



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 10

CUSTODIAL SENTENCES

CHAPTER 4

ADULTS AGED 21 AND OVER

Suspended sentence of imprisonment

277 Suspended sentence order for person aged 21 or over: availability

- (1) This section applies where, in dealing with an offender for an offence, a court passes a sentence of imprisonment.
- (2) A suspended sentence order (see section 286) is available in relation to that sentence if the term of the sentence of imprisonment is—
 - (a) at least 14 days, but
 - (b) not more than 2 years.
- (3) But a suspended sentence order is not available in relation to that sentence if—
 - (a) the sentence of imprisonment is one of two or more sentences imposed on the same occasion which are to be served consecutively, and
 - (b) the terms of those sentences are in aggregate more than 2 years.
- (4) For provision about suspended sentences, see Chapter 5 .

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Special custodial sentence for certain offenders of particular concern

278 Required special custodial sentence for certain offenders of particular concern

- (1) This section applies where the court imposes a sentence of imprisonment for an offence where—
 - (a) the offence is listed in Schedule 13,
 - (b) the person—
 - (i) was aged 18 or over when the offence was committed, and
 - (ii) is aged 21 or over when convicted of the offence, and
 - (c) the court does not impose either of the following for the offence (or for an offence associated with it)—
 - (i) an extended sentence under section 279, or
 - (ii) a sentence of imprisonment for life.
- (2) The term of the sentence must be equal to the aggregate of—
 - (a) the appropriate custodial term, and
 - (b) a further period of 1 year for which the offender is to be subject to a licence, and must not exceed the maximum term of imprisonment with which the offence is punishable.
- (3) For the purposes of subsection (2), the “appropriate custodial term” is the term that, in the opinion of the court, ensures that the sentence is appropriate.

Extended sentences

279 Extended sentence of imprisonment for certain violent, sexual or terrorism offences: persons 21 or over

An extended sentence of imprisonment is a sentence of imprisonment the term of which is equal to the aggregate of—

- (a) the appropriate custodial term (see section 281), and
- (b) a further period (the “extension period”) for which the offender is to be subject to a licence.

280 Extended sentence of imprisonment: availability

- (1) An extended sentence of imprisonment is available in respect of an offence where—
 - (a) the offence is a specified offence (see section 306(1)),
 - (b) the offender is aged 21 or over when convicted of the offence,
 - (c) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences (see section 308),
 - (d) the court is not required by section 283 or 285 to impose a sentence of imprisonment for life, and
 - (e) the earlier offence condition or the 4 year term condition is met.
- (2) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(c).

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- (3) The earlier offence condition is that, when the offence was committed, the offender had been convicted of an offence listed in Schedule 14.
- (4) The 4 year term condition is that, if the court were to impose an extended sentence of imprisonment, the term that it would specify as the appropriate custodial term (see section 281) would be at least 4 years.

281 Term of extended sentence of imprisonment

- (1) This section applies where the court dealing with an offender for an offence imposes, or is considering whether to impose, an extended sentence of imprisonment under section 279.
- (2) The appropriate custodial term is the term of imprisonment that would be imposed in respect of the offence in compliance with section 231(2) (length of discretionary custodial sentences: general provision) if the court did not impose an extended sentence of imprisonment.
- (3) The extension period must be a period of such length as the court considers necessary for the purpose of protecting members of the public from serious harm occasioned by the commission by the offender of further specified offences.

This is subject to subsections (4) and (5).

- (4) The extension period must—
 - (a) be at least 1 year, and
 - (b) not exceed—
 - (i) 5 years in the case of a specified violent offence;
 - (ii) 8 years in the case of a specified sexual offence or a specified terrorism offence.

See section 306(2) for the meanings of “specified violent offence”, “specified sexual offence” and “specified terrorism offence”.

- (5) The term of the extended sentence of imprisonment must not exceed the maximum term of imprisonment with which the offence is punishable.

282 Extended sentences for offences committed before 4 April 2005

In section 280(1)(a) and section 281(4)(b), references to a specified offence, a specified violent offence, a specified sexual offence and a specified terrorism offence include an offence that—

- (a) was abolished before 4 April 2005, and
- (b) would have constituted such an offence if committed on the day on which the offender is convicted of the offence.

