



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 8

OTHER PROVISIONS ABOUT SENTENCING

Firearms offences

287 Minimum sentence for certain firearms offences

After section 51 of the Firearms Act 1968 (c. 27) there is inserted the following section—

“51A Minimum sentence for certain offences under s. 5

- (1) This section applies where—
 - (a) an individual is convicted of—
 - (i) an offence under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of this Act, or
 - (ii) an offence under section 5(1A)(a) of this Act, and
 - (b) the offence was committed after the commencement of this section and at a time when he was aged 16 or over.
- (2) The court shall impose an appropriate custodial sentence (or order for detention) for a term of at least the required minimum term (with or without a fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.

Status: Point in time view as at 15/12/2004.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Firearms offences is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where an 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.
- (4) In this section “appropriate custodial sentence (or order for detention)” means—
- (a) in relation to England and Wales—
 - (i) in the case of an offender who is aged 18 or over when convicted, a sentence of imprisonment, and
 - (ii) in the case of an offender who is aged under 18 at that time, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) in relation to Scotland—
 - (i) in the case of an offender who is aged 21 or over when convicted, a sentence of imprisonment,
 - (ii) in the case of an offender who is aged under 21 at that time (not being an offender mentioned in sub-paragraph (iii)), a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995, and
 - (iii) in the case of an offender who is aged under 18 at that time and is subject to a supervision requirement, an order for detention under section 44, or sentence of detention under section 208, of that Act.
- (5) In this section “the required minimum term” means—
- (a) in relation to England and Wales—
 - (i) in the case of an offender who was aged 18 or over when he committed the offence, five years, and
 - (ii) in the case of an offender who was under 18 at that time, three years, and
 - (b) in relation to Scotland—
 - (i) in the case of an offender who was aged 21 or over when he committed the offence, five years, and
 - (ii) in the case of an offender who was aged under 21 at that time, three years.”

288 Certain firearms offences to be triable only on indictment

In Part 1 of Schedule 6 to the Firearms Act 1968 (c. 27) (prosecution and punishment of offences) for the entries relating to offences under section 5(1) (possessing or distributing prohibited weapons or ammunition) and section 5(1A) (possessing or distributing other prohibited weapons) there is substituted—

“Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c)	Possessing or distributing prohibited weapons or ammunition.	On indictment	10 years or a fine, or both.
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Section 5(1)(b)	Possessing or distributing prohibited weapon designed for discharge of noxious liquid etc.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine or both.
Section 5(1A)(a)	Possessing or distributing firearm disguised as other object.	On indictment	10 years or a fine, or both.
Section 5(1A)(b), (c), (d), (e), (f) or (g)	Possessing or distributing other prohibited weapons.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine, or both.”

289 Power to sentence young offender to detention in respect of certain firearms offences: England and Wales

(1) Section 91 of the Sentencing Act (offenders under 18 convicted of certain serious offences: power to detain for specified period) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Subsection (3) below also applies where—

- (a) a person aged under 18 is convicted on indictment of an offence—
 - (i) under subsection (1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of section 5 of the Firearms Act 1968 (prohibited weapons),
or
 - (ii) under subsection (1A)(a) of that section,
- (b) the offence was committed after the commencement of section 51A of that Act and at a time when he was aged 16 or over, and
- (c) the court is of the opinion mentioned in section 51A(2) of that Act (exceptional circumstances which justify its not imposing required custodial sentence).”

(3) After subsection (4) there is inserted—

“(5) Where subsection (2) of section 51A of the Firearms Act 1968 requires the imposition of a sentence of detention under this section for a term of at least the required minimum term (within the meaning of that section), the court shall sentence the offender to be detained for such period, of at least that term but not exceeding the maximum term of imprisonment with which the offence is punishable in the case of a person aged 18 or over, as may be specified in the sentence.”

290 Power to sentence young offender to detention in respect of certain firearms offences: Scotland

(1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.

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- (2) In section 49(3) (children’s hearing for purpose of obtaining advice as to treatment of child), at the end there is added “ except that where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968 it shall itself dispose of the case ”.
- (3) In section 208 (detention of children convicted on indictment), the existing provisions become subsection (1); and after that subsection there is added—
- “(2) Subsection (1) does not apply where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968.”.

291 Power by order to exclude application of minimum sentence to those under 18

- (1) The Secretary of State may by order—
- (a) amend section 51A(1)(b) of the Firearms Act 1968 (c. 27) by substituting for the word “16” the word “18”,
 - (b) repeal section 91(1A)(c) and (5) of the Sentencing Act,
 - (c) amend subsection (3) of section 49 of the Criminal Procedure (Scotland) Act 1995 by repealing the exception to that subsection,
 - (d) repeal section 208(2) of that Act, and
 - (e) make such other provision as he considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraphs (a) to (d).
- (2) The provision that may be made by virtue of subsection (1)(e) includes, in particular, provision amending or repealing any provision of an Act (whenever passed), including any provision of this Act.

292 Sentencing for firearms offences in Northern Ireland

Schedule 29 (which contains amendments of the Firearms (Northern Ireland) Order 1981 (S.I. 1981/155 (N.I. 2)) relating to sentencing) shall have effect.

293 Increase in penalty for offences relating to importation or exportation of certain firearms

- (1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.
- (2) In section 50 (penalty for improper importation of goods), for subsection (5A) there is substituted—
- “(5A) In the case of—
- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
 - (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac),

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- (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981, subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”
- (3) In section 68 (offences in relation to exportation of prohibited or restricted goods) for subsection (4A) there is substituted—
- “(4A) In the case of—
- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981, subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”
- (4) In section 170 (penalty for fraudulent evasion of duty, etc), for subsection (4A) there is substituted—
- “(4A) In the case of—
- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1) (a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,
- subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”
- (5) This section does not affect the penalty for any offence committed before the commencement of this section.

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