



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART V

#### CUSTODIAL SENTENCES ETC.

#### 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—
- he has been serving a determinate sentence of imprisonment which he began serving on or after 1st October 1992;
  - he is released under Part II of the Criminal Justice Act 1991 (early release of prisoners);
  - 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
  - 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—
- begins with the date of the order; and
  - 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 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—
- (a) shall be taken to be a sentence of imprisonment for the purposes of Part II of the 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 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.

**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 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.
- (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 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).