Life sentences

283 Life sentence for second listed offence

- (1) Subsection (3) applies where—

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- (a) a court is dealing with an offender for an offence (“the index offence”) that is listed in Part 1 of Schedule 15,
 - (b) the index offence was committed on or after the relevant date,
 - (c) the offender is aged 21 or over when convicted of the index offence, and
 - (d) the sentence condition and the previous offence condition are met.
- (2) In subsection (1)(b), “relevant date”, in relation to an offence, means the date specified for that offence in Part 1 of Schedule 15.
- (3) The court must impose a sentence of imprisonment for life unless the court is of the opinion that there are particular circumstances which—
- (a) relate to—
 - (i) the index offence,
 - (ii) the previous offence referred to in subsection (5), or
 - (iii) the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (4) The sentence condition is that, but for this section, the court would impose a sentence of imprisonment for 10 years or more, disregarding any extension period it would impose under section 279.
- Sections 230(2) and 231(2) apply for this purpose.
- (5) The previous offence condition is that—
- (a) when the index offence was committed, the offender had been convicted of an offence (“the previous offence”) listed in Schedule 15, and
 - (b) a relevant life sentence or a relevant sentence of imprisonment or detention for a determinate period was imposed on the offender for the previous offence.
- (6) For the purposes of subsection (5), Schedule 15 is to be read as if Part 1 did not include any offence for which the date specified in that Part is after the date on which the index offence was committed.
- (7) A life sentence is relevant for the purposes of subsection (5)(b) if—
- (a) the offender was not eligible for release during the first 5 years of the sentence, or
 - (b) the offender would not have been eligible for release during that period but for the reduction of the period of ineligibility to take account of a relevant pre-sentence period.
- (8) An extended sentence imposed under the Criminal Justice Act 2003 or this Code (including one imposed as a result of the Armed Forces Act 2006) is relevant for the purposes of subsection (5)(b) if the appropriate custodial term imposed was 10 years or more.
- (9) Any other extended sentence is relevant for the purposes of subsection (5)(b) if the custodial term imposed was 10 years or more.
- (10) Any other sentence of imprisonment or detention for a determinate period is relevant for the purposes of subsection (5)(b) if it was for a period of 10 years or more.
- (11) An extended sentence or other sentence of imprisonment or detention is also relevant if it would have been relevant under subsection (9) or (10) but for the reduction of the sentence, or any part of the sentence, to take account of a relevant pre-sentence period.

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(12) For the purposes of subsections (5) to (11)—

“extended sentence” means—

- (a) a sentence under section 254, 266 or 279 (including one imposed as a result of section 219A or 221A of the Armed Forces Act 2006),
- (b) a sentence under section 226A, 226B, 227 or 228 of the Criminal Justice Act 2003 (including one imposed as a result of section 219A, 220, 221A or 222 of the Armed Forces Act 2006), or
- (c) a sentence under—
 - (i) section 85 of the Powers of Criminal Courts (Sentencing) Act 2000, or
 - (ii) section 58 of the Crime and Disorder Act 1998,

or an equivalent sentence imposed under the law of Scotland, Northern Ireland or a member State (other than the United Kingdom);

“life sentence” means—

- (a) a sentence of imprisonment for life;
- (b) a sentence of detention for life under—
 - (i) section 250,
 - (ii) section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (iii) section 53(3) of the Children and Young Persons Act 1933;
 - (iv) section 209 of the Armed Forces Act 2006;
 - (v) section 71A(4) of the Army Act 1955 or Air Force Act 1955 or section 43A(4) of the Naval Discipline Act 1957;
- (c) a sentence of detention during Her Majesty’s pleasure under—
 - (i) section 259,
 - (ii) section 90 of the Powers of Criminal Courts (Sentencing) Act 2000,
 - (iii) section 53(1) of the Children and Young Persons Act 1933,
 - (iv) section 218 of the Armed Forces Act 2006, or
 - (v) section 71A(3) of the Army Act 1955 or Air Force Act 1955 or section 43A(3) of the Naval Discipline Act 1957;
- (d) a sentence of custody for life under—
 - (i) section 272 or 275 (including one passed as a result of section 210A, 217, 218A or 219 of the Armed Forces Act 2006),
 - (ii) section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000 (including one passed as a result of paragraph 6 or 7 of Schedule 2 to the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059)),
 - (iii) section 8 of the Criminal Justice Act 1982, or
 - (iv) section 71A(1A) or (1B) of the Army Act 1955 or Air Force Act 1955 or section 43(1A) or (1B) of the Naval Discipline Act 1957;
- (e) a sentence of imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (including one passed as a result of section 219 of the Armed Forces Act 2006);

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- (f) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 (including one passed as a result of section 221 of the Armed Forces Act 2006);
 or an equivalent sentence imposed under the law of Scotland, Northern Ireland or a member State (other than the United Kingdom);
 “relevant pre-sentence period”, in relation to the previous offence referred to in subsection (5), means any period which the offender spent in custody or on bail before the sentence for that offence was imposed;
 “sentence of imprisonment or detention” includes any sentence of a period in custody (however expressed).
- (13) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.
- (14) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsections (1)(b), (5)(a) and (6) to have been committed on the last of those days.

284 Required life sentence where second offence committed before 4 April 2005

For cases in which a sentence of life imprisonment must be imposed for an offence which—

- