



# Coroners and Justice Act 2009

## 2009 CHAPTER 25

### PART 4

#### SENTENCING

#### CHAPTER 1

#### SENTENCING COUNCIL FOR ENGLAND AND WALES

#### *Sentencing Council for England and Wales*

#### **118 Sentencing Council for England and Wales**

- (1) There is to be a Sentencing Council for England and Wales.
- (2) Schedule 15 makes provision about the Council.

#### **Annotations:**

#### **Commencement Information**

- I1** S. 118(1) in force at 6.4.2010 by S.I. 2010/816, art. 2, **Sch. para. 7**
- I2** S. 118(2) in force at 1.2.2010 for specified purposes by S.I. 2010/145, art. 2(2), **Sch. para. 9**
- I3** S. 118(2) in force at 6.4.2010 in so far as not already in force by S.I. 2010/816, art. 2, **Sch. para. 7**

#### **119 Annual report**

- (1) The Council must, as soon as practicable after the end of each financial year, make to the Lord Chancellor a report on the exercise of the Council's functions during the year.
- (2) The Lord Chancellor must lay a copy of the report before Parliament.
- (3) The Council must publish the report once a copy has been so laid.

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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4 . (See end of Document for details)*

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- (4) Sections 128(3), 130 and 131 make further provision about the content of reports under this section.
- (5) If section 118 comes into force after the beginning of a financial year, the first report may relate to a period beginning with the day on which that section comes into force and ending with the end of the next financial year.

**Annotations:**

**Commencement Information**

**I4** S. 119 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

*Guidelines*

**120 Sentencing guidelines**

- (1) In this Chapter “sentencing guidelines” means guidelines relating to the sentencing of offenders.
- (2) A sentencing guideline may be general in nature or limited to a particular offence, particular category of offence or particular category of offender.
- (3) The Council must prepare—
- (a) sentencing guidelines about the discharge of a court's duty under section 144 of the Criminal Justice Act 2003 (c. 44) (reduction in sentences for guilty pleas), and
  - (b) sentencing guidelines about the application of any rule of law as to the totality of sentences.
- (4) The Council may prepare sentencing guidelines about any other matter.
- (5) Where the Council has prepared guidelines under subsection (3) or (4), it must publish them as draft guidelines.
- (6) The Council must consult the following persons about the draft guidelines—
- (a) the Lord Chancellor;
  - (b) such persons as the Lord Chancellor may direct;
  - (c) the Justice Select Committee of the House of Commons (or, if there ceases to be a committee of that name, such committee of the House of Commons as the Lord Chancellor directs);
  - (d) such other persons as the Council considers appropriate.
- (7) In the case of guidelines within subsection (3), the Council must, after making any amendments of the guidelines which it considers appropriate, issue them as definitive guidelines.
- (8) In any other case, the Council may, after making such amendments, issue them as definitive guidelines.
- (9) The Council may, from time to time, review the sentencing guidelines issued under this section, and may revise them.

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- (10) Subsections (5), (6) and (8) apply to a revision of the guidelines as they apply to their preparation (and subsection (8) applies even if the guidelines being revised are within subsection (3)).
- (11) When exercising functions under this section, the Council must have regard to the following matters—
- (a) the sentences imposed by courts in England and Wales for offences;
  - (b) the need to promote consistency in sentencing;
  - (c) the impact of sentencing decisions on victims of offences;
  - (d) the need to promote public confidence in the criminal justice system;
  - (e) the cost of different sentences and their relative effectiveness in preventing re-offending;
  - (f) the results of the monitoring carried out under section 128.

**Annotations:**

**Commencement Information**

- I5** S. 120 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8 (with art. 7) (as amended (11.3.2011) by S.I. 2011/722, art. 2)

## 121 Sentencing ranges

- (1) When exercising functions under section 120, the Council is to have regard to the desirability of sentencing guidelines which relate to a particular offence being structured in the way described in subsections (2) to (9).
- (2) The guidelines should, if reasonably practicable given the nature of the offence, describe, by reference to one or more of the factors mentioned in subsection (3), different categories of case involving the commission of the offence which illustrate in general terms the varying degrees of seriousness with which the offence may be committed.
- (3) Those factors are—
- (a) the offender's culpability in committing the offence;
  - (b) the harm caused, or intended to be caused or which might foreseeably have been caused, by the offence;
  - (c) such other factors as the Council considers to be particularly relevant to the seriousness of the offence in question.
- (4) The guidelines should—
- (a) specify the range of sentences (“the offence range”) which, in the opinion of the Council, it may be appropriate for a court to impose on an offender convicted of that offence, and
  - (b) if the guidelines describe different categories of case in accordance with subsection (2), specify for each category the range of sentences (“the category range”) within the offence range which, in the opinion of the Council, it may be appropriate for a court to impose on an offender in a case which falls within the category.
- (5) The guidelines should also—
- (a) specify the sentencing starting point in the offence range, or

