



# Sentencing Act 2020

## 2020 CHAPTER 17

### FIFTH GROUP OF PARTS Sentencing: miscellaneous provision and interpretation

#### PART 12

##### MISCELLANEOUS PROVISION ABOUT SENTENCING

#### CHAPTER 1

##### COSTS, FINES AND OTHER FINANCIAL ORDERS WHERE OFFENDER AGED UNDER 18

###### *Offender aged under 18: order for payment by parent or guardian*

#### **380 Order for parent or guardian to pay fine, costs, compensation or surcharge**

- (1) Where any enactment provides that this section applies to an amount which, but for that enactment, the court would order the offender to pay, the court—
  - (a) must, or
  - (b) if the offender is aged 16 or over, may,order that the amount is to be paid by the parent or guardian instead of by the offender himself or herself.
- (2) Subsection (1) does not apply if the court is satisfied that—
  - (a) the parent or guardian cannot be found, or
  - (b) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (3) No order may be made under subsection (1) without giving the parent or guardian an opportunity of being heard.
- (4) But an order under subsection (1) may be made against a parent or guardian who, having been required to attend, has failed to do so.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (5) A parent or guardian may appeal to the Crown Court against an order under subsection (1) made by a magistrates' court.
- (6) A parent or guardian may appeal to the Court of Appeal against an order under subsection (1) made by the Crown Court, as if the parent or guardian had been convicted on indictment and the order were a sentence passed on the parent's or guardian's conviction.

### **381 Costs awarded against offender under 18: payment by parent or guardian**

Where—

- (a) but for this section, a court would impose costs in respect of an offence on an offender, and
  - (b) the offender was aged under 18 when convicted of the offence,
- section 380 applies to the amount of the costs awarded.

### **382 Power to determine financial circumstances of offender's parent or guardian**

- (1) For the purposes of any order under section 380, where—
  - (a) the parent or guardian of an offender aged under 18—
    - (i) has failed to comply with a financial circumstances order imposed by virtue of section 35(4), or
    - (ii) has otherwise failed to co-operate with the court in its inquiry into the parent's or guardian's financial circumstances, and
  - (b) the court considers that it has insufficient information to make a proper determination of the parent's or guardian's financial circumstances,

the court may make such determination as it thinks fit.
- (2) Subsections (3) to (5) apply where a court has—
  - (a) made an order under section 380 in respect of a parent or guardian of an offender to pay the amount of a fine, and
  - (b) in fixing the amount of the fine, determined the financial circumstances of the parent or guardian under subsection (1).
- (3) If on subsequently inquiring into the financial circumstances of the parent or guardian the court is satisfied that, had it had the results of that inquiry when sentencing the offender, it—
  - (a) would have fixed a smaller amount, or
  - (b) would not have fined the offender,

it may remit the whole or part of the fine.
- (4) Where under subsection (3) the court remits the whole or part of the fine after a term of—
  - (a) imprisonment, or
  - (b) detention under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000,

has been fixed under section 82(5) of the Magistrates' Courts Act 1980 (magistrates' powers in relation to default) in respect of the amount ordered to be paid under section 380, the court must reduce the term by the corresponding proportion.

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- (5) In calculating any reduction required by subsection (4), any fraction of a day is to be ignored.

*Orders other than fines: powers of Crown Court to order time for payment etc*

**383 Power of Crown Court to allow time for payment, or payment by instalments, of costs and compensation**

Where the Crown Court makes an order mentioned in Part 1 of Schedule 9 to the Administration of Justice Act 1970 (orders against accused for the payment of costs or compensation), the court may—

- (a) allow time for the payment of the sum due under the order;
- (b) direct payment of that sum by instalments of the amounts and on the dates specified in the order.