



# Criminal Justice and Immigration Act 2008

## 2008 CHAPTER 4

### PART 2

#### SENTENCING

##### *General sentencing provisions*

PROSPECTIVE

#### **9 Purposes etc. of sentencing: offenders under 18**

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) In section 44 of the Children and Young Persons Act 1933 (c. 12) (general considerations) after subsection (1) insert—

“(1A) Subsection (1) is to be read with paragraphs (a) and (c) of section 142A(2) of the Criminal Justice Act 2003 (which require a court dealing with an offender aged under 18 also to have regard to the principal aim of the youth justice system and the specified purposes of sentencing).

(1B) Accordingly, in determining in the case of an offender whether it should take steps as mentioned in subsection (1), the court shall also have regard to the matters mentioned in those paragraphs.”

(4) In section 42(1) of the Crime and Disorder Act 1998 (c. 37) (interpretation of Part 3 of Act), after the definition of “local authority” insert—

““offending” includes re-offending;”.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: Criminal Justice and Immigration Act 2008, Part 2 is up to date with all changes known to be in force on or before 09 April 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) View outstanding changes*

#### Textual Amendments

- F1** S. 9(1)(2) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C1** S. 9 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1, 5(2)(3)**; S.I. 2012/1236, reg. 2

### <sup>F2</sup>10 Effect of restriction on imposing community sentences

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#### Textual Amendments

- F2** Ss. 10-12 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### <sup>F2</sup>11 Restriction on power to make a community order

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#### Textual Amendments

- F2** Ss. 10-12 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### <sup>F2</sup>12 Pre-sentence reports

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#### Textual Amendments

- F2** Ss. 10-12 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

## *Custodial sentences*

### <sup>F3</sup>13 Sentences of imprisonment for public protection

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#### Textual Amendments

- F3** S. 13 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 21 para. 35(b)(i)**; S.I. 2012/2906, art. 2(s)

*Status: This version of this part contains provisions that are prospective.*

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**F<sup>4</sup>14 Sentences of detention for public protection**

**Textual Amendments**

**F4** S. 14 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 21 para. 35\(b\)\(i\)](#); S.I. 2012/2906, art. 2(s)

**F<sup>5</sup>15 Extended sentences for certain violent or sexual offences: persons 18 or over**

**Textual Amendments**

**F5** S. 15 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 21 para. 35\(b\)\(i\)](#); S.I. 2012/2906, art. 2(s)

**F<sup>6</sup>16 Extended sentences for certain violent or sexual offences: persons under 18**

**Textual Amendments**

**F6** S. 16 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 21 para. 35\(b\)\(i\)](#); S.I. 2012/2906, art. 2(s)

**F<sup>7</sup>17 The assessment of dangerousness**

**Textual Amendments**

**F7** Ss. 17-20 repealed (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F<sup>7</sup>18 Further amendments relating to sentences for public protection**

**Textual Amendments**

**F7** Ss. 17-20 repealed (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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## PROSPECTIVE

### **F<sup>7</sup>19 Indeterminate sentences: determination of tariffs**

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#### **Textual Amendments**

**F7** Ss. 17-20 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### **F<sup>7</sup>20 Consecutive terms of imprisonment**

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#### **Textual Amendments**

**F7** Ss. 17-20 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

## *Release and recall of prisoners*

### **21 Credit for period of remand on bail: terms of imprisonment and detention**

(1) The Criminal Justice Act 2003 (c. 44) is amended as follows.

**F<sup>8</sup>(2)** .....

(3) In the italic heading before section 240, after “*custody*” insert “*or on bail subject to certain types of condition*”.

(4) After section 240 insert—

#### **“240A Crediting periods of remand on bail: terms of imprisonment and detention**

(1) This section applies where—

- (a) a court sentences an offender to imprisonment for a term in respect of an offence committed on or after 4th April 2005,
- (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
- (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).