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- (b) if the guidelines describe different categories of case in accordance with subsection (2), specify the sentencing starting point in the offence range for each of those categories.
- (6) The guidelines should—
- (a) (to the extent not already taken into account by categories of case described in accordance with subsection (2)) list any aggravating or mitigating factors which, by virtue of any enactment or other rule of law, the court is required to take into account when considering the seriousness of the offence and any other aggravating or mitigating factors which the Council considers are relevant to such a consideration,
  - (b) list any other mitigating factors which the Council considers are relevant in mitigation of sentence for the offence, and
  - (c) include criteria, and provide guidance, for determining the weight to be given to previous convictions of the offender and such of the other factors within paragraph (a) or (b) as the Council considers to be of particular significance in relation to the offence or the offender.
- (7) For the purposes of subsection (6)(b) the following are to be disregarded—
- (a) the requirements of section 144 of the Criminal Justice Act 2003 (c. 44) (reduction in sentences for guilty pleas);
  - (b) sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered to be given) by the offender to the prosecutor or investigator of an offence;
  - (c) any rule of law as to the totality of sentences.
- (8) The provision made in accordance with subsection (6)(c) should be framed in such manner as the Council considers most appropriate for the purpose of assisting the court, when sentencing an offender for the offence, to determine the appropriate sentence within the offence range.
- (9) The provision made in accordance with subsections (2) to (8) may be different for different circumstances or cases involving the offence.
- (10) The sentencing starting point in the offence range—
- (a) for a category of case described in the guidelines in accordance with subsection (2), is the sentence within that range which the Council considers to be the appropriate starting point for cases within that category—
    - (i) before taking account of the factors mentioned in subsection (6), and
    - (ii) assuming the offender has pleaded not guilty, and
  - (b) where the guidelines do not describe categories of case in accordance with subsection (2), is the sentence within that range which the Council considers to be the appropriate starting point for the offence—
    - (i) before taking account of the factors mentioned in subsection (6), and
    - (ii) assuming the offender has pleaded not guilty.

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**Annotations:**

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**Commencement Information**

**I6** S. 121 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

## **122 Allocation guidelines**

- (1) In this Chapter “allocation guidelines” means guidelines relating to decisions by a magistrates' court under section 19 of the Magistrates' Courts Act 1980 (c. 43), or the Crown Court under paragraph 7(7) or 8(2)(d) of Schedule 3 to the Crime and Disorder Act 1998 (c. 37), as to whether an offence is more suitable for summary trial or trial on indictment.
- (2) The Council may prepare allocation guidelines.
- (3) Where the Council has prepared guidelines under subsection (2), it must publish them as draft guidelines.
- (4) The Council must consult the following persons about the draft guidelines—
  - (a) the Lord Chancellor;
  - (b) such persons as the Lord Chancellor may direct;
  - (c) the Justice Select Committee of the House of Commons (or, if there ceases to be a committee of that name, such committee of the House of Commons as the Lord Chancellor directs);
  - (d) such other persons as the Council considers appropriate.
- (5) The Council may, after making any amendment of the draft guidelines which it considers appropriate, issue the guidelines as definitive guidelines.
- (6) The Council may, from time to time, review the allocation guidelines issued under this section, and may revise them.
- (7) Subsections (3) to (5) apply to a revision of the guidelines as they apply to their preparation.
- (8) When exercising functions under this section, the Council must have regard to—
  - (a) the need to promote consistency in decisions of the kind mentioned in subsection (1), and
  - (b) the results of the monitoring carried out under section 128.

**Annotations:**

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**Commencement Information**

**I7** S. 122 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

## **123 Preparation or revision of guidelines in urgent cases**

- (1) This section applies where the Council—
  - (a) decides to prepare or revise sentencing guidelines or allocation guidelines, and

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- (b) is of the opinion that the urgency of the case makes it impractical to comply with the procedural requirements of section 120 or (as the case may be) section 122.
- (2) The Council may prepare or revise the guidelines without complying with—
  - (a) in the case of sentencing guidelines, section 120(5), and
  - (b) in the case of allocation guidelines, section 122(3).
- (3) The Council may—
  - (a) in the case of sentencing guidelines, amend and issue the guidelines under section 120(7) or (8) without having complied with the requirements of section 120(6)(b) to (d), and
  - (b) in the case of allocation guidelines, amend and issue the guidelines under section 122(5) without having complied with the requirements of section 122(4)(b) to (d).
- (4) The guidelines or revised guidelines must—
  - (a) state that the Council was of the opinion mentioned in subsection (1)(b), and
  - (b) give the Council's reasons for that opinion.

