



Crime and Disorder Act 1998

1998 CHAPTER 37

PART IV

DEALING WITH OFFENDERS

CHAPTER I

ENGLAND AND WALES

Young offenders: detention and training orders

73 Detention and training orders.

(1) Subject to section 53 of the 1933 Act, section 8 of the ^{M1}Criminal Justice Act 1982 (“the 1982 Act”) and subsection (2) below, where—

- (a) a child or young person (“the offender”) 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) or (b) of subsection (2) of section 1 of the 1991 Act apply 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.

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- (3) A detention and training order is an order that the offender in respect of whom it is made shall be subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.
- (4) A detention and training order shall be a custodial sentence for the purposes of Part I of the 1991 Act; and the provisions of sections 1 to 4 of that Act shall apply accordingly.
- (5) Subject to subsection (6) below, the term of a detention and training order shall be 4, 6, 8, 10, 12, 18 or 24 months.
- (6) 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.
- (7) The following provisions, namely—
 - (a) section 1B of the 1982 Act (detention in young offender institutions: special provision for offenders under 18); and
 - (b) sections 1 to 4 of the 1994 Act (secure training orders),
 which are superseded by this section and sections 74 to 78 below, shall cease to have effect.

Modifications etc. (not altering text)

C1 Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)

Marginal Citations

M1 1982 c.48.

74 Duties and powers of court.

- (1) On making a detention and training order in a case where subsection (2) of section 73 above applies, it shall be the duty of the court (in addition to the duty imposed by section 1(4) of the 1991 Act) to state in open court that it is of the opinion mentioned in paragraph (a) or, as the case may be, paragraphs (a) and (b)(i) of that subsection.
- [^{F1}(2) Subject to subsections (3) and (4A) below, a court making a detention and training order may order that its term shall commence on the expiration of the term of any other detention and training order made by that or any other court.]
- (3) 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.
- (4) 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.
- [^{F2}(4A) A court making a detention and training order shall not order that its term shall commence on the expiration of the term of a detention and training order under which the period of supervision has already begun (under section 76(1) below).
- (4B) 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

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of supervision has begun (“the old order”), the old order shall be disregarded in determining—

- (a) for the purposes of subsection (3) 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 (4) above whether the term of the detention and training orders to which the offender would (apart from that subsection) be subject exceeds 24 months.]
- (5) 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.

[^{F3}(5A) Where a court proposes to make detention and training orders in respect of an offender for two or more offences—

- (a) subsection (5) 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 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.

(5B) Once a period of remand has, under subsection (5) or (5A) 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.]

(6) [^{F4}Any reference in subsection (5) or (5A) above] to an offender 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 1969 Act and placed and kept in secure accommodation; or
- (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the ^{M2}Mental Health Act 1983.

(7) A person is in police detention for the purposes of subsection (6) above—

- (a) at any time when he is in police detention for the purposes of the 1984 Act; and
- (b) at any time when he is detained under section 14 of the ^{M3}Prevention of Terrorism (Temporary Provisions) Act 1989;

and in that subsection “secure accommodation” has the same meaning as in section 23 of the 1969 Act.

(8) For the purpose of any reference in ^{F5}. . . sections 75 to 78 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 75 below) at any time during the period beginning with the first and ending with the last of those occasions.

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Textual Amendments

- F1** S. 74(2) substituted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, **6(1)(2)** (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, **art. 2**
- F2** S. 74(4A)(4B) inserted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, **6(1)(3)** (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, **art. 2**
- F3** S. 74(5A)(5B) inserted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, **6(1)(4)** (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, **art. 2**
- F4** Words in s. 74(6) substituted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, **6(5)** (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, **art. 2**
- F5** Words in s. 74(8) omitted (1.1.2000) by virtue of 1999 c. 23, s. 67(2), Sch. 5 paras. 5, **6(6)** (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, **art. 2** (which words in the amended Act are repealed (1.4.2000) by 1999 c. 23, s. 67(2), Sch. 6 (with Sch. 7 paras. 3(3), **5(2)**); S.I. 2000/1034, **art. 2, Sch.**)

Modifications etc. (not altering text)

- C2** Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, **art. 4(1)(a)(i)**

Marginal Citations

- M2** 1983 c.20.
M3 1989 c.4.