(2) Subject to subsection (4), the court must direct that the credit period is to count as time served by the offender as part of the sentence.

(3) The “credit period” is the number of days represented by half of the sum of—

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- (a) the day on which the offender's bail was first subject to conditions that, had they applied throughout the day in question, would have been relevant conditions, and
  - (b) the number of other days on which the offender's bail was subject to those conditions (excluding the last day on which it was so subject), rounded up to the nearest whole number.
- (4) Subsection (2) does not apply if and to the extent that—
  - (a) rules made by the Secretary of State so provide, or
  - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where as a result of paragraph (a) or (b) of subsection (4) the court does not give a direction under subsection (2), it may give a direction in accordance with either of those paragraphs to the effect that a period of days which is less than the credit period is to count as time served by the offender as part of the sentence.
- (6) Rules made under subsection (4)(a) may, in particular, make provision in relation to—
  - (a) sentences of imprisonment for consecutive terms;
  - (b) sentences of imprisonment for terms which are wholly or partly concurrent;
  - (c) periods during which a person granted bail subject to the relevant conditions is also subject to electronic monitoring required by an order made by a court or the Secretary of State.
- (7) In considering whether it is of the opinion mentioned in subsection (4)(b) the court must, in particular, take into account whether or not the offender has, at any time whilst on bail subject to the relevant conditions, broken either or both of them.
- (8) Where the court gives a direction under subsection (2) or (5) it shall state in open court—
  - (a) the number of days on which the offender was subject to the relevant conditions, and
  - (b) the number of days in relation to which the direction is given.
- (9) Subsection (10) applies where the court—
  - (a) does not give a direction under subsection (2) but gives a direction under subsection (5), or
  - (b) decides not to give a direction under this section.
- (10) The court shall state in open court—
  - (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4), or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (11) Subsections (7) to (10) of section 240 apply for the purposes of this section as they apply for the purposes of that section but as if—
  - (a) in subsection (7)—

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- (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
- (ii) in paragraph (a) after “Schedule 12” there were inserted “ or section 119(1)(a) or (b) of the Sentencing Act ”; and
- (b) in subsection (8) the reference to subsection (3) of section 240 is to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted “ or Part 2 of the Criminal Justice Act 1991 ”.

(12) In this section—

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; and

“related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.”

<sup>F9</sup>(5) .....

- (6) In section 242 (interpretation of sections 240 and 241), in the title and in subsection (1), after “sections 240” insert “ , 240A ”.

<sup>F10</sup>(7) .....

#### Textual Amendments

- F8** S. 21(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(a)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F9** S. 21(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(a)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F10** S. 21(7) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 110(14)(a)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

#### Commencement Information

- I1** S. 21(1)(3)-(7) in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, **Sch. para. 1**
- I2** S. 21(2) in force at 31.10.2009 by [S.I. 2009/2606](#), **art. 3(a)**

## 22 Credit for period of remand on bail: other cases

- (1) The Criminal Justice Act 2003 (c. 44) is amended in accordance with subsections (2) and (3).

<sup>F11</sup>(2) .....

<sup>F11</sup>(3) .....

*Status: This version of this part contains provisions that are prospective.*

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- (4) In paragraph 2 of Schedule 2 to the Criminal Appeal Act 1968 (c. 19) (sentence on conviction at retrial), in sub-paragraph (4), for the words from the beginning to “custody:” substitute “ Sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods of remand in custody or on bail subject to certain types of condition: ”.

<sup>F12</sup>(5) .....

<sup>F12</sup>(6) .....

- (7) In paragraph 2(1) of Schedule 7 to the International Criminal Court Act 2001 (c. 17) (provisions of law of England and Wales affecting length of sentence which are not applicable to ICC prisoners), for paragraph (d) substitute—

“(d) sections 240 and 240A of the Criminal Justice Act 2003 (crediting of periods spent on remand in custody or on bail subject to certain types of condition: terms of imprisonment and detention).”