**Annotations:**

**Commencement Information**

**I8** [S. 123](#) in force at 6.4.2010 by [S.I. 2010/816](#), art. 2, [Sch. para. 8](#)

## 124 Proposals by Lord Chancellor or Court of Appeal

- (1) The Lord Chancellor may propose to the Council—
  - (a) that sentencing guidelines be prepared or revised by the Council under section 120—
    - (i) in relation to a particular offence, particular category of offence or particular category of offenders, or
    - (ii) in relation to a particular matter affecting sentencing;
  - (b) that allocation guidelines be prepared or revised by the Council under section 122.
- (2) Subsection (3) applies where the criminal division of the Court of Appeal (“the appeal court”) is seised of an appeal against, or a reference under section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) with respect to, the sentence passed for an offence (“the relevant offence”).
- (3) The appeal court may propose to the Council that sentencing guidelines be prepared or revised by the Council under section 120—
  - (a) in relation to the relevant offence, or
  - (b) in relation to a category of offences within which the relevant offence falls.
- (4) A proposal under subsection (3) may be included in the appeal court's judgment in the appeal.
- (5) If the Council receives a proposal under subsection (1) or (3) to prepare or revise any guidelines, it must consider whether to do so.

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- (6) For the purposes of this section, the appeal court is seised of an appeal against a sentence if—
- (a) the court or a single judge has granted leave to appeal against the sentence under section 9 or 10 of the Criminal Appeal Act 1968 (c. 19) (appeals against sentence), or
  - (b) in a case where the judge who passed the sentence granted a certificate of fitness for appeal under section 9 or 10 of that Act, notice of appeal has been given,
- and the appeal has not been abandoned or disposed of.
- (7) For the purposes of this section, the appeal court is seised of a reference under section 36 of the Criminal Justice Act 1988 (reviews of sentencing) if it has given leave under subsection (1) of that section and the reference has not been disposed of.
- (8) This section is without prejudice to any power of the appeal court to provide guidance relating to the sentencing of offenders in a judgment of the court.

**Annotations:**

**Commencement Information**

**19** S. 124 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

*Duties of the court*

**125 Sentencing guidelines: duty of court**

- (1) Every court—
- (a) must, in sentencing an offender, follow any sentencing guidelines which are relevant to the offender's case, and
  - (b) must, in exercising any other function relating to the sentencing of offenders, follow any sentencing guidelines which are relevant to the exercise of the function,
- unless the court is satisfied that it would be contrary to the interests of justice to do so.
- (2) Subsections (3) and (4) apply where—
- (a) a court is deciding what sentence to impose on a person (“P”) who is guilty of an offence, and
  - (b) sentencing guidelines have been issued in relation to that offence which are structured in the way described in section 121(2) to (5) (“the offence-specific guidelines”).
- (3) The duty imposed on a court by subsection (1)(a) to follow any sentencing guidelines which are relevant to the offender's case includes—
- (a) in all cases, a duty to impose on P, in accordance with the offence-specific guidelines, a sentence which is within the offence range, and
  - (b) where the offence-specific guidelines describe categories of case in accordance with section 121(2), a duty to decide which of the categories most resembles P's case in order to identify the sentencing starting point in the offence range;

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but nothing in this section imposes on the court a separate duty, in a case within paragraph (b), to impose a sentence which is within the category range.

