



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART V

#### CUSTODIAL SENTENCES ETC.

### CHAPTER II

#### DETENTION AND CUSTODY OF YOUNG OFFENDERS

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

**C1** 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.
- (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 [<sup>F1</sup>or 51A] of the <sup>M1</sup>Crime and Disorder Act 1998.

**Status:** Point in time view as at 09/05/2005.

**Changes to legislation:** Powers of Criminal Courts (Sentencing) Act 2000, Chapter II is up to date with all changes known to be in force on or before 08 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F1** Words in s. 89(2)(c) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 3 para. 74\(3\)\(b\)](#); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)

#### Marginal Citations

**M1** 1998 c. 37.

### *Detention at Her Majesty's pleasure or for specified period*

#### **90 Offenders who commit murder [<sup>F2</sup>etc.] when under 18: duty to detain at Her Majesty's pleasure.**

Where a person convicted of murder [<sup>F2</sup>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

**F2** 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
- [<sup>F3</sup>(b) an offence under section 3 of the Sexual Offences Act 2003 (in this section, “the 2003 Act”) (sexual assault); or
- (c) an offence under section 13 of the 2003 Act (child sex offences committed by children or young persons); or
- (d) an offence under section 25 of the 2003 Act (sexual activity with a child family member); or
- (e) an offence under section 26 of the 2003 Act (inciting a child family member to engage in sexual activity).]

[<sup>F4</sup>(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,

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- (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).]

<sup>F5</sup>(2) . . . . .

(3) If the court is of the opinion that [<sup>F6</sup>neither a community sentence nor a detention and training order] 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) [<sup>F7</sup>section 152 and 153 of the Criminal Justice Act 2003].

[<sup>F8</sup>(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

- F3** S. 91(1)(b)-(e) substituted for s. 91(1)(b)(c) (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), s. 141, Sch. 6 para. 43\(2\)](#); S.I. 2004/874, art. 2
- F4** 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)
- F5** S. 91(2) repealed (5.4.2004) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 37 Pt. 7](#); S.I. 2004/829, art. 2(1)(2)(1)(iii)
- F6** Words in s. 91(3) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 110\(2\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (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(1))
- F7** Words in s. 91(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 110\(3\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (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(1))
- F8** 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)

- C2** 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)
- C3** 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)

## 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—

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- (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
  - (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 <sup>M2</sup>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**

**M2** 1952 c. 52.

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### *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),

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 <sup>M3</sup>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**

**M3** 1991 c. 53.

#### **98 Detention in a young offender institution: place of detention.**

(1) Subject to section 22(2)(b) of the <sup>M4</sup>Prison Act 1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in

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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

M4 1952 c. 52.

### *[F<sup>9</sup>Conversion of sentence of detention to sentence of imprisonment*

#### Textual Amendments

**F9** S. 99 and cross-heading substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 236, 336(3)(4); [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 18 (with Sch. 2) (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(1))

## 99 Conversion of sentence of detention to sentence of imprisonment

- (1) Subject to the following provisions of this section, where an offender has been sentenced by a relevant sentence of detention to a term of detention and either—
- he has attained the age of 21, or
  - 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) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender, the portion of the term of detention imposed under the relevant sentence of detention which he has already served shall be deemed to have been a portion of a term of imprisonment.
- (3) Where the Secretary of State gives a direction under subsection (1) above in relation to an offender serving a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 the offender shall be treated as if he had been sentenced under section 225 of that Act; and where the Secretary of State gives such a direction in relation to an offender serving an extended sentence of detention under section 228 of that Act the offender shall be treated as if he had been sentenced under section 227 of that Act.
- (4) Rules under section 47 of the Prison Act 1952 may provide that any award for an offence against discipline made in respect of an offender serving a relevant sentence of detention shall continue to have effect after a direction under subsection (1) has been given in relation to him.
- (5) In this section “relevant sentence of detention” means—

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- (a) a sentence of detention under section 90 or 91 above,
- (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003, or
- (c) an extended sentence of detention under section 228 of that Act.]

### *Detention and training orders*

## **100 Offenders under 18: detention and training orders.**

- (1) [<sup>F10</sup>Subject to sections 90 and 91 above, sections 226 and 228 of the Criminal Justice Act 2003, 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
  - [<sup>F11</sup>(b) the court is of the opinion that subsection (2) of section 152 of the Criminal Justice Act 2003 applies or the case falls within subsection (3) of that section,]
- the sentence that the court is to pass is a detention and training order.
- (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.
- <sup>F12</sup>(4) .....

### **Textual Amendments**

- F10** Words in s. 100(1) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 111(2)(a)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (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))
- F11** S. 100(1)(b) substituted (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 111(2)(b)**; S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (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))
- F12** S. 100(4) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), **Sch. 32 para. 111(3), Sch. 37 Pt. 7**; S.I. 2005/950, art. 2(1), Sch. 1 paras. 42(34)44(4)(r) (with Sch. 2) (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))

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## **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.
- (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.