#### Textual Amendments

**F11** S. 22(2)(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(14\)\(b\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)

**F12** S. 22(5)(6) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### Modifications etc. (not altering text)

**C2** S. 22 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), [5\(2\)\(3\)](#); [S.I. 2012/1236](#), reg. 2

#### Commencement Information

**I3** S. 22 in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, [Sch. para. 2](#)

### <sup>F13</sup>**23 Credit for period of remand on bail: transitional provisions**

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#### Textual Amendments

**F13** S. 23 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(14\)\(c\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), art. 2(d)

### **24 Minimum conditions for early release under section 246(1) of Criminal Justice Act 2003**

In section 246(2) of the Criminal Justice Act 2003 (c. 44) (minimum conditions for early release of fixed-term prisoner other than intermittent custody prisoner) for paragraph (b) substitute “and

(b) he has served—

(i) at least 4 weeks of that period, and

(ii) at least one-half of that period.”

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**Commencement Information**

**I4** S. 24 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 11](#)

**25 Release on licence under Criminal Justice Act 2003 of prisoners serving extended sentences**

(1) Section 247 of the Criminal Justice Act 2003 (release on licence of prisoner serving extended sentence) is amended as follows.

(2) In subsection (2)—

(a) the word “and” at the end of paragraph (a) is omitted, and

(b) paragraph (b) is omitted.

(3) Subsections (3), (4), (5) and (6) are omitted.

**Commencement Information**

**I5** S. 25 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 12](#) (with savings in [Sch. 2 para. 2](#))

**I6** S. 25 in force at 3.12.2012 in so far as not already in force by [2012 c. 10](#), [Sch. 16 para. 15\(1\)](#); [S.I. 2012/2096](#), art. 2(n)

**F1426 Release of certain long-term prisoners under Criminal Justice Act 1991**

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**Textual Amendments**

**F14** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 20\(a\)](#); [S.I. 2012/2906](#), art. 2(n)

**F1427 Application of section 35(1) of Criminal Justice Act 1991 to prisoners liable to removal from the UK**

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**Textual Amendments**

**F14** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 20\(a\)](#); [S.I. 2012/2906](#), art. 2(n)

**F1428 Release of fine defaulters and contemnors under Criminal Justice Act 1991**

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### Textual Amendments

- F14** Ss. 26-28 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)

## 29 Release of prisoners after recall

- (1) In section 254 of the Criminal Justice Act 2003 (c. 44) (recall of prisoners while on licence)—
- (a) subsections (3) to (5) cease to have effect;
  - (b) in subsection (7) for “subsections (2) to (6)” substitute “ this section ”.

<sup>F15</sup>(2) .....

<sup>F15</sup>(3) .....

### Textual Amendments

- F15** S. 29(2)(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(5\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

### Commencement Information

- I7** S. 29 in force at 14.7.2008 for specified purposes by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 15](#) (with [Sch. 2 para. 3](#))
- I8** S. 29 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/2606](#), [art. 3\(c\)](#)

## 30 Further review and release of prisoners after recall

- (1) Section 256 of the Criminal Justice Act 2003 (c. 44) (further release after recall) is amended as follows.
- (2) In subsection (1) for paragraph (b) substitute—
- “(b) determine the reference by making no recommendation as to his release.”
- (3) In subsection (2) omit “or (b)”.
- (4) Subsections (3) and (5) cease to have effect.
- (5) In consequence of the amendments made by section 29 and this section, the heading to section 256 becomes “ Review by the Board ”.
- (6) After section 256 insert—

### “256A Further review

- (1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.
- (2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.

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- (3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).
- (4) On a reference under subsection (1) or (2), the Board must determine the reference by—
  - (a) recommending the person's immediate release on licence under this Chapter,
  - (b) fixing a date for his release on licence, or
  - (c) making no recommendation as to his release.
- (5) The Secretary of State—
  - (a) where the Board makes a recommendation under subsection (4)(a) for the person's immediate release on licence, must give effect to the recommendation; and
  - (b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date.”