- (4) Subsection (3)(b) does not apply if the court is of the opinion that, for the purpose of identifying the sentence within the offence range which is the appropriate starting point, none of the categories sufficiently resembles P's case.
- (5) Subsection (3)(a) is subject to—
- (a) section 144 of the Criminal Justice Act 2003 (c. 44) (reduction in sentences for guilty pleas),
  - (b) sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (c. 15) (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered to be given) by the offender to the prosecutor or investigator of an offence, and
  - (c) any rule of law as to the totality of sentences.
- (6) The duty imposed by subsection (1) is subject to the following provisions—
- (a) section 148(1) and (2) of the Criminal Justice Act 2003 (restrictions on imposing community sentences);
  - (b) section 152 of that Act (restrictions on imposing discretionary custodial sentences);
  - (c) section 153 of that Act (custodial sentence must be for shortest term commensurate with seriousness of offence);
  - (d) section 164(2) of that Act (fine must reflect seriousness of offence);
  - [<sup>F1</sup>(da) section 224A of that Act (life sentence for second listed offence for certain dangerous offenders);]
  - (e) section 269 of and Schedule 21 to that Act (determination of minimum term in relation to mandatory life sentence);
  - [<sup>F2</sup>(ea) [<sup>F3</sup>sections 1(2B) and] 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for [<sup>F4</sup>certain offences involving offensive weapons]);]
  - (f) section 51A of the Firearms Act 1968 (c. 27) (minimum sentence for certain offences under section 5 etc);
  - [<sup>F5</sup>(fa) [<sup>F6</sup>sections 139(6B), 139A(5B) and] 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for [<sup>F7</sup>certain offences involving] article with blade or point or offensive weapon);]
  - (g) sections 110(2) and 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (minimum sentences for certain drug trafficking and burglary offences);
  - (h) section 29(4) and (6) of the Violent Crime Reduction Act 2006 (c. 38) (minimum sentences for certain offences involving firearms).
- (7) Nothing in this section or section 126 is to be taken as restricting any power (whether under the Mental Health Act 1983 (c. 20) or otherwise) which enables a court to deal with a mentally disordered offender in the manner it considers to be most appropriate in all the circumstances.
- (8) In this section—
- “mentally disordered”, in relation to a person, means suffering from a mental disorder within the meaning of the Mental Health Act 1983;
- “sentencing guidelines” means definitive sentencing guidelines.



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#### Annotations:

#### Amendments (Textual)

- F1** S. 125(6)(da) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\)](#), [Sch. 19 para. 23](#); S.I. 2012/2906, art. 2(q)
- F2** S. 125(6)(ea) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\)](#), [Sch. 26 para. 31\(2\)](#); S.I. 2012/2770, art. 2(f)
- F3** Words in s. 125(6)(ea) substituted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\)](#), [Sch. 5 para. 17\(2\)\(a\)](#); S.I. 2015/1463, art. 2(b)
- F4** Words in s. 125(6)(ea) substituted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\)](#), [Sch. 5 para. 17\(2\)\(b\)](#); S.I. 2015/1463, art. 2(b)
- F5** S. 125(6)(fa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\)](#), [Sch. 26 para. 31\(3\)](#); S.I. 2012/2770, art. 2(f)
- F6** Words in s. 125(6)(fa) substituted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\)](#), [Sch. 5 para. 17\(3\)\(a\)](#); S.I. 2015/1463, art. 2(b)
- F7** Words in s. 125(6)(fa) substituted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\)](#), [Sch. 5 para. 17\(3\)\(b\)](#); S.I. 2015/1463, art. 2(b)

#### Commencement Information

- I10** S. 125 in force at 6.4.2010 by [S.I. 2010/816, art. 2](#), [Sch. para. 8](#) (with [art. 7](#)) (as amended (11.3.2011) by [S.I. 2011/722, art. 2](#))

## 126 Determination of tariffs etc

- (1) Section 125(3) (except as applied by virtue of subsection (3) below) is subject to any power a court has to impose—
- <sup>F8</sup>(a) .....
  - (b) .....
  - (c) an extended sentence of imprisonment by virtue of section [<sup>F9</sup>226A of the Criminal Justice Act 2003];
  - (d) an extended sentence of detention by virtue of section [<sup>F10</sup>226B] of that Act.
- (2) Subsection (3) applies where a court determines the notional determinate term for the purpose of determining in any case—
- (a) the order to be made under section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (life sentence: determination of tariffs),
  - <sup>F11</sup>(b) .....
  - (c) the appropriate custodial term for the purposes of section [<sup>F12</sup>226A(6) of the Criminal Justice Act 2003] (extended sentence for certain violent or sexual offences: persons 18 or over), or
  - (d) the appropriate term for the purposes of section [<sup>F13</sup>226B(4)] of that Act (extended sentence for certain violent or sexual offences: persons under 18).
- (3) Subsections (2) to (5) of section 125 apply for the purposes of determining the notional determinate term in relation to an offence as they apply for the purposes of determining the sentence for an offence.
- (4) In this section references to the notional determinate term are to the determinate sentence that would have been passed in the case if the need to protect the public and the potential danger of the offender had not required the court to impose a life sentence

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(in circumstances where the sentence is not fixed by law) or, as the case may be, an extended sentence of imprisonment or detention.

- (5) In subsection (4) “life sentence” [F14 means a sentence mentioned in subsection (2) of section 34 of the Crime (Sentences) Act 1997 other than a sentence mentioned in paragraph (d) or (e) of that subsection].

