



# 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.

### *Suspended sentence supervision orders*

## **122 Suspended sentence supervision orders**

- (1) Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order, that is to say, an order placing the offender under the supervision of a supervising officer for a period which is specified in the order and does not exceed the operational period of the suspended sentence.
- (2) A suspended sentence supervision order shall specify the petty sessions area in which the offender resides or will reside; and the supervising officer shall be a probation officer appointed for or assigned to the area for the time being specified in the order (whether under this subsection or by virtue of section 124(3) below (power to amend order)).
- (3) An offender in respect of whom a suspended sentence supervision order is in force shall keep in touch with the supervising officer in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.

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- (4) On making a suspended sentence supervision order, the court shall explain its effect to the offender in ordinary language.
- (5) The court by which a suspended sentence supervision order is made shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy to the offender and to the supervising officer.
- (6) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the justices' chief executive for that area—
  - (a) a copy of the order; and
  - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (7) The Secretary of State may by order—
  - (a) direct that subsection (1) above be amended by substituting, for the number of months specified in that subsection as originally enacted or as previously amended under this paragraph, such other number (not more than six) as the order may specify; or
  - (b) make in that subsection the repeals necessary to enable a court to make a suspended sentence supervision order in the case of any suspended sentence, whatever the length of the term.
- (8) Where under section 119 above a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a suspended sentence supervision order in respect of the offender—
  - (a) in place of any such order made when the suspended sentence was passed; or
  - (b) if the court which passed the sentence could have made such an order but did not do so; or
  - (c) if that court could not then have made such an order but would have had power to do so if subsection (1) above had then had effect as it has effect at the time when the offender is dealt with under section 119.

### **123 Breach of requirement of suspended sentence supervision order**

- (1) If, at any time while a suspended sentence supervision order is in force in respect of an offender, it appears on information to a justice of the peace acting for the petty sessions area for the time being specified in the order that the offender has failed to comply with any of the requirements of section 122(3) above, the justice may—
  - (a) issue a summons requiring the offender to appear at the place and time specified in it; or
  - (b) if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before a magistrates' court acting for the petty sessions area for the time being specified in the suspended sentence supervision order.
- (3) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that he has failed without reasonable cause to comply with

any of the requirements of section 122(3) above, the court may, without prejudice to the continuance of the order, impose on him a fine not exceeding £1000.

- (4) A fine imposed under subsection (3) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.

#### **124 Suspended sentence supervision orders: revocation, amendment and cessation**

- (1) A suspended sentence supervision order may be revoked on the application of the supervising officer or the offender—
- (a) if it was made by the Crown Court and includes a direction reserving the power of revoking it to that court, by the Crown Court;
  - (b) in any other case, by a magistrates' court acting for the petty sessions area for the time being specified in the order.
- (2) Where a suspended sentence supervision order has been made on appeal, for the purposes of subsection (1) above it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
  - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.
- (3) If a magistrates' court acting for the petty sessions area for the time being specified in a suspended sentence supervision order is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area, the court may, and on the application of the supervising officer shall, amend the order by substituting the other petty sessions area for the area specified in the order.
- (4) Where a suspended sentence supervision order is amended by a court under subsection (3) above, the court shall send to the justices' chief executive for the new area specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (5) A suspended sentence supervision order shall cease to have effect if before the end of the period specified in it—
- (a) a court orders under section 119 above that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
  - (b) the order is revoked under subsection (1) above or replaced under section 122(8) above.

#### *Suspended sentences: supplementary*

#### **125 Suspended sentences: supplementary**

- (1) For the purposes of any reference in this Chapter, 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, unless the context otherwise requires, be treated as a single term.
- (2) Any reference in this Chapter, however expressed, to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in Great Britain and to a previous sentence passed by any such court.

- (3) For the purposes of this Chapter a certificate purporting to be signed by or on behalf of the Lord Advocate that an offence is punishable in Scotland with imprisonment shall be evidence of the matter so certified.