above of a referral order has the effect of revoking any related order under paragraph 11 or 12 below.

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(4) Where any order is revoked under sub-paragraph (2) above or by virtue of sub-paragraph (3) above, the appropriate court may deal with the offender in accordance with sub-paragraph (5) below for the offence in respect of which the revoked order was made.

(5) In so dealing with the offender for such an offence, the appropriate court—

(a) may deal with him in any way in which (assuming section 16 of this Act had not applied) he could have been dealt with for that offence by the court which made the order; and

(b) shall have regard to—

(i) the circumstances of his referral back to the court; and

(ii) where a contract has taken effect under section 23 of this Act between the offender and the panel, the extent of his compliance with the terms of the contract.

(6) The appropriate court may not exercise the powers conferred by sub-paragraph (2) or (4) above unless the offender is present before it; but those powers are exercisable even if, in a case where a contract has taken effect under section 23, the period for which the contract has effect has expired (whether before or after the referral of the offender back to the court).

Appeal

6 Where the court in exercise of the power conferred by paragraph 5(4) above deals with the offender for an offence, the offender may appeal to the Crown Court against the sentence.

Court not revoking referral order or orders

7 (1) This paragraph applies—

(a) where the appropriate court decides that the matters mentioned in paragraphs (a) and (b) of paragraph 5(1) above have not been proved to its satisfaction; or

(b) where, although by virtue of paragraph 5(1) above the appropriate court—

(i) is able to exercise the power conferred by paragraph 5(2) above, or

(ii) would be able to do so if the offender were present before it,

the court (for any reason) decides not to exercise that power.

(2) If either—

(a) no contract has taken effect under section 23 of this Act between the offender and the panel, or

(b) a contract has taken effect under that section but the period for which it has effect has not expired,

the offender shall continue to remain subject to the referral order (or orders) in all respects as if he had not been referred back to the court.

(3) If—

(a) a contract had taken effect under section 23 of this Act, but

(b) the period for which it has effect has expired (otherwise than by virtue of section 24(6)),

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the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

Exception where court satisfied as to completion of contract

8 If, in a case where the offender is referred back to the court under section 27(4) of this Act, the court decides (contrary to the decision of the panel) that the offender's compliance with the terms of the contract has, or will have, been such as to justify the conclusion that he has satisfactorily completed the contract, the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

Discharge of extension orders

9 The discharge under paragraph 7(3) or 8 above of a referral order has the effect of discharging any related order under paragraph 11 or 12 below.

[F126 PART 1A

REFERRAL OF PARENT OR GUARDIAN FOR BREACH OF SECTION 20 ORDER

Textual Amendments

F126 Sch. 1 Pt. 1A inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 34 para. 6**; S.I. 2004/81, art. 5(1)(2)(d)

Introductory

9A (1) This Part of this Schedule applies where, under section 22(2A) of this Act, a youth offender panel refers an offender's parent or guardian to a youth court.

(2) In this Part of this Schedule—

(a) "the offender" means the offender whose parent or guardian is referred under section 22(2A);

(b) "the parent" means the parent or guardian so referred; and

(c) "the youth court" means a youth court as mentioned in section 22(2A).

Mode of referral to court

9B The panel shall make the referral by sending a report to the youth court explaining why the parent is being referred to it.

Bringing the parent before the court

9C (1) Where the youth court receives such a report it shall cause the parent to appear before it.

(2) For the purpose of securing the attendance of the parent before the court, a justice acting for the petty sessions area for which the court acts may—

(a) issue a summons requiring the parent to appear at the place and time specified in it; or

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(b) if the report is substantiated on oath, issue a warrant for the parent's arrest.

(3) Any summons or warrant issued under sub-paragraph (2) above shall direct the parent to appear or be brought before the youth court.

Power of court to make parenting order: application of supplemental provisions

9D (1) Where the parent appears or is brought before the youth court under paragraph 9C above, the court may make a parenting order in respect of the parent if—

(a) it is proved to the satisfaction of the court that the parent has failed without reasonable excuse to comply with the order under section 20 of this Act; and

(b) the court is satisfied that the parenting order would be desirable in the interests of preventing the commission of any further offence by the offender.

(2) A parenting order is an order which requires the parent—

(a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and

(b) subject to sub-paragraph (4) below, to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.

(3) The requirements that may be specified under sub-paragraph (2)(a) above are those which the court considers desirable in the interests of preventing the commission of any further offence by the offender.

(4) A parenting order under this paragraph may, but need not, include a requirement mentioned in subsection (2)(b) above in any case where a parenting order under this paragraph or any other enactment has been made in respect of the parent on a previous occasion.

(5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (2)(b) above may be or include a residential course but only if the court is satisfied—

(a) that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the commission of any further offence by the offender, and

(b) that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.

(6) Before making a parenting order under this paragraph where the offender is aged under 16, the court shall obtain and consider information about his family circumstances and the likely effect of the order on those circumstances.

(7) Sections 8(3) and (8), 9(3) to (7) and 18(3) and (4) of the Crime and Disorder Act 1998 apply in relation to a parenting order made under this paragraph as they apply in relation to any other parenting order.

Appeal

9E (1) An appeal shall lie to the Crown Court against the making of a parenting order under paragraph 9D above.

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(2) Subsections (2) and (3) of section 10 of the Crime and Disorder Act 1998 (appeals against parenting orders) apply in relation to an appeal under this paragraph as they apply in relation to an appeal under subsection (1)(b) of that section.

Effect on section 20 order

9F (1) The making of a parenting order under paragraph 9D above is without prejudice to the continuance of the order under section 20 of this Act.

(2) Section 63(1) to (4) of the Magistrates' Courts Act 1980 (power of magistrates' court to deal with person for breach of order, etc) apply (as well as section 22(2A) of this Act and this Part of this Schedule) in relation to an order under section 20 of this Act.**]**

PART II

FURTHER CONVICTIONS DURING REFERRAL

Extension of referral for further offences

10 (1) Paragraphs 11 and 12 below apply where, at a time when an offender aged under 18 is subject to referral, a youth court or other magistrates' court ("the relevant court") is dealing with him for an offence in relation to which paragraphs (a) to (c) of section 16(1) of this Act are applicable.

(2) But paragraphs 11 and 12 do not apply unless the offender's compliance period is less than twelve months. Extension where further offences committed pre-referral

11 If—

(a) the occasion on which the offender was referred to the panel is the only other occasion on which it has fallen to a court in the United Kingdom to deal with the offender for any offence or offences, and

(b) the offender committed the offence mentioned in paragraph 10 above, and any connected offence, before he was referred to the panel,

the relevant court may sentence the offender for the offence by making an order extending his compliance period.

Extension where further offence committed after referral

12 (1) If—

(a) paragraph 11(a) above applies, but

(b) the offender committed the offence mentioned in paragraph 10 above, or any connected offence, after he was referred to the panel,

the relevant court may sentence the offender for the offence by making an order extending his compliance period, but only if the requirements of sub-paragraph (2) below are complied with.

(2) Those requirements are that the court must—

(a) be satisfied, on the basis of a report made to it by the relevant body, that there are exceptional circumstances which indicate that, even though the offender has re-offended since being referred to the panel, extending his compliance period is likely to help prevent further re-offending by him; and

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(b) state in open court that it is so satisfied and why it is.

(3) In sub-paragraph (2) above "the relevant body" means the panel to which the offender has been referred or, if no contract has yet taken effect between the offender and the panel under section 23 of this Act, the specified team.

Provisions supplementary to paragraphs 11 and 12

13 (1) An order under paragraph 11 or 12 above, or two or more orders under one or other of those paragraphs made in respect of connected offences, must not so extend the offender's compliance period as to cause it to exceed twelve months.

(2) Sub-paragraphs (3) to (5) below apply where the relevant court makes an order under paragraph 11 or 12 above in respect of the offence mentioned in paragraph 10 above; but sub-paragraphs (3) to (5) do not affect the exercise of any power to deal with the offender conferred by paragraph 5 or 14 of this Schedule.

(3) The relevant court may not deal with the offender for that offence in any of the prohibited ways specified in section 19(4) of this Act.

(4) The relevant court—

(a) shall, in respect of any connected offence, either—

(i) sentence the offender by making an order under the same paragraph; or

(ii) make an order discharging him absolutely; and

(b) may not deal with the offender for any connected offence in any of those prohibited ways.

(5) The relevant court may not, in connection with the conviction of the offender for the offence or any connected offence, make any such order as is mentioned in section 19(5) of this Act.

(6) For the purposes of paragraphs 11 and 12 above any occasion on which the offender was discharged absolutely in respect of the offence, or each of the offences, for which he was being dealt with shall be disregarded.

(7) Any occasion on which, in criminal proceedings in England and Wales or Northern Ireland, the offender was bound over to keep the peace or to be of good behaviour shall be regarded for those purposes as an occasion on which it fell to a court in the United Kingdom to deal with the offender for an offence.

(8) The Secretary of State may by regulations make such amendments of paragraphs 10 to 12 above and this paragraph as he considers appropriate for altering in any way the descriptions of offenders in the case of which an order extending the compliance period may be made; and subsection (4) of section 17 of this Act shall apply in relation to regulations under this sub-paragraph as it applies in relation to regulations under subsection (3) of that section.

Further convictions which lead to revocation of referral

14 (1) This paragraph applies where, at a time when an offender is subject to referral, a court in England and Wales deals with him for an offence (whether committed before or after he was referred to the panel) by making an order other than—

(a) an order under paragraph 11 or 12 above; or

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(b) an order discharging him absolutely.

(2) In such a case the order of the court shall have the effect of revoking—

(a) the referral order (or orders); and

(b) any related order or orders under paragraph 11 or 12 above.

(3) Where any order is revoked by virtue of sub-paragraph (2) above, the court may, if appears to the court that it would be in the interests of justice to do so, deal with the offender for the offence in respect of which the revoked order was made in any way in which (assuming section 16 of this Act had not applied) he could have been dealt with for that offence by the court which made the order.

(4) When dealing with the offender under sub-paragraph (3) above the court shall, where a contract has taken effect between the offender and the panel under section 23 of this Act, have regard to the extent of his compliance with the terms of the contract.

Interpretation

15 (1) For the purposes of this Part of this Schedule an offender is for the time being subject to referral if—

(a) a referral order has been made in respect of him and that order has not, or

(b) two or more referral orders have been made in respect of him and any of those orders has not,

been discharged (whether by virtue of section 27(3) of this Act or under paragraph 7(3) or 8 above) or revoked (whether under paragraph 5(2) above or by virtue of paragraph 14(2) above).

(2) In this Part of this Schedule "compliance period", in relation to an offender who is for the time being subject to referral, means the period for which (in accordance with section 24 of this Act) any youth offender contract taking effect in his case under section 23 of this Act has (or would have) effect.

SCHEDULE 2

Section 42.

[F127 ADDITIONAL REQUIREMENTS WHICH MAY BE INCLUDED IN COMMUNITY REHABILITATION ORDERS]

Textual Amendments

F127 Heading to Sch. 2 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(5)**; S.I. 2001/919, **art. 2(f)(ii)**

Requirements as to residence

1 (1) Subject to sub-paragraphs (2) and (3) below, a [F128 community rehabilitation order] may include requirements as to the residence of the offender.

(2) Before making a [F128 community rehabilitation order] containing any such requirement, the court shall consider the home surroundings of the offender.

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(3) Where a **[**[F128]community rehabilitation order**]** requires the offender to reside in an approved hostel or any other institution, the period for which he is required to reside there shall be specified in the order.

Textual Amendments

F128 Words in Sch. 2 para. 1 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Requirements as to activities etc.

2 (1) Subject to the provisions of this paragraph, a **[**[F129]community rehabilitation order**]** may require the offender—

(a) to present himself to a person or persons specified in the order at a place or places so specified;

(b) to participate or refrain from participating in activities specified in the order—

(i) on a day or days so specified; or

(ii) during the **[**[F130]community rehabilitation period**]** or such portion of it as may be so specified.

(2) A court shall not include in a **[**[F129]community rehabilitation order**]** a requirement such as is mentioned in sub-paragraph (1) above unless—

(a) it has consulted—

(i) in the case of an offender aged 18 or over, **[**[F131]an officer of a local probation board**]**; or

(ii) in the case of an offender aged under 18, either **[**[F131]an officer of a local probation board**]** or a member of a youth offending team; and

(b) it is satisfied that it is feasible to secure compliance with the requirement.

(3) A court shall not include a requirement such as is mentioned in sub-paragraph (1)(a) above or a requirement to participate in activities if it would involve the co-operation of a person other than the offender and the offender's responsible officer, unless that other person consents to its inclusion.

(4) A requirement such as is mentioned in sub-paragraph (1)(a) above shall operate to require the offender—

(a) in accordance with instructions given by his responsible officer, to present himself at a place or places for not more than 60 days in the aggregate; and

(b) while at any place, to comply with instructions given by, or under the authority of, the person in charge of that place.

(5) A place specified in an order shall have been approved by the **[**[F132]local probation board**]** for the area in which the premises are situated as providing facilities suitable for persons subject to **[**[F129]community rehabilitation orders**]**.

(6) A requirement to participate in activities shall operate to require the offender—

(a) in accordance with instructions given by his responsible officer, to participate in activities for not more than 60 days in the aggregate; and

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(b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.

(7) Instructions given by the offender's responsible officer under sub-paragraph (4) or (6) above shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

Textual Amendments

F129 Words in Sch. 2 para. 2(1)(2)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, 80(1), **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F130 Words in Sch. 2 para. 2(1)(b)(ii) substituted (1.4.20001) by 2000 c. 43, s. 74, 80(1), **Sch. 7 Pt. II para. 198(2)**; S.I. 2001/919, **art. 2(f)(ii)**

F131 Words in Sch. 2 para. 2(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F132 Words in Sch. 2 para. 2(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(3)**; S.I. 2001/919, **art. 2(f)(ii)**

[F133 Requirements as to attendance at community rehabilitation centres]

Textual Amendments

F133 Sch. 2 para. 3: cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(4)(c)**; S.I. 2001/919, **art. 2(f)(ii)**

3 (1) Subject to the provisions of this paragraph, a **[F134** community rehabilitation order**]** may require the offender during the **[F135** community rehabilitation period**]** to attend at a **[F136** community rehabilitation centre**]** specified in the order.

(2) A court shall not include in a **[F134** community rehabilitation order**]** such a requirement as is mentioned in sub-paragraph (1) above unless it has consulted—

(a) in the case of an offender aged 18 or over, **[F137** an officer of a local probation board**]**; or

(b) in the case of an offender aged under 18, either **[F137** an officer of a local probation board**]** or a member of a youth offending team.

(3) A court shall not include such a requirement in a **[F134** community rehabilitation order**]** unless it is satisfied—

(a) that arrangements can be made for the offender's attendance at a centre; and

(b) that the person in charge of the centre consents to the inclusion of the requirement.

(4) A requirement under sub-paragraph (1) above shall operate to require the offender—

(a) in accordance with instructions given by his responsible officer, to attend on not more than 60 days at the centre specified in the order; and

(b) while attending there to comply with instructions given by, or under the authority of, the person in charge of the centre.

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(5) Instructions given by the offender's responsible officer under sub-paragraph (4) above shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(6) References in this paragraph to attendance at a **[**[F136]community rehabilitation centre**]** include references to attendance elsewhere than at the centre for the purpose of participating in activities in accordance with instructions given by, or under the authority of, the person in charge of the centre.

(7) The Secretary of State may make rules for regulating the provision and carrying on of **[**[F138]community rehabilitation centres**]** and the attendance at such centres of persons subject to **[**[F134]community rehabilitation orders**]**; and such rules may in particular include provision with respect to hours of attendance, the reckoning of days of attendance and the keeping of attendance records.

(8) In this paragraph "**[**[F136]community rehabilitation centre**]**" means premises—

(a) at which non-residential facilities are provided for use in connection with the rehabilitation of offenders; and

(b) which are for the time being approved by the Secretary of State as providing facilities suitable for persons subject to **[**[F134]community rehabilitation orders**]**.

Textual Amendments

F134 Words in Sch. 2 para. 3(1)-(3)(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F135 Words in Sch. 2 para. 3(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(2)**; S.I. 2001/919, **art. 2(f)(ii)**

F136 Words in Sch. 2 para. 3(1)(6)(8) substituted (1.4.2001) by 2000 c. 43, s. 74, 80(1), **Sch. 7 Pt. II para. 198(4)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F137 Words in Sch. 2 para. 3(2)(a)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F138 Words in Sch. 2 para. 3(7) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(4)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

Extension of requirements for sexual offenders

4 If the court so directs in the case of an offender who has been convicted of a sexual offence—

(a) sub-paragraphs (4) and (6) of paragraph 2 above, and

(b) sub-paragraph (4) of paragraph 3 above,

shall each have effect as if for the reference to 60 days there were substituted a reference to such greater number of days as may be specified in the direction.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Requirements as to treatment for mental condition etc.

5 (1) This paragraph applies where a court proposing to make a **[**[F139]community rehabilitation order**]** is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the [M149]Mental Health Act 1983, that the mental condition of the offender—

(a) is such as requires and may be susceptible to treatment; but

(b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.

(2) Subject to sub-paragraph (4) below, the **[**[F139]community rehabilitation order**]** may include a requirement that the offender shall submit, during the whole of the **[**[F140]community rehabilitation period**]** or during such part or parts of that period as may be specified in the order, to treatment by or under the direction of a registered medical practitioner or a chartered psychologist (or both, for different parts) with a view to the improvement of the offender's mental condition.

(3) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—

(a) treatment as a resident patient in **[**[F141]an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital**]** within the meaning of the [M150]Mental Health Act 1983, but not hospital premises at which high security psychiatric services within the meaning of that Act are provided;

(b) treatment as a non-resident patient at such institution or place as may be specified in the order;

(c) treatment by or under the direction of such registered medical practitioner or chartered psychologist (or both) as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

(4) A court shall not by virtue of this paragraph include in a **[**[F139]community rehabilitation order**]** a requirement that the offender shall submit to treatment for his mental condition unless—

(a) it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient); and

(b) the offender has expressed his willingness to comply with such a requirement.

(5) While the offender is under treatment as a resident patient in pursuance of a requirement of the **[**[F139]community rehabilitation order**]**, his responsible officer shall carry out the supervision of the offender to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

(6) Where the medical practitioner or chartered psychologist by whom or under whose direction an offender is being treated for his mental condition in pursuance of a **[**[F139]community rehabilitation order**]** is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—

(a) is not specified in the order, and

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(b) is one in or at which the treatment of the offender will be given by or under the direction of a registered medical practitioner or chartered psychologist,

he may, with the consent of the offender, make arrangements for him to be treated accordingly.

(7) Such arrangements as are mentioned in sub-paragraph (6) above may provide for the offender to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the **[**[F139]community rehabilitation order**]**.

(8) Where any such arrangements as are mentioned in sub-paragraph (6) above are made for the treatment of an offender—

(a) the medical practitioner or chartered psychologist by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and

(b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the **[**[F139]community rehabilitation order**]**.

(9) Subsections (2) and (3) of section 54 of the [M151]Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender's mental condition as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.

(10) In this paragraph, "chartered psychologist" means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists.

Textual Amendments

F139 Words in Sch. 2 para. 5(1)(2)(4)-(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F140 Words in Sch. 2 para. 5(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(2)**; S.I. 2001/919, **art. 2(f)(ii)**

F141 Words in Sch. 2 para. 5(3)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 28(2)**; S.I. 2001/4150, **art. 3(2)(3)(a)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **arts. 4**,6); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in art. 2, Schs. 1-3)

Marginal Citations

M149 1983 c. 20.

M150 1983 c. 20.

M151 1983 c. 20.

Requirements as to treatment for drug or alcohol dependency

6 (1) Subject to sub-paragraph (2) below, this paragraph applies where a court proposing to make a **[**[F142]community rehabilitation order**]** is satisfied—

(a) that the offender is dependent on drugs or alcohol;

(b) that his dependency caused or contributed to the offence in respect of which the order is proposed to be made; and

(c) that his dependency is such as requires and may be susceptible to treatment.

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(2) If the court has been notified by the Secretary of State that arrangements for implementing drug treatment and testing orders are available in the area proposed to be specified in the **[**[F142]community rehabilitation order**]**, and the notice has not been withdrawn, this paragraph shall have effect as if the words "drugs or", in each place where they occur, were omitted.

(3) Subject to sub-paragraph (5) below, the **[**[F142]community rehabilitation order**]** may include a requirement that the offender shall submit, during the whole of the **[**[F143]community rehabilitation period**]** or during such part of that period as may be specified in the order, to treatment by or under the direction of a person having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on drugs or alcohol.

(4) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—

(a) treatment as a resident in such institution or place as may be specified in the order;

(b) treatment as a non-resident in or at such institution or place as may be so specified;

(c) treatment by or under the direction of such person having the necessary qualifications or experience as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

(5) A court shall not by virtue of this paragraph include in a **[**[F142]community rehabilitation order**]** a requirement that the offender shall submit to treatment for his dependency on drugs or alcohol unless—

(a) it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident); and

(b) the offender has expressed his willingness to comply with such a requirement.

(6) While the offender is under treatment as a resident in pursuance of a requirement of the **[**[F142]community rehabilitation order**]**, his responsible officer shall carry out the offender's supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

(7) Where the person by whom or under whose direction an offender is being treated for dependency on drugs or alcohol in pursuance of a **[**[F142]community rehabilitation order**]** is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—

(a) is not specified in the order, and

(b) is one in or at which the treatment of the offender will be given by or under the direction of a person having the necessary qualifications or experience,

he may, with the consent of the offender, make arrangements for him to be treated accordingly.

(8) Where any such arrangements as are mentioned in sub-paragraph (7) above are made for the treatment of an offender—

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(a) the person by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and

(b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the [F142community rehabilitation order].

(9) In this paragraph, the reference to the offender being dependent on drugs or alcohol includes a reference to his having a propensity towards the misuse of drugs or alcohol; and references to his dependency on drugs or alcohol shall be construed accordingly.

Textual Amendments

F142 Words in Sch. 2 para. 6(1)-(3)(5)-(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F143 Words in Sch. 2 para. 6(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(2)**; S.I. 2001/919, **art. 2(f)(ii)**

[F144 *Curfew requirements*]

Textual Amendments

F144 Sch. 2 para. 7 and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 50**; S.I. 2001/2232, **art. 2(d)**

[F145 7 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement that the offender remain, for periods specified in the requirement, at a place so specified.

(2) A requirement under sub-paragraph (1) above may specify different places or different periods for different days, but shall not specify—

(a) periods which fall outside the period of six months beginning with the day on which the order is made; or

(b) periods which amount to less than two hours or more than twelve hours in any one day.

(3) A requirement under sub-paragraph (1) above shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

(4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender's whereabouts during the curfew periods specified in the requirement; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

(5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above unless the court has been notified by the

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Secretary of State that arrangements for monitoring the offender's whereabouts are available in the area in which the place proposed to be specified in the requirement is situated and the notice has not been withdrawn.

(6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes a curfew order.

(7) Before including in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above, the court shall obtain and consider information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).