**Annotations:**

**Amendments (Textual)**

- F8** S. 126(1)(a)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(2\)\(a\)](#); S.I. 2012/2906, art. 2(s)
- F9** Words in s. 126(1)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(2\)\(b\)](#); S.I. 2012/2906, art. 2(s)
- F10** Word in s. 126(1)(d) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(2\)\(c\)](#); S.I. 2012/2906, art. 2(s)
- F11** S. 126(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(3\)\(a\)](#); S.I. 2012/2906, art. 2(s)
- F12** Words in s. 126(2)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(3\)\(b\)](#); S.I. 2012/2906, art. 2(s)
- F13** Word in s. 126(2)(d) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(3\)\(c\)](#); S.I. 2012/2906, art. 2(s)
- F14** Words in s. 126(5) substituted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 34\(4\)](#); S.I. 2012/2906, art. 2(s)

**Commencement Information**

- I11** S. 126 in force at 6.4.2010 by [S.I. 2010/816](#), art. 2, [Sch. para. 8](#)

*Other functions of the Council*

**127 Resource implications of guidelines**

- (1) This section applies where the Council—
- (a) publishes draft guidelines under section 120 or 122, or
  - (b) issues guidelines as definitive guidelines under either of those sections.
- (2) The Council must publish a resource assessment in respect of the guidelines.
- (3) A resource assessment in respect of any guidelines is an assessment by the Council of the likely effect of the guidelines on—
- (a) the resources required for the provision of prison places,
  - (b) the resources required for probation provision, and
  - (c) the resources required for the provision of youth justice services.
- (4) The resources assessment must be published—
- (a) in a case within subsection (1)(a), at the time of publication of the draft guidelines;
  - (b) in a case within subsection (1)(b), at the time the guidelines are issued or, where the guidelines are issued by virtue of section 123, as soon as reasonably practicable after the guidelines are issued.

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- (5) The Council must keep under review any resource assessment published under this section, and, if the assessment is found to be inaccurate in a material respect, publish a revised resource assessment.

**Annotations:**

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**Commencement Information**

**I12** S. 127 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

## 128 Monitoring

- (1) The Council must—
- (a) monitor the operation and effect of its sentencing guidelines, and
  - (b) consider what conclusions can be drawn from the information obtained by virtue of paragraph (a).
- (2) The Council must, in particular, discharge its duty under subsection (1)(a) with a view to drawing conclusions about—
- (a) the frequency with which, and extent to which, courts depart from sentencing guidelines;
  - (b) the factors which influence the sentences imposed by courts;
  - (c) the effect of the guidelines on the promotion of consistency in sentencing;
  - (d) the effect of the guidelines on the promotion of public confidence in the criminal justice system.
- (3) When reporting on the exercise of its functions under this section in its annual report for a financial year, the Council must include—
- (a) a summary of the information obtained under subsection (1)(a), and
  - (b) a report of any conclusions drawn by the Council under subsection (1)(b).

**Annotations:**

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**Commencement Information**

**I13** S. 128 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

## 129 Promoting awareness

- (1) The Council must publish, at such intervals as it considers appropriate—
- (a) in relation to each local justice area, information regarding the sentencing practice of the magistrates' courts acting in that area, and
  - (b) in relation to each location at which the Crown Court sits, information regarding the sentencing practice of the Crown Court when it sits at that location.
- (2) The Council may promote awareness of matters relating to the sentencing of offenders by courts in England and Wales, including, in particular—
- (a) the sentences imposed by courts in England and Wales;
  - (b) the cost of different sentences and their relative effectiveness in preventing re-offending;

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- (c) the operation and effect of guidelines under this Chapter.
- (3) For the purposes of subsection (2), the Council may, in particular, publish any information obtained or produced by it in connection with its functions under section 128(1).

**Annotations:**

**Commencement Information**

**I14** S. 129 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

**130 Resources: effect of sentencing practice**

- (1) The annual report for a financial year must contain a sentencing factors report.
- (2) A sentencing factors report is an assessment made by the Council, using the information available to it, of the effect which any changes in the sentencing practice of courts are having or are likely to have on each of the following—
- (a) the resources required for the provision of prison places;
  - (b) the resources required for probation provision;
  - (c) the resources required for the provision of youth justice services.