#### Commencement Information

**I9** S. 30 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 16](#) (with [Sch. 2 para. 3](#))

### 31 Recall of life prisoners: abolition of requirement for recommendation by Parole Board

- (1) Section 32 of the Crime (Sentences) Act 1997 (c. 43) (recall of life prisoners while on licence) is amended as follows.
- (2) For subsections (1) and (2) (power of Secretary of State to revoke licence) substitute—
  - “(1) The Secretary of State may, in the case of any life prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.”
- (3) In subsection (3) (representations by prisoner) for “subsection (1) or (2) above” substitute “this section”.
- (4) In subsection (4) (reference to Parole Board by Secretary of State) for paragraphs (a) and (b) substitute “the case of a life prisoner recalled under this section”.

#### Commencement Information

**I10** S. 31 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 17](#)

### <sup>F16</sup>32 Release of prisoners recalled following release under Criminal Justice Act 1991

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### Textual Amendments

- F16** S. 32 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)

## Early removal of prisoners from the United Kingdom

### 33 Removal under Criminal Justice Act 1991

- F17**(1) .....
- F18**(2) .....
- F17**(3) .....
- F18**(4) .....
- F17**(5) .....
- F17**(6) .....
- F18**(7) .....
- F18**(8) .....

### Textual Amendments

- F17** S. 33(1)(3)(5)(6) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 16 para. 20\(a\)](#); S.I. 2012/2906, art. 2(n)
- F18** S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), [ss. 118\(4\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

### 34 Removal under Criminal Justice Act 2003

- (1) In Part 12 of the Criminal Justice Act 2003 (c. 44) (sentencing) Chapter 6 (release on licence) is amended as follows.

- F19**(2) .....

- (3) Section 260 (early removal of prisoners liable to removal from United Kingdom) is amended as follows.

- (4) In subsection (1) (the power of removal)—

- (a) for “subsections (2) and (3)” substitute “ subsection (2) ”, and

- F20**(b) .....

- (5) For subsection (2) (conditions relating to time) substitute—

“(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period.”

- (6) Subsections (3) and (3A) (cases where subsection (1) does not apply) cease to have effect.

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- F21(7) .....
- (8) In subsection (6) (order-making powers)—

(a) in paragraph (a) omit “or (3)(e)”,

(b) omit paragraph (b), and

(c) in paragraph (c) for “subsection (2)(b)(ii)” substitute “ subsection (2) ”.

(9) For subsection (7) (meaning of “requisite custodial period”) substitute—

“(7) In this section “requisite custodial period”—

(a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);

(b) in any other case, has the meaning given by paragraph (a), (b) or (d) of section 244(3).”
- F22(10) .....
- |                          |   |
|--------------------------|---|
| Textual Amendments       |   |
| F19                      | S. 34(2) omitted (3.12.2012) by virtue of <a href="#">Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)</a> , <a href="#">ss. 118(4)(b)</a> , <a href="#">151(1)</a> (with <a href="#">Sch. 15</a> ); S.I. 2012/2906, art. 2(d)    |
| F20                      | S. 34(4)(b) omitted (3.12.2012) by virtue of <a href="#">Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)</a> , <a href="#">ss. 118(4)(b)</a> , <a href="#">151(1)</a> (with <a href="#">Sch. 15</a> ); S.I. 2012/2906, art. 2(d) |
| F21                      | S. 34(7) omitted (3.12.2012) by virtue of <a href="#">Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)</a> , <a href="#">ss. 118(4)(b)</a> , <a href="#">151(1)</a> (with <a href="#">Sch. 15</a> ); S.I. 2012/2906, art. 2(d)    |
| F22                      | S. 34(10) omitted (3.12.2012) by virtue of <a href="#">Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)</a> , <a href="#">ss. 118(4)(b)</a> , <a href="#">151(1)</a> (with <a href="#">Sch. 15</a> ); S.I. 2012/2906, art. 2(d)   |
| Commencement Information |   |
| I11                      | S. 34(1)(3)(4)(a)(5)(6)(8)(9) in force at 3.11.2008 by <a href="#">S.I. 2008/2712</a> , art. 2, <a href="#">Sch. para. 5</a>  |
- Referral orders
- F2335 Referral conditions