(8) The Secretary of State may make rules for regulating—

(a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and

(b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender's whereabouts during the curfew periods specified in the requirement.

(9) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.**]**

Textual Amendments

F145 Sch. 2 para. 7 and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 50**; S.I. 2001/2232, **art. 2(d)**

SCHEDULE 3

Sections 39, 43, 48, 51, 56.

[[F146]BREACH, REVOCATION AND AMENDMENT OF CERTAIN COMMUNITY ORDERS**]**

Textual Amendments

F146 Heading to Sch. 3 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(27)**; S.I. 2001/919, **art. 2(f)(iv)**

PART I

PRELIMINARY

Definitions

1 (1) In this Schedule "relevant order" means any of the following orders—

(a) a curfew order;

(b) a **[**[F147]community rehabilitation order**]**;

(c) a **[**[F148]community punishment order**]**;

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(d) a **[**[F149]community punishment and rehabilitation order**]**;

(e) a drug treatment and testing order.

[[F150](f) a drug abstinence order.**]**

(2) In this Schedule "the petty sessions area concerned" means—

(a) in relation to a curfew order, the petty sessions area in which the place for the time being specified in the order is situated; and

(b) in relation to **[**[F151]an exclusion, community rehabilitation, community punishment, community punishment and rehabilitation, drug treatment and testing or drug abstinence**]** order, the petty sessions area for the time being specified in the order.

(3) In this Schedule, references to the court responsible for a drug treatment and testing order **[**[F152]or drug abstinence order**]** shall be construed in accordance with section 54(7) of this Act **[**[F153](or that subsection as applied by section 58B(2) of this Act)**]**.

(4) In this Schedule—

(a) references to the **[**[F154]community rehabilitation element**]** of a **[**[F149]community punishment and rehabilitation order**]** are references to the order in so far as it imposes such a requirement as is mentioned in section 51(1)(a) of this Act (and in so far as it imposes any additional requirements included in the order by virtue of section 42); and

(b) references to the **[**[F155]community punishment element**]** of such an order are references to the order in so far as it imposes such a requirement as is mentioned in section 51(1)(b).

Textual Amendments

F147 Words in Sch. 3 para. 1(1)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F148 Words in Sch. 3 para. 1(1)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F149 Words in Sch. 3 para. 1(1)(d)(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F150 Sch. 3 para. 1(1)(f) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(2)(a)(ii)**; S.I. 2001/2232, **art. 2(m)(viii)**

F151 Words in Sch. 3 para. 1(2)(b) substituted (1.4.2001, 20.6.2001 and 2.7.2001 for specified purposes otherwise*prosp.*) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 199(2)(b)**; S.I. 2001/2232, **art. 2(m)(viii)**

F152 Words in Sch. 3 para. 1(3) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(2)(c)(i)**; S.I. 2001/2232, **art. 2(m)(viii)**

F153 Words in Sch. 3 para. 1(3) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(2)(c)(ii)**; S.I. 2001/2232, **art. 2(m)(viii)**

F154 Words in Sch. 3 para. 1(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(3)**; S.I. 2001/919, **art. 2(f)(iv)**

F155 Words in Sch. 3 para. 1(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(4)**; S.I. 2001/919, **art. 2(f)(iv)**

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Orders made on appeal

2 (1) Where a curfew, **[**[F156]exclusion, community rehabilitation, community punishment, community punishment and rehabilitation or drug abstinence**]** order has been made on appeal, for the purposes of this Schedule it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by a magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

(2) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of this Schedule it shall be deemed to have been made by the Crown Court.

Textual Amendments

F156 Words in Sch. 3 para. 2(1) substituted (1.4.2001, 20.6.2001, 2.7.2001 for specified purposes otherwise*prosp.*) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 199(5)**; S.I. 2001/919, **art. 2(f)(iv)**; S.I. 2001/2232, **art. 2(m)(viii)**

PROSPECTIVE

Functions of responsible officer

2A . . . . . .

PART II

BREACH OF REQUIREMENT OF ORDER

Issue of summons or warrant

3 (1) If at any time while a relevant order is in force in respect of an offender it appears on information to a justice of the peace acting for the petty sessions area concerned that the offender has failed to comply with any of the requirements of the order, the justice may—

(a) issue a summons requiring the offender to appear at the place and time specified in it; or

(b) if the information is in writing and on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—

(a) in the case of a drug treatment and testing order **[**[F157]or a drug abstinence order**]**, before the court responsible for the order;

(b) in the case of any other relevant order which was made by the Crown Court and included a direction that any failure to comply with any of the requirements of the order be dealt with by the Crown Court, before the Crown Court; and

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(c) in the case of a relevant order which is neither a drug treatment and testing order **[**[F158]a drug abstinence order**]** nor an order to which paragraph (b) above applies, before a magistrates' court acting for the petty sessions area concerned.

[[F159](3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.

(4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.**]**

Textual Amendments

F157 Words in Sch. 3 para. 3(2)(a) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(6)(a)**; S.I. 2001/2232, **art. 2(m)(viii)**

F158 Words in Sch. 3 para. 3(2)(c) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 199(6)(b)**

F159 Sch. 3 para. 3(3)(4) inserted (1.4.2001) by 2000 c. 43, **s. 54**; S.I. 2001/919, **art. 2(d)**

Powers of magistrates' court

4 (1) If it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the court may deal with him in respect of the failure in any one of the following ways—

(a) it may impose on him a fine not exceeding £1,000;

(b) where the offender is aged 16 or over it may, subject to paragraph 7 below, make a community service order in respect of him;

(c) where—

(i) the relevant order is a curfew order and the offender is aged under 16, or

(ii) the relevant order is a probation order or combination order and the offender is aged under 21,

it may, subject to paragraph 8 below, make an attendance centre order in respect of him; or

(d) where the relevant order was made by a magistrates' court, it may deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by the court of the offence.

(2) In dealing with an offender under sub-paragraph (1)(d) above, a magistrates' court—

(a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and

(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence (where the relevant order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(3) Where a magistrates' court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.

(4) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (1)(a), (b) or (c) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.

(5) A magistrates' court which deals with an offender's case under sub-paragraph (4) above shall send to the Crown Court—

(a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of the relevant order in the respect specified in the certificate; and

(b) such other particulars of the case as may be desirable;

and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.

(6) A person sentenced under sub-paragraph (1)(d) above for an offence may appeal to the Crown Court against the sentence.

Powers of Crown Court

5 (1) Where under paragraph 3 or by virtue of paragraph 4(4) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the Crown Court may deal with him in respect of the failure in any one of the following ways—

(a) it may impose on him a fine not exceeding £1,000;

(b) where the offender is aged 16 or over it may, subject to paragraph 7 below, make a community service order in respect of him;

(c) where—

(i) the relevant order is a curfew order and the offender is aged under 16, or

(ii) the relevant order is a probation order or combination order and the offender is aged under 21,

it may, subject to paragraph 8 below, make an attendance centre order in respect of him; or

(d) it may deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted before the Crown Court of the offence.

(2) In dealing with an offender under sub-paragraph (1)(d) above, the Crown Court—

(a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and

(b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence (where the relevant order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.

(3) Where the Crown Court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.

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(4) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the requirements of the relevant order shall be determined by the court and not by the verdict of a jury.

Exclusions from paragraphs 4 and 5

6 (1) Without prejudice to paragraphs 10 and 11 below, an offender who is convicted of a further offence while a relevant order is in force in respect of him shall not on that account be liable to be dealt with under paragraph 4 or 5 above in respect of a failure to comply with any requirement of the order.

(2) An offender who—

(a) is required by a **[**[F160]community rehabilitation order**]** or **[**[F161]community punishment and rehabilitation order**]** to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol, or

(b) is required by a drug treatment and testing order to submit to treatment for his dependency on or propensity to misuse drugs,

shall not be treated for the purposes of paragraph 4 or 5 above as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.

Textual Amendments

F160 Words in Sch. 3 para. 6(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F161 Words in Sch. 3 para. 6(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

[**[F162] Community punishment orders imposed for breach of relevant order**]

Textual Amendments

F162 Sch. 3 cross-heading preceding para. 7 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(10)**; S.I. 2001/919, **art. 2(f)(iv)**

7 (1) Section 46(1) of this Act (**[**[F163]community punishment orders**]**) shall apply for the purposes of paragraphs 4(1)(b) and 5(1)(b) above as if for the words from the beginning to "make" there were substituted " Where a court has power to deal with an offender aged 16 or over under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may make in respect of the offender ".

(2) In this paragraph a "secondary order" means a **[**[F163]community punishment order**]** made by virtue of paragraph 4(1)(b) or 5(1)(b) above.

(3) The number of hours which an offender may be required to work under a secondary order shall be specified in the order and shall not exceed 60 in the aggregate; and—

(a) where the relevant order is a **[**[F163]community punishment order**]**, the number of hours which the offender may be required to work under the secondary

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order shall not be such that the total number of hours under both orders exceeds the maximum specified in section 46(3) of this Act; and

(b) where the relevant order is a combination order, the number of hours which the offender may be required to work under the secondary order shall not be such that the total number of hours under—

(i) the secondary order, and

(ii) the **[**[F164]community punishment element**]** of the combination order,

exceeds the maximum specified in section 51(1)(b) of this Act.

(4) Section 46(4) of this Act and, so far as applicable—

(a) section 46(5) to (7) and (9) to (13), and

(b) section 47 and the provisions of this Schedule so far as relating to community service orders,

have effect in relation to a secondary order as they have effect in relation to any other community service order, subject to sub-paragraph (6) below.

(5) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a secondary order.

(6) Where the provisions of this Schedule have effect as mentioned in sub-paragraph (4) above in relation to a secondary order—

(a) the power conferred on the court by each of paragraphs 4(1)(d) and 5(1)(d) above and paragraph 10(3)(b) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any way in which the court could deal with him if that failure had just been proved to the satisfaction of the court;

(b) the references in paragraphs 10(1)(b) and 11(1)(a) below to the offence in respect of which the order was made shall be construed as references to the failure to comply in respect of which the order was made; and

(c) the power conferred on the Crown Court by paragraph 11(2)(b) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any way in which a magistrates' court (if the original order was made by a magistrates' court) or the Crown Court (if the original order was made by the Crown Court) could deal with him if that failure had just been proved to its satisfaction;

and in this sub-paragraph "the original order" means the relevant order the failure to comply with which led to the making of the secondary order.

Textual Amendments

F163 Words in Sch. 3 para. 7(1)(2)(3)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F164 Words in Sch. 3 para. 7(3)(b)(ii) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(4)**; S.I. 2001/919, **art. 2(f)(iv)**

Modifications etc. (not altering text)

C16 Sch. 3 para. 7(4) modified (*temp.*) by S.I. 2001/919, **art. 4**

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Attendance centre orders imposed for breach of relevant order

8 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraphs 4(1)(c) and 5(1)(c) above as if for the words from the beginning to "the court may," there were substituted "Where a court—

(a) has power to deal with an offender aged under 16 under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a curfew order, or

(b) has power to deal with an offender aged under 21 under that Part of that Schedule for failure to comply with any of the requirements of a probation or combination order,

the court may, ".

(2) The following provisions of this Act, namely—

(a) subsections (3) to (11) of section 60, and

(b) so far as applicable **[**[F165]section 36B and**]**, Schedule 5,

have effect in relation to an attendance centre order made by virtue of paragraph 4(1)(c) or 5(1)(c) above as they have effect in relation to any other attendance centre order, but as if there were omitted from each of paragraphs 2(1)(b), 3(1) and 4(3) of Schedule 5 the words ", for the offence in respect of which the order was made," and "for that offence".

(3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(1)(c) or 5(1)(c) above.

Textual Amendments

F165 Words in Sch. 3 para. 8(2)(b) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(11)(b)(i)**; S.I. 2001/2232, **art. 2(m)(viii)**

Supplementary

9 (1) Any exercise by a court of its powers under paragraph 4(1)(a), (b) or (c) or 5(1)(a), (b) or (c) above shall be without prejudice to the continuance of the relevant order.

(2) A fine imposed under paragraph 4(1)(a) or 5(1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(3) Where a relevant order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under paragraph 4(1)(d) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—

(a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;

(b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

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PART III

REVOCATION OF ORDER

Revocation of order with or without re-sentencing: powers of magistrates' court

10 (1) This paragraph applies where a relevant order made by a magistrates' court is in force in respect of any offender and on the application of the offender or the responsible officer it appears to the appropriate magistrates' court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—

(a) for the order to be revoked; or

(b) for the offender to be dealt with in some other way for the offence in respect of which the order was made.

(2) In this paragraph "the appropriate magistrates court" means—

(a) in the case of a drug treatment and testing order **[**[F166]or a drug abstinence order**]**, the magistrates' court responsible for the order;

(b) in the case of any other relevant order, a magistrates' court acting for the petty sessions area concerned.

(3) The appropriate magistrates' court may—

(a) revoke the order; or

(b) both—

(i) revoke the order; and

(ii) deal with the offender, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by the court of the offence.

(4) The circumstances in which a **[**[F167]community rehabilitation, community punishment and rehabilitation**]** or drug treatment and testing order may be revoked under sub-paragraph (3)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision or, as the case may be, treatment.

(5) In dealing with an offender under sub-paragraph (3)(b) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

(6) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.

(7) Where a magistrates' court proposes to exercise its powers under this paragraph otherwise than on the application of the offender, it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

(8) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

Textual Amendments

F166 Words in Sch. 3 para. 10(2)(a) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(13)**; S.I. 2001/2232, **art. 2(m)(viii)**

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F167 Words in Sch. 3 para. 10(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(14)**; S.I. 2001/919, **art. 2(f)(iv)**

Revocation of order with or without re-sentencing: powers of Crown Court on conviction etc.

11 (1) This paragraph applies where—

(a) a relevant order made by the Crown Court is in force in respect of an offender and the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other way for the offence in respect of which the order was made; or

(b) an offender in respect of whom a relevant order is in force is convicted of an offence before the Crown Court or, having been committed by a magistrates' court to the Crown Court for sentence, is brought or appears before the Crown Court.

(2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—

(a) revoke the order; or

(b) both—

(i) revoke the order; and

(ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the court which made the order could deal with him if he had just been convicted of that offence by or before the court which made the order.

(3) The circumstances in which a **[**[F168]community rehabilitation, community punishment and rehabilitation**]** or drug treatment and testing order may be revoked under sub-paragraph (2)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision or, as the case may be, treatment.

(4) In dealing with an offender under sub-paragraph (2)(b) above, the Crown Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

Textual Amendments

F168 Words in Sch. 3 para. 11(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(14)**; S.I. 2001/919, **art. 2(f)(iv)**

[**[F169]*Substitution of conditional discharge for community rehabilitation or community punishment and rehabilitation order]***

Textual Amendments

F169 Cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(18)**; S.I. 2001/919, **art. 2(f)(iv)**

12 (1) This paragraph applies where a **[**[F170]community rehabilitation order or community punishment and rehabilitation**]** order is in force in respect of any offender and on

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the application of the offender or the responsible officer to the appropriate court it appears to the court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—

(a) for the order to be revoked; and

(b) for an order to be made under section 12(1)(b) of this Act discharging the offender conditionally for the offence for which the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order was made.

(2) In this paragraph "the appropriate court" means—

(a) where the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order was made by a magistrates' court, a magistrates' court acting for the petty sessions area concerned;

(b) where the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order was made by the Crown Court, the Crown Court.

(3) No application may be made under paragraph 10 or 11 above for a **[**[F172]community rehabilitation order**]** or combination order to be revoked and replaced with an order for conditional discharge under section 12(1)(b); but otherwise nothing in this paragraph shall affect the operation of paragraphs 10 and 11 above.

(4) Where this paragraph applies—

(a) the appropriate court may revoke the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order and make an order under section 12(1)(b) of this Act discharging the offender in respect of the offence for which the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order was made, subject to the condition that he commits no offence during the period specified in the order under section 12(1)(b); and

(b) the period specified in the order under section 12(1)(b) shall be the period beginning with the making of that order and ending with the date when the **[**[F173]community rehabilitation period**]** specified in the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order would have ended.

(5) For the purposes of sub-paragraph (4) above, subsection (1) of section 12 of this Act shall apply as if—

(a) for the words from the beginning to "may make an order either" there were substituted the words " Where paragraph 12 of Schedule 3 to this Act applies, the appropriate court may (subject to the provisions of sub-paragraph (4) of that paragraph) make an order in respect of the offender "; and

(b) paragraph (a) of that subsection were omitted.

(6) An application under this paragraph may be heard in the offender's absence if—

(a) the application is made by the responsible officer; and

(b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;

and where the application is so heard section 12(4) of this Act shall not apply.

(7) No application may be made under this paragraph while an appeal against the **[**[F171]community rehabilitation or community punishment and rehabilitation**]** order is pending.

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(8) Without prejudice to paragraph 15 below, on the making of an order under section 12(1)(b) of this Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.

(9) Each of sections 1(11), 2(9) and 66(4) of the [M152]Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.

Textual Amendments

F170 Words in Sch. 3 para. 12(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(15)**; S.I. 2001/919, **art. 2(f)(iv)**

F171 Words in Sch. 3 para. 12(1)(b)(2)(a)(b)(4)(a)(b)(7) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(16)**; S.I. 2001/919, **art. 2(f)(iv)**

F172 Words in Sch. 3 para. 12(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F173 Words in Sch. 3 para. 12(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(17)**; S.I. 2001/919, **art. 2(f)(iv)**

Marginal Citations

M152 1998 c. 37.

Revocation following custodial sentence by magistrates' court unconnected with order

13 (1) This paragraph applies where—

(a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;

(b) the court imposes a custodial sentence on the offender; and

(c) it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to exercise its powers under this paragraph, having regard to circumstances which have arisen since the order was made.

(2) In sub-paragraph (1) above "a magistrates' court unconnected with the order" means—

(a) in the case of a drug treatment and testing order **[**[F174]or a drug abstinence order**]**, a magistrates' court which is not responsible for the order;

(b) in the case of any other relevant order, a magistrates' court not acting for the petty sessions area concerned.

(3) The court may—

(a) if the order was made by a magistrates' court, revoke it;

(b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.

(4) Where the court deals with an offender's case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

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Textual Amendments

F174 Words in Sch. 3 para. 13(2)(a) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(13)**; S.I. 2001/2232, **art. 2(m)(viii)**

14 Where by virtue of paragraph 13(3)(b) above an offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the relevant order was made, the Crown Court may revoke the order.

Supplementary

15 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the proper officer of the court shall forthwith give copies of the revoking order to the responsible officer.

(2) In sub-paragraph (1) above "proper officer" means—

(a) in relation to a magistrates' court, the justices' chief executive for the court; and

(b) in relation to the Crown Court, the appropriate officer.

(3) A responsible officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

16 Paragraph 9(3) above shall apply for the purposes of paragraphs 10 and 11 above as it applies for the purposes of paragraph 4 above, but as if for the words "paragraph 4(1)(d) above" there were substituted " paragraph 10(3)(b)(ii) or 11(2)(b)(ii) below ".

17 Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 12(1)(b) of this Act and—

(a) the order for conditional discharge is not made in the circumstances mentioned in section 13(9) of this Act (order made by magistrates' court in the case of an offender under 18 in respect of offence triable only on indictment in the case of an adult), but

(b) the relevant order was made in those circumstances,

section 13(9) shall have effect as if the order for conditional discharge had been made in those circumstances.

PART IV

AMENDMENT OF ORDER

Amendment by reason of change of residence

18 (1) This paragraph applies where, at any time while a relevant order (other than a drug treatment and testing order) is in force in respect of an offender, a magistrates' court acting for the petty sessions area concerned is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area.

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(2) Subject to sub-paragraphs (3) to (5) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other petty sessions area for the area specified in the order or, in the case of a curfew order, a place in that other area for the place so specified.

(3) The court shall not amend under this paragraph a **[**[F175]community rehabilitation**]** or curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the petty sessions area concerned unless, in accordance with paragraph 19 below, it either—

(a) cancels those requirements; or

(b) substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.

(4) Sub-paragraph (3) above applies also in relation to a **[**[F176]community punishment and rehabilitation order**]**whose **[**[F177]community rehabilitation element**]** contains requirements such as are mentioned in that sub-paragraph.

(5) The court shall not amend a **[**[F178]community punishment order**]** or **[**[F176]community punishment and rehabilitation order**]** under this paragraph unless it appears to the court that provision can be made for the offender to perform work under the order under the arrangements which exist for persons who reside in the other petty sessions area to perform work under such orders.

(6) Where—

(a) the court amends a **[**[F179]community rehabilitation, community punishment or community punishment and rehabilitation**]** order under this paragraph,

(b) a local authority is specified in the order in accordance with section 41(5) or 46(9) of this Act, and

(c) the change, or proposed change, of residence also is or would be a change of residence from the area of that authority to the area of another such authority,

the court shall further amend the order by substituting the other authority for the authority specified in the order.

(7) In sub-paragraph (6) above "local authority" has the meaning given by section 42 of the [M153]Crime and Disorder Act 1998, and references to the area of a local authority shall be construed in accordance with that section.

Textual Amendments

F175 Words in Sch. 3 para. 18(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(20)(a)**; S.I. 2001/919, **art. 2(f)(iv)**

F176 Words in Sch. 3 para. 18(4)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F177 Words in Sch. 3 para. 18(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(3)**; S.I. 2001/919, **art. 2(f)(iv)**

F178 Words in Sch. 3 para. 18(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F179 Words in Sch. 3 para. 18(6)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(20)(b)**; S.I. 2001/919, **art. 2(f)(iv)**

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Marginal Citations

M153 1998 c. 37.

[F180 Amendment of requirements of community rehabilitation community punishment and rehabilitation, curfew or exclusion order.]

Textual Amendments

F180 Sch. 3 cross-heading preceding para. 19 substituted (1.4.2001 for specified purposes otherwise *prosp.*) by 2000 c. 43, s. 74, **Sch. 7 para. 199(21)(e)**; S.I. 2001/919, art. 2(f)(iv)

19 (1) Without prejudice to the provisions of paragraph 18 above but subject to sub-paragraphs (2) and (3) below, a magistrates' court acting for the petty sessions area concerned may, on the application of the offender or the responsible officer, by order amend a **[**[F181]community rehabilitation, curfew or exclusion**]** order or the **[**[F182]community rehabilitation element**]** of a **[**[F183]community punishment and rehabilitation order**]**—

(a) by cancelling any of the requirements of the **[**[F181]community rehabilitation, curfew or exclusion**]**order or of the **[**[F182]community rehabilitation element**]** of the **[**[F183]community punishment and rehabilitation order**]**; or

(b) by inserting in the **[**[F181]community rehabilitation, curfew or exclusion**]** order or probation element of the combination order (either in addition to or in substitution for any of its requirements) any requirement which the court could include if it were then making the order.

(2) A magistrates' court shall not under sub-paragraph (1) above amend a **[**[F184]community rehabilitation order**]** or the **[**[F182]community rehabilitation element**]** of a **[**[F183]community punishment and rehabilitation order**]**—

(a) by reducing the **[**[F185]community rehabilitation period**]**, or by extending that period beyond the end of three years from the date of the original order; or

(b) by inserting in it a requirement that the offender shall submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol, unless—

(i) the offender has expressed his willingness to comply with such a requirement; and

(ii) the amending order is made within three months after the date of the original order.