**Annotations:**

**Commencement Information**

**I15** S. 130 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

**131 Resources: effect of factors not related to sentencing**

- (1) The annual report for a financial year must contain a non-sentencing factors report.
- (2) The Council may, at any other time, provide the Lord Chancellor with a non-sentencing factors report, and may publish that report.
- (3) A non-sentencing factors report is a report by the Council of any significant quantitative effect (or any significant change in quantitative effect) which non-sentencing factors are having or are likely to have on the resources needed or available for giving effect to sentences imposed by courts in England and Wales.
- (4) Non-sentencing factors are factors which do not relate to the sentencing practice of the courts, and include—
- (a) the recalling of persons to prison;
  - (b) breaches of orders within subsection (5);
  - (c) patterns of re-offending;
  - (d) decisions or recommendations for release made by the Parole Board;
  - (e) the early release under discretionary powers of persons detained in prison;
  - (f) the remanding of persons in custody.
- (5) The orders within this subsection are—
- (a) community orders (within the meaning of section 177 of the Criminal Justice Act 2003 (c. 44)),

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*Changes to legislation:* There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)

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- (b) suspended sentence orders (within the meaning of section 189(7) of that Act), and
- (c) youth rehabilitation orders (within the meaning of Part 1 of the Criminal Justice and Immigration Act 2008 (c. 4)).

**Annotations:**

**Commencement Information**

**I16** S. 131 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

**132 Duty to assess impact of policy and legislative proposals**

- (1) This section applies where the Lord Chancellor refers to the Council any government policy proposal, or government proposal for legislation, which the Lord Chancellor considers may have a significant effect on one or more of the following—
  - (a) the resources required for the provision of prison places;
  - (b) the resources required for probation provision;
  - (c) the resources required for the provision of youth justice services.
- (2) For the purposes of subsection (1)—
  - “government policy proposal” includes a policy proposal of the Welsh Ministers;
  - “government proposal for legislation” includes a proposal of the Welsh Ministers for legislation.
- (3) The Council must assess the likely effect of the proposal on the matters mentioned in paragraphs (a) to (c) of subsection (1).
- (4) The Council must prepare a report of the assessment and send the report—
  - (a) to the Lord Chancellor, and
  - (b) if the report relates to a proposal of the Welsh Ministers, to the Welsh Ministers.
- (5) A single report may be prepared of the assessments relating to 2 or more proposals.
- (6) If the Lord Chancellor receives a report under subsection (4) the Lord Chancellor must, unless it relates only to a proposal of the Welsh Ministers, lay a copy of it before each House of Parliament.
- (7) If the Welsh Ministers receive a report under subsection (4) they must lay a copy of it before the National Assembly for Wales.
- (8) The Council must publish a report which has been laid in accordance with subsections (6) and (7).
- (9) In this section “legislation” means—
  - (a) an Act of Parliament if, or to the extent that, it extends to England and Wales;
  - (b) subordinate legislation made under an Act of Parliament if, or to the extent that, the subordinate legislation extends to England and Wales;
  - (c) a Measure or Act of the National Assembly for Wales or subordinate legislation made under such a Measure or Act.

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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4 . (See end of Document for details)*

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**Annotations:**

**Commencement Information**

**I17** S. 132 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

*Lord Chancellor's functions*

**133 Assistance by the Lord Chancellor**

The Lord Chancellor may provide the Council with such assistance as it requests in connection with the performance of its functions.

**Annotations:**

**Commencement Information**

**I18** S. 133 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

**134 Entrenchment of Lord Chancellor's functions**

In Schedule 7 to the Constitutional Reform Act 2005 (c. 4) (protected functions of the Lord Chancellor), in Part A of paragraph 4—

- (a) for the entry for the Criminal Justice Act 2003 (c. 44) substitute—

*“Criminal Justice Act 2003 (c. 44)*

Section 174(4)

Section 269(6) and (7)”, and

- (b) after the entry for the Tribunals, Courts and Enforcement Act 2007 (c. 15) insert—

*“Coroners and Justice Act 2009 (c. 25)*

Section 119(1) and (2)

Section 120(6)

Section 122(4)

Section 124(1)

Section 131(2)

Section 132(1), (4) and (6)

Section 133

Schedule 15”.

**Annotations:**

**Commencement Information**

**I19** S. 134 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

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*Changes to legislation:* There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)

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### *Miscellaneous and general*

#### **135 Abolition of existing sentencing bodies**

The following are abolished—

- (a) the Sentencing Guidelines Council;
- (b) the Sentencing Advisory Panel.

#### **Annotations:**

#### **Commencement Information**

**I20** S. 135 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

#### **136 Interpretation of this Chapter**

In this Chapter, except where the context otherwise requires—

- “allocation guidelines” has the meaning given by section 122;
- “annual report” means a report made under section 119;
- “the category range” has the meaning given by section 121(4)(b);
- “the Council” means the Sentencing Council for England and Wales;
- “definitive sentencing guidelines” means sentencing guidelines issued by the Council under section 120 as definitive guidelines, as revised by any subsequent guidelines so issued;
- “financial year” means a period of 12 months ending with 31 March;
- “the offence range” has the meaning given by section 121(4)(a);
- “prison”—
  - (a) includes any youth detention accommodation within the meaning of section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (detention and training orders), but
  - (b) does not include any naval, military or air force prison;
- “probation provision” has the meaning given by section 2 of the Offender Management Act 2007 (c. 21);
- “sentence”, in relation to an offence, includes any order made by a court when dealing with the offender in respect of the offender's offence, and “sentencing” is to be construed accordingly;
- “sentencing guidelines” has the meaning given by section 120;
- “the sentencing starting point”, in relation to the offence range, has the meaning given by section 121(10);
- “youth justice services” has the meaning given by section 38(4) of the Crime and Disorder Act 1998 (c. 37).

#### **Annotations:**

#### **Commencement Information**

**I21** S. 136 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 8

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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4 . (See end of Document for details)*

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## CHAPTER 2

### OTHER PROVISIONS RELATING TO SENTENCING

#### *Driving disqualification*

#### **137 Extension of driving disqualification**

Schedule 16 makes provision about the extension of disqualification for holding or obtaining a driving licence in certain circumstances.

**Annotations:**

**Commencement Information**

**I22** [S. 137](#) in force at 13.4.2015 by [S.I. 2015/819](#), [art. 2\(a\)](#)

#### *Dangerous offenders*

#### **138 Dangerous offenders: terrorism offences (England and Wales)**

- (1) Part 1 of Schedule 15 to the Criminal Justice Act 2003 (c. 44) (specified violent offences for the purposes of Chapter 5 of Part 12 of that Act) is amended as follows.
- (2) After paragraph 59 insert—

“59A An offence under section 54 of the Terrorism Act 2000 (weapons training).

59B An offence under section 56 of that Act (directing terrorist organisation).

59C An offence under section 57 of that Act (possession of article for terrorist purposes).

59D An offence under section 59 of that Act (inciting terrorism overseas).”

- (3) After paragraph 60 insert—

“60A An offence under section 47 of the Anti-terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).

60B An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).



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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)*

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60C An offence under section 113 of that Act (use of noxious substance or thing to cause harm or intimidate).”

(4) After paragraph 63A insert—

“63B An offence under section 5 of the Terrorism Act 2006 (preparation of terrorist acts).

63C An offence under section 6 of that Act (training for terrorism).

63D An offence under section 9 of that Act (making or possession of radioactive device or material).

63E An offence under section 10 of that Act (use of radioactive device or material for terrorist purposes etc).

63F An offence under section 11 of that Act (terrorist threats relating to radioactive devices etc).”

### **139 Dangerous offenders: terrorism offences (Northern Ireland)**

(1) Schedule 1 to the Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216 (N.I. 1)) (serious offences for purposes of Chapter 3 of Part 2 of that Order) is amended in accordance with subsections (2) to (4).

(2) After paragraph 25 insert—

#### **25A “The Terrorism Act 2000 (c. 11)**

An offence under—  
section 54 (weapons training),  
section 56 (directing terrorist organisation),  
section 57 (possession of article for terrorist purposes), or  
section 59 (inciting terrorism overseas).”

(3) After paragraph 26 insert—

#### **26A “The Anti-terrorism, Crime and Security Act 2001 (c. 24)**

An offence under—  
section 47 (use etc of nuclear weapons),  
section 50 (assisting or inducing certain weapons-related acts overseas),  
or

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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)*

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section 113 (use of noxious substance or thing to cause harm or intimidate).”

(4) After paragraph 31 insert—

**31ZA “The Terrorism Act 2006 (c. 11)**

An offence under—

section 5 (preparation of terrorist acts),  
 section 6 (training for terrorism),  
 section 9 (making or possession of radioactive device or material),  
 section 10 (use of radioactive device or material for terrorist purposes etc), or  
 section 11 (terrorist threats relating to radioactive devices etc).”

(5) Part 1 of Schedule 2 to that Order (specified violent offences) is amended in accordance with subsections (6) to (8).

(6) After paragraph 27 insert—

**27A “The Terrorism Act 2000 (c. 11)**

An offence under—

section 54 (weapons training),  
 section 56 (directing terrorist organisation),  
 section 57 (possession of article for terrorist purposes), or  
 section 59 (inciting terrorism overseas).”

(7) After paragraph 28 insert—

**28A “The Anti-terrorism, Crime and Security Act 2001 (c. 24)**

An offence under—

section 47 (use etc of nuclear weapons),  
 section 50 (assisting or inducing certain weapons-related acts overseas),  
 or  
 section 113 (use of noxious substance or thing to cause harm or intimidate).”

