



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART V

#### CUSTODIAL SENTENCES ETC.

### 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—

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- (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.
- (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 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.

## **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.