(3) A magistrates' court shall not under sub-paragraph (1) above amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.

Textual Amendments

F181 Words in Sch. 3 para. 19(1) substituted (1.4.2001 for specified purposes otherwise *prosp.*) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 199(21)(a)(iii)**; S.I. 2001/919, **art. 2(f)(iv)**

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F182 Words in Sch. 3 para. 19(1)(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(3)**; S.I. 2001/919, **art. 2(f)(iv)**

F183 Words in Sch. 3 para. 19(1)(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F184 Words in Sch. 3 para. 19(2) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F185 Words in Sch. 3 para. 19(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(17)**; S.I. 2001/919, **art. 2(f)(iv)**

[F186** Amendment of treatment requirements of community rehabilitation or community punishment and rehabilitation order on report of practitioner**]

Textual Amendments

F186 Sch. 3 para. 20 cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(22)**; S.I. 2001/919, **art. 2(f)(iv)**

20 (1) Where the medical practitioner or other person by whom or under whose direction an offender is, in pursuance of any requirement of a **[F187** community rehabilitation or community punishment and rehabilitation**]** order, being treated for his mental condition or his dependency on or propensity to misuse drugs or alcohol—

(a) is of the opinion mentioned in sub-paragraph (2) below, or

(b) is for any reason unwilling to continue to treat or direct the treatment of the offender,

he shall make a report in writing to that effect to the responsible officer and that officer shall apply under paragraph 19 above to a magistrates' court acting for the petty sessions area concerned for the variation or cancellation of the requirement.

(2) The opinion referred to in sub-paragraph (1) above is—

(a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order;

(b) that the offender needs different treatment;

(c) that the offender is not susceptible to treatment; or

(d) that the offender does not require further treatment.

Textual Amendments

F187 Words in Sch. 3 para. 20(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(16)**; S.I. 2001/919, **art. 2(f)(iv)**

Amendment of drug treatment and testing order

21 (1) Without prejudice to the provisions of section 55(1), (6) and (8) of this Act, the court responsible for a drug treatment and testing order may by order—

(a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b) below; or

(b) amend the order on an application by that officer under sub-paragraph (3)(c) below.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—
  (a) he shall make a report in writing to that effect to the responsible officer; and
  (b) that officer shall apply to the court for the variation or cancellation of the requirement.

(3) Where the responsible officer is of the opinion—
  (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider,
  (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled, or
  (c) that the order should be so amended as to provide for each subsequent periodic review (required by section 54(6)(a) of this Act) to be made without a hearing instead of at a review hearing, or vice versa,

  he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.

(4) The court—
  (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
  (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 52(1) of this Act, or to increase it above the maximum so specified.

(5) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—
  (a) revoke the order; and
  (b) deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by or before the court of the offence.

(6) In dealing with the offender under sub-paragraph (5)(b) above, the court—
  (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
  (b) may impose a custodial sentence (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.

(7) Paragraph 9(3) above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 4 above, but as if for the words "paragraph 4(1)(d) above" there were substituted " paragraph 21(5)(b) below ".

[F188 Extension of community punishment or community punishment and rehabilitation order]

Textual Amendments

F188 Cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(23)**; S.I. 2001/919, **art. 2(f)(iv)**

22 Where—

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) a **[**[F189]community punishment order**]** or **[**[F190]community punishment and rehabilitation order**]** is in force in respect of any offender, and

(b) on the application of the offender or the responsible officer, it appears to a magistrates' court acting for the petty sessions area concerned that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,

the court may, in relation to the order, extend the period of twelve months specified in section 47(3) of this Act.

Textual Amendments

F189 Words in Sch. 3 para. 22(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F190 Words in Sch. 3 para. 22(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Supplementary

23 No order may be made under paragraph 18 above, and no application may be made under paragraph 19 or 22 above or, except with the consent of the offender, under paragraph 21 above, while an appeal against the relevant order is pending.

24 (1) Subject to sub-paragraph (2) below, where a court proposes to exercise its powers under this Part of this Schedule, otherwise than on the application of the offender, the court—

(a) shall summon him to appear before the court; and

(b) if he does not appear in answer to the summons, may issue a warrant for his arrest.

(2) This paragraph shall not apply to an order cancelling a requirement of a relevant order or reducing the period of any requirement, or **[**[F191]to an order under paragraph 18 above**]** substituting a new petty sessions area or a new place for the one specified in a relevant order.

Textual Amendments

F191 Words in Sch. 3 para. 24(2) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(24)**; S.I. 2001/2232, **art. 2(m)(viii)**

25 (1) On the making under this Part of this Schedule of an order amending a relevant order (other than a drug treatment and testing order), the justices' chief executive for the court shall forthwith—

(a) if the order amends the relevant order otherwise than by substituting **[**[F192], by virtue of paragraph 18 above,**]** a new petty sessions area or a new place for the one specified in the relevant order, give copies of the amending order to the responsible officer;

(b) if the order amends the relevant order in the manner excepted by paragraph (a) above, send to the chief executive to the justices for the new petty sessions area or, as the case may be, for the petty sessions area in which the new place is situated—

(i) copies of the amending order; and

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order;

and in a case falling within paragraph (b) above the chief executive to the justices for that area shall give copies of the amending order to the responsible officer.

(2) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the justices' chief executive for the court shall forthwith give copies of the amending order to the responsible officer.

(3) A responsible officer to whom in accordance with sub-paragraph (1) or (2) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.

Textual Amendments

F192 Words in Sch. 3 para. 25(1)(a) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(25)(a)**; S.I. 2001/2232, **art. 2(m)(viii)**

SCHEDULE 4

Sections 44, 49, 51.

TRANSFER OF CERTAIN COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

[F193community rehabilitation]: Scotland

Textual Amendments

F193 Sch. 4 para. 1: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

1 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 41 of this Act ([F194community rehabilitation orders]) shall have effect as if subsections (3) to (7) and (9) to (11) were omitted and as if after subsection (2) there were inserted the following subsection—

"(2A) A court shall not make a [F194community rehabilitation order] in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the council constituted under section 2 of the M154Local Government etc. (Scotland) Act 1994 in whose area he resides, or will be residing when the order comes into force."

(2) Where a [F194community rehabilitation order] has been made and—

(a) a magistrates' court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Scotland, and

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(b) it appears to the court that suitable arrangements for his supervision can be made by the council constituted under section 2 of the [M155]Local Government etc. (Scotland) Act 1994 in whose area he proposes to reside or is residing,

the power of the court to amend the order under Part IV of Schedule 3 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

(3) Where a court is considering the making or amendment of a **[**[F194]community rehabilitation order**]** in accordance with this paragraph, Schedule 2 to this Act (additional requirements in **[**[F194]community rehabilitation orders**]**) shall have effect as if—

(a) for sub-paragraphs (i) and (ii) of paragraph 2(2)(a) there were substituted a reference to an officer of the council constituted under section 2 of the [M156]Local Government etc. (Scotland) Act 1994 in whose area the offender resides or will be residing when the order or amendment comes into force;

(b) any reference to the offender's responsible officer were a reference to the officer of the council mentioned in paragraph (a) above responsible for the offender's supervision;

(c) the reference in paragraph 2(5) to the **[**[F195]local probation board**]** for the area in which the premises are situated were a reference to the council constituted under section 2 of the [M157]Local Government etc. (Scotland) Act 1994 for that area;

(d) paragraph 3 (requirements as to attendance at **[**[F196]community rehabilitation centre**]**) were omitted; and

(e) for paragraph 5(3)(a) there were substituted—

"(a) treatment as a resident patient in a hospital within the meaning of the [M158]Mental Health (Scotland) Act 1984, not being a State hospital within the meaning of that Act;".

(4) A **[**[F194]community rehabilitation order**]** made or amended in accordance with this paragraph shall—

(a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and

(b) specify as the appropriate court for the purposes of subsection (4) of section 228 of the [M159]Criminal Procedure (Scotland) Act 1995 a court of summary jurisdiction (which, in the case of an offender convicted on indictment, shall be the sheriff court) having jurisdiction in the locality specified under paragraph (a) above.

Textual Amendments

F194 Words in Sch. 4 para. 1(1)-(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F195 Words in Sch. 4 para. 1(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F196 Words in Sch. 4 para. 1(3)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

Marginal Citations

M154 1994 c. 39.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

M155 1994 c. 39.
M156 1994 c. 39.
M157 1994 c. 39.
M158 1984 c. 36.
M159 1995 c. 46.

[F197community rehabilitation orders]: Northern Ireland

Textual Amendments

F197 Sch. 4 para. 2: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

2 (1) Where a court considering the making of a **[**F198community rehabilitation order**]** is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 41 of this Act shall have effect as if subsections (3) to (7) and (9) to (11) were omitted and as if after subsection (2) there were inserted the following subsection—

"(2A) A court shall not make a **[**F198community rehabilitation order**]** in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland."

(2) Where a **[**F198community rehabilitation order**]** has been made and—

(a) a magistrates' court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Northern Ireland, and

(b) it appears to the court that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland,

the power of the court to amend the order under Part IV of Schedule 3 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

(3) Where a court is considering the making or amendment of a **[**F198community rehabilitation order**]** in accordance with this paragraph, Schedule 2 to this Act shall have effect as if—

(a) for sub-paragraphs (i) and (ii) of paragraph 2(2)(a) there were substituted a reference to a probation officer assigned to the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force;

(b) any reference to the offender's responsible officer were a reference to the probation officer assigned as mentioned in paragraph (a) above responsible for the offender's supervision;

(c) the reference in paragraph 2(5) to the **[**F199local probation board**]** for the area in which the premises are situated were a reference to the Probation Board for Northern Ireland;

(d) references in paragraph 3 to a **[**F200community rehabilitation centre**]** were references to a day centre within the meaning of paragraph 3 of Schedule 1 to the M160Criminal Justice (Northern Ireland) Order 1996;

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(e) for paragraphs (a) and (b) of paragraph 3(2) there were substituted a reference to a probation officer assigned as mentioned in paragraph (a) above; and

(f) for paragraph 5(3)(a) there were substituted—

"(a) treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the [M161]Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of paragraph 4(3) of Schedule 1 to the [M162]Criminal Justice (Northern Ireland) Order 1996;".

(4) A **[**[F198]community rehabilitation order**]** made or amended in accordance with this paragraph shall specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force.

Textual Amendments

F198 Words in Sch. 4 para. 2(1)-(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F199 Words in Sch. 4 para. 2(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

F200 Words in Sch. 4 para. 2(3)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

Marginal Citations

M160 S.I. 1996/3160 (N.I. 24).

M161 S.I. 1972/1265 (N.I. 14).

M162 S.I. 1996/3160 (N.I. 24).

[[F201]community punishment orders]: Scotland

Textual Amendments

F201 Sch. 4 para. 3: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

3 (1) Where a court considering the making of a **[**[F202]community punishment order**]** is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 46 of this Act (**[**[F202]community punishment orders**]**) shall have effect as if subsections (6), (7) and (9) to (13) were omitted and as if after subsection (5) there were inserted the following subsection—

"(5A) A court shall not make a **[**[F202]community punishment order**]** in respect of any offender unless—

(a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

made under section 238 of the [M163]Criminal Procedure (Scotland) Act 1995; and

(b) it appears to the court that provision can be made for him to perform work under those arrangements.”,

and, accordingly, section 47 and the reference to it in section 46(1) shall not apply.

(2) Where a **[**[F202]community punishment order**]** has been made and—

(a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland,

(b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender proposes to reside or is residing to perform work under community service orders made under section 238 of the [M164]Criminal Procedure (Scotland) Act 1995, and

(c) it appears to the court that provision can be made for him to perform work under the **[**[F202]community punishment order**]** under those arrangements,

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

(3) A **[**[F202]community punishment order**]** made or amended in accordance with this paragraph shall—

(a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and

(b) require the council constituted under section 2 of the [M165]Local Government etc. (Scotland) Act 1994 in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by sections 239 to 245 of the [M166]Criminal Procedure (Scotland) Act 1995.

Textual Amendments

F202 Words in Sch. 4 para. 3(1)-(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Marginal Citations

M163 1995 c. 46.
M164 1995 c. 46.
M165 1994 c. 39.
M166 1995 c. 46.

[[F203]*community punishment]: Northern Ireland*

Textual Amendments

F203 Sch. 4 para. 4: words in cross-heading substituted (1.4.2001) by virtue of 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

4 (1) Where a court considering the making of a **[**[F204]community punishment order**]** is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 46 of this Act shall have effect as if subsections (6), (7) and (9) to (13) were omitted and as if after subsection (5) there were inserted the following subsection—

"(5A) A court shall not make a **[**[F204]community punishment order**]** in respect of any offender unless it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order.",

and, accordingly, section 47 and the reference to it in section 46(1) shall not apply.

(2) Where a **[**[F204]community punishment order**]** has been made and—

(a) a magistrates' court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Northern Ireland, and

(b) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order,

it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.

(3) A **[**[F204]community punishment order**]** made or amended in accordance with this paragraph shall—

(a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force; and

(b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by Part II of the [M167]Criminal Justice (Northern Ireland) Order 1996.

Textual Amendments

F204 Words in Sch. 4 para. 4(1)-(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

Marginal Citations

M167 S.I. 1996/3160 (N.I. 24).

[**[F205]community punishment and rehabilitaion: Scotland**]

Textual Amendments

F205 Sch. 4 para. 5: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

5 Paragraphs 1 and 3 above shall apply in relation to **[**[F206]community punishment and rehabilitation orders**]**—

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) in so far as those orders impose such a requirement as is mentioned in section 51(1)(a) of this Act, as if they were **[**[F207]community rehabilitation orders**]**; and

(b) in so far as they impose such a requirement as is mentioned in section 51(1)(b) of this Act, as if they were **[**[F208]community punishment orders**]**.

Textual Amendments

F206 Words in Sch. 4 para. 5 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F207 Words in Sch. 4 para. 5(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F208 Words in Sch. 4 para. 5(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt.I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

[[F209]*Community rehabilitation, community punishment and community punishment and rehabilitation orders: general provisions]*

Textual Amendments

F209 Cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(3)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

6 (1) Where a community order is made or amended in any of the circumstances specified in this Schedule, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.

(2) Where a community order is made or amended in any of the circumstances specified in this Schedule, then, subject to the following provisions of this paragraph—

(a) the order shall be treated as if it were a corresponding order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and

(b) the legislation relating to such orders which has effect in that part of the United Kingdom shall apply accordingly.

(3) Before making or amending a community order in those circumstances the court shall explain to the offender in ordinary language—

(a) the requirements of the legislation relating to corresponding orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;

(b) the powers of the home court under that legislation, as modified by this paragraph; and

(c) its own powers under this paragraph.

(4) The home court may exercise in relation to the community order any power which it could exercise in relation to a corresponding order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part, except the following, namely—

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(a) in the case of a **[**[F210]community rehabilitation order**]** or a **[**[F211]community punishment and rehabilitation order**]**, a power conferred by section 232(2)(b) or 233 of, or paragraph 1 of Schedule 6 to, the [M168]Criminal Procedure (Scotland) Act 1995;

(b) in the case of a **[**[F210]community rehabilitation order**]**, a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the [M169]Criminal Justice (Northern Ireland) Order 1996; and

(c) in the case of a **[**[F212]community punishment order**]**—

(i) a power conferred by section 239(5)(b) or 240(1)(c) or (d) of the [M170]Criminal Procedure (Scotland) Act 1995;

(ii) a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the [M171]Criminal Justice (Northern Ireland) Order 1996; or

(iii) a power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified.

(5) If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of sub-paragraph (2) above to a community order made in England and Wales—

(a) it appears to the home court—

(i) if that court is in Scotland, on information from the local authority officer concerned, or

(ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,

that the offender has failed to comply with any of the requirements of the legislation applicable to the order, or

(b) it appears to the home court—

(i) if that court is in Scotland, on the application of the offender or of the local authority officer concerned, or

(ii) if it is in Northern Ireland, on the application of the offender or of the probation officer concerned,

that it would be in the interests of justice for a power conferred by paragraph 10 or 11 of Schedule 3 to this Act to be exercised,

the home court may require the offender to appear before the court which made the order.

(6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the community order, that court—

(a) may issue a warrant for his arrest; and

(b) may exercise any power which it could exercise in respect of the community order if the offender resided in England and Wales;

and any enactment relating to the exercise of such powers shall have effect accordingly, and with any reference to the responsible officer being construed as a reference to the local authority officer or probation officer concerned.

(7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the community order—

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and

(b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.

(8) In this paragraph—

[[F213]"corresponding order"—

(a) in relation to a community rehabilitation order, means a probation order;

(b) in relation to a community punishment order, means a community service order; and

(c) in relation to a community punishment and rehabilitation order—

(i) if the offender resides in Scotland, or will be residing there at the relevant time, means a probation order including such a requirement as is mentioned in section 229(4) of the [M172]Criminal Procedure (Scotland) Act 1995; and

(ii) if he resides in Northern Ireland, or will be residing there at the relevant time, means a combination order;**]**

"home court" means—

(a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and

(b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;

"the local authority officer concerned", in relation to an offender, means the officer of a council constituted under section 2 of the [M173]Local Government etc. (Scotland) Act 1994 responsible for his supervision or, as the case may be, discharging in relation to him the functions in respect of community service orders assigned by sections 239 to 245 of the [M174]Criminal Procedure (Scotland) Act 1995;

"the probation officer concerned", in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part II of the [M175]Criminal Justice (Northern Ireland) Order 1996;

"the relevant time" means the time when the order or the amendment to it comes into force.

Textual Amendments

F210 Words in Sch. 4 para. 6(4)(a)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F211 Words in Sch. 4 para. 6(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F212 Words in Sch. 4 para. 6(4)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**

F213 Definition of "corresponding order" in Sch. 4 para. 6(8) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(3)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

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Marginal Citations

M168 1995 c. 46.
M169 S.I. 1996/3160 (N.I. 24).
M170 1995 c. 46.
M171 S.I. 1996/3160 (N.I. 24).
M172 1995 c. 46.
M173 1994 c. 39.
M174 1995 c. 46.
M175 S.I. 1996/3160 (N.I. 24).

SCHEDULE 5

Section 61.

BREACH, REVOCATION AND AMENDMENT OF ATTENDANCE CENTRE ORDERS

Breach of order or attendance centre rules

1 (1) Where an attendance centre order is in force and it appears on information to a justice acting for a relevant petty sessions area that the offender—

(a) has failed to attend in accordance with the order, or

(b) while attending has committed a breach of rules made under section 62(3) of this Act which cannot be adequately dealt with under those rules,

the justice may issue a summons requiring the offender to appear at the place and time specified in the summons before a magistrates' court acting for the area or, if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.

(2) For the purposes of this paragraph a petty sessions area is a relevant petty sessions area in relation to an attendance centre order—

(a) if the attendance centre which the offender is required to attend by the order or by virtue of an order under paragraph 5(1)(b) below is situated in it; or

(b) if the order was made by a magistrates' court acting for it.

2 (1) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under paragraph 1 above that he has failed without reasonable excuse to attend as mentioned in sub-paragraph (1)(a) of that paragraph or has committed such a breach of rules as is mentioned in sub-paragraph (1)(b) of that paragraph, that court may deal with him in any one of the following ways—

(a) it may impose on him a fine not exceeding £1,000;

(b) where the attendance centre order was made by a magistrates' court, it may deal with him, for the offence in respect of which the order was made, in any way 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; or

(c) where the order was made by the Crown Court, it may commit him to custody or release him on bail until he can be brought or appear before the Crown Court.

(2) Any exercise by the court of its power under sub-paragraph (1)(a) above shall be without prejudice to the continuation of the order.

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(3) A fine imposed under sub-paragraph (1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

(4) Where a magistrates' court deals with an offender under sub-paragraph (1)(b) above, it shall revoke the attendance centre order if it is still in force.

(5) In dealing with an offender under sub-paragraph (1)(b) above, a magistrates' court—
  (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre order; and
  (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 79(2) of this Act.

(6) A person sentenced under sub-paragraph (1)(b) above for an offence may appeal to the Crown Court against the sentence.

(7) A magistrates' court which deals with an offender's case under sub-paragraph (1)(c) above shall send to the Crown Court—
  (a) a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed; and
  (b) such other particulars of the case as may be desirable;

  and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Crown Court.

3 (1) Where by virtue of paragraph 2(1)(c) above the offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court—
  (a) that he has failed without reasonable excuse to attend as mentioned in paragraph 1(1)(a) above, or
  (b) that he has committed such a breach of rules as is mentioned in paragraph 1(1)(b) above,

  that court may deal with him, for the offence in respect of which the order was made, in any way in which it could have dealt with him for that offence if it had not made the order.

(2) Where the Crown Court deals with an offender under sub-paragraph (1) above, it shall revoke the attendance centre order if it is still in force.

(3) In dealing with an offender under sub-paragraph (1) above, the Crown Court—
  (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre order; and
  (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in section 79(2) of this Act.

(4) In proceedings before the Crown Court under this paragraph any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

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Revocation of order with or without re-sentencing

4 (1) Where an attendance centre order is in force in respect of an offender, an appropriate court may, on an application made by the offender or by the officer in charge of the relevant attendance centre, revoke the order.

(2) In sub-paragraph (1) above "an appropriate court" means—

(a) where the court which made the order was the Crown Court and there is included in the order a direction that the power to revoke the order is reserved to that court, the Crown Court;

(b) in any other case, either of the following—

(i) a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated;

(ii) the court which made the order.

(3) Any power conferred by this paragraph—

(a) on a magistrates' court to revoke an attendance centre order made by such a court, or

(b) on the Crown Court to revoke an attendance centre order made by the Crown Court,

includes power to deal with the offender, for the offence in respect of which the order was made, in any way 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.

(4) A person sentenced by a magistrates' court under sub-paragraph (3) above for an offence may appeal to the Crown Court against the sentence.

(5) The proper officer of a court which makes an order under this paragraph revoking an attendance centre order shall—

(a) deliver a copy of the revoking order to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode; and

(b) deliver or send a copy to the officer in charge of the relevant attendance centre.

(6) In this paragraph "the relevant attendance centre", in relation to an attendance centre order, means the attendance centre specified in the order or substituted for the attendance centre so specified by an order made by virtue of paragraph 5(1)(b) below.

(7) In this paragraph "proper officer" means—

(a) in relation to a magistrates' court, the justices' chief executive for the court; and

(b) in relation to the Crown Court, the appropriate officer.

Amendment of order

5 (1) Where an attendance centre order is in force in respect of an offender, an appropriate magistrates' court may, on an application made by the offender or by the officer in charge of the relevant attendance centre, by order—

(a) vary the day or hour specified in the order for the offender's first attendance at the relevant attendance centre; or

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(b) substitute for the relevant attendance centre an attendance centre which the court is satisfied is reasonably accessible to the offender, having regard to his age, the means of access available to him and any other circumstances.