(8) After paragraph 31 insert—

**31A “The Terrorism Act 2006 (c. 11)**

An offence under—

section 5 (preparation of terrorist acts),  
 section 6 (training for terrorism),  
 section 9 (making or possession of radioactive device or material),  
 section 10 (use of radioactive device or material for terrorist purposes etc), or  
 section 11 (terrorist threats relating to radioactive devices etc).”

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*Changes to legislation:* There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)

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**Annotations:**

**Commencement Information**

**I23** S. 139 in force at 12.1.2010 by S.I. 2010/28, art. 2

*Confiscation orders*

**140 Appeals against certain confiscation orders (England and Wales)**

(1) The Criminal Appeal Act 1968 (c. 19) is amended in accordance with subsections (2) and (3).

(2) In section 11 (supplementary provisions as to appeal against sentence), after subsection (3) insert—

“(3A) Where the Court of Appeal exercise their power under paragraph (a) of subsection (3) to quash a confiscation order, the Court may, instead of proceeding under paragraph (b) of that subsection, direct the Crown Court to proceed afresh under the relevant enactment.

(3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.

(3C) The Court of Appeal shall exercise the power to give such directions so as to ensure that any confiscation order made in respect of the appellant by the Crown Court does not deal more severely with the appellant than the order quashed under subsection (3)(a).

(3D) For the purposes of this section—

“confiscation order” means a confiscation order made under—

- (a) section 1 of the Drug Trafficking Offences Act 1986,
- (b) section 71 of the Criminal Justice Act 1988,
- (c) section 2 of the Drug Trafficking Act 1994, or
- (d) section 6 of the Proceeds of Crime Act 2002;

“relevant enactment”, in relation to a confiscation order quashed under subsection (3)(a), means the enactment under which the order was made.”

(3) After that section insert—

**“11A Quashing of certain confiscation orders: supplementary**

(1) This section applies where the Court of Appeal—

- (a) quash a confiscation order under section 11(3)(a) (“the quashed order”), and
- (b) under section 11(3A), direct the Crown Court to proceed afresh under the relevant enactment.

(2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any such sum is not to be repaid until such time as the Crown Court makes

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*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4. (See end of Document for details)*

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a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 11(3A).

- (3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.
- (4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 11(3D).”

**Annotations:**

**Commencement Information**

**I24** S. 140 in force at 1.2.2010 by S.I. 2010/145, art. 2(2), Sch. para. 10

**141 Appeals against certain confiscation orders (Northern Ireland)**

- (1) The Criminal Appeal (Northern Ireland) Act 1980 (c. 47) is amended in accordance with subsections (2) and (3).
- (2) In section 10 (supplementary provisions as to appeals against sentence), after subsection (3) insert—
- “(3A) Where the Court of Appeal exercises its power under subsection (3) to quash a confiscation order, the Court may, instead of passing a sentence in substitution for that order, direct the Crown Court to proceed afresh under the relevant enactment.
- (3B) When proceeding afresh pursuant to subsection (3A), the Crown Court shall comply with any directions the Court of Appeal may make.
- (3C) For the purposes of this section—
- “confiscation order” means a confiscation order made under—
- (a) Article 4 or 5 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990,
- (b) Article 8 of the Proceeds of Crime (Northern Ireland) Order 1996,
- or
- (c) section 156 of the Proceeds of Crime Act 2002;
- “relevant enactment”, in relation to a confiscation order quashed under subsection (3), means the enactment under which the order was made.”
- (3) After that section insert—

**“10A Quashing of certain confiscation orders: supplementary**

- (1) This section applies where the Court of Appeal—
- (a) quashes a confiscation order under section 10(3) (“the quashed order”), and
- (b) under section 10(3A), directs the Crown Court to proceed afresh under the relevant enactment.

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**Changes to legislation:** There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4 . (See end of Document for details)

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- (2) Nothing in this section prevents any sum paid by the appellant pursuant to the quashed order being a sum which is recoverable from the Secretary of State as a debt owing to the appellant, but the Court of Appeal may direct that any sum is not to be repaid until such time as the Crown Court makes a confiscation order, or decides not to make such an order, when proceeding afresh pursuant to section 10(3A).
- (3) Nothing in this section prevents an amount which would otherwise fall to be repaid as a result of the order being quashed being set against an amount which the appellant is required to pay by virtue of a confiscation order made by the Crown Court in those proceedings.
- (4) In this section “confiscation order” and “relevant enactment” have the same meaning as in section 10(3C).”

**Annotations:**

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**Commencement Information**

**I25** S. 141 in force at 1.2.2010 by S.I. 2010/145, art. 2(2), Sch. para. 11

**Changes to legislation:**

There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 4 .