



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 3

REMANDS OF CHILDREN OTHERWISE THAN ON BAIL

Modifications etc. (not altering text)

- C1** Pt. 3 Ch. 3 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **91(10)** (with reg. 91(11))

Remands

91 Remands of children otherwise than on bail

- (1) This section applies where—
 - (a) a court deals with a child charged with or convicted of one or more offences by remanding the child, and
 - (b) the child is not released on bail.
- (2) This section also applies where—
 - (a) a court remands a child in connection with extradition proceedings, and
 - (b) the child is not released on bail.
- (3) Subject to subsection (4), the court must remand the child to local authority accommodation in accordance with section 92.

Status: Point in time view as at 06/04/2016.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, CHAPTER 3 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)

- (4) The court may instead remand the child to youth detention accommodation in accordance with section 102 where—
- (a) in the case of a child remanded under subsection (1), the first or second set of conditions for such a remand (see sections 98 and 99) is met in relation to the child, or
 - (b) in the case of a child remanded under subsection (2), the first or second set of conditions for such a remand in an extradition case (see sections 100 and 101) is met in relation to the child.
- (5) This section is subject to section 128(7) of the Magistrates' Courts Act 1980 (remands to police detention for periods of not more than 3 days); but that provision has effect in relation to a child as if for the reference to 3 clear days there were substituted a reference to 24 hours.
- (6) In this Chapter, “child” means a person under the age of 18.
- (7) References in this Chapter (other than in relation to extradition proceedings) to the remand of a child include a reference to—
- (a) the sending of a child for trial, and
 - (b) the committal of a child for sentence,
- and related expressions are to be construed accordingly.
- (8) Before the insertion of section 51A of the Crime and Disorder Act 1998 (sending cases to the Crown Court: children and young persons) by Schedule 3 to the Criminal Justice Act 2003 is fully in force, subsection (7) has effect as if it also referred to the committal of a child for trial.
- (9) Subsection (7) also applies to any provision of an Act other than this Act that refers (directly or indirectly) to the remand of a child under this section.

Modifications etc. (not altering text)

C2 S. 91 applied (3.12.2014) by [The Criminal Justice and Data Protection \(Protocol No. 36\) Regulations 2014 \(S.I. 2014/3141\)](#), regs. 1(b), **91(10)** (with reg. 91(11))

Commencement Information

II S. 91 wholly in force at 3.12.2012, see [s. 151\(1\)](#) and [S.I. 2012/2906](#), **art. 2(c)** (with [art. 7\(1\)\(3\)](#))

Remands to local authority accommodation

92 Remands to local authority accommodation

- (1) A remand to local authority accommodation is a remand to accommodation provided by or on behalf of a local authority.
- (2) A court that remands a child to local authority accommodation must designate the local authority that is to receive the child.
- (3) That authority must be—
 - (a) in the case of a child who is being looked after by a local authority, that authority, and

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- (b) in any other case, the local authority in whose area it appears to the court that the child habitually resides or the offence or one of the offences was committed.
- (4) The designated authority must—
 - (a) receive the child, and
 - (b) provide or arrange for the provision of accommodation for the child whilst the child is remanded to local authority accommodation.
- (5) Where a child is remanded to local authority accommodation, it is lawful for any person acting on behalf of the designated authority to detain the child.