(2) In sub-paragraph (1) above "an appropriate magistrates' court" means—

(a) a magistrates' court acting for the petty sessions area in which the relevant attendance centre is situated; or

(b) (except where the attendance centre order was made by the Crown Court) the magistrates' court which made the order.

(3) The justices' chief executive for a court which makes an order under this paragraph shall—

(a) deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode; and

(b) deliver or send a copy—

(i) if the order is made by virtue of sub-paragraph (1)(a) above, to the officer in charge of the relevant attendance centre; and

(ii) if it is made by virtue of sub-paragraph (1)(b) above, to the officer in charge of the attendance centre which the order as amended will require the offender to attend.

(4) In this paragraph "the relevant attendance centre" has the meaning given by paragraph 4(6) above.

Orders made on appeal

6 (1) Where an attendance centre order has been made on appeal, for the purposes of this Schedule it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

(2) In relation to an attendance centre order made on appeal, paragraphs 2(1)(b) and 4(3) above shall each have effect as if the words "if the order had not been made" were omitted and paragraph 3(1) above shall have effect as if the words "if it had not made the order" were omitted.

Orders for defaulters

7 (1) References in this Schedule to an "offender" include a person who has been ordered to attend at an attendance centre for such a default or failure as is mentioned in section 60(1)(b) or (c) of this Act.

(2) Where a person has been ordered to attend at an attendance centre for such a default or failure—

(a) paragraphs 2(1)(b), 3(1) and 4(3) above shall each have effect in relation to the order as if the words ", for the offence in respect of which the order was made," and "for that offence" were omitted; and

(b) paragraphs 2(5)(b) and 3(3)(b) above (which relate to custodial sentences for offences) do not apply.

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SCHEDULE 6

Section 63.

REQUIREMENTS WHICH MAY BE INCLUDED IN SUPERVISION ORDERS

Requirement to reside with named individual

1 A supervision order may require the offender to reside with an individual named in the order who agrees to the requirement, but a requirement imposed by a supervision order in pursuance of this paragraph shall be subject to any such requirement of the order as is authorised by paragraph 2, 3, 6 or 7 below.

Requirement to comply with directions of supervisor

2 (1) Subject to sub-paragraph (2) below, a supervision order may require the offender to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—

(a) to live at a place or places specified in the directions for a period or periods so specified;

(b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;

(c) to participate in activities specified in the directions on a day or days so specified.

(2) A supervision order shall not require compliance with directions given by virtue of sub-paragraph (1) above unless the court making it is satisfied that a scheme under section 66 of this Act (local authority schemes) is in force for the area where the offender resides or will reside; and no such directions may involve the use of facilities which are not for the time being specified in a scheme in force under that section for that area.

(3) A requirement imposed by a supervision order in pursuance of sub-paragraph (1) above shall be subject to any such requirement of the order as is authorised by paragraph 6 below (treatment for offender's mental condition).

(4) It shall be for the supervisor to decide—

(a) whether and to what extent he exercises any power to give directions conferred on him by virtue of sub-paragraph (1) above; and

(b) the form of any directions.

(5) The total number of days in respect of which an offender may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of sub-paragraph (1) above shall not exceed 90 or such lesser number, if any, as the order may specify for the purposes of this sub-paragraph.

(6) For the purpose of calculating the total number of days in respect of which such directions may be given, the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.

(7) Directions given by the supervisor by virtue of sub-paragraph (1)(b) or (c) above shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

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(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

Requirements as to activities, reparation, night restrictions etc.

3 (1) This paragraph applies to a supervision order unless the order requires the offender to comply with directions given by the supervisor under paragraph 2(1) above.

(2) Subject to the following provisions of this paragraph and paragraph 4 below, a supervision order to which this paragraph applies may require the offender—

(a) to live at a place or places specified in the order for a period or periods so specified;

(b) to present himself to a person or persons specified in the order at a place or places and on a day or days so specified;

(c) to participate in activities specified in the order on a day or days so specified;

(d) to make reparation specified in the order to a person or persons so specified or to the community at large;

(e) to remain for specified periods between 6 p.m. and 6 a.m.—

(i) at a place specified in the order; or

(ii) at one of several places so specified;

(f) to refrain from participating in activities specified in the order—

(i) on a specified day or days during the period for which the supervision order is in force; or

(ii) during the whole of that period or a specified portion of it;

and in this paragraph "make reparation" means make reparation for the offence otherwise than by the payment of compensation.

(3) The total number of days in respect of which an offender may be subject to requirements imposed by virtue of paragraph (a), (b), (c), (d) or (e) of sub-paragraph (2) above shall not exceed 90.

(4) The court may not include requirements under sub-paragraph (2) above in a supervision order unless—

(a) it has first consulted the supervisor as to—

(i) the offender's circumstances, and

(ii) the feasibility of securing compliance with the requirements,

and is satisfied, having regard to the supervisor's report, that it is feasible to secure compliance with them;

(b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences; and

(c) if the offender is aged under 16, it has obtained and considered information about his family circumstances and the likely effect of the requirements on those circumstances.

(5) The court shall not by virtue of sub-paragraph (2) above include in a supervision order—

(a) any requirement that would involve the co-operation of a person other than the supervisor and the offender, unless that other person consents to its inclusion;

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(b) any requirement to make reparation to any person unless that person—
(i) is identified by the court as a victim of the offence or a person otherwise affected by it; and
(ii) consents to the inclusion of the requirement;

(c) any requirement requiring the offender to reside with a specified individual; or

(d) any such requirement as is mentioned in paragraph 6(2) below (treatment for offender's mental condition).

(6) Requirements included in a supervision order by virtue of sub-paragraph (2)(b) or (c) above shall, as far as practicable, be such as to avoid—

(a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and

(b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment;

and sub-paragraphs (7) and (8) below are without prejudice to this sub-paragraph.

(7) Subject to sub-paragraph (8) below, a supervision order may not by virtue of sub-paragraph (2) above include—

(a) any requirement that would involve the offender in absence from home—
(i) for more than two consecutive nights, or
(ii) for more than two nights in any one week, or

(b) if the offender is of compulsory school age, any requirement to participate in activities during normal school hours,

unless the court making the order is satisfied that the facilities whose use would be involved are for the time being specified in a scheme in force under section 66 of this Act for the area in which the offender resides or will reside.

(8) Sub-paragraph (7)(b) above does not apply to activities carried out in accordance with arrangements made or approved by the local education authority in whose area the offender resides or will reside.

(9) Expressions used in sub-paragraphs (7) and (8) above and in the [M176]Education Act 1996 have the same meaning in those sub-paragraphs as in that Act.

Marginal Citations
M176 1996 c. 56.

4 (1) The place, or one of the places, specified in a requirement under paragraph 3(2)(e) above ("a night restriction") shall be the place where the offender lives.

(2) A night restriction shall not require the offender to remain at a place for longer than ten hours on any one night.

(3) A night restriction shall not be imposed in respect of any day which falls outside the period of three months beginning with the date when the supervision order is made.

(4) A night restriction shall not be imposed in respect of more than 30 days in all.

(5) A night restriction imposed in respect of a period of time beginning in the evening and ending in the morning shall be treated as imposed only in respect of the day upon which the period begins.

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(6) An offender who is required by a night restriction to remain at a place may leave it if he is accompanied—
  (a) by his parent or guardian;
  (b) by his supervisor; or
  (c) by some other person specified in the supervision order.

Requirement to live for specified period in local authority accommodation

5 (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, a supervision order may impose a requirement ("a local authority residence requirement") that the offender shall live for a specified period in local authority accommodation (as defined by section 163 of this Act).

(2) The conditions are that—
  (a) a supervision order has previously been made in respect of the offender;
  (b) that order imposed—
    (i) a requirement under paragraph 1, 2, 3 or 7 of this Schedule; or
    (ii) a local authority residence requirement;
  (c) the offender fails to comply with that requirement, or is convicted of an offence committed while that order was in force; and
  (d) the court is satisfied that—
    (i) the failure to comply with the requirement, or the behaviour which constituted the offence, was due to a significant extent to the circumstances in which the offender was living; and
    (ii) the imposition of a local authority residence requirement will assist in his rehabilitation;

  except that sub-paragraph (i) of paragraph (d) above does not apply where the condition in paragraph (b)(ii) above is satisfied.

(3) A local authority residence requirement shall designate the local authority who are to receive the offender, and that authority shall be the authority in whose area the offender resides.

(4) The court shall not impose a local authority residence requirement without first consulting the designated authority.

(5) A local authority residence requirement may stipulate that the offender shall not live with a named person.

(6) The maximum period which may be specified in a local authority residence requirement is six months.

(7) A court shall not impose a local authority residence requirement in respect of an offender who is not legally represented at the relevant time in that court unless—
  (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of the proceedings but the right was withdrawn because of his conduct; or
  (b) he has been informed of his right to apply for such representation for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.

(8) In sub-paragraph (7) above—

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(a) "the relevant time" means the time when the court is considering whether or not to impose the requirement; and

(b) "the proceedings" means—

(i) the whole proceedings; or

(ii) the part of the proceedings relating to the imposition of the requirement.

(9) A supervision order imposing a local authority residence requirement may also impose any of the requirements mentioned in paragraphs 2, 3, 6 and 7 of this Schedule.

Requirements as to treatment for mental condition

6 (1) This paragraph applies where a court which proposes to make a supervision order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the [M177]Mental Health Act 1983, that the mental condition of the offender—

(a) is such as requires and may be susceptible to treatment; but

(b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.

(2) Where this paragraph applies, the court may include in the supervision order a requirement that the offender shall, for a period specified in the order, submit to treatment of one of the following descriptions so specified, that is to say—

(a) treatment as a resident patient in **[**[F214]an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital**]** within the meaning of the [M178]Mental Health Act 1983, but not a hospital at which high security psychiatric services within the meaning of that Act are provided;

(b) treatment as a non-resident patient at an institution or place specified in the order;

(c) treatment by or under the direction of a registered medical practitioner specified in the order; or

(d) treatment by or under the direction of a chartered psychologist specified in the order.

(3) A requirement shall not be included in a supervision order by virtue of sub-paragraph (2) above—

(a) in any case, unless the court is satisfied that arrangements have been or can be made for the treatment in question and, in the case of treatment as a resident patient, for the reception of the patient;

(b) in the case of an order made or to be made in respect of a person aged 14 or over, unless he consents to its inclusion;

and a requirement so included shall not in any case continue in force after the offender attains the age of 18.

(4) Subsections (2) and (3) of section 54 of the [M179]Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender's mental condition as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.

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(5) In sub-paragraph (2) above "chartered psychologist" means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists.

Textual Amendments

F214 Words in Sch. 6 para. 6(2)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 28(3)**; S.I. 2001/4150, **art. 3(2)(3)(a)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **arts. 4**, 6); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in art. 2, Sch. 1-3)

Marginal Citations

M177 1983 c. 20.
M178 1983 c. 20.
M179 1983 c. 20.

Requirements as to education

7 (1) This paragraph applies to a supervision order unless the order requires the offender to comply with directions given by the supervisor under paragraph 2(1) above.

(2) Subject to the following provisions of this paragraph, a supervision order to which this paragraph applies may require the offender, if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.

(3) The court shall not include such a requirement in a supervision order unless—

(a) it has consulted the local education authority with regard to its proposal to include the requirement; and

(b) it is satisfied that in the view of the local education authority arrangements exist for the offender to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have.

(4) Expressions used in sub-paragraphs (2) and (3) above and in the [M180]Education Act 1996 have the same meaning in those sub-paragraphs as in that Act.

(5) The court may not include a requirement under sub-paragraph (2) above unless it has first consulted the supervisor as to the offender's circumstances and, having regard to the circumstances of the case, it considers the requirement necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences.

Marginal Citations

M180 1996 c. 56.

Exercise of powers under paragraphs 3, 6 and 7

8 (1) Any power to include a requirement in a supervision order which is exercisable in relation to a person by virtue of paragraph 3, 6 or 7 above may be exercised in relation to him whether or not any other such power is exercised.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(2) Sub-paragraph (1) above is without prejudice to the power to include in a supervision order any other combination of requirements under different paragraphs of this Schedule that is authorised by this Schedule.

SCHEDULE 7

Section 65.

BREACH, REVOCATION AND AMENDMENT OF SUPERVISION ORDERS

Meaning of "relevant court", etc.

1 (1) In this Schedule, "relevant court", in relation to a supervision order, means—

(a) where the offender is under the age of 18, a youth court acting for the petty sessions area for the time being named in the order in pursuance of section 63(6) of this Act;

(b) where the offender has attained that age, a magistrates' court other than a youth court, being a magistrates' court acting for the petty sessions area for the time being so named.

(2) If an application to a youth court is made in pursuance of this Schedule and while it is pending the offender to whom it relates attains the age of 18, the youth court shall deal with the application as if he had not attained that age.

Breach of requirement of supervision order

2 (1) This paragraph applies if while a supervision order is in force in respect of an offender it is proved to the satisfaction of a relevant court, on the application of the supervisor, that the offender has failed to comply with any requirement included in the supervision order in pursuance of paragraph 1, 2, 3, 5 or 7 of Schedule 6 to this Act or section 63(6)(b) of this Act.

(2) Where this paragraph applies, the court—

(a) whether or not it also makes an order under paragraph 5(1) below (revocation or amendment of supervision order)—

(i) may order the offender to pay a fine of an amount not exceeding £1,000; or

(ii) subject to paragraph 3 below, may make a curfew order in respect of him; or

(iii) subject to paragraph 4 below, may make an attendance centre order in respect of him; or

(b) if the supervision order was made by a magistrates' court, may revoke the supervision order and deal with the offender, for the offence in respect of which the order was made, in any way 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; or

(c) if the supervision order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.

(3) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) particulars of the offender's failure to comply with the requirement in question; and

(b) such other particulars of the case as may be desirable;

and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.

(4) Where—

(a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court, and

(b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,

that court may deal with him, for the offence in respect of which the supervision order was made, in any way in which it could have dealt with him for that offence if it had not made the order.

(5) Where the Crown Court deals with an offender under sub-paragraph (4) above, it shall revoke the supervision order if it is still in force.

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

(7) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the supervision order.

(8) Where a supervision order has been made on appeal, for the purposes of this paragraph it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and, in relation to a supervision order made on appeal, sub-paragraph (2)(b) above shall have effect as if the words "if the order had not been made" were omitted and sub-paragraph (4) above shall have effect as if the words "if it had not made the order" were omitted.

(9) This paragraph has effect subject to paragraph 7 below.

Curfew orders imposed for breach of supervision order

3 (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraph 2(2)(a)(ii) above as if for the words from the beginning to "make" there were substituted " Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(ii) of Schedule 7 to this Act, it may make ".

(2) The following provisions of this Act, namely—

(a) section 37(3) to (12), and

(b) so far as applicable, **[**[F215]sections 36B**]** and 40 and Schedule 3 so far as relating to curfew orders,

have effect in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above as they have effect in relation to any other curfew order, subject to sub-paragraphs (4) and (5) below.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above.

(4) Subsections (4) and (9) of section 37 of this Act shall each have effect in relation to such a curfew order as if for the words "on conviction" there were substituted " on the date when his failure to comply with the supervision order is proved to the court ".

(5) Schedule 3 to this Act (breach, revocation and amendment of orders) shall have effect in relation to such a curfew order as if—

(a) the power conferred on the court by each of paragraphs 4(1)(d) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision order, in any way in which a relevant court could deal with him for that failure if it had just been proved to the satisfaction of that court;

(b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and

(c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision order, in any way in which a relevant court (if the supervision order was made by a magistrates' court) or the Crown Court (if the supervision order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfaction.

(6) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (5) above, as applied by that sub-paragraph, if the supervision order is no longer in force the relevant court's powers shall be determined on the assumption that it is still in force.

Textual Amendments

F215 Words in Sch. 7 para. 3(2)(b) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 201(2)(a)**; S.I. 2001/2232, **art. 2(m)(ix)**

Attendance centre orders imposed for breach of supervision order

4 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraph 2(2)(a)(iii) above as if for the words from the beginning to "the court may," there were substituted " Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(iii) of Schedule 7 to this Act, the court may, ".

(2) The following provisions of this Act, namely—

(a) subsections (3) to (11) of section 60, and

(b) so far as applicable, Schedule 5,

have effect in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above as they have effect in relation to any other attendance centre order, subject to sub-paragraph (4) below.

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above.

(4) Schedule 5 to this Act (breach, revocation and amendment of attendance centre orders) shall have effect in relation to such an attendance centre order as if there were omitted—

(a) from each of paragraphs 2(1)(b) and 4(3) the words ", for the offence in respect of which the order was made," and "for that offence"; and

(b) from paragraphs 2(6) and 4(4) the words "for an offence".

Revocation and amendment of supervision order

5 (1) If while a supervision order is in force in respect of an offender it appears to a relevant court, on the application of the supervisor or the offender, that it is appropriate to make an order under this sub-paragraph, the court may—

(a) make an order revoking the supervision order; or

(b) make an order amending it—

(i) by cancelling any requirement included in it in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act; or

(ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power.

(2) Sub-paragraph (1) above has effect subject to paragraphs 7 to 9 below.

(3) The powers of amendment conferred by sub-paragraph (1) above do not include power—

(a) to insert in the supervision order, after the end of three months beginning with the date when the order was originally made, a requirement in pursuance of paragraph 6 of Schedule 6 to this Act (treatment for mental condition), unless it is in substitution for such a requirement already included in the order; or

(b) to insert in the supervision order a requirement in pursuance of paragraph 3(2)(e) of that Schedule (night restrictions) in respect of any day which falls outside the period of three months beginning with the date when the order was originally made.

(4) Where an application under sub-paragraph (1) above for the revocation of a supervision order is dismissed, no further application for its revocation shall be made under that sub-paragraph by any person during the period of three months beginning with the date of the dismissal except with the consent of a court having jurisdiction to entertain such an application.

Amendment of order on report of medical practitioner

6 (1) If a medical practitioner by whom or under whose direction an offender is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of paragraph 6 of Schedule 6 to this Act—

(a) is unwilling to continue to treat or direct the treatment of the offender, or

(b) is of the opinion mentioned in sub-paragraph (2) below,

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the practitioner shall make a report in writing to that effect to the supervisor.

(2) The opinion referred to in sub-paragraph (1) above is—
- (a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order;
- (b) that the offender needs different treatment;
- (c) that the offender is not susceptible to treatment; or
- (d) that the offender does not require further treatment.

(3) On receiving a report under sub-paragraph (1) above the supervisor shall refer it to a relevant court; and on such a reference the court may make an order cancelling or varying the requirement.

(4) Sub-paragraph (3) above has effect subject to paragraphs 7 to 9 below.

Presence of offender in court, remands etc.

7 (1) Where the supervisor makes an application or reference under paragraph 2(1), 5(1) or 6(3) above to a court he may bring the offender before the court; and, subject to sub-paragraph (9) below, a court shall not make an order under paragraph 2, 5(1) or 6(3) above unless the offender is present before the court.

(2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, a justice may issue a summons or warrant for the purpose of securing the attendance of an offender before the court to which any application or reference in respect of him is made under paragraph 2(1), 5(1) or 6(3) above.

(3) Subsections (3) and (4) of section 55 of the [M181]Magistrates' Courts Act 1980 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section, but as if in subsection (3) after the word "summons" there were inserted the words " cannot be served or ".

(4) Where the offender is arrested in pursuance of a warrant issued by virtue of sub-paragraph (2) above and cannot be brought immediately before the court referred to in that sub-paragraph, the person in whose custody he is—
- (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
- (b) shall within that period, unless within it the offender is brought before the court referred to in sub-paragraph (2) above, bring him before a justice;

and in paragraph (a) above "place of safety" has the same meaning as in the [M182]Children and Young Persons Act 1933.

(5) Where an offender is brought before a justice under sub-paragraph (4)(b) above, the justice may—
- (a) direct that he be released forthwith; or
- (b) subject to sub-paragraph (7) below, remand him to local authority accommodation.

(6) Subject to sub-paragraph (7) below, where an application is made to a youth court under paragraph 5(1) above, the court may remand (or further remand) the offender to local authority accommodation if—

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(a) a warrant has been issued under sub-paragraph (2) above for the purpose of securing the attendance of the offender before the court; or

(b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 5(1) above.

(7) Where the offender is aged 18 or over at the time when he is brought before a justice under sub-paragraph (4)(b) above, or is aged 18 or over at a time when (apart from this sub-paragraph) a youth court could exercise its powers under sub-paragraph (6) above in respect of him, he shall not be remanded to local authority accommodation but may instead be remanded—

(a) to a remand centre, if the justice or youth court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or

(b) to a prison, if the justice or youth court has not been so notified.

(8) A justice or court remanding a person to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the authority named in the supervision order.

(9) A court may make an order under paragraph 5(1) or 6(3) above in the absence of the offender if the effect of the order is confined to one or more of the following, that is to say—

(a) revoking the supervision order;

(b) cancelling a provision included in the supervision order in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act;

(c) reducing the duration of the supervision order or any provision included in it in pursuance of that Schedule;

(d) altering in the supervision order the name of any area;

(e) changing the supervisor.

Marginal Citations

M181 1980 c. 43.

M182 1933 c. 12.

Restrictions on court's powers to revoke or amend order

8 (1) A youth court shall not—

(a) exercise its powers under paragraph 5(1) above to make an order—

(i) revoking a supervision order, or

(ii) inserting in it a requirement authorised by Schedule 6 to this Act, or

(iii) varying or cancelling such a requirement,

except in a case where the court is satisfied that the offender either is unlikely to receive the care or control he needs unless the court makes the order or is likely to receive it notwithstanding the order;

(b) exercise its powers to make an order under paragraph 6(3) above except in such a case as is mentioned in paragraph (a) above;

(c) exercise its powers under paragraph 5(1) above to make an order inserting a requirement authorised by paragraph 6 of Schedule 6 to this Act in a supervision order which does not already contain such a requirement, unless

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the court is satisfied as mentioned in paragraph 6(1) of that Schedule on such evidence as is there mentioned.

(2) For the purposes of this paragraph "care" includes protection and guidance and "control" includes discipline.

9 Where the offender has attained the age of 14, then except with his consent a court shall not make an order under paragraph 5(1) or 6(3) above containing provisions—

(a) which insert in the supervision order a requirement authorised by paragraph 6 of Schedule 6 to this Act; or

(b) which alter such a requirement already included in the supervision order otherwise than by removing it or reducing its duration.

Copies of revoking or amending orders

10 A court which makes an order amending or revoking a supervision order shall forthwith send a copy of its order—

(a) to the offender and, if the offender is aged under 14, to his parent or guardian;

(b) to the supervisor and any person who has ceased to be the supervisor by virtue of the order;

(c) to any local authority who are not entitled by virtue of paragraph (b) above to such a copy and whose area is named in the supervision order in pursuance of section 63(6) of this Act or has ceased to be so named by virtue of the court's order;

(d) where the offender is required by the order, or was required by the supervision order before it was amended or revoked, to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and

(e) where a petty sessions area named in the order or revoked order in pursuance of section 63(6) of this Act is not that for which the court acts, to the justices' chief executive for the petty sessions area so named;

and, in a case falling within paragraph (e) above, shall also send to the justices' chief executive in question such documents and information relating to the case as the court considers likely to be of assistance to them.