75 The period of detention and training.

- (1) An offender shall serve the period of detention and training under a detention and training order in such secure accommodation as may be determined by the Secretary of State or by such other person as may be authorised by him for that purpose.
- (2) Subject to subsections (3) to (5) below, the period of detention and training under a detention and training order shall be one-half of the term of the order.
- (3) The Secretary of State may at any time release the offender if he is satisfied that exceptional circumstances exist which justify the offender's release on compassionate grounds.
- (4) The Secretary of State may release the offender—
 - (a) in the case of an order for a term of 8 months or more but less than 18 months, one month before the half-way point of the term of the order; and
 - (b) in the case of an order for a term of 18 months or more, one month or two months before that point.
- (5) If [^{F6}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.
- (7) In this section and sections 77 and 78 below “secure accommodation” means—
 - (a) a secure training centre;

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- (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 1989 Act (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.

Textual Amendments

- F6** Words in s. 75(5) substituted (1.4.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, 7 (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, art. 2

Modifications etc. (not altering text)

- C3** Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)
S. 75 modified (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 para. 1(1)
- C4** S. 75(1): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(m)
s. 75(7)(e): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(n)(i)

76 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) a probation officer;
 - (b) a social worker of a local authority 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 a probation officer, the probation officer shall be an officer appointed for or assigned to the petty sessions area within which the offender resides for the time being.
- (5) Where the supervision is to be provided by—
 - (a) a social worker of a local authority social services department; or
 - (b) a member of a youth offending team,the social worker or member shall be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.

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- (6) The offender shall be given a notice from the Secretary of State specifying—
- (a) the category of person for the time being responsible for his supervision; and
 - (b) any requirements with which he must for the time being comply.
- (7) A notice under subsection (6) above shall be given to the offender—
- (a) before the commencement of the period of supervision; and
 - (b) before any alteration in the matters specified in subsection (6)(a) or (b) above comes into effect.

Modifications etc. (not altering text)

- C5** Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)
 S. 76 modified (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 para. 1(1)
- C6** S. 76(3)(6): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(n)(ii)(iii)

77 Breaches of supervision requirements.

- (1) Where a detention and training order is in force in respect of an offender and it appears on information to a justice of the peace acting for a relevant petty sessions area that the offender has failed to comply with requirements under section 76(6)(b) above, the justice—
- (a) may issue a summons requiring the offender to appear at the place and time specified in the summons before a youth court acting for the area; or
 - (b) if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.
- (2) For the purposes of this section a petty sessions area is a relevant petty sessions area in relation to a detention and training order if—
- (a) the order was made by a youth court acting for it; or
 - (b) the offender resides in it for the time being.
- (3) If it is proved to the satisfaction of the youth court before which an offender appears or is brought under this section that he has failed to comply with requirements under section 76(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) above shall be deemed to be in legal custody; and a fine imposed under that subsection shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- [^{F7}(5) 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

- F7** S. 77(5) inserted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, 8 (with Sch. 7 paras. 3(3), 5(2)); S.I. 1999/3427, art. 2

Modifications etc. (not altering text)

- C7** Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)
S. 77 modified (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 para. 1(1)
- C8** S. 77(3): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(n)(iv)

78 Offences during currency of order.

- (1) This section applies to a person subject to a detention and training order if—
- 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; and
 - whether before or after that date, he is convicted of that offence (“the new offence”).
- (2) Subject to section 7(8) of the 1969 Act, 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—
- begins with the date of the court’s 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) 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—
- 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
 - 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.

Modifications etc. (not altering text)

- C9** Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)
- C10** S. 78(2): certain functions made exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State (20.4.2000) by S.I. 2000/1160, art. 4(1)(2)(n)(v)

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79 Interaction with sentences of detention.

- (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 75 above, at the beginning of the day on which it is passed;
 - (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 that subsection.
- (2) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention in a young offender institution, the order shall take effect as follows—
- (a) if the offender has been released under Part II of the 1991 Act, at the beginning of the day on which it is made;
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Part.
- [^{F8}(2A) Subsection (1)(a) above has effect subject to section 78(3)(a) above and subsection (2) (a) above has effect subject to section 40(4)(b) of the 1991 Act.]
- (3) Subject to subsection (4) 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 75 to 78 above, section 1C of the 1982 Act and Part II of the 1991 Act as if he were subject only to the one of them that was imposed on the later occasion.
- (4) Nothing in subsection (3) 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.
- (5) Where, by virtue of any enactment giving a court power to deal with a person in a manner 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

F8 S. 79(2A) inserted (1.1.2000) by 1999 c. 23, s. 67(2), Sch. 5 paras. 5, 9 (with Sch. 7 paras. 3(3), 5(2); S.I. 1999/3427, art. 2

Modifications etc. (not altering text)

C11 Ss. 73-79 applied (15.12.1999) by S.I. 1999/3426, art. 4(1)(a)(i)

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