



Sentencing Act 2020

2020 CHAPTER 17

SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

PART 2

POWERS EXERCISABLE BEFORE PASSING SENTENCE

CHAPTER 3

REMISSION TO YOUTH COURT OR OTHER MAGISTRATES' COURT FOR SENTENCE

25 Power and duty to remit offenders aged under 18 to youth courts for sentence

- (1) This section applies where a person aged under 18 is convicted by or before a court (“the convicting court”) of an offence other than homicide.
- (2) If the convicting court is the Crown Court, it must remit the offender to a youth court acting for the place where the sending court sat, unless satisfied that it would be undesirable to do so.

The “sending court” is the magistrates’ court which sent the offender to the Crown Court for trial.

- (3) If the convicting court is a youth court, it may remit the offender to another youth court.
- (4) If the convicting court is a magistrates’ court other than a youth court—
 - (a) it may remit the offender to a youth court, and
 - (b) must do so unless subsection (5) applies.
- (5) This subsection applies where the convicting court—
 - (a) would be required by section 85(1)(a) to make a referral order if it did not remit the offender to a youth court, or
 - (b) is of the opinion that the case is one which can properly be dealt with by means of—
 - (i) an order for absolute discharge or an order for conditional discharge,

Status: This is the original version (as it was originally enacted).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

- (ii) a fine, or
 - (iii) an order (under section 376) requiring the offender's parent or guardian to enter into a recognizance to take proper care of, and exercise proper control over, the offender,
- with or without any other order that the court has power to make when making an order for absolute discharge or an order for conditional discharge.
- (6) For the purposes of subsection (5)(b)(iii)—
 - (a) “care” and “control” are to be read in accordance with section 376(3) (binding over of parent or guardian), and
 - (b) section 404 (certain references to parent or guardian to be read as references to local authority) does not apply.
 - (7) Any remission of an offender under subsection (3) or (4) must be to a youth court acting for—
 - (a) the same place as the remitting court, or
 - (b) the place where the offender habitually resides.
 - (8) Where an offender is remitted to a youth court under this section, that court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the offence.
 - (9) A court which remits an offender to a youth court under this section must provide the designated officer for the youth court with a certificate which—
 - (a) sets out the nature of the offence, and
 - (b) states—
 - (i) that the offender has been convicted of the offence, and
 - (ii) that the offender has been remitted for the purpose of being dealt with under subsection (8).
 - (10) A document which purports—
 - (a) to be a copy of an order made by a court under this section, and
 - (b) to be certified as a true copy by the designated officer for the court,
 is to be evidence of the order.

26 Remission by Crown Court to youth court: custody or bail, and appeals

- (1) This section applies where the Crown Court remits an offender to a youth court under section 25.
- (2) The Crown Court may, subject to section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on granting bail), give such directions as appear to be necessary—
 - (a) with respect to the custody of the offender, or
 - (b) for the offender's release on bail,
 until the offender can appear or be brought before the youth court.
- (3) The offender—
 - (a) has no right of appeal against the order of remission, but
 - (b) has the same right of appeal against an order of the youth court as if convicted by that court.

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

27 Power of youth court to remit offender who attains age of 18 to magistrates' court other than youth court for sentence

- (1) Subsection (2) applies where a person who appears or is brought before a youth court charged with an offence subsequently reaches the age of 18.
- (2) The youth court may, at any time after conviction and before sentence, remit the offender for sentence to a magistrates' court other than a youth court ("the adult court").
- (3) Where an offender is remitted under subsection (2), the adult court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the offence.
- (4) Where an offender is remitted under subsection (2), section 25(4) (duty of adult magistrates' court to remit young offenders to youth court for sentence) does not apply to the adult court.

28 Power of magistrates' court to remit case to another magistrates' court for sentence

- (1) Subsection (2) applies where—
 - (a) a person aged 18 or over has been convicted by a magistrates' court ("the convicting court") of a relevant offence ("the present offence"),
 - (b) it appears to the convicting court that some other magistrates' court ("the other court") has convicted the offender of another relevant offence in respect of which the other court has not—
 - (i) passed sentence on the offender,
 - (ii) committed the offender to the Crown Court for sentence, nor
 - (iii) dealt with the offender in any other way, and
 - (c) the other court consents to the offender's being remitted to it under this section.
- (2) The convicting court may remit the offender to the other court to be dealt with in respect of the present offence by the other court instead of by the convicting court.
- (3) In subsection (1), "relevant offence", in relation to the convicting court or the other court, means an offence which is punishable by that court with—
 - (a) imprisonment, or
 - (b) driving disqualification.

For this purpose, an offence is punishable by a court with driving disqualification if the court has a power or duty to order the offender to be disqualified under section 34, 35 or 36 of the Road Traffic Offenders Act 1988 (disqualification for certain motoring offences) in respect of it.

- (4) Where the convicting court remits the offender to the other court under this section the other court may deal with the offender in any way in which it could deal with the offender if it had convicted the offender of the present offence.

This is subject to subsection (7).

- (5) The power conferred on the other court by subsection (4) includes, where applicable, the power to remit the offender under this section to another magistrates' court in respect of the present offence.

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

- (6) Where the convicting court has remitted the offender under this section, the other court may remit the offender back to the convicting court; and where it does so subsections (4) and (5) (so far as applicable) apply with the necessary modifications.
- (7) Nothing in this section prevents the convicting court from making a restitution order (see section 147) by virtue of the offender's conviction of the present offence.
- (8) In this section "conviction" includes a finding under section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) that the person in question did the act or made the omission charged, and "convicted" is to be read accordingly.

29 Remission by magistrates' court: adjournment, remand and appeal

- (1) This section applies where a magistrates' court ("the remitting court") remits an offender under section 25, 27 or 28 to another magistrates' court ("the other court") to be dealt with in respect of an offence.
- (2) The remitting court must adjourn proceedings in relation to the offence.
- (3) Any remand enactment has effect, in relation to the remitting court's power or duty to remand the offender on that adjournment, as if any reference to the court to or before which the person remanded is to be brought or appear after remand were a reference to the other court.
- (4) In this section, "remand enactment" means section 128 of the Magistrates' Courts Act 1980 (remand in custody or on bail) or any other enactment, whenever passed or made, relating to remand or the granting of bail in criminal proceedings; and for this purpose—
 - (a) "enactment" includes an enactment contained in any order, regulation or other instrument having effect by virtue of an Act, and
 - (b) "bail in criminal proceedings" has the same meaning as in the Bail Act 1976.
- (5) The offender has no right of appeal against the order of remission.

This does not affect any right of appeal against an order made in respect of the offence by the other court.