.....
- |                    |   |
|--------------------|---|
| Textual Amendments |   |
| F23                | Ss. 35-38 repealed (1.12.2020) by <a href="#">Sentencing Act 2020 (c. 17)</a> , s. 416(1), <a href="#">Sch. 28</a> (with <a href="#">ss. 413(4)(5)</a> , <a href="#">416(7)</a> , <a href="#">Sch. 27</a> ); S.I. 2020/1236, reg. 2 |
- F2336 Power to revoke a referral order

.....

*Status: This version of this part contains provisions that are prospective.*

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#### Textual Amendments

**F23** Ss. 35-38 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### **F23 37** Extension of period for which young offender contract has effect

.....

#### Textual Amendments

**F23** Ss. 35-38 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

### *Enforcement of sentences*

### **F23 38** Imposition of unpaid work requirement for breach of community order

.....

#### Textual Amendments

**F23** Ss. 35-38 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

PROSPECTIVE

### **39** Youth default orders

- (1) Subsection (2) applies in any case where, in respect of a person aged under 18, a magistrates' court would, but for [<sup>F24</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences), have power to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)).
- (2) The magistrates' court may, instead of proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—
  - (a) in the case of a person aged 16 or 17, an unpaid work requirement (see [<sup>F25</sup>Part 3 of Schedule 6 to the Sentencing Code]),
  - (b) an attendance centre requirement (see [<sup>F26</sup>Part 5] of that Schedule), or
  - (c) a curfew requirement (see [<sup>F27</sup>Part 7] of that Schedule).
- (3) In this section (and Schedule 7) “youth default order” means an order under subsection (2).

[<sup>F28</sup>(4) A youth default order—

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- (a) may, in addition to any other requirement that it imposes, impose an <sup>[F29]</sup>electronic compliance monitoring requirement] (see sections 173 and 174 of the Sentencing Code), and
  - (b) must do so where, in the case of a youth rehabilitation order, such a requirement would be required by paragraph 19(3) of Schedule 6 to the Sentencing Code.]
- (5) Where a magistrates' court has power to make a youth default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.
- <sup>[F30]</sup>(6) The following provisions of the Sentencing Code have effect in relation to youth default orders as they have effect in relation to youth rehabilitation orders, but subject to the modifications contained in Schedule 7 to this Act—
- (a) sections 186(2), (10) and (11), 188, 190 to 192, 197, 198(3) to (5), <sup>[F31]</sup>198A,] 397(1), 400 and 403 to 405 (youth rehabilitation orders: responsible officer, interpretation and further provisions),
  - (b) Parts 3, 5 <sup>[F32]</sup>and 7] of Schedule 6 (youth rehabilitation orders: requirements),
  - <sup>[F33]</sup>(ba) Part 17 of that Schedule (electronic monitoring requirements), so far as it applies to electronic compliance monitoring requirements,]
  - (c) Schedule 7 (breach, revocation or amendment of youth rehabilitation order),
  - (d) Schedule 8 (transfer of youth rehabilitation orders to Northern Ireland), and
  - (e) paragraph 9 of Schedule 23 (power to amend limits).]
- (7) Where a youth default order has been made for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order ceases to have effect, and
  - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