Commencement Information

I2 S. 92 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

93 Conditions etc on remands to local authority accommodation

- (1) A court remanding a child to local authority accommodation may require the child to comply with any conditions that could be imposed under section 3(6) of the Bail Act 1976 if the child were then being granted bail.
- (2) The court may also require the child to comply with any conditions imposed for the purpose of securing the electronic monitoring of the child's compliance with the conditions imposed under subsection (1) if—
 - (a) in the case of a child remanded under section 91(1) (proceedings other than extradition proceedings), the requirements in section 94 are met, or
 - (b) in the case of a child remanded under section 91(2) (extradition proceedings), the requirements in section 95 are met.
- (3) A court remanding a child to local authority accommodation may impose on the designated authority—
 - (a) requirements for securing compliance with any conditions imposed on the child under subsection (1) or (2), or
 - (b) requirements stipulating that the child must not be placed with a named person.
- (4) A court may only impose a condition under subsection (1) or (2), or a requirement under subsection (3), after consultation with the designated authority.
- (5) Where a child has been remanded to local authority accommodation, a relevant court—
 - (a) may, on the application of the designated authority, impose on that child any conditions that could be imposed under subsection (1) or (2) if the court were then remanding the child to local authority accommodation, and
 - (b) where it does so, may impose on the authority requirements for securing compliance with the conditions imposed under paragraph (a).
- (6) Where a child has been remanded to local authority accommodation, a relevant court may, on the application of the designated authority or that child, vary or revoke any conditions or requirements imposed under this section (including as previously varied under this subsection).

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- (7) A court that imposes conditions on a child under this section or varies conditions so imposed—
- (a) must explain to the child in open court and in ordinary language why it is imposing or varying those conditions, and
 - (b) if the court is a magistrates' court, must cause a reason given under paragraph (a) to be specified in the warrant of commitment and entered in the register.
- (8) In this section “relevant court”—
- (a) in relation to a child remanded to local authority accommodation by virtue of section 91(1) (proceedings other than extradition proceedings), means—
 - (i) the court by which the child was so remanded, or
 - (ii) any magistrates' court that has jurisdiction in the place where the child is for the time being;
 - (b) in relation to a child remanded to local authority accommodation by virtue of section 91(2) (extradition proceedings), means the court by which the child was so remanded.
- (9) References in this section to consultation are to such consultation (if any) as is reasonably practicable in all the circumstances of the case.

Commencement Information

I3 S. 93 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

94 Requirements for electronic monitoring

- (1) The requirements referred to in section 93(2)(a) (requirements for imposing electronic monitoring condition: non-extradition cases) are those set out in subsections (2) to (6).
- (2) The first requirement is that the child has reached the age of twelve.
- (3) The second requirement is that the offence mentioned in section 91(1), or one or more of those offences, is an imprisonable offence.
- (4) The third requirement is that—
 - (a) the offence mentioned in section 91(1), or one or more of those offences, is a violent or sexual offence or an offence punishable in the case of an adult with imprisonment for a term of 14 years or more, or
 - (b) the offence or offences mentioned in section 91(1), together with any other imprisonable offences of which the child has been convicted in any proceedings, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (5) The fourth requirement is that the court is satisfied that the necessary provision for electronic monitoring can be made under arrangements currently available in each local justice area which is a relevant area.
- (6) The fifth requirement is that a youth offending team has informed the court that, in its opinion, the imposition of an electronic monitoring condition will be suitable in the child's case.

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- (7) For the purposes of this section, a local justice area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.
- (8) In this Chapter—
- “electronic monitoring condition” means a condition imposed on a child remanded to local authority accommodation for the purpose of securing the electronic monitoring of the child’s compliance with conditions imposed under section 93(1) or (5);
 - “imprisonable offence” means—
 - (a) an offence punishable in the case of an adult with imprisonment, or
 - (b) in relation to an offence of which a child has been accused or convicted outside England and Wales, an offence equivalent to an offence that, in England and Wales, is punishable in the case of an adult with imprisonment;
 - “sexual offence” means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003;
 - “violent offence” means murder or an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003;
 - “youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.
- (9) References in this Chapter to a child being subject to a custodial remand are to the child being—
- (a) remanded to local authority accommodation or youth detention accommodation, or
 - (b) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.
- (10) The reference in subsection (9) to a child being remanded to local authority accommodation or youth detention accommodation includes—
- (a) a child being remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969, and
 - (b) a child being remanded to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948.

Commencement Information

14 S. 94 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

95 Requirements for electronic monitoring: extradition cases

- (1) The requirements referred to in section 93(2)(b) (requirements for imposing electronic monitoring condition: extradition cases) are those set out in subsections (2) to (6).
- (2) The first requirement is that the child has reached the age of twelve.