Appeals

11 The offender may appeal to the Crown Court against—

(a) any order made under paragraph 2(2), 5(1) or 6(3) above by a relevant court, except—

(i) an order made or which could have been made in the absence of the offender (by virtue of paragraph 7(9) above); and

(ii) an order containing only provisions to which the offender consented in pursuance of paragraph 9 above;

(b) the dismissal of an application under paragraph 5(1) above to revoke a supervision order.

Power of parent or guardian to make application on behalf of young person

12 (1) Without prejudice to any power apart from this sub-paragraph to bring proceedings on behalf of another person, any power to make an application which is exercisable

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by a child or young person by virtue of paragraph 5(1) above shall also be exercisable on his behalf by his parent or guardian.

(2) In this paragraph "guardian" includes any person who was a guardian of the child or young person in question at the time when any supervision order to which the application relates was originally made.

SCHEDULE 8

Sections 72 and 75.

BREACH, REVOCATION AND AMENDMENT OF ACTION PLAN ORDERS AND REPARATION ORDERS

Meaning of "the appropriate court"

1 In this Schedule, "the appropriate court", in relation to an action plan order or reparation order, means a youth court acting for the petty sessions area for the time being named in the order in pursuance of section 69(8) or, as the case may be, 74(4) of this Act.

Breach of requirement of action plan order or reparation order

2 (1) This paragraph applies if while an action plan order or reparation order is in force in respect of an offender it is proved to the satisfaction of the appropriate court, on the application of the responsible officer, that the offender has failed to comply with any requirement included in the order.

(2) Where this paragraph applies, the court—

(a) whether or not it also makes an order under paragraph 5(1) below (revocation or amendment of order)—

(i) may order the offender to pay a fine of an amount not exceeding £1,000; or

(ii) subject to paragraph 3 below, may make a curfew order in respect of him; or

(iii) subject to paragraph 4 below, may make an attendance centre order in respect of him; or

(b) if the action plan order or reparation order was made by a magistrates' court, may revoke the order and deal with the offender, for the offence in respect of which the order was made, in any way 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; or

(c) if the action plan order or reparation order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.

(3) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—

(a) particulars of the offender's failure to comply with the requirement in question; and

(b) such other particulars of the case as may be desirable;

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and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.

(4) Where—

(a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court, and

(b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,

that court may deal with him, for the offence in respect of which the order was made, in any way in which it could have dealt with him for that offence if it had not made the order.

(5) Where the Crown Court deals with an offender under sub-paragraph (4) above, it shall revoke the action plan order or reparation order if it is still in force.

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

(7) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the action plan order or reparation order.

(8) Where a reparation order or action plan order has been made on appeal, for the purposes of this paragraph it shall be deemed—

(a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

(b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;

and, in relation to a reparation order or action plan order made on appeal, sub-paragraph (2)(b) above shall have effect as if the words "if the order had not been made" were omitted and sub-paragraph (4) above shall have effect as if the words "if it had not made the order" were omitted.

(9) This paragraph has effect subject to paragraph 6 below.

Curfew orders imposed for breach of action plan order or reparation order

3 (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraph 2(2)(a)(ii) above as if for the words from the beginning to "make" there were substituted " Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(ii) of Schedule 8 to this Act, it may make ".

(2) The following provisions of this Act, namely—

(a) section 37(3) to (12), and

(b) so far as applicable, **[**[F216]sections 36B**]** and 40 and Schedule 3 so far as relating to curfew orders,

have effect in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above as they have effect in relation to any other curfew order, subject to sub-paragraphs (4) and (5) below.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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(3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above.

(4) Subsections (4) and (9) of section 37 of this Act shall each have effect in relation to such a curfew order as if for the words "on conviction" there were substituted " on the date when his failure to comply with the action plan order or reparation order is proved to the court ".

(5) Schedule 3 to this Act (breach, revocation and amendment of orders) shall have effect in relation to such a curfew order as if—

(a) the power conferred on the court by each of paragraphs 4(1)(d) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the action plan order or reparation order, in any way in which the appropriate court could deal with him for that failure if it had just been proved to the satisfaction of that court;

(b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and

(c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the action plan order or reparation order, in any way in which the appropriate court (if the action plan order or reparation order was made by a magistrates' court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfactio

(6) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (5) above, as applied by that sub-paragraph, if the action plan order or reparation order is no longer in force the appropriate court's powers shall be determined on the assumption that it is still in force.

Textual Amendments

F216 Words in Sch. 8 para. 3(2)(b) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 202(2)(a)**; S.I. 2001/2232, **art. 2(m)(x)**

Attendance centre orders imposed for breach of action plan or reparation order

4 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraph 2(2)(a)(iii) above as if for the words from the beginning to "the court may," there were substituted " Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(iii) of Schedule 8 to this Act, the court may, ".

(2) The following provisions of this Act, namely—

(a) subsections (3) to (11) of section 60, and

(b) so far as applicable, Schedule 5,

have effect in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above as they have effect in relation to any other attendance centre order, subject to sub-paragraph (4) below.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above.

(4) Schedule 5 to this Act (breach, revocation and amendment of attendance centre orders) shall have effect in relation to such an attendance centre order as if there were omitted—

(a) from each of paragraphs 2(1)(b) and 4(3) the words ", for the offence in respect of which the order was made," and "for that offence"; and

(b) from paragraphs 2(6) and 4(4) the words "for an offence".

Revocation and amendment of action plan order or reparation order

5 (1) If while an action plan order or reparation order is in force in respect of an offender it appears to the appropriate court, on the application of the responsible officer or the offender, that it is appropriate to make an order under this sub-paragraph, the court may—

(a) make an order revoking the action plan order or reparation order; or

(b) make an order amending it—

(i) by cancelling any provision included in it; or

(ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power.

(2) Sub-paragraph (1) above has effect subject to paragraph 6 below.

(3) Where an application under sub-paragraph (1) above for the revocation of an action plan order or reparation order is dismissed, no further application for its revocation shall be made under that sub-paragraph by any person except with the consent of the appropriate court.

Presence of offender in court, remands etc.

6 (1) Where the responsible officer makes an application under paragraph 2(1) or 5(1) above to the appropriate court he may bring the offender before the court; and, subject to sub-paragraph (9) below, a court shall not make an order under paragraph 2 or 5(1) above unless the offender is present before the court.

(2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, the court to which an application under paragraph 2(1) or 5(1) above is made may issue a summons or warrant for the purpose of securing the attendance of the offender before it.

(3) Subsections (3) and (4) of section 55 of the [M183]Magistrates' Courts Act 1980 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section, but as if in subsection (3) after the word "summons" there were inserted the words " cannot be served or ".

(4) Where the offender is arrested in pursuance of a warrant issued by virtue of sub-paragraph (2) above and cannot be brought immediately before the appropriate court, the person in whose custody he is—

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(a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and

(b) shall within that period bring him before a youth court;

and in paragraph (a) above "place of safety" has the same meaning as in the [M184]Children and Young Persons Act 1933.

(5) Where an offender is under sub-paragraph (4)(b) above brought before a youth court other than the appropriate court, the youth court may—

(a) direct that he be released forthwith; or

(b) subject to sub-paragraph (7) below, remand him to local authority accommodation.

(6) Subject to sub-paragraph (7) below, where an application is made to a court under paragraph 5(1) above, the court may remand (or further remand) the offender to local authority accommodation if—

(a) a warrant has been issued under sub-paragraph (2) above for the purpose of securing the attendance of the offender before the court; or

(b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 5(1) above.

(7) Where the offender is aged 18 or over at the time when he is brought before a youth court other than the appropriate court under sub-paragraph (4)(b) above, or is aged 18 or over at a time when (apart from this sub-paragraph) the appropriate court could exercise its powers under sub-paragraph (6) above in respect of him, he shall not be remanded to local authority accommodation but may instead be remanded—

(a) to a remand centre, if the court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or

(b) to a prison, if it has not been so notified.

(8) A court remanding an offender to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the local authority for the area in which the offender resides or, where it appears to the court that he does not reside in the area of a local authority, the local authority—

(a) specified by the court; and

(b) in whose area the offence or an offence associated with it was committed.

(9) A court may make an order under paragraph 5(1) above in the absence of the offender if the effect of the order is confined to one or more of the following, that is to say—

(a) revoking the action plan order or reparation order;

(b) cancelling a requirement included in the action plan order or reparation order;

(c) altering in the action plan order or reparation order the name of any area;

(d) changing the responsible officer.

Marginal Citations

M183 1980 c. 43.

M184 1933 c. 12.

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Appeals

7 The offender may appeal to the Crown Court against—

(a) any order made under paragraph 2(2) or 5(1) above except an order made or which could have been made in his absence (by virtue of paragraph 6(9) above);

(b) the dismissal of an application under paragraph 5(1) above to revoke an action plan order or reparation order.

SCHEDULE 9

Section 165.

CONSEQUENTIAL AMENDMENTS

Children and Young Persons Act 1933 (c. 12)

1 In section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence etc.), in subsection (7), for "section 11 of the Children and Young Persons Act 1969" there shall be substituted " section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

2 (1) Section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned) shall be amended as follows.

(2) In subsection (2)—

(a) for "section 15 or 16 of the Children and Young Persons Act 1969" there shall be substituted " Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "section 15 or 16 of that Act" there shall be substituted " Schedule 7 to that Act ".

(3) In subsection (4A)—

(a) for "section 16(3) of the Criminal Justice Act 1982" there shall be substituted " section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "section 76(6)(b) of the Crime and Disorder Act 1998" there shall be substituted " section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) In subsection (10), for "section 15 or 16 of the Children and Young Persons Act 1969" there shall be substituted " Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

(5) In subsection (11), in each of the definitions of "sexual offence" and "violent offence", for "section 31(1) of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

3 (1) Section 58 of the Children and Young Persons Act 1933 (power of Secretary of State to send certain young offenders to approved schools) shall be amended as follows.

(2) In the first paragraph (b), for the words "with respect to whom he is authorised to give directions under subsection (3) of section fifty-three of this Act" there shall be substituted " sentenced to be detained under section 91 of the Powers of

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Criminal Courts (Sentencing) Act 2000 with respect to whom he is authorised to give directions under section 92 of that Act ".

(3) In the second paragraph (a), for "subsection (3)" there shall be substituted " section 91 ".

Prison Act 1952 (c. 52)

4 In section 13(2) of the Prison Act 1952 (legal custody of prisoner), for "or the Criminal Justice Act 1982" there shall be substituted " or section 95, 98, 99 or 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

5 (1) Section 43 of the Prison Act 1952 (institutions for young offenders) shall be amended as follows.

(2) In subsection (1)(d), for "section 73 of the Crime and Disorder Act 1998" there shall be substituted " section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (7), for "section 12 of the Criminal Justice Act 1982" there shall be substituted " section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

6 In section 49(5) of the Prison Act 1952 (meaning of "secure accommodation" for purposes of section 49), for "section 75(7) of the Crime and Disorder Act 1998" there shall be substituted " section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

7 In section 53(1) of the Prison Act 1952 (interpretation), in the definition of "attendance centre", for "section 16 of the Criminal Justice Act 1982" there shall be substituted " section 62 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Army Act 1955 (c. 18)

8 In section 70(3A) of the Army Act 1955 (civil offences), for "section 2, 3 or 4 of the Crime (Sentences) Act 1997" there shall be substituted " section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

9 In section 71A(1A) of the Army Act 1955 (juveniles), for "section 2 of the Crime (Sentences) Act 1997" there shall be substituted " section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

10 In section 71AA(6)(a) of the Army Act 1955 (young service offenders: custodial orders) for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

11 In section 71B(2) of the Army Act 1955 (maximum periods of imprisonment or detention for default in payment of fines), for "section 31(3A) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

12 In Schedule 5A to the Army Act 1955 (powers of court on trial of civilian), in paragraph 10(6)(a), for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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Air Force Act 1955 (c. 19)

13 In section 70(3A) of the Air Force Act 1955 (civil offences), for "section 2, 3 or 4 of the Crime (Sentences) Act 1997" there shall be substituted " section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

14 In section 71A(1A) of the Air Force Act 1955 (juveniles), for "section 2 of the Crime (Sentences) Act 1997" there shall be substituted " section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

15 In section 71AA(6)(a) of the Air Force Act 1955 (young service offenders: custodial orders) for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

16 In section 71B(2) of the Air Force Act 1955 (maximum periods of imprisonment or detention for default in payment of fines), for "section 31(3A) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

17 In Schedule 5A to the Air Force Act 1955 (powers of court on trial of civilian), in paragraph 10(6)(a), for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Naval Discipline Act 1957 (c. 53)

18 In section 42(1A) of the Naval Discipline Act 1957 (civil offences), for "section 2, 3 or 4 of the Crime (Sentences) Act 1997" there shall be substituted " section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

19 In section 43A(1A) of the Naval Discipline Act 1957 (juveniles), for "section 2 of the Crime (Sentences) Act 1997" there shall be substituted " section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

20 In section 43AA(6)(a) of the Naval Discipline Act 1957 (young service offenders: custodial orders) for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

21 In section 43B(2) of the Naval Discipline Act 1957 (maximum periods of imprisonment or detention for default in payment of fines), for "section 31(3A) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

22 In Schedule 4A to the Naval Discipline Act 1957 (powers of court on trial of civilian), in paragraph 10(6)(a), for "section 1C of the Criminal Justice Act 1982" there shall be substituted " section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Children and Young Persons Act 1963 (c. 37)

23 In section 16(3) of the Children and Young Persons Act 1963 (offences committed by children), for "Part I of the Crime (Sentences) Act 1997" there shall be substituted " Chapter III of Part V of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Justice Act 1967 (c. 80)

24 In section 32(3) of the Criminal Justice Act 1967 (costs in criminal cases)—

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(a) in paragraph (a), for "section 3 of the Powers of Criminal Courts Act 1973" there shall be substituted " paragraph 5 of Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) in paragraph (b), for "section 30 of the Magistrates' Courts Act 1980" there shall be substituted " section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

25 (1) Section 67 of the Criminal Justice Act 1967 (computation of sentences of imprisonment or detention passed in England and Wales) shall be amended as follows.

(2) In subsection (2), for "section 23 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (5), for "section 53(3) of the Children and Young Persons Act 1933" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

26 (1) In section 104 of the Criminal Justice Act 1967 (interpretation), subsection (1) shall continue to have effect with the amendment made by paragraph 26(a) of Schedule 5 to the Powers of Criminal Courts Act 1973, that is to say, with the substitution for the definition of "extended sentence certificate" of the following definition—

> ""extended sentence certificate" means a certificate issued under section 28 of the Powers of Criminal Courts Act 1973 stating that an extended term of imprisonment was imposed on an offender under that section;".

(2) In that subsection, for the definition of "suspended sentence" there shall be substituted the following definition—

> ""suspended sentence" means a sentence to which an order under section 118(1) of the Powers of Criminal Courts (Sentencing) Act 2000 relates."

27 In section 106(2) of the Criminal Justice Act 1967 (extent to Scotland), in paragraph (b), for the words from the beginning to "102" there shall be substituted " section 102 ".

Criminal Appeal Act 1968 (c. 19)

28 (1) Section 10 of the Criminal Appeal Act 1968 (appeal against sentence in cases dealt with by Crown Court otherwise than on conviction on indictment) shall be amended as follows.

(2) In subsection (2)(b), for "Part I of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (3)—

(a) in paragraph (c)(iii), for "section 23 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) in paragraph (cc), for "section 40(2) or (3A) of the Criminal Justice Act 1991" there shall be substituted " section 116(2) or (4) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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29 In section 11(4) of the Criminal Appeal Act 1968 (supplementary provision as to appeal against sentence), for the words from "section 23(1)" to "partly" there shall be substituted " section 119(1) of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of a ".

30 In section 50(1A) of the Criminal Appeal Act 1968 (right of appeal where offender discharged), for "Section 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Firearms Act 1968 (c. 27)

31 In section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), in subsection (2A)(c), for "section 77 of the Crime and Disorder Act 1998" there shall be substituted " section 104 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Health Services and Public Health Act 1968 (c. 46)

32 In section 64 of the Health Services and Public Health Act 1968 (financial assistance by Secretary of State to certain voluntary organisations), at the end of subsection (3)(a) there shall be inserted the following sub-paragraph—

"(xxi) sections 63 to 66 and 92 of, and Schedules 6 and 7 to, the Powers of Criminal Courts (Sentencing) Act 2000;".

33 In section 65 of the Health Services and Public Health Act 1968 (financial and other assistance by local authorities to certain voluntary organisations), at the end of subsection (3)(b) there shall be inserted the following sub-paragraph—

"(xxii) sections 63 to 66 of, and Schedules 6 and 7 to, the Powers of Criminal Courts (Sentencing) Act 2000;".

Social Work (Scotland) Act 1968 (c. 49)

34 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation)—

F217(a) . . . . . .

(b) in the definition of "supervision order", for "the Children and Young Persons Act 1969" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Textual Amendments

F217 Sch. 9 para. 34(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), **Sch. 8**; S.I. 2001/919, **art. 2(f)(vi)(g)**

Theft Act 1968 (c. 60)

35 In section 35(2) of the Theft Act 1968 (application of sections 27 and 28 to proceedings for offences committed before commencement of that Act), for "Sections 27 and 28 of this Act" there shall be substituted " Section 27 of this Act and section 148 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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Civil Evidence Act 1968 (c. 64)

36 In section 11(5)(a) of the Civil Evidence Act 1968 (convictions as evidence in civil proceedings), for "section 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70)

37 In section 10(5)(a) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (convictions as evidence in civil proceedings), for "section 13 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Children and Young Persons Act 1969 (c. 54)

38 In section 23 of the Children and Young Persons Act 1969 (remands and committals to local authority accommodation), in subsection (12), in the definition of "sexual offence" and "violent offence", for "Part I of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

39 In each of the following provisions of the Children and Young Persons Act 1969, namely—

(a) subsections (1) and (2) of section 25 (transfers between England or Wales and Northern Ireland), and

(b) subsections (1) and (2) of section 26 (transfers between England or Wales and the Channel Islands or Isle of Man),

for "residence requirement as mentioned in section 12AA of this Act" there shall be substituted " local authority residence requirement as mentioned in paragraph 5 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

40 In section 30(1) of the Children and Young Persons Act 1969 (detention of young offenders in community homes), for "section 53 of the Act of 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

41 (1) Section 32 of the Children and Young Persons Act 1969 (detention of absentees) shall be amended as follows.

(2) In subsection (1A)—

(a) for "section 16(3) of this Act" there shall be substituted " paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ";

(b) for "section 12AA of this Act" there shall be substituted " paragraph 5 of Schedule 6 to that Act "; and

(c) for "section 16(3A) of this Act" there shall be substituted " paragraph 7(5) of Schedule 7 to that Act ".

(3) In subsection (1C)—

(a) for "section 16(3) of this Act" there shall be substituted " paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "section 12AA, 16(3B) or" there shall be substituted " paragraph 5 of Schedule 6 to that Act, paragraph 7(8) of Schedule 7 to that Act or section ".

42 In section 70(1) of the Children and Young Persons Act 1969 (interpretation), for the definitions of "supervision order", "supervised person" and "supervisor" there shall be substituted the following definition—

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""supervision order" has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000;".

Administration of Justice Act 1970 (c. 31)

43 (1) Part I of Schedule 9 to the Administration of Justice Act 1970 (orders for costs, compensation etc. enforceable as on a summary conviction) shall be amended as follows.

(2) For paragraph 10 there shall be substituted the following paragraph—

"10 Where under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 a court orders the payment of compensation."

(3) In paragraph 12, for "section 55 of the Children and Young Persons Act 1933" there shall be substituted " section 137 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Attachment of Earnings Act 1971 (c. 32)

44 In section 3(3C) of the Attachment of Earnings Act 1971 (court's power to make order), for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Consumer Credit Act 1974 (c. 39)

45 In section 119(2) of the Consumer Credit Act 1974 (unreasonable refusal to deliver pawn), for the words from "section 28" to "that section," there shall be substituted " section 148 of the Powers of Criminal Courts (Sentencing) Act 2000 (restitution orders) ".

Solicitors Act 1974 (c. 47)

46 In section 43 of the Solicitors Act 1974 (control of employment of certain persons), in subsection (7), for the words from "under Part I" to "that Act," there shall be substituted " discharging a person absolutely or conditionally in respect of an offence shall, notwithstanding anything in section 14 of the Powers of Criminal Courts (Sentencing) Act 2000, ".

Rehabilitation of Offenders Act 1974 (c. 53)

47 In section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions), in subsection (4), for "section 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

48 (1) Section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences) shall be amended as follows.

(2) In subsection (1)(d)—

(a) after "life" there shall be inserted " under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "or for a term exceeding thirty months, passed under section 53 of the Children and Young Persons Act 1933" there shall be substituted " or

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a sentence of detention for a term exceeding thirty months passed under section 91 of the said Act of 2000 ".

(3) In subsection (2), in Table B, for "section 53 of the said Act of 1933" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) In subsection (4B), as inserted by paragraph 6(3) of Schedule 4 to the [M185]Youth Justice and Criminal Evidence Act 1999—
- (a) for "Part I of the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ";
- (b) for "section 8" there shall be substituted " section 23 "; and
- (c) for "section 9" there shall be substituted " section 24 ".

(5) In subsection (4C) as so inserted—
- (a) for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ";
- (b) for "section 8" there shall be substituted " section 23 "; and
- (c) for "section 9" there shall be substituted " section 24 ".

(6) In subsection (5)(e), for "any provision of the Children and Young Persons Act 1969" there shall be substituted " section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(7) In subsection (6)(c), for "section 19 of the Criminal Justice Act 1948" there shall be substituted " section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(8) In subsection (6A), for "section 73 of the Crime and Disorder Act 1998" there shall be substituted " section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(9) In subsection (9)(b), for "section 53 of the said Act of 1933" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(10) In subsection (10)—
- (a) for "the Children and Young Persons Act 1969" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 "; and
- (b) for "the said Act of 1969" there shall be substituted " the Children and Young Persons Act 1969 ".

Marginal Citations
M185 1999 c. 23.

49 In section 7(2) of the Rehabilitation of Offenders Act 1974 (limitations on rehabilitation under that Act), in paragraph (d), for "the Children and Young Persons Act 1969" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Bail Act 1976 (c. 63)

50 (1) Section 2 of the Bail Act 1976 (definitions) shall be amended as follows.

(2) In subsection (1)(c), for "section 30(1) of the Magistrates' Courts Act 1980" there shall be substituted " section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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(3) In subsection (2)—

(a) for the definition of "bail hostel" and "probation hostel" there shall be substituted the following definition—

> ""bail hostel" means premises for the accommodation of persons remanded on bail,";

and

(b) after the definition of "offence" there shall be inserted the following definition—

> ""probation hostel" means premises for the accommodation of persons who may be required to reside there by a probation order,".

51 In section 3 of the Bail Act 1976 (general provisions), in subsection (9), for "subsection (2) of section 30 of the Magistrates' Courts Act 1980" there shall be substituted " subsection (3) of section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

52 In section 4 of the Bail Act 1976 (general right to bail of accused person and others), in subsection (3), for "Part II of Schedule 2 to the Criminal Justice Act 1991 (breach of requirement of probation, community service, combination or curfew order)" there shall be substituted " Part II of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of certain community orders) ".

53 In section 5 of the Bail Act 1976 (supplementary provisions about decisions on bail), in subsection (6A)(a)—

(a) after the words "in custody under" there shall be inserted " section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or ";

(b) at the end of sub-paragraph (ii) there shall be inserted " or "; and

(c) for sub-paragraphs (iii) and (iv) there shall be substituted the following sub-paragraph—

> "(iii) section 18 (initial procedure on information against adult for offence triable either way),".

54 (1) Schedule 1 to the Bail Act 1976 (persons entitled to bail: supplementary provisions) shall be amended as follows.

(2) In Part I, in paragraph 8(3)—

(a) for "section 30(2) of the Magistrates' Courts Act 1980" there shall be substituted " section 11(3) of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "the said section 30(2)" there shall be substituted " the said section 11(3) ".

(3) In Part III, in paragraph 4, in the definition of "default", for "section 6 or 16 of the Powers of Criminal Courts Act 1973" there shall be substituted " Part II of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Criminal Law Act 1977 (c. 45)

55 In section 3(1) of the Criminal Law Act 1977 (penalties for conspiracy), for "section 30(1) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 127 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

56 In section 38A of the Criminal Law Act 1977 (execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine), in subsection (5), in the definition of "prison", for "section 12(10) of the Criminal Justice Act 1982" there shall be substituted " section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

57 In section 38B of the Criminal Law Act 1977 (further provision for execution of certain warrants of commitment), in subsection (5), in the definition of "prison", for "section 12(10) of the Criminal Justice Act 1982" there shall be substituted " section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Ancient Monuments and Archaeological Areas Act 1979 (c. 46)

58 In section 5(2) of the Ancient Monuments and Archaeological Areas Act 1979 (execution of works for preservation of a scheduled monument by Secretary of State), for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

59 In section 29 of the Ancient Monuments and Archaeological Areas Act 1979 (compensation orders for damage to monuments under guardianship in England and Wales), for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)

60 In section 1(2) of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (exclusion orders), for "sections 1A and 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Magistrates' Courts Act 1980 (c. 43)

61 In section 11(3) of the Magistrates' Courts Act 1980 (non-appearance of accused), for "section 23 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

62 In section 17A(4) of the Magistrates' Courts Act 1980 (initial procedure: accused to indicate intention as to plea), for "section 38 below" there shall be substituted " section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

63 In section 20(2) of the Magistrates' Courts Act 1980 (procedure where summary trial appears more suitable), for "section 38 below" there shall be substituted " section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

64 (1) Section 24 of the Magistrates' Courts Act 1980 (summary trial of information against child or young person for indictable offence) shall be amended as follows.

(2) In subsection (1)(a), for "subsection (2) of section 53 of the Children and Young Persons Act 1933" there shall be substituted " subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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(3) In subsection (3), for "section 1(1) of the Criminal Justice Act 1982" there shall be substituted " section 89(1) of the said Act of 2000 ".

65 In section 33 of the Magistrates' Courts Act 1980 (maximum penalties on summary conviction in pursuance of section 22), in subsection (1)(b), for "section 38 below" there shall be substituted " section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (committal to Crown Court for sentence) ".

66 In section 77(2) of the Magistrates' Courts Act 1980 (postponement of issue of warrant of commitment)—

(a) for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "17" there shall be substituted " 18 ".

67 (1) Section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders) shall be amended as follows.

(2) In subsection (1), for "section 1 of the Criminal Justice Act 1982" there shall be substituted " section 89 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (3), for "section 17(1) of the Criminal Justice Act 1982" there shall be substituted " section 60(1) of the said Act of 2000 ".

(4) in subsection (8), for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 130 of the said Act of 2000 ".

68 In section 88(4) of the Magistrates' Courts Act 1980 (supervision pending payment), for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

69 In section 91(3) of the Magistrates' Courts Act 1980 (transfer of fines from Scotland or Northern Ireland), for "section 32(1) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 140(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

70 In section 96A of the Magistrates' Courts Act 1980 (application of Part III to persons aged 18 to 20), for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

71 In section 108(1A) of the Magistrates' Courts Act 1980 (right of appeal where offender absolutely or conditionally discharged), for "Section 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

72 In section 113 of the Magistrates' Courts Act 1980 (bail on appeal or case stated), in subsection (3), for "or 38 above" there shall be substituted " above or section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

73 In section 125(4)(c) of the Magistrates' Courts Act 1980 (warrants which constable may execute when not in his possession), as amended by paragraph 8 of Schedule 4 to the [M186]Youth Justice and Criminal Evidence Act 1999, in sub-paragraph (v), for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

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Marginal Citations
M186 1999 c. 23.

74 In section 126 of the Magistrates' Courts Act 1980 (execution of certain warrants in Channel Islands and Isle of Man), as amended by paragraph 9 of Schedule 4 to the [M187]Youth Justice and Criminal Evidence Act 1999, in paragraph (f), for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations
M187 1999 c. 23.

75 In section 128(6) of the Magistrates' Courts Act 1980 (remand in custody or on bail), for "or 30 above" there shall be substituted " above or section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

76 In section 133(1) of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment and detention), for "Subject to section 102 of the Crime and Disorder Act 1998," there shall be substituted " Subject to section 84 of the Powers of Criminal Courts (Sentencing) Act 2000, ".

77 In section 135(3) of the Magistrates' Courts Act 1980 (detention of offender for one day in court-house or police station), for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

78 In section 136(4) of the Magistrates' Courts Act 1980 (committal to custody overnight at police station), for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

79 In section 143(2) of the Magistrates' Courts Act 1980 (power to alter sums specified in certain provisions)—

(a) for paragraphs (cb) and (d) there shall be substituted the following paragraphs—

"(cb) section 131(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on compensation order of magistrates' court);

(d) section 135 of that Act; (limit on fine imposed on young offender by magistrates' court);";

(b) in paragraph (j), for "section 31(3A) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(c) in paragraph (p), for "section 58(2) and (3) of the Criminal Justice Act 1991" there shall be substituted " section 150(2) and (3) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

80 (1) In Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143), the entries relating to—

(a) the Children and Young Persons Act 1969,

(b) the Powers of Criminal Courts Act 1973,

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(c) the Criminal Justice Act 1982, and

(d) the Criminal Justice Act 1991,

shall be omitted.

(2) At the end of that Schedule there shall be inserted the following entry—

"**POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000**	
Section 123(3) (failure to comply with suspended sentence supervision order)	£1,000
In Schedule 3, paragraphs 4(1) and 5(1) (failure to comply with certain community orders)	£1,000
In Schedule 5, paragraph 2(1) (failure to comply with attendance centre order or attendance centre rules)	£1,000
In Schedule 7, paragraph 2(2) (failure to comply with supervision order)	£1,000"

Public Passenger Vehicles Act 1981 (c. 14)

81 In Schedule 3 to the Public Passenger Vehicles Act 1981 (supplementary provisions as to qualifications for public service vehicle operator's licence), in paragraph 1(6), for "section 14 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Attempts Act 1981 (c. 47)

82 In section 4(5)(b) of the Criminal Attempts Act 1981 (penalties)—

(a) for "section 31(1) and (2)" there shall be substituted " section 78(1) and (2) "; and

(b) for "the Magistrates' Courts Act 1980" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Contempt of Court Act 1981 (c. 49)

83 In section 12(5) of the Contempt of Court Act 1981 (application of certain provisions in case of contempt of magistrates' court)—

(a) at the beginning there shall be inserted " Section 135 of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on fines in respect of young persons) and "; and

(b) for the words ", namely: section 36 (restriction on fines in respect of young persons);" there shall be substituted " ; and those provisions of the Magistrates' Courts Act 1980 are ".

84 In section 14 of the Contempt of Court Act 1981 (proceedings in England and Wales), in the subsection (2A) inserted by the [M188]Criminal Justice Act 1982, for "section 17 of the Criminal Justice Act 1982" there shall be substituted " section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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Marginal Citations
M188 1982 c. 48.

85 In section 16(3) of the Contempt of Court Act 1981 (enforcement of fines imposed by certain superior courts), for "sections 31 and 32 of the Powers of Criminal Courts Act 1973" there shall be substituted " sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

86 In Schedule 1 to the Contempt of Court Act 1981 (times when proceedings are active for purposes of section 2), in paragraph 6, for "section 1 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 1 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Supreme Court Act 1981 (c. 54)

87 In section 81(1) of the Supreme Court Act 1981 (bail), in paragraph (g)—

(a) after the word "under" there shall be inserted " section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or ";

(b) at the end of sub-paragraph (ii) there shall be inserted " or "; and

(c) sub-paragraph (iv) and the word "or" immediately preceding it shall be omitted.

88 In section 140 of the Supreme Court Act 1981 (enforcement of fines and forfeited recognizances), in each of subsections (3) and (5), for "sections 31 and 32 of the Powers of Criminal Courts Act 1973" there shall be substituted " sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Justice Act 1982 (c. 48)

89 (1) Part III of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements (Northern Ireland): persons residing in England and Wales or Scotland) shall be amended as follows.

(2) In paragraph 7(3), for "relevant officers by the Powers of Criminal Courts Act 1973" there shall be substituted " responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 9(6)(b), for "relevant officer under the Powers of Criminal Courts Act 1973" there shall be substituted " responsible officer under the Powers of Criminal Courts (Sentencing) Act 2000 ".

Mental Health Act 1983 (c. 20)

90 (1) Section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) shall be amended as follows.

(2) In subsection (1), for "section 2(2) of the Crime (Sentences) Act 1997" there shall be substituted " section 109(2) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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(3) In subsection (1A), for "section 3 or 4 of the Crime (Sentences) Act 1997" there shall be substituted " section 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) After subsection (1A) there shall be inserted the following subsection—

"(1B) For the purposes of subsections (1) and (1A) above, a sentence falls to be imposed under section 109(2), 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 if it is required by that provision and the court is not of the opinion there mentioned."

(5) In subsection (8) as amended by paragraph 54 of Schedule 8 to the [M189]Crime and Disorder Act 1998—

(a) for "Part I of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "section 58" there shall be substituted " section 150 ".

(6) In subsection (8) as amended by paragraph 11 of Schedule 4 to the [M190]Youth Justice and Criminal Evidence Act 1999—

(a) for "Part I of the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "any such order as is mentioned in section 7(7)(b) of the Children and Young Persons Act 1969 or section 58 of the Criminal Justice Act 1991" there shall be substituted " a supervision order (within the meaning of that Act) or an order under section 150 of that Act (binding over of parent or guardian) ".

Marginal Citations

M189 1998 c. 37.

M190 1999 c. 23.

91 In section 43 of the Mental Health Act 1983 (power of magistrates' court to commit for restriction order), in subsection (4), for "section 38 of the Magistrates' Courts Act 1980" there shall be substituted " section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Telecommunications Act 1984 (c. 12)

92 In Schedule 3 to the Telecommunications Act 1984 (penalties and mode of trial under the Wireless Telegraphy Act 1949), in paragraph 3—

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

"(a) section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (which gives the convicting court in England and Wales power to deprive a person convicted of an offence of property used etc. for purposes of crime); and";

and

(b) in paragraph (b), for "section 43 of the Powers of Criminal Courts Act 1973" there shall be substituted " that section ".

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Child Abduction Act 1984 (c. 37)

93 In the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases), in paragraph 2(1)—

(a) for "section 16(3) of the Children and Young Persons Act 1969" there shall be substituted " paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "that Act" there shall be substituted " the Children and Young Persons Act 1969 ".

Repatriation of Prisoners Act 1984 (c. 47)

94 (1) In the Schedule to the Repatriation of Prisoners Act 1984 (operation of certain enactments in relation to transferred prisoner), paragraph 2, both—

(a) as that paragraph has effect, and is deemed always to have had effect, by virtue of paragraph 2 of Schedule 2 to the [M191]Crime (Sentences) Act 1997, and

(b) as that paragraph has effect by virtue of paragraph 3 of Schedule 2 to the 1997 Act,

shall be amended as follows.

(2) In sub-paragraph (3), at the end of paragraph (b) there shall be inserted " and ", and after that paragraph there shall be inserted the following paragraph—

"(c) when he began serving his sentence for the purposes of section 116(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000,".

Marginal Citations

M191 1997 c. 43.

Police and Criminal Evidence Act 1984 (c. 60)

95 In section 17(1) of the Police and Criminal Evidence Act 1984 (entry for purpose of arrest etc.), in paragraph (cb), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

96 In section 38 of the Police and Criminal Evidence Act 1984 (duties of custody officer after charge), in subsection (6A), in the definition of "sexual offence" and "violent offence", for "Part I of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

97 In section 63A(3B) of the Police and Criminal Evidence Act 1984 (supplementary provision as to samples), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

98 In section 75(3) of the Police and Criminal Evidence Act 1984 (provisions supplementary to section 74), in paragraph (a), for "section 13 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

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Prosecution of Offences Act 1985 (c. 23)

99 In section 19(3)(c) of the Prosecution of Offences Act 1985 (provision for payment of certain costs of medical practitioner), for "section 30 of the Magistrates' Courts Act 1980" there shall be substituted " section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Protection of Military Remains Act 1986 (c. 35)

100 In section 7(1) of the Protection of Military Remains Act 1986 (supplementary provision with respect to offences), for "Section 43 of the Powers of Criminal Courts Act 1973" there shall be substituted " Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Public Order Act 1986 (c. 64)

101 In section 30(5) of the Public Order Act 1986 (domestic football banning orders), for "sections 1A and 1C of the Powers of Criminal Courts Act 1973" there shall be substituted " sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Justice Act 1988 (c. 33)

102 In section 36(2) of the Criminal Justice Act 1988 (review of sentencing), for "section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997" there shall be substituted " section 109(2), 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

103 In section 50 of the Criminal Justice Act 1988 (suspended sentences on certain civilians in military courts), in subsection (3)(b), for "the Powers of Criminal Courts Act 1973" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

104 In section 60(1) of the Criminal Justice Act 1988 (periods of imprisonment for default), for "Tables in section 31(3A) of the Powers of Criminal Courts Act 1973 and" there shall be substituted " Table in ".

F218 105 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F218 106 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F218 107 . . . . . .

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Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]108 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]109 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]110 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]111 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]112 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F218]113 . . . . . .

Textual Amendments

F218 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

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114 In Schedule 15 to the Criminal Justice Act 1988 (minor and consequential amendments), in paragraph 80, for "that Act" there shall be substituted " the Supreme Court Act 1981 ".

Copyright, Designs and Patents Act 1988 (c. 48)

115 In section 108(6) of the Copyright, Designs and Patents Act 1988 (articles infringing copyright: order for delivery up in criminal proceedings), for "section 43 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

116 In section 199(6) of the Copyright, Designs and Patents Act 1988 (illicit recordings: order for delivery up in criminal proceedings), for "section 43 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Road Traffic Act 1988 (c. 52)

117 In section 164(5) of the Road Traffic Act 1988 (power of constables to require production of driving licence), for "or section 44 of the Powers of Criminal Courts Act 1973" there shall be substituted " , section 40 of the Crime (Sentences) Act 1997, section 146 or 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Road Traffic Offenders Act 1988 (c. 53)

118 In section 25(4) of the Road Traffic Offenders Act 1988 (duty to request information as to date of birth or sex), for "section 56(5) of the Criminal Justice Act 1967" there shall be substituted " section 7 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

119 (1) Section 26 of the Road Traffic Offenders Act 1988 (interim disqualification) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for the words from "subsection (1)" to "applies" there shall be substituted " section 6 of the Powers of Criminal Courts (Sentencing) Act 2000 or any enactment mentioned in subsection (4) of that section "; and

(b) in paragraph (b), for "section 39 of the Magistrates' Courts Act 1980" there shall be substituted " section 10 of that Act ".

(3) In subsection (2), for "section 1 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 1 of that Act ".

120 In section 27(3) of the Road Traffic Offenders Act 1988 (production of licence), for "section 44 of the Powers of Criminal Courts Act 1973," there shall be substituted " section 40 of the Crime (Sentences) Act 1997, section 146 or 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

121 In section 34(4A) of the Road Traffic Offenders Act 1988 (disqualification for certain offences), for "section 44 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

122 In section 35(5) of the Road Traffic Offenders Act 1988 (disqualification for repeated offences), for "section 44 of the Powers of Criminal Courts Act 1973"

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there shall be substituted " section 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

123 (1) Section 46 of the Road Traffic Offenders Act 1988 (combination of disqualification and endorsement with certain other orders) shall be amended as follows.

(2) In subsection (1), for "section 1C(3) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14(3) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (2), for "section 1C(1) of the Powers of Criminal Courts Act 1973" there shall be substituted " section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Extradition Act 1989 (c. 33)

F219 124 . . . . . .

Textual Amendments

F219 Sch. 9 para. 124 repealed (1.1.2004) by Extradition Act 2003 (c. 41), s. 221, **Sch. 4**; S.I. 2003/3103, art. 2 (with arts. 3-5) (as amended (11.12.2003) by S.I. 2003/3258, art. 2 and (18.12.2003) by S.I. 2003/3312, art. 2)

Football Spectators Act 1989 (c. 37)

F220 125 . . . . . .

Textual Amendments

F220 Sch. 9 para. 125 repealed (28.8.2000) by 2000 c. 25, s. 1(3), **Sch. 3**; S.I. 2000/2125, **art. 2**

Children Act 1989 (c. 41)

126 In section 21(2)(c) of the Children Act 1989 (provision of accommodation for children on remand etc.)—

(a) for "section 16(3A) or" there shall be substituted " paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or section "; and

(b) for "residence requirement under section 12AA of that Act" there shall be substituted " local authority residence requirement under paragraph 5 of Schedule 6 to that Act of 2000 ".

127 In section 31(7) of the Children Act 1989 (care and supervision orders under that Act), for "section 7(7)(b) of the Children and Young Persons Act 1969" there shall be substituted " section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

128 In section 81(1) of the Children Act 1989 (inquiries), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

129 In section 105(6) of the Children Act 1989 (meaning of "ordinary residence"), for "section 7(7)(b) of the Children and Young Persons Act 1969" there shall be substituted " section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

130 In Part III of Schedule 2 to the Children Act 1989 (contributions towards maintenance of children looked after by local authorities), in paragraph 21(7), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

131 (1) Part III of Schedule 3 to the Children Act 1989 (education supervision orders) shall be amended as follows.

(2) In paragraph 13(2)(c), for "section 12C of the Children and Young Persons Act 1969" there shall be substituted " paragraph 7 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 14(1), for "section 7(7)(b) of the Children and Young Persons Act 1969" there shall be substituted " section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

132 In Schedule 8 to the Children Act 1989 (privately fostered children), in paragraph 3, for "section 7(7)(b) of the Children and Young Persons Act 1969" there shall be substituted " section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25)

133 In section 5(4) of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (modifications for cases where accused is not guilty by reason of insanity etc.), for "Section 1A(1) of the Powers of Criminal Courts Act 1973" there shall be substituted " Section 12(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Justice Act 1991 (c. 53)

134 In section 16(b) of the Criminal Justice Act 1991 (reciprocal enforcement of certain orders), for "corresponding" there shall be substituted " certain ".

135 In section 23(1) of the Criminal Justice Act 1991 (default in certain cases), for "Tables in section 31(3A) of the 1973 Act and" there shall be substituted " Table in ".

136 In section 24(3) of the Criminal Justice Act 1991 (recovery of fines etc. by deductions from income support), for "section 32 of the 1973 Act" there shall be substituted " section 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

137 In section 33(3A) of the Criminal Justice Act 1991 (duty to release prisoners) for "section 58 of the Crime and Disorder Act 1998" there shall be substituted " section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

138 In section 34A of the Criminal Justice Act 1991 (power to release short-term prisoners on licence), in subsection (2)—

(a) in paragraph (a), for "section 58 of the Crime and Disorder Act 1998" there shall be substituted " section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ";

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(b) in paragraph (c), for "paragraph 3(1)(d) or 4(1)(d) of Schedule 2 to this Act" there shall be substituted " paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(c) in paragraph (h), for "section 40 below" there shall be substituted " section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

139 In section 40A of the Criminal Justice Act 1991 (release on licence following return to prison), in subsection (1)(a), for "section 40 above" there shall be substituted " section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

140 In section 43(1) of the Criminal Justice Act 1991 (young offenders), for "section 53 of the 1933 Act" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

141 (1) Section 44 of the Criminal Justice Act 1991 (extended sentences for sexual or violent offenders), as substituted by section 59 of the [M192]Crime and Disorder Act 1998, shall be amended as follows.

(2) In each of subsections (1) and (8), for "section 58 of the Crime and Disorder Act 1998" there shall be substituted " section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (2), for "sections 40 and" there shall be substituted " section ".

Marginal Citations

M192 1998 c. 37.

142 In section 44A of the Criminal Justice Act 1991 (re-release of prisoners serving extended sentences), in subsection (1), for "section 58 of the Crime and Disorder Act 1998" there shall be substituted " section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

143 In section 45(1) of the Criminal Justice Act 1991 (fine defaulters and contemnors) —

(a) for ", 35 and 40" there shall be substituted " and 35 "; and

(b) for "section 9 of the 1982 Act" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

144 (1) Section 51 of the Criminal Justice Act 1991 (interpretation of Part II) shall be amended as follows.

(2) In subsection (1), in the definition of "sexual offence" and "violent offence", for "Part I of this Act" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (2D), for "section 58 of the Crime and Disorder Act 1998" there shall be substituted " section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) For subsection (4) there shall be substituted the following subsection—

"(4) Section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (meaning of "protecting the public from serious harm") shall apply for the purposes of this Part as it applies for the purposes of that Act."

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

145 In section 65(1) of the Criminal Justice Act 1991 (supervision of young offenders after release), for "section 53 of the 1933 Act" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

146 In section 82(4) of the Criminal Justice Act 1991 (duties of prisoner custody officers acting in pursuance of prisoner escort arrangements), for "section 34A of the 1973 Act" there shall be substituted " section 142 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

147 (1) Part III of Schedule 3 to the Criminal Justice Act 1991 (transfer of probation orders from Northern Ireland) shall be amended as follows.

(2) In paragraph 10(3)—

(a) in paragraph (b), for "mental hospital within the meaning of paragraph 5 of Schedule 1A to the 1973 Act" there shall be substituted " hospital or mental nursing home within the meaning of the Mental Health Act 1983, not being hospital premises at which high security psychiatric services within the meaning of that Act are provided "; and

(b) in paragraph (d), for "Schedule 1A to the 1973 Act" there shall be substituted " Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 11—

(a) in sub-paragraph (2)(b), for the words from the beginning to "Schedule 2 to this Act" there shall be substituted " the provisions of sections 41 and 42 of and Schedules 2 and 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (so far as relating to such orders) ";

(b) in sub-paragraph (3)(a), for "the 1973 Act" there shall be substituted " section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 ";

(c) in sub-paragraph (3)(b), for "that Act and Schedule 2 to this Act" there shall be substituted " Schedule 3 to that Act ";

(d) in sub-paragraph (4)—

(i) for "the 1973 Act" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(ii) for the words from "paragraph 3(1)(d)" to the end there shall be substituted " paragraph 4(1)(d), 5(1)(d), 10(3) or 11(2) of Schedule 3 to that Act "; and

(e) in sub-paragraph (5)—

(i) for "the 1973 Act", in the first place where it occurs, there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(ii) for "the 1973 Act", in the second place where it occurs, there shall be substituted " that Act ".