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- (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 <sup>M5</sup>Children and Young Persons Act 1969 and placed and kept in secure accommodation [<sup>F13</sup>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 <sup>M6</sup>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 <sup>M7</sup>Police and Criminal Evidence Act 1984; and
  - (b) at any time when he is detained under [<sup>F14</sup>section 41 of the Terrorism Act 2000];
- and in that subsection “secure accommodation” has the same meaning as in section 23 of the <sup>M8</sup>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

**F13** Words in s. 101(11)(c) inserted (1.12.2001) by 2001 c. 16, s. 133(3); S.I. 2001/3736, art. 2(d)

**F14** 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

**M5** 1969 c. 54.

**M6** 1983 c. 20.

**M7** 1984 c. 60.

**M8** 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.

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- (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) [<sup>F15</sup>an officer of a local probation board];
  - (b) a social worker of a local authority [<sup>F16</sup>social services department]; or
  - (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 [<sup>F15</sup>an officer of a local probation board], [<sup>F15</sup>the officer of a local probation board] shall be an officer appointed for or assigned to the [<sup>F17</sup>local justice 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 [<sup>F18</sup>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

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- (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

- F15** 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)**
- F16** Words in s. 103(3)(b) repealed (1.4.2005 for E.) by **Children Act 2004 (c. 31), Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**
- F17** Words in s. 103(4) substituted (1.4.2005) by **The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 1, Sch. para. 76**
- F18** Words in s. 103(5)(a) repealed (1.4.2005 for E.) by **Children Act 2004 (c. 31), Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**

#### 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 <sup>F19</sup>... 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 <sup>F20</sup>... or
  - (b) if the information is in writing and on oath, may issue a warrant for the offender's arrest <sup>F21</sup>....
- [<sup>F22</sup>(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—
  - (a) before a youth court acting in the local justice which the offender resides; or
  - (b) if it is not known where the offender resides, before a youth court acting in the same local justice area as the justice who issued the summons or warrant.]
- (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 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.

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### Textual Amendments

- F19** Words in s. 104(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(a\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F20** Words in s. 104(1)(a) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(b\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F21** Words in s. 104(1)(b) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(2\)\(c\)](#); S.I. 2005/579, [art. 3\(d\)](#)
- F22** S. 104(2) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 5 para. 2\(3\)](#) (as amended (1.4.2005) by S.I. 2005/886, Sch. para. 113(a)(ii)); S.I. 2005/579, [art. 3\(d\)](#)

## 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.

<sup>F23</sup>(2) .....

<sup>F23</sup>(3) .....

- (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 <sup>M9</sup>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.

#### Textual Amendments

**F23** S. 106(2)(3) repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 32 para. 112, Sch. 37 Pt. 7; [S.I. 2005/950](#), art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (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))

#### Marginal Citations

**M9** 1991 c. 53.

### [<sup>F24</sup>106A Interaction with sentences of detention

- (1) In this section—

“the 2003 Act” means the Criminal Justice Act 2003;

“sentence of detention” means—

- (a) a sentence of detention under section 91 above, or  
(b) a sentence of detention under section 228 of the 2003 Act (extended sentence for certain violent or sexual offences: persons under 18).

- (2) Where a court passes a sentence of detention 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 at any time been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the sentence is passed, and

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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.
- (3) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention, the order shall take effect as follows—
- (a) if the offender has at any time been released under Chapter 6 of Part 12 of the 2003 Act (release on licence of fixed-term prisoners), at the beginning of the day on which the order is made, and
- (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 Chapter.
- (4) Where an order under section 102(5) above is made in the case of a person in respect of whom a sentence of detention is to take effect as mentioned in subsection (2)(b) above, the order is to be expressed as an order that the period of detention attributable to the detention and training order is to end at the time determined under section 102(5) (a) or (b) above.
- (5) In determining for the purposes of subsection (3)(b) the time when an offender would otherwise be released under Chapter 6 of Part 12 of the 2003 Act, section 246 of that Act (power of Secretary of State to release prisoners on licence before he is required to do so) is to be disregarded.
- (6) Where by virtue of subsection (3)(b) above a detention and training order made in the case of a person who is subject to a sentence of detention under section 228 of the 2003 Act is to take effect at the time when he would otherwise be released under Chapter 6 of Part 12 of that Act, any direction by the Parole Board under subsection (2)(b) of section 247 of that Act in respect of him is to be expressed as a direction that the Board would, but for the detention and training order, have directed his release under that section.
- (7) Subject to subsection (9) below, where at any time an offender is subject concurrently—
- (a) to a detention and training order, and
- (b) to a sentence of detention,
- he shall be treated for the purposes of the provisions specified in subsection (8) below as if he were subject only to the sentence of detention.
- (8) Those provisions are—
- (a) sections 102 to 105 above,
- (b) section 92 above and section 235 of the 2003 Act (place of detention, etc.), and
- (c) Chapter 6 of Part 12 of the 2003 Act.
- (9) Nothing in subsection (7) 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.]

#### **Textual Amendments**

**F24** S. 106A inserted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 113](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (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

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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))

## 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 <sup>M10</sup>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.
- (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

M10 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 <sup>M11</sup>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.

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- (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 <sup>M12</sup>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**

**M11** 1971 c. 32.

**M12** 1952 c. 52.



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