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- (3) The second requirement is that the offence to which the extradition proceedings relate, or one or more of those offences, is an imprisonable offence.
- (4) The third requirement is that—
 - (a) the conduct constituting the offence to which the extradition proceedings relate, or one or more of those offences, would, if committed in England and Wales, constitute a violent or sexual offence or an offence punishable in the case of an adult with imprisonment for a term of 14 years or more, or
 - (b) the offence or offences to which the extradition proceedings relate, together with any other imprisonable offences of which the child has been convicted, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (5) The fourth requirement is that the court is satisfied that the necessary provision for electronic monitoring can be made under arrangements currently available in each local justice area which is a relevant area.
- (6) The fifth requirement is that a youth offending team has informed the court that, in its opinion, the imposition of an electronic monitoring condition will be suitable in the child's case.
- (7) For the purposes of this section, a local justice area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.

Commencement Information

I5 S. 95 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

96 Further provisions about electronic monitoring

- (1) Where a court imposes an electronic monitoring condition, the condition must include provision making a person responsible for the monitoring.
- (2) A person who is made responsible by virtue of subsection (1) must be of a description specified in an order made by the Secretary of State.
- (3) The Secretary of State may make rules for regulating—
 - (a) the electronic monitoring of compliance with conditions imposed under section 93(1) or (5), and
 - (b) in particular, the functions of persons made responsible by virtue of subsection (1) of this section.
- (4) Rules under this section may make different provision for different cases.
- (5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing rules under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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Commencement Information

I6 S. 96 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

97 Liability to arrest for breaking conditions of remand

- (1) A child may be arrested without warrant by a constable if—
 - (a) the child has been remanded to local authority accommodation,
 - (b) conditions under section 93 have been imposed in respect of the child, and
 - (c) the constable has reasonable grounds for suspecting that the child has broken any of those conditions.
- (2) Subject to subsection (3), a child arrested under subsection (1) must be brought before a justice of the peace—
 - (a) as soon as practicable, and
 - (b) in any event within the period of 24 hours beginning with the child's arrest.
- (3) If the child was arrested during the period of 24 hours ending with the time appointed for the child to appear before the court in pursuance of the remand, the child must be brought before the court before which the child was to have appeared.
- (4) In reckoning a period of 24 hours for the purposes of subsection (2) or (3), no account is to be taken of Christmas Day, Good Friday or any Sunday.
- (5) If a justice of the peace before whom a child is brought under subsection (2) is of the opinion that the child has broken any condition imposed in respect of the child under section 93, the justice of the peace must remand the child.
- (6) Section 91 applies to a child in relation to whom subsection (5) applies as if—
 - (a) except in a case within paragraph (b), the child was then charged with or convicted of the offence for which the child had been remanded, or
 - (b) in the case of a child remanded in connection with extradition proceedings, the child was then appearing before the justice of the peace in connection with those proceedings.
- (7) If a justice of the peace before whom a child is brought under subsection (2) is not of the opinion mentioned in subsection (5), the justice of the peace must remand the child to the place to which the child had been remanded at the time of the child's arrest subject to the same conditions as those which had been imposed on the child at that time.

Commencement Information

I7 S. 97 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

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Remands to youth detention accommodation

98 First set of conditions for a remand to youth detention accommodation

- (1) For the purposes of section 91(4)(a), the first set of conditions for a remand to youth detention accommodation is met in relation to a child if each of the following is met in relation to the child—
 - (a) the age condition (see subsection (2)),
 - (b) the offence condition (see subsection (3)),
 - (c) the necessity condition (see subsection (4)), and
 - (d) the first or second legal representation condition (see subsections (5) and (6)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The offence condition is that the offence mentioned in section 91(1), or one or more of those offences—
 - (a) is a violent or sexual offence, or
 - (b) is an offence punishable in the case of an adult with imprisonment for a term of 14 years or more.
- (4) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
 - (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences.
- (5) The first legal representation condition is that the child is legally represented before the court.
- (6) The second legal representation condition is that the child is not legally represented before the court and—
 - (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child's conduct, or
 - (ii) because it appeared that the child's financial resources were such that the child was not eligible for such representation,
 - (b) the child applied for such representation and the application was refused because it appeared that the child's financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.