148 In Schedule 4 to the Criminal Justice Act 1991 (increase of certain maxima), in Part I, in the first column of the entry relating to section 63(3)(a) of the Magistrates' Courts Act 1980, for "that Act" there shall be substituted " the 1980 Act ".

149 In Schedule 12 to the Criminal Justice Act 1991 (transitional provisions and savings), after paragraph 6 (which is repealed by this Act) there shall be inserted the following paragraph—

"6A Section 17 of this Act shall not apply in relation to offences committed before the commencement of that section."

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Social Security Administration Act 1992 (c. 5)

150 In section 121(2) of the Social Security Administration Act 1992 (unpaid contributions: supplementary), for the words from "Part I" to "probation or" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Aggravated Vehicle-Taking Act 1992 (c. 11)

151 In section 1(2) of the Aggravated Vehicle-Taking Act 1992 (supplementary provisions about offence of aggravated vehicle-taking), for "section 30 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 127 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Local Government Finance Act 1992 (c. 14)

152 In Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount), in paragraph 1(4), for "section 9 of the Criminal Justice Act 1982" there shall be substituted " section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Probation Service Act 1993 (c. 47)

[F221]153 . . . . . .

Textual Amendments

F221 Sch. 9 para. 153 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 pt. II para. 203(2), **Sch. 8**; S.I. 2001/919, **art. 2(f)(vi)(g)**

[F222]154 . . . . . .

Textual Amendments

F222 Sch. 9 para. 154 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), **Sch. 8**; S.I. 2001/919, **art. 2(f)(vi)(g)**

[F223]155 . . . . . .

Textual Amendments

F223 Sch. 9 para. 155 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), **Sch. 8**; S.I. 2001/919, **art. 2(f)(vi)(g)**

[F224]156 . . . . . .

Textual Amendments

F224 Sch. 9 para. 156 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), **Sch. 8**; S.I. 2001/919, **art. 2(f)(vi)(g)**

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Pension Schemes Act 1993 (c. 48)

157 In section 68(2) of the Pension Schemes Act 1993 (unpaid premiums: supplementary), for the words from "Part I" to "probation or" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Vehicle Excise and Registration Act 1994 (c. 22)

158 In section 32(1) of the Vehicle Excise and Registration Act 1994 (offences: supplementary), in paragraph (a), for "section 1A of the Powers of Criminal Courts Act 1973" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

159 In section 41(1) of the Vehicle Excise and Registration Act 1994 (provisions supplementary to sections 37 to 40), for "section 1A of the Powers of Criminal Courts Act 1973" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Justice and Public Order Act 1994 (c. 33)

160 In section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), in subsection (5), in the definition of "the relevant enactments", for "section 53(2) of the Children and Young Persons Act 1933" there shall be substituted " section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

161 In section 136 of the Criminal Justice and Public Order Act 1994 (cross-border execution of warrants), in subsection (7A) as inserted by paragraph 23 of Schedule 4 to the [M193]Youth Justice and Criminal Evidence Act 1999, for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations

M193 1999 c. 23.

162 In Schedule 1 to the Criminal Justice and Public Order Act 1994 (escort arrangements: England and Wales), in paragraph 4, in the definition of "offender", for "or detention and training under section 73 of the Crime and Disorder Act 1998" there shall be substituted " or detention and training under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Drug Trafficking Act 1994 (c. 37)

[F225]163 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

[F225]164 . . . . . .

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 165 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 166 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 167 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 168 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 169 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 170 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 171 . . . . . .

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 172 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F225 173 . . . . . .

Textual Amendments

F225 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)

174 In Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 (qualifications for standard licence), in paragraph 3(3), for "section 14 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Children (Scotland) Act 1995 (c. 36)

175 In section 33 of the Children (Scotland) Act 1995 (effect of orders etc. made in different parts of the United Kingdom), in subsection (5)(b), after "the Children and Young Persons Act 1969" there shall be inserted " or sections 63 to 67 of and Schedules 6 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ".

Criminal Procedure (Scotland) Act 1995 (c. 46)

176 (1) Section 234 of the Criminal Procedure (Scotland) Act 1995 (probation orders: persons residing in England and Wales) shall be amended as follows.

(2) In subsection (2)—

(a) for "Schedule 1A to the 1973 Act" there shall be substituted " Schedule 2 to the 2000 Act "; and

(b) for "3(3)(a)" there shall be substituted " 3(4)(a) ".

(3) In subsection (4)—

(a) for "Schedule 1A to the 1973 Act" there shall be substituted " Schedule 2 to the 2000 Act "; and

(b) for "Schedule 1A", in the second place where it occurs, there shall be substituted " Schedule 2 ".

(4) In subsection (5)—

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(a) for "Schedule 2 to the 1991 Act" there shall be substituted " Schedule 3 to the 2000 Act ";

(b) for "section 2 of the 1973 Act" there shall be substituted " section 41 of that Act "; and

(c) for "section 11 of the 1991 Act" there shall be substituted " section 51 of that Act ".

(5) In subsection (6)—

(a) for "Schedule 2 to the 1991 Act" there shall be substituted " Schedule 3 to the 2000 Act ";

(b) for "sub-paragraphs (3) and (4) of paragraph 3" there shall be substituted " sub-paragraphs (4) and (5) of paragraph 4 "; and

(c) for "sub-paragraph (3)" there shall be substituted " sub-paragraph (4) ".

(6) In subsection (10)—

(a) for "section 10 of the 1973 Act" there shall be substituted " paragraph 6 of Schedule 4 to the 2000 Act ";

(b) for "that section" there shall be substituted " that Schedule "; and

(c) for "section 2" there shall be substituted " section 41 ".

(7) For subsection (11) there shall be substituted the following subsection—

"(11) In this section "the 2000 Act" means the Powers of Criminal Courts (Sentencing) Act 2000."

177 (1) Section 242 of the Criminal Procedure (Scotland) Act 1995 (community service orders: persons residing in England and Wales) shall be amended as follows.

(2) In subsection (1), in the paragraph (d) treated as substituted in section 238(2) of that Act, for "section 14 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In subsection (2), for "section 14 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) In subsection (3), for "relevant officers by the Powers of Criminal Courts Act 1973" there shall be substituted " responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000 ".

178 In section 244 of the Criminal Procedure (Scotland) Act 1995 (community service orders: general provisions relating to persons living in England and Wales or Northern Ireland), in subsection (6)(b), for "relevant officer under the Powers of Criminal Courts Act 1973" there shall be substituted " responsible officer under the Powers of Criminal Courts (Sentencing) Act 2000 ".

London Local Authorities Act 1995 (c. x)

179 In section 26(1) of the London Local Authorities Act 1995 (powers of seizure), for "section 43 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Criminal Evidence (Amendment) Act 1997 (c. 17)

180 In section 1(6) of the Criminal Evidence (Amendment) Act 1997 (meaning of references to person serving sentence of imprisonment), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Social Security (Recovery of Benefits) Act 1997 (c. 27)

181 In Part I of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 (exempted payments), in paragraph 2, for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted " section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Crime (Sentences) Act 1997 (c. 43)

[F226]182 . . . . . .

Textual Amendments

F226 Sch. 9 para. 182 repealed (30.11.2000 with effect as mentioned in 2000 c. 43, s. 75, **Sch. 8** Note (b) of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(3), Sch. 7 Pt. II para. 203(3), **Sch. 8**

183 (1) Section 34 of the Crime (Sentences) Act 1997 (interpretation of Chapter II of Part II) shall be amended as follows.

(2) In subsection (2)—

(a) for "section 53 of the 1933 Act" there shall be substituted " section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) for "section 8 of the 1982 Act" there shall be substituted " section 93 or 94 of that Act ".

(3) In subsection (3)—

(a) for "section 53 of the 1933 Act" there shall be substituted " section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ";

(b) for "section 8 of the 1982 Act" there shall be substituted " section 93 or 94 of that Act of 2000 "; and

(c) for "those sections" there shall be substituted " section 71A of the Army Act 1955 and the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957 ".

184 (1) Section 35 of the Crime (Sentences) Act 1997 (community orders for fine defaulters) shall be amended as follows.

(2) In subsection (1)(b), for "section 1 of the 1982 Act" there shall be substituted " section 89 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) For subsections (4) and (5) there shall be substituted the following subsections—

"(4) Section 46(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders) shall apply for the purposes of subsection (2)(a) above as if for the words from the beginning to "make" there were substituted "Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender"; and—

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) section 46(3) and (4) of that Act, and

(b) so far as applicable, the following provisions of section 46 of that Act and the other provisions of Part IV of that Act relating to community service orders,

have effect in relation to a community service order made by virtue of this section as they have effect in relation to any community service order made under that Act, subject to the exceptions in subsection (5) below.

(5) The following are the exceptions, namely—

(a) the reference in section 46(3)(a) of that Act to 40 hours shall be construed as a reference to 20 hours;

(b) section 46(8) of that Act shall not apply;

(c) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;

(d) paragraph 4(2)(a) and (3) of that Schedule shall not apply;

(e) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;

(f) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and

(g) paragraph 11(2)(b) of that Schedule shall not apply."

(4) For subsections (7) and (8) there shall be substituted the following subsections—

"(7) Section 37(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (curfew orders) shall apply for the purposes of subsection (2)(b) above as if for the words from the beginning to "make" there were substituted "Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender"; and—

(a) section 37(3), (5) to (8) and (10) to (12) of that Act, and

(b) so far as applicable, the other provisions of Part IV of that Act relating to curfew orders,

have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any curfew order made under that Act, subject to the exceptions in subsection (8) below.

(8) The following are the exceptions, namely—

(a) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;

(b) paragraph 4(2)(a) and (3) of that Schedule shall not apply;

(c) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;

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(d) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and

(e) paragraph 11(2)(b) of that Schedule shall not apply."

(5) After subsection (12) there shall be inserted the following subsection—

"(12A) Sections 35 and 36 of the Powers of Criminal Courts (Sentencing) Act 2000 (restrictions and procedural requirements for community sentences) do not apply in relation to an order under subsection (2)(a) or (b) above."

185 (1) Section 40 of the Crime (Sentences) Act 1997 (driving disqualifications for fine defaulters) shall be amended as follows.

(2) In subsection (1)(b), for "section 1 of the 1982 Act" there shall be substituted " section 89 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) For subsection (6) there shall be substituted the following subsections—

"(6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce any such licence held by him together with its counterpart.

(7) In this section—

"driving licence" means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988;

"counterpart", in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act."

186 (1) Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British islands) shall be amended as follows.

(2) In paragraph 6(3)(aa), for "section 76(6)(b) of the Crime and Disorder Act 1998" there shall be substituted " section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 8—

(a) in sub-paragraph (2), for "sections 75 to 77 of the Crime and Disorder Act 1998" there shall be substituted " sections 86 and 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 ";

(b) in sub-paragraph (4), for "sections 76 and 77 of the Crime and Disorder Act 1998" there shall be substituted " sections 86, 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(c) in sub-paragraph (6), for "section 9 of this Act" there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) In paragraph 9—

(a) in sub-paragraph (2), for "sections 75 to 77 of the Crime and Disorder Act 1998" there shall be substituted " sections 86, 102 to 104, 116 and 117 of the Powers of Criminal Courts (Sentencing) Act 2000 ";

(b) in sub-paragraph (4), for "sections 76 and 77 of the Crime and Disorder Act 1998" there shall be substituted " sections 86, 103, 104, 116 and 117 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(c) in sub-paragraph (7), for "section 9 of this Act" there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(5) In paragraph 20(1), in the definition of "sentence of imprisonment", for "section 8 of the 1982 Act" there shall be substituted " section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

187 (1) Schedule 4 to the Crime (Sentences) Act 1997 (minor and consequential amendments) shall be amended as follows.

(2) In paragraph 6(2), in the words to be substituted in paragraph 2(4) of Schedule 2 to the [M194]Criminal Appeal Act 1968, for "Section 9 of the Crime (Sentences) Act 1997" there shall be substituted " Section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 7, for the words to be substituted in section 7(4) of the [M195]Immigration Act 1971 (that is to say, the words "section 9 of the Crime (Sentences) Act 1997") there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(4) In paragraph 14, for the words to be substituted in paragraph 9(5) of Schedule 2 to the [M196]Prevention of Terrorism (Temporary Provisions) Act 1989, (that is to say, the words "section 9 of the Crime (Sentences) Act 1997") there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(5) In paragraph 15(10), for "that Act" there shall be substituted " the 1991 Act ".

Marginal Citations

M194 1968 c. 19.
M195 1971 c. 77.
M196 1989 c. 4.

[F227]188 . . . . . .

Textual Amendments

F227 Sch. 9 para. 188 repealed (30.11.2000 with effect as mentioned in 2000 c. 43, s. 75, **Sch. 8** Note (b) of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(1), Sch. 7 Pt. II para. 203(3), **Sch. 8**

Sex Offenders Act 1997 (c. 51)

189 In section 4(1) of the Sex Offenders Act 1997 (young sex offenders)—

(a) in paragraph (f), for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(b) in paragraph (g), for "section 8 of the Criminal Justice Act 1982" there shall be substituted " section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

190 In section 6(1) of the Sex Offenders Act 1997 (interpretation of Part I), in the definition of "community order", for "Part I of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Data Protection Act 1998 (c. 29)

191 In section 56 of the Data Protection Act 1998 (prohibition of requirement as to production of certain records), in the Table in subsection (6), in the second column of the entry numbered 2, for "section 53 of the Children and Young Persons Act 1933" there shall be substituted " section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Crime and Disorder Act 1998 (c. 37)

192 In section 1 of the Crime and Disorder Act 1998 (anti-social behaviour orders), in subsection (11), for the words from "section 1A" to "Act")" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

193 In section 2 of the Crime and Disorder Act 1998 (sex offender orders), in subsection (9), for "section 1A of the 1973 Act" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

194 In section 8(2) of the Crime and Disorder Act 1998 (power to make parenting orders), as amended by paragraph 26 of Schedule 4 to the [M197]Youth Justice and Criminal Evidence Act 1999, for the words from "and to section 4(5) of" to "1999" there shall be substituted " and to section 19(5) of, and paragraph 13(5) of Schedule 1 to, the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations
M197 1999 c. 23.

195 In section 9(1A) of the Crime and Disorder Act 1998 (parenting orders: supplementary), as inserted by paragraph 27 of Schedule 4 to the [M198]Youth Justice and Criminal Evidence Act 1999, for the words from "section 4(5) of" onwards there shall be substituted " section 19(5) of, and paragraph 13(5) of Schedule 1 to, the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations
M198 1999 c. 23.

196 In section 18 of the Crime and Disorder Act 1998 (interpretation of Chapter I of Part I), for subsection (2) there shall be substituted the following subsection—

"(2) In this Chapter, "protecting the public from serious harm" shall be construed in accordance with section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000."

197 In section 38(4) of the Crime and Disorder Act 1998 (meaning of "youth justice services")—

(a) in paragraph (j), for "section 75 below" there shall be substituted " section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders) "; and

(b) in paragraph (k), as inserted by paragraph 28 of Schedule 4 to the [M199]Youth Justice and Criminal Evidence Act 1999, for "Part I of the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Marginal Citations
M199 1999 c. 23.

198 In section 66 of the Crime and Disorder Act 1998 (effect of reprimands and warnings), in subsection (4), for "section 1A of the 1973 Act" there shall be substituted " section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

199 In section 114(3) of the Crime and Disorder Act 1998 (parliamentary procedure for certain orders), for the words from "38(5)," to "76(2)" there shall be substituted " 38(5) or 41(6) ".

200 In section 117(1) of the Crime and Disorder Act 1998 (general interpretation), in the definition of "custodial sentence", for "Part I of the 1991 Act" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

201 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent for trial under section 51 of that Act) shall be amended as follows.

(2) In paragraph 10(2), for "section 38 of the 1980 Act" there shall be substituted " section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 13(2), for "subsection (2) of section 53 of the 1933 Act" there shall be substituted " subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

202 (1) Schedule 8 to the Crime and Disorder Act 1998 (minor and consequential amendments) shall be amended as follows.

(2) In paragraph 86(1), in the subsection (1) to be substituted in section 41 of the [M200]Criminal Justice Act 1991, for "section 9 of the Crime (Sentences) Act 1997" there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

(3) In paragraph 90, in the subsection (2) to be substituted in section 47 of the [M201]Criminal Justice Act 1991, for "section 9 of the Crime (Sentences) Act 1997" there shall be substituted " section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations
M200 1991 c. 53.
M201 1991 c. 53.

203 In Schedule 9 to the Crime and Disorder Act 1998 (transitional provisions and savings), in paragraph 14(2), for "section 40 of the 1991 Act" there shall be substituted " section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ".

Access to Justice Act 1999 (c. 22)

204 In section 96 of the Access to Justice Act 1999 (execution by person not in possession of warrant), in the section 125D to be inserted in the [M202]Magistrates' Courts Act 1980, in subsection (3)(f), for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Marginal Citations
M202 1980 c. 43.

Youth Justice and Criminal Evidence Act 1999 (c. 23)

205 In paragraph 3(9) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 (reporting restrictions: miscellaneous amendments), in the subsection (13) to be inserted in section 49 of the [M203]Children and Young Persons Act 1933—

(a) in paragraph (c)(i), for "section 16(3) of the Criminal Justice Act 1982" there shall be substituted " section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000 ";

(b) in paragraph (c)(ii), for "section 76(6)(b) of the Crime and Disorder Act 1998" there shall be substituted " section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 "; and

(c) in paragraph (g), for "section 31(1) of the Criminal Justice Act 1991" there shall be substituted " the Powers of Criminal Courts (Sentencing) Act 2000 ".

Marginal Citations
M203 1933 c. 12.

SCHEDULE 10

Section 165.

TRANSITORY MODIFICATIONS

Section 8

1 (1) This paragraph applies if paragraph 11 of Schedule 13 to the [M204]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date section 8(4) and (10) of this Act shall each have effect as if for the words "justices' chief executive for" there were substituted " clerk of ".

Marginal Citations
M204 1999 c. 22.

2 (1) This paragraph applies if paragraph 5 of Schedule 4 to the [M205]Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the appointed day section 8 of this Act shall have effect as if the words from "the case" in subsection (6) to "but" in subsection (8) were omitted.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(3) In this paragraph "the appointed day" means—

(a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 5 of Schedule 4 to the [M206]Youth Justice and Criminal Evidence Act 1999, the day so appointed;

(b) otherwise, such day as the Secretary of State may by order appoint.

Marginal Citations

M205 1999 c. 23.

M206 1999 c. 23.

Section 13

3 (1) This paragraph applies if paragraph 84 of Schedule 13 to the [M207]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date section 13(5) of this Act shall have effect as if for the words "justices' chief executive" there were substituted " clerk of the court ".

Marginal Citations

M207 1999 c. 22.

Sections 63 and 66 and Schedule 7

4 (1) This paragraph applies if paragraph 63 of Schedule 13 to the [M208]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date—

(a) sections 63(8) and 66(5) and (10) of this Act, and

(b) paragraph 10 of Schedule 7 to this Act,

shall each have effect as if for the words "justices' chief executive" (wherever occurring) there were substituted " clerk to the justices ".

Marginal Citations

M208 1999 c. 22.

Section 67

5 (1) This paragraph applies if the repeal made by Part V(2) of Schedule 15 to the [M209]Access to Justice Act 1999 of the definition of "petty sessions area" in section 70(1) of the [M210]Children and Young Persons Act 1969 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date section 67(1) of this Act shall have effect as if after the definition of "local authority" there were inserted the following definition—

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""petty sessions area", in relation to a youth court constituted for the metropolitan area within the meaning of Part II of Schedule 2 to the [M211]Children and Young Persons Act 1963, means such a division of that area as is mentioned in paragraph 14 of that Schedule;".

Marginal Citations

M209 1999 c. 22.
M210 1969 c. 54.
M211 1963 c. 37.

Section 69

6 (1) This paragraph applies if paragraph 30 of Schedule 4 to the [M212]Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the appointed day section 69(5) of this Act shall have effect as if for the words ", a supervision order or a referral order" there were substituted " or a supervision order ".

(3) In this paragraph "the appointed day" means—

(a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 30 of Schedule 4 to the [M213]Youth Justice and Criminal Evidence Act 1999, the day so appointed;

(b) otherwise, such day as the Secretary of State may by order appoint.

Marginal Citations

M212 1999 c. 23.
M213 1999 c. 23.

Section 73

7 (1) This paragraph applies if paragraph 29 of Schedule 4 to the [M214]Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the appointed day section 73(4) of this Act shall have effect as if for the words ", an action plan order or a referral order" there were substituted " or an action plan order ".

(3) In this paragraph "the appointed day" means—

(a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 29 of Schedule 4 to the [M215]Youth Justice and Criminal Evidence Act 1999, the day so appointed;

(b) otherwise, such day as the Secretary of State may by order appoint.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Marginal Citations
M214 1999 c. 23.
M215 1999 c. 23.

Section 83

8 (1) This paragraph applies if—

(a) paragraphs 9 and 25 of Schedule 4 to the [M216]Access to Justice Act 1999, and

(b) the repeals made by Part I of Schedule 15 to that Act in section 21 of the [M217]Powers of Criminal Courts Act 1973 and section 3 of the [M218]Criminal Justice Act 1982,

have not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall have effect as if—

(a) for paragraph (a) of subsection (3) there were substituted the following paragraph—

"(a) he applied for legal aid and had his application refused on the ground that it did not appear his resources were such that he required assistance; or";

and

(b) in paragraph (b) of that subsection, for the words "such representation" there were substituted " legal aid ".

(3) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall also have effect as if after subsection (4) there were inserted the following subsection—

"(4A) In this section "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 or sent to that court for trial under section 51 of the [M219]Crime and Disorder Act 1998 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 or se t him."

Marginal Citations
M216 1999 c. 22.
M217 1973 c. 62.
M218 1982 c. 48.
M219 1998 c. 37.

Sections 122 and 124

9 (1) This paragraph applies if paragraph 85 of Schedule 13 to the [M220]Access to Justice Act 1999 has not come into force before the commencement of this Act.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(2) If this paragraph applies, then until the relevant commencement date sections 122(6) and 124(4) of this Act shall each have effect as if for the words "justices' chief executive" there were substituted " clerk to the justices ".

Marginal Citations
M220 1999 c. 22.

Section 150

10 (1) This paragraph applies if paragraph 20 of Schedule 4 to the [M221]Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the appointed day section 150(1) of this Act shall have effect as if the words from "but this subsection" onwards were omitted.