#### Textual Amendments

- F24** Words in s. 39(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F25** Words in s. 39(2)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(3)(a)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F26** Words in s. 39(2)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(3)(b)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F27** Words in s. 39(2)(c) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(3)(c)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F28** S. 39(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(4)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F29** Words in s. 39(4)(a) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 161, 208(4)(r), **Sch. 17 para. 2(2)**; S.I. 2023/705, regs. 2, 3, 4(1), [Sch.](#) (with [reg. 4\(2\)](#))
- F30** S. 39(6) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 266(5)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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- F31** Word in s. 39(6)(a) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 161, 208(4)(r), [Sch. 17 para. 2\(3\)\(a\)](#); [S.I. 2023/705](#), regs. 2, 3, 4(1), Sch. (with [reg. 4\(2\)](#))
- F32** Words in s. 39(6)(b) substituted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 161, 208(4)(r), [Sch. 17 para. 2\(3\)\(b\)](#); [S.I. 2023/705](#), regs. 2, 3, 4(1), Sch. (with [reg. 4\(2\)](#))
- F33** S. 39(6)(ba) inserted (28.4.2022 for specified purposes, 3.7.2023 in relation to specified areas until 3.1.2025) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. 161, 208(4)(r), [Sch. 17 para. 2\(3\)\(c\)](#); [S.I. 2023/705](#), regs. 2, 3, 4(1), Sch. (with [reg. 4\(2\)](#))

#### 40 Power to impose attendance centre requirement on fine defaulter

- (1) Section 300 of the Criminal Justice Act 2003 (c. 44) (power to impose unpaid work requirement or curfew requirement on fine defaulter) is amended as follows.
- (2) In the heading for “or curfew requirement” substitute “ curfew requirement or attendance centre requirement ”.
- (3) In subsection (2), at the end of paragraph (b) insert “, or
  - (c) in a case where the person is aged under 25, an attendance centre requirement (as defined by section 214)”.

#### Commencement Information

- I12** S. 40 in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 20](#)

#### 41 Disclosure of information for enforcing fines

- (1) Part 3 of Schedule 5 to the Courts Act 2003 (c. 39) (attachment of earnings orders and applications for benefit deductions) is amended as follows.
- (2) After paragraph 9 insert—

##### 9A “Disclosure of information in connection with application for benefit deductions

- (1) The designated officer for a magistrates' court may make an information request to the Secretary of State for the purpose of facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
- (2) An information request is a request for the disclosure of some or all of the following information—
  - (a) P's full name;
  - (b) P's address (or any of P's addresses);
  - (c) P's date of birth;
  - (d) P's national insurance number;
  - (e) P's benefit status.
- (3) On receiving an information request, the Secretary of State may disclose the information requested to—



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- (a) the officer who made the request, or
- (b) a justices' clerk specified in the request.

#### 9B Restrictions on disclosure

- (1) A person to whom information is disclosed under paragraph 9A(3), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the court as to whether it is practicable or appropriate to make an application for benefit deductions in respect of P.
- (2) A person to whom such information is disclosed commits an offence if the person—
  - (a) discloses or uses the information, and
  - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
- (3) But it is not an offence under sub-paragraph (2)—
  - (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
  - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.
- (5) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### 9C Paragraphs 9A and 9B: supplementary

- (1) This paragraph applies for the purposes of paragraphs 9A and 9B.
- (2) “Benefit status”, in relation to P, means whether or not P is in receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
  - (a) which benefit it is,
  - (b) where it is already subject to deductions under any enactment, the nature of the deductions concerned, and
  - (c) the amount received by P by way of the benefit, after allowing for any such deductions.
- (3) “Information” means information held in any form.
- (4) “Prescribed” means prescribed by regulations made by the Lord Chancellor.
- (5) Nothing in paragraph 9A or 9B authorises the making of a disclosure which contravenes the Data Protection Act 1998.”

#### Commencement Information

**I13** S. 41 in force at 3.11.2008 by [S.I. 2008/2712](#), art. 2, [Sch. para. 6](#)



**Status:**

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**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 5A and cross-heading inserted by [2008 c. 25 Sch. 1 para. 90\(3\)](#)