Commencement Information

I8 S. 98 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

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99 Second set of conditions for a remand to youth detention accommodation

- (1) For the purposes of section 91(4)(a), the second set of conditions for a remand to youth detention accommodation is met in relation to a child if each of the following is met in relation to the child—
 - (a) the age condition (see subsection (2)),
 - (b) the sentencing condition (see subsection (3)),
 - (c) the offence condition (see subsection (4)),
 - (d) the first or second history condition or both (see subsections (5) and (6)),
 - (e) the necessity condition (see subsection (7)), and
 - (f) the first or second legal representation condition (see subsections (8) and (9)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The sentencing condition is that it appears to the court that there is a real prospect that the child will be sentenced to a custodial sentence for the offence mentioned in section 91(1) or one or more of those offences.
- (4) The offence condition is that the offence mentioned in section 91(1), or one or more of those offences, is an imprisonable offence.
- (5) The first history condition is that—
 - (a) the child has a recent history of absconding while subject to a custodial remand, and
 - (b) the offence mentioned in section 91(1), or one or more of those offences, is alleged to be or has been found to have been committed while the child was remanded to local authority accommodation or youth detention accommodation.
- (6) The second history condition is that the offence or offences mentioned in section 91(1), together with any other imprisonable offences of which the child has been convicted in any proceedings, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (7) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
 - (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences.
- (8) The first legal representation condition is that the child is legally represented before the court.
- (9) The second legal representation condition is that the child is not legally represented before the court and—
 - (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child's conduct, or
 - (ii) because it appeared that the child's financial resources were such that the child was not eligible for such representation,

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- (b) the child applied for such representation and the application was refused because it appeared that the child's financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.
- (10) In this Chapter “custodial sentence” means a sentence or order mentioned in section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2000.
- (11) The reference in subsection (5)(b) to a child being remanded to local authority accommodation or youth detention accommodation includes—
- (a) a child being remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969, and
 - (b) a child being remanded to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948.

Commencement Information

19 S. 99 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

100 First set of conditions for a remand to youth detention accommodation: extradition cases

- (1) For the purposes of section 91(4)(b), the first set of conditions for a remand to youth detention accommodation in an extradition case is met in relation to a child if each of the following is met in relation to the child—
- (a) the age condition (see subsection (2)),
 - (b) the offence condition (see subsection (3)),
 - (c) the necessity condition (see subsection (4)), and
 - (d) the first or second legal representation condition (see subsections (5) and (6)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The offence condition is that the conduct constituting the offence to which the extradition proceedings relate, or one or more of those offences, would, if committed in England and Wales, constitute—
- (a) a violent or sexual offence, or
 - (b) an offence punishable in the case of an adult with imprisonment for a term of 14 years or more.
- (4) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
- (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences.
- (5) The first legal representation condition is that the child is legally represented before the court.

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- (6) The second legal representation condition is that the child is not legally represented before the court and—
- (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child's conduct, or
 - (ii) because it appeared that the child's financial resources were such that the child was not eligible for such representation,
 - (b) the child applied for such representation and the application was refused because it appeared that the child's financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.

Commencement Information

110 S. 100 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

101 Second set of conditions for a remand to youth detention accommodation: extradition cases

- (1) For the purposes of section 91(4)(b), the second set of conditions for a remand to youth detention accommodation in an extradition case is met in relation to a child if each of the following is met in relation to the child—
- (a) the age condition (see subsection (2)),
 - (b) the sentencing condition (see subsection (3)),
 - (c) the offence condition (see subsection (4)),
 - (d) the first or second history condition or both (see subsections (5) and (6)),
 - (e) the necessity condition (see subsection (7)), and
 - (f) the first or second legal representation condition (see subsections (8) and (9)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The sentencing condition is that it appears to the court that, if the child were convicted in England and Wales of an offence equivalent to the offence to which the extradition proceedings relate or one or more of those offences, there would be a real prospect that the child would be sentenced to a custodial sentence for that offence or those offences.
- (4) The offence condition is that the offence to which the extradition proceedings relate, or one or more of those offences, is an imprisonable offence.
- (5) The first history condition is that—
- (a) the child has a recent history of absconding while subject to a custodial remand, and
 - (b) the offence to which the extradition proceedings relate, or one or more of those offences, is alleged to be or has been found to have been committed while the child was subject to a custodial remand.
- (6) The second history condition is that the offence or offences to which the extradition proceedings relate, together with any other imprisonable offences of which the child has been convicted, amount or would, if the child were convicted of that offence or

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those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.