(3) In this paragraph "the appointed day" means—

(a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 20 of Schedule 4 to the [M222]Youth Justice and Criminal Evidence Act 1999, the day so appointed;

(b) otherwise, such day as the Secretary of State may by order appoint.

Marginal Citations
M221 1999 c. 23.
M222 1999 c. 23.

Section 155

11 (1) This paragraph applies if paragraph 24 of Schedule 4 to the [M223]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date section 155(8) of this Act shall have effect as if for the words "an order under section 17(2) of the Access to Justice Act 1999" there were substituted " a contribution order made under section 23 of the [M224]Legal Aid Act 1988 ".

Marginal Citations
M223 1999 c. 22.
M224 1988 c. 34.

Schedule 3

12 (1) This paragraph applies if paragraph 166 of Schedule 13 to the [M225]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date Schedule 3 to this Act shall have effect as if—

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Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(a) in paragraph 15(1), for the words "proper officer of" there were substituted " clerk to ";
(b) paragraph 15(2) were omitted;
(c) in each of sub-paragraphs (1) and (2) of paragraph 25, for the words "justices' chief executive for the court" there were substituted " clerk to the court "; and
(d) in sub-paragraph (1) of that paragraph, for the words "chief executive to the justices" (in both places where they occur) there were substituted " clerk to the justices ".

Marginal Citations
M225 1999 c. 22.

Schedule 5

13 (1) This paragraph applies if paragraph 123 of Schedule 13 to the [M226]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date Schedule 5 to this Act shall have effect as if—
(a) in paragraph 4(5), for the words "proper officer of" there were substituted " clerk to ";
(b) paragraph 4(7) were omitted; and
(c) in paragraph 5(3), for the words "justices' chief executive for" there were substituted " clerk to ".

Marginal Citations
M226 1999 c. 22.

Schedule 6

14 (1) This paragraph applies if subsections (1) to (3) of section 71 of the [M227]Crime and Disorder Act 1998 have not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the appointed day paragraph 3 of Schedule 6 to this Act shall have effect as if the following provisions were omitted—
(a) in sub-paragraph (2), paragraph (d);
(b) in sub-paragraph (3), the word ", (d)";
(c) in sub-paragraph (5), paragraph (b).

(3) In this paragraph "the appointed day" means—
(a) if before the commencement of this Act an order has been made appointing a day for the coming into force of section 71(1) to (3) of the [M228]Crime and Disorder Act 1998, the day so appointed;
(b) otherwise, such day as the Secretary of State may by order appoint.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Marginal Citations
M227 1998 c. 37.
M228 1998 c. 37.

15 (1) This paragraph applies if paragraph 5 of Schedule 4 to the [M229]Access to Justice Act 1999 has not come into force before the commencement of this Act.

(2) If this paragraph applies, then until the relevant commencement date paragraph 5(7) of Schedule 6 to this Act shall have effect as if—

(a) for paragraph (a) there were substituted the following paragraph—

"(a) he has applied for legal aid for the purposes of the proceedings and the application was refused on the ground that it did not appear that his resources were such that he required assistance; or";

and

(b) in paragraph (b), for the words "such representation" there were substituted the words " legal aid ".

Marginal Citations
M229 1999 c. 22.

Meaning of "the relevant commencement date", etc.

16 (1) Subject to sub-paragraph (2) below, in any of the preceding paragraphs "the relevant commencement date" means such day as the Lord Chancellor may by order made by statutory instrument appoint in relation to that paragraph; and different days may be appointed for different purposes.

(2) Where—

(a) a provision of the [M230]Access to Justice Act 1999 referred to in sub-paragraph (1) of paragraph 1, 3, 4, 5, 8, 9, 11, 12, 13 or 15 above has not come into force before the commencement of this Act, but

(b) before the commencement of this Act an order under the [M231]Access to Justice Act 1999 has been made appointing a day for the coming into force of that provision,

"the relevant commencement date", in relation to that provision, means the day so appointed.

Marginal Citations
M230 1999 c. 22.
M231 1999 c. 22.

17 An order under any of paragraphs 2, 6, 7, 10 and 14 above may appoint different days for different purposes or different areas.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

Power to make transitional provision

18 Section 160(6) of this Act does not apply to an order made by the Secretary of State under any of the preceding provisions of this Schedule, but—

(a) an order under paragraph 14 or 16(1) above may make such transitional provisions and savings as appear to the Secretary of State or the Lord Chancellor necessary or expedient; and

(b) an order under any of paragraphs 2, 6, 7 and 10 above may make such provision as, by virtue of section 64(4) of the [M232]Youth Justice and Criminal Evidence Act 1999 (regulations and orders), is authorised to be made by an order under section 68(3) of that Act (commencement).

Marginal Citations

M232 1999 c. 23.

Saving for old transitional provisions

19 (1) This paragraph applies to any transitional provision or saving ("the transitional provision") made in connection with the coming into force of a provision of the Access to Justice Act 1999, the Youth Justice and Criminal Evidence Act 1999 or the [M233]Crime and Disorder Act 1998 mentioned in sub-paragraph (1) of any of paragraphs 1 to 15 above ("the old enactment").

(2) If the old enactment is in force before the commencement of the provision of this Act reproducing its effect ("the corresponding provision of this Act"), the transitional provision shall continue to have effect (so far as capable of doing so) in relation to the corresponding provision of this Act.

(3) If—

(a) sub-paragraph (2) above does not apply, but

(b) before the commencement of this Act an order has been made appointing a day for the coming into force of the old enactment,

the transitional provision shall, from the day so appointed, have effect in relation to the corresponding provision of this Act.

Marginal Citations

M233 1998 c. 37.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

SCHEDULE 11

Section 165.

TRANSITIONAL PROVISIONS

PART I

GENERAL

Continuity of the law: general

1 (1) The substitution of this Act for the provisions repealed by it shall not affect the continuity of the law.

(2) Any thing done (including subordinate legislation made), or having effect as if done, under or for the purposes of any provision repealed by this Act shall, if it could have been done under or for the purposes of the corresponding provision of this Act and if in force or effective immediately before the commencement of that corresponding provision, have effect thereafter as if done under or for the purposes of that corresponding provision.

(3) Any reference (express or implied) in this Act or any other enactment, instrument or document to a provision of this Act shall (so far as the context permits) be construed as including, as respects times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference to that corresponding provision.

(4) Any reference (express or implied) in any enactment, instrument or document to a provision repealed by this Act shall (so far as the context permits) be construed, as respects times, circumstances and purposes in relation to which the corresponding provision of this Act has effect, as being or (according to the context) including a reference to the corresponding provision of this Act.

(5) Sub-paragraphs (1) to (4) above have effect instead of section 17(2) of the [M234]Interpretation Act 1978 (but are without prejudice to any other provision of that Act).

Modifications etc. (not altering text)

C17 Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, **s. 43(3)(b)**; S.I. 2001/919, **art. 2(b)**
Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, **s. 44(3)(b)**; S.I. 2001/919, **art. 2(b)**
Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, **s. 45(3)(b)**; S.I. 2001/919, **art. 2(b)**

Marginal Citations

M234 1978 c. 30.

General saving for old transitional provisions and savings

2 (1) The repeal by this Act of a transitional provision or saving relating to the coming into force of a provision reproduced in this Act does not affect the operation of the transitional provision or saving, in so far as it is not specifically reproduced in this Act but remains capable of having effect in relation to the corresponding provision of this Act.

Status: *Point in time view as at 27/02/2004. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 23 June 2024. 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)*

(2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.

(3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.

(4) Where the purpose of an enactment repealed by this Act was to secure that the substitution of the provisions of the Act containing that enactment for provisions repealed by that Act did not affect the continuity of the law, the enactment repealed by this Act continues to have effect in so far as it is capable of doing so.

Use of existing forms etc.

3 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the commencement of that repeal shall be construed, except so far as a contrary intention appears, as a reference or (as the context may require) as including a reference to the corresponding provision of this Act.

PART II

SPECIFIC PROVISIONS: REPLICATION OF OLD TRANSITIONAL PROVISIONS

Sections 37, 41, 46 and 79 and Schedules 2, 3 and 6: consent requirements

4 (1) In relation to an offence committed before 1st October 1997—

(a) section 37 of this Act shall have effect as if at the end of subsection (10) (but not as part of paragraph (c)) there were added the words " and the court shall not make the order unless he expresses his willingness to comply with its requirements ";

(b) section 41 of this Act shall have effect as if at the end of subsection (7) (but not as part of paragraph (c)) there were added the words " and the court shall not make the order unless he expresses his willingness to comply with its requirements ";

(c) section 46(4) of this Act shall have effect as if after the word "unless" there were inserted " the offender consents and ";

(d) section 79(3) of this Act shall have effect as if for the words from "he fails to" onwards there were substituted " he refuses to give his consent to a community sentence which is proposed by the court and requires that consent "; and

(e) Schedule 2 to this Act shall have effect as if there were omitted from each of paragraphs 5(4) and 6(5) paragraph (b) and the word "and" immediately preceding it.

(2) In relation to an offence committed before 1st October 1997, Schedule 3 to this Act shall have effect as if—

(a) for paragraph (b) of each of paragraphs 4(2) and 5(2) there were substituted the following paragraph—

"(b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that

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he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.";

(b) paragraph 19(2)(b)(i) were omitted; and

(c) at the end of paragraph 20(2)(b) there were inserted " , being treatment of a kind to which he could be required to submit in pursuance of a probation or combination order ".

(3) In relation to an offence committed before 1st October 1997, paragraph 3(4) of Schedule 6 to this Act shall have effect as if for paragraph (c) there were substituted the following paragraph—

"(c) the offender or, if he is a child, his parent or guardian, consents to their inclusion."

Section 37: minimum age for curfew order

5 In relation to an offence committed before 1st January 1998, section 37 of this Act shall have effect as if—

(a) in subsection (1), after the word "person" there were inserted " aged 16 or over "; and

(b) subsections (4) and (9) were omitted.

Custodial sentences for young offenders: section 98 and re-sentencing powers

6 In relation to an offender sentenced to detention in a young offender institution before 1st April 2000, section 98(2) of this Act shall have effect as if at the end there were inserted " , but if he is under 18 at the time of the direction, only for a temporary purpose ".

7 A court to which it falls after the commencement of this Act to determine for the purposes of any enactment how a previous court could or might have dealt with an offender shall in the case of an offender aged under 18 make that determination—

(a) as if sections 100 to 107 of this Act (detention and training orders) and section 96 of this Act (detention in a young offender institution available only if offender is at least 18) had been in force; and

(b) as if sections 1 to 4 of the [M235]Criminal Justice and Public Order Act 1994 (secure training orders, repealed by the [M236]Crime and Disorder Act 1998) had not been in force.

Marginal Citations

M235 1994 c. 33.

M236 1998 c. 37.

Sections 143, 147, 148 and 150: miscellaneous transitional provisions

8 The following provisions of this Act, namely—

(a) subsections (6) and (7) of section 143, and

(b) subsections (2) and (4) of section 147,

do not apply in relation to an offence committed before 1st July 1992.

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9 In relation to an offence into which a criminal investigation began before 1st April 1997, section 148 of this Act shall have effect as if for paragraph (b) of subsection (6) there were substituted the following paragraph—

"(b) the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings."

10 In relation to an offence committed before 3rd February 1995, section 150 of this Act shall have effect as if there were omitted from subsection (2) the words from "and where the court" onwards.

PART III

SPECIFIC PROVISIONS: MISCELLANEOUS TRANSITIONAL PROVISIONS

Referral orders

11 (1) Any provision of Part III of this Act which re-enacts an enactment contained in the [M237]Youth Justice and Criminal Evidence Act 1999 which has not been brought into force before the commencement of this Act shall be of no effect until that enactment is brought into force.

(2) The repeal by this Act of any enactment contained in the [M238]Youth Justice and Criminal Evidence Act 1999 which has not been brought into force before the commencement of this Act shall not have effect until that enactment is brought into force.

(3) Sub-paragraph (2) above does not apply to the repeal by this Act of paragraph 5, 20, 29 or 30 of Schedule 4 to the [M239]Youth Justice and Criminal Evidence Act 1999.

(4) Any provision of Schedule 9 to this Act which amends an enactment as amended by Schedule 4 to the [M240]Youth Justice and Criminal Evidence Act 1999 shall, if the amendment in question made by Schedule 4 to that Act has not been brought into force before the commencement of this Act, be of no effect until that amendment is brought into force.

Marginal Citations

M237 1999 c. 23.
M238 1999 c. 23.
M239 1999 c. 23.
M240 1999 c. 23.

Modifications for Isles of Scilly

12 If immediately before the commencement of this Act an order made under section 71 of the [M241]Children and Young Persons Act 1969 (application to Isles of Scilly) is in force which modifies any provisions of that Act reproduced in this Act—

(a) the order shall have effect as if also made under section 68 of this Act; and

(b) the provisions modified by the order shall be deemed to include any provision of the sections and Schedules mentioned in section 68(1) which

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corresponds to a provision of the [M242]Children and Young Persons Act 1969 which, immediately before the commencement of this Act, was modified by the order.

Marginal Citations
M241 1969 c. 54.
M242 1969 c. 54.

Consequential amendments

13 The amendments made by Schedule 9 to this Act of subsections (5)(e) and (10) of section 5 of the [M243]Rehabilitation of Offenders Act 1974 shall not be taken to affect the operation of paragraph 36(7) of Schedule 14 to the [M244]Children Act 1989 (which saves the effect of section 5 in relation to certain care orders made under the Children and Young Persons Act 1969).

Marginal Citations
M243 1974 c. 53.
M244 1989 c. 41.

PART IV

INTERPRETATION

14 In this Schedule, where the context permits, "repeal" includes revoke.

SCHEDULE 12

Section 165.

REPEALS AND REVOCATIONS

PART I

ACTS OF PARLIAMENT REPEALED

Chapter	Short title	Extent of repeal
23 Geo 5 c. 12.	Children and Young Persons Act 1933.	Section 53.
		Sections 55 and 56.
		In section 106, in subsection (1), the words from "or, in the case" to "officer", and subsection (2).

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9 & 10 Eliz 2 c. 39.	Criminal Justice Act 1961.	In Schedule 4, the entry relating to section 53 of the Children and Young Persons Act 1933.
1963 c. 37.	Children and Young Persons Act 1963.	In Schedule 3, paragraph 14.
1965 c. 71.	Murder (Abolition of Death Penalty) Act 1965.	In section 1, in subsection (1), the words “, subject to subsection (5) below,” and subsection (5).
1967 c. 80.	Criminal Justice Act 1967.	Section 56.
1968 c. 60.	Theft Act 1968.	Section 28.
1969 c. 54.	Children and Young Persons Act 1969.	In section 7, subsections (7), (8), (8A), (8B) and (9).
		Sections 11 to 19.
		In section 70, in subsection (1), in the definition of “reside”, the words from “except” to the end, and subsection (2).
		In Schedule 4, paragraph 12(3).
		In Schedule 5, paragraphs 6 and 11.
1971 c. 23.	Courts Act 1971.	In Schedule 9, in Part I, in the entry relating to the Children and Young Persons Act 1969, the word “16(8),”.
1972 c. 71.	Criminal Justice Act 1972.	Section 6.
		In Schedule 5, the entries relating to the Theft Act 1968 and section 7(8) of the Children and Young Persons Act 1969.
1973 c. 62.	Powers of Criminal Courts Act 1973.	The whole Act.
1977 c. 45.	Criminal Law Act 1977.	Section 46.
		Section 49.
		Section 57.
		In Schedule 12, the entry relating to the Theft Act 1968 and paragraphs 1 and 4 of the entry relating to the Powers of Criminal Courts Act 1973.

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1979 c. 2.	Customs and Excise Management Act 1979.	In Schedule 4, in paragraph 12, in Part I of the Table, the entry relating to the Powers of Criminal Courts Act 1973.
1980 c. 43.	Magistrates' Courts Act 1980.	Sections 30 and 31.
		Section 36.
		Sections 38 to 40.
		In Schedule 6A, the entries relating to the Children and Young Persons Act 1969, the Powers of Criminal Courts Act 1973, the Criminal Justice Act 1982 and the Criminal Justice Act 1991.
		In Schedule 7, paragraphs 65, 67, 81, 82, 119 to 123, 143, 144 and 146.
1981 c. 54.	Supreme Court Act 1981.	Section 47.
		In section 81(1)(g), sub-paragraph (iv) and the word "or" immediately preceding it.
1981 c. 56.	Transport Act 1981.	In Schedule 9, Part II.
1982 c. 48.	Criminal Justice Act 1982.	Section 1(1), (2), (5) and (5A).
		Section 1A.
		Section 1C.
		Section 3.
		Sections 8 and 9.
		Sections 12 and 13.
		Sections 16 to 21.
		Section 26.
		Section 63.
		Section 67.
		Section 69(1).
		In Schedule 12, paragraph 1.
		In Schedule 14, paragraphs 4, 9, 33, 48 and 51.
		In Schedule 17, paragraph 1(2).

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1988 c. 33.	Criminal Justice Act 1988.	Section 42.
		Section 60(2).
		Section 69.
		Sections 104 and 105.
		Section 107.
		Section 123(4).
		Sections 127 to 129.
		Section 163.
		In Schedule 8, paragraph 11(2).
		Schedule 10.
		In Schedule 15, paragraphs 33, 38, 39, 41, 52 and 79.
1988 c. 54.	Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraphs 3, 11 and 20.
1989 c. 41.	Children Act 1989.	In Schedule 12, paragraphs 22 and 23, and, in paragraph 29, paragraph (b) and the word “and” immediately preceding it.
1990 c. 41.	Courts and Legal Services Act 1990.	In Schedule 16, paragraphs 4 and 5.
1991 c. 40.	Road Traffic Act 1991.	Section 36.
		Section 38.
1991 c. 53.	Criminal Justice Act 1991.	Sections 1 to 15.
		In section 16, paragraph (a).
		In section 17(2), in paragraph (a), the words from “and section 36(1)” to “court)”, and, in paragraph (b), the words from “and section 36(2)” to “court)”.
		Section 18.
		Section 20.
		Section 21.
		Section 25.
		Sections 28 and 29.

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In section 30(2), the words "(other than an order under section 12(4) above)".

Section 31.

Section 40.

Section 44 as it applies to persons sentenced for sexual offences committed before 30th September 1998.

In section 51(2B), paragraph (d) and the word "and" immediately preceding it.

Sections 57 and 58.

Section 63.

Sections 66 and 67.

In section 102, in subsection (5)(c), the words "paragraph 15 of Schedule 11 to this Act", and, in subsection (6), the words "paragraph 16 of Schedule 11 to this Act".

Schedules 1 and 2.

In Schedule 3, Part I.

In Schedule 4, in Part I, the entries relating to section 27(3) of the Powers of Criminal Courts Act 1973 and section 40(1) of the Magistrates' Courts Act 1980.

Schedule 7.

In Schedule 8, in paragraph 6(1), paragraphs (c) and (d).

In Schedule 11, paragraphs 4 to 8, 12, 13, 15, 16, 19, 20(a), 21, 26, 30 to 34, 38 and 39 and, in paragraph 40(2), in paragraph (a), the word ", 56", in paragraph (g), the words "7," and "15, 16,", paragraph (i), and, in paragraph (o), the words "section 16(2) and".

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		In Schedule 12, paragraphs 1 to 6, 8(3), 14, 17, 20 and 21.
1991 c. 62.	Armed Forces Act 1991.	In Schedule 2, paragraph 9(1).
1993 c. 36.	Criminal Justice Act 1993.	Section 65(1).
		Section 66.
		In Schedule 3, paragraphs 2, 3, 5 and 6(1), (2), (6) and (7).
1993 c. 47.	Probation Service Act 1993.	In Schedule 3, paragraphs 3(2) and 10.
1994 c. 33.	Criminal Justice and Public Order Act 1994.	Section 16.
		Section 18(1) and (2).
		Section 48.
		In Schedule 9, paragraphs 10, 15, 16, 21, 40 to 42, 44, 45, 47 and 50.
		In Schedule 10, paragraphs 4, 5, 49 and 65 to 67.
1994 c. 39.	Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 173.
1995 c. 40.	Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.	In Schedule 4, paragraph 80(3).
1996 c. 25.	Criminal Procedure and Investigations Act 1996.	In Schedule 1, paragraph 20.
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraphs 15 and 16.
1997 c. 25.	Justices of the Peace Act 1997.	In Schedule 5, paragraph 15.
1997 c. 30.	Police (Property) Act 1997.	Section 2.
		Section 7(3)(b).
1997 c. 43.	Crime (Sentences) Act 1997.	Part I.
		Sections 9 and 9A.
		Sections 36 to 39.
		Sections 43 and 44.
		Sections 50 and 51.
		Section 55(2)(a).

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		In Schedule 4, paragraphs 5(1), 8, 15(1) to (9) and (11) to (13) and 17.
1998 c. 37.	Crime and Disorder Act 1998.	In section 47(1), paragraph (b) and the word "or" immediately preceding it, and the words "or, as the case may be, for sentence".
		Section 58.
		Sections 61 to 64.
		Sections 67 to 79.
		Section 82.
		Section 85.
		Section 102.
		Section 107(3) to (5).
		Section 121(6)(f).
		Schedules 4 and 5.
		In Schedule 7, paragraphs 1 to 7, 13 to 16, 18 to 31, 33 to 38, 40 to 49, 50(2) to (5), 51 and 52.
		In Schedule 8, paragraphs 2, 3, 4, 9, 10, 16 to 21, 25 to 34, 46, 47, 49 to 53, 72 to 78, 85, 92, 96, 109, 112 and 132(2) and (3).
		In Schedule 9, paragraphs 3 and 4.
1999 c. 22.	Access to Justice Act 1999.	Section 58(1) and (6).
		Section 66.
		In Schedule 4, paragraphs 5, 9, 24 and 25.
		Schedule 9.
		In Schedule 13, paragraphs 11(b) and (c), 63, 83 to 85, 123 and 166.
1999 c. 23.	Youth Justice and Criminal Evidence Act 1999.	Sections 1 to 15.
		In section 64, the words "regulations or", wherever occurring, and, in subsection (2), the words "6(4) or", and, in

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		subsection (3), the word "2(3)," and paragraph (b) and the word "or" immediately preceding that paragraph. Section 67(2). Section 68(7). Schedule 1. In Schedule 4, paragraphs 5, 20, 29 and 30. Schedule 5. In Schedule 7, paragraph 2.

PART II

SUBORDINATE LEGISLATION REVOKED

S.I. Number	Title	Extent of revocation
1990/144.	Driving Licences (Community Driving Licence) Regulations 1990.	In Schedule 4, paragraph 2.
1996/1974.	Driving Licences (Community Driving Licence) Regulations 1996.	In Schedule 4, paragraph 1.
1996/3161.	Criminal Justice (Northern Ireland Consequential Amendments) Order 1996.	In Article 2, paragraphs (a) to (c).
2000/90.	Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000.	In Schedule 2, paragraph 3.
2000/694.	Health Act 1999 (Supplementary, Consequential etc. Provisions) (No. 2) Order 2000.	In the Schedule, paragraph 1.

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