- (7) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
- (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences.
- (8) The first legal representation condition is that the child is legally represented before the court.
- (9) The second legal representation condition is that the child is not legally represented before the court and—
- (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child's conduct, or
 - (ii) because it appeared that the child's financial resources were such that the child was not eligible for such representation,
 - (b) the child applied for such representation and the application was refused because it appeared that the child's financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.

Commencement Information

III S. 101 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

102 Remands to youth detention accommodation

- (1) A remand to youth detention accommodation is a remand to such accommodation of a kind listed in subsection (2) as the Secretary of State directs in the child's case.
- (2) Those kinds of accommodation are—
- (a) a secure children's home,
 - [^{F1}(aa) a secure college,]
 - (b) a secure training centre,
 - (c) a young offender institution, and
 - (d) accommodation, or accommodation of a description, for the time being specified by order under section 107(1)(e) of the Powers of Criminal Courts (Sentencing) Act 2000 (youth detention accommodation for purposes of detention and training order provisions).
- (3) A child's detention in one of those kinds of accommodation pursuant to a remand to youth detention accommodation is lawful.
- (4) Where a court remands a child to youth detention accommodation, the court must—
- (a) state in open court that it is of the opinion mentioned in section 98(4), 99(7), 100(4) or 101(7) (as the case may be), and

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- (b) explain to the child in open court and in ordinary language why it is of that opinion.
- (5) A magistrates' court must ensure a reason that it gives under subsection (4)(b)—
 - (a) is specified in the warrant of commitment, and
 - (b) is entered in the register.
- (6) Where a court remands a child to youth detention accommodation, the court must designate a local authority as the designated authority for the child for the purposes of—
 - (a) subsection (8),
 - (b) regulations under section 103 (arrangements for remands), and
 - (c) section 104 (looked after child status).
- (7) That authority must be—
 - (a) in the case of a child who is being looked after by a local authority [^{F2}otherwise than by virtue of section 104(1)], that authority, and
 - (b) in any other case [^{F3}but subject to subsection (7B), a local authority] in whose area it appears to the court that the child habitually resides or the offence or one of the offences was committed.
- [^{F4}(7A) In a case to which subsection (7)(b) applies, the court is to designate a local authority in whose area it appears to the court that the child habitually resides (a “home authority”) except where the court—
 - (a) considers as respects the home authority, or each home authority, that it is inappropriate to designate that authority, or
 - (b) is unable to identify any place in England and Wales where the child habitually resides.
- (7B) If in a case to which subsection (7)(b) applies—
 - (a) the court is not required by subsection (7A) to designate a home authority, but
 - (b) it appears to the court that the offence was not, or none of the offences was, committed in England and Wales,the court is to designate a local authority which it considers appropriate in the circumstances of the case.]
- [^{F5}(7C) Where a child has been remanded to youth detention accommodation, the court—
 - (a) which remanded the child, or
 - (b) to which the child was remanded,may designate a local authority (“B”) as the designated authority for the child in substitution for the authority previously designated (whether that previous designation was made when the child was remanded or under this subsection).
- (7D) Where a child has at any one time been subject to two or more remands to youth detention accommodation, a court which has jurisdiction to make a replacement designation under subsection (7C) in connection with one or some of the remands also has jurisdiction to make such a replacement designation in connection with each of the other remands.
- (7E) Where a replacement designation is made under subsection (7C) after the end of the period of remand concerned, the substitution of B for the previously-designated authority has effect only for the purposes of regulations under section 103.

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- (7F) Where a replacement designation is made under subsection (7C) during the period of remand concerned, the substitution of B for the previously-designated authority—
- (a) has effect, as respects the part of that period ending with the making of the replacement designation, only for the purposes of regulations under section 103, and
 - (b) has effect, as respects the remainder of that period, for all of the purposes listed in subsection (6).
- (7G) A court may make a replacement designation under subsection (7C) only if it considers that, had everything it knows been known by the court which made the previous designation, that court would have designated B instead.
- (7H) Where a replacement designation is made under subsection (7C) in relation to a remand, the previously-designated authority is to be repaid any sums it paid in respect of the remand pursuant to regulations under section 103.
- (7J) A court which has jurisdiction to make a replacement direction under subsection (7C) may exercise that jurisdiction on an application by a local authority or of its own motion.]
- (8) Before giving a direction under subsection (1), the Secretary of State must consult the designated authority.
- (9) A function of the Secretary of State under this section (other than the function of making regulations) is exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State.
- (10) The Secretary of State may by regulations provide that subsection (9) is not to apply, either generally or in relation to a particular description of case.
- (11) In this Chapter “secure children's home” means accommodation which is provided in a children's home, within the meaning of the Care Standards Act 2000—
- (a) which provides accommodation for the purposes of restricting liberty, and
 - (b) in respect of which a person is registered under Part 2 of that Act.
- (12) Before the coming into force in relation to England of section 107(2) of the Health and Social Care (Community Health and Standards) Act 2003, subsection (11) has effect as if it defined “secure children's home” in relation to England as accommodation which—
- (a) is provided in a children's home, within the meaning of the Care Standards Act 2000, in respect of which a person is registered under Part 2 of that Act, and
 - (b) is approved by the Secretary of State for the purpose of restricting the liberty of children.

Textual Amendments

- F1** S. 102(2)(aa) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 29](#); [S.I. 2015/778](#), art. 2(1)(c)
- F2** Words in s. 102(7)(a) inserted (26.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#). {ss. 19(2)}, 61(5) (with s. 19(6)(7))
- F3** Words in s. 102(7)(b) substituted (26.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#). {ss. 19(3)}, 61(5) (with s. 19(6)(7))
- F4** S. 102(7A)(7B) inserted (26.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#). {ss. 19(4)}, 61(5) (with s. 19(6)(7))

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F5 S. 102(7C)-(7J) inserted (26.4.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), {ss. 19(5)}, 61(5) (with s. 19(6)(7))

Commencement Information

I12 S. 102 wholly in force at 3.12.2012, see s. 151(1) and [S.I. 2012/2906](#), [art. 2\(c\)](#) (with [art. 7\(1\)\(3\)](#))

Supplementary

103 Arrangements for remands

- (1) The Secretary of State may make arrangements for or in connection with [^{F6}the provision of accommodation of a kind listed in section 102(2) for] children remanded to youth detention accommodation.
- (2) The Secretary of State may by regulations make provision about the recovery from the designated authority by a person mentioned in subsection (3) of the costs of—
 - (a) a child being subject to a remand to youth detention accommodation;
 - (b) the exercise of functions of the kind mentioned in—
 - (i) section 80(1)(a) to (e) of the Criminal Justice Act 1991 (escort functions) read with section 92(3) of that Act, or
 - (ii) paragraph 1(1)(a) to (d) of Schedule 1 to the Criminal Justice and Public Order Act 1994 (escort functions),in relation to a child subject to such a remand.
- (3) Those persons are—
 - (a) the Secretary of State;
 - (b) a person other than the Secretary of State by whom the accommodation pursuant to the remand to youth detention accommodation is provided or the functions are exercised (as the case may be).
- (4) The Secretary of State may make payments to a local authority for the purpose of enabling the authority—
 - (a) to exercise functions under section 92(4) (duty to receive and accommodate child remanded to local authority accommodation);
 - (b) to make payments pursuant to regulations under this section.
- (5) A function of the Secretary of State under this section (other than the function of making regulations) is exercisable by the Youth Justice Board for England and Wales concurrently with the Secretary of State.
- (6) The power to make regulations under subsection (2) includes power to make provision about the recovery of costs by the Youth Justice Board for England and Wales.
- (7) The Secretary of State may by regulations provide that subsection (5), or provision made by virtue of subsection (6), is not to apply, either generally or in relation to a particular description of case.

Textual Amendments

F6 Words in s. 103(1) substituted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 30](#); [S.I. 2015/778](#), [art. 2\(1\)\(c\)](#)

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Commencement Information

I13 S. 103 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

104 Looked after child status

- (1) A child who is remanded to youth detention accommodation is to be treated as a child who is looked after by the designated authority.
- (2) The Secretary of State may by regulations provide for any Act or instrument made under an Act that applies to a child looked after by a local authority to apply with modifications, or not to apply, in relation to a child who is to be treated as looked after by a designated authority by virtue of this Chapter.
- (3) In this section “Act” includes an Act or Measure of the National Assembly for Wales.

Commencement Information

I14 S. 104 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

105 Minor and consequential amendments

Schedule 12 (remands of children otherwise than on bail: minor and consequential amendments) has effect.

Commencement Information

I15 S. 105 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

106 Regulations under this Chapter

- (1) Regulations under this Chapter are to be made by statutory instrument.
- (2) Regulations under this Chapter may—
 - (a) make different provision for different cases;
 - (b) include supplementary, incidental, transitional, transitory or saving provision.
- (3) A statutory instrument containing regulations under this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament, subject to subsection (4).
- (4) A statutory instrument containing regulations under section 102(10) or 103(7) (whether alone or with any other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Commencement Information

I16 S. 106 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, art. 2(c) (with art. 7(1)(3))

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107 Interpretation of Chapter

(1) In this Chapter—

“child” has the meaning given by section 91(6);

“court” and “magistrates' court” include a justice of the peace;

“custodial sentence” has the meaning given by section 99(10);

“the designated authority”—

(a) in relation to a child remanded to local authority accommodation, means the local authority that is designated by the court under section 92(2) to receive the child;

(b) in relation to a child remanded to youth detention accommodation, means the local authority that is designated by the court under section 102(6) as the designated authority for the child;

“electronic monitoring condition” has the meaning given by section 94(8);

“extradition proceedings” means proceedings under the Extradition Act 2003;

“imprisonable offence” has the meaning given by section 94(8);

“local authority” means—

(a) a county council;

(b) a county borough council;

(c) a district council for an area for which there is no county council;

(d) a London borough council;

(e) the Common Council of the City of London;

(f) the Council of the Isles of Scilly;

“secure children's home” has the meaning given by section 102(11);

“sexual offence” has the meaning given by section 94(8);

“violent offence” has the meaning given by section 94(8);

“youth offending team” has the meaning given by section 94(8).

(2) In this Chapter, references to the remand of a child, and related expressions, are to be construed in accordance with section 91(7) and (8).

(3) In this Chapter, references to a remand to local authority accommodation, and related expressions, are to be construed in accordance with section 92(1).

(4) In this Chapter, references to a child being subject to a custodial remand are to be construed in accordance with section 94(9).

(5) In this Chapter, references to a remand to youth detention accommodation, and related expressions, are to be construed in accordance with section 102(1).

[^{F7}(6) In this Chapter, references to a child who is looked after by a local authority are to be construed—

(a) in relation to a local authority in England, in accordance with section 22 of the Children Act 1989;

(b) in relation to a local authority in Wales, in accordance with section 74 of the Social Services and Well-being (Wales) Act 2014]

(7) Subsections (3) and (5) are subject to sections 94(10) and 99(11) (references to remand to local authority accommodation or youth detention accommodation to include such

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a remand under section 23 of the Children and Young Persons Act 1969 or a remand to prison).

Textual Amendments

- F7** S. 107(6) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **289**
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Commencement Information

- I17** S. 107 wholly in force at 3.12.2012, see s. 151(1) and [S.I. 2012/2906](#), **art. 2(c)** (with [art. 7\(1\)\(3\)](#))

Status:

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Changes to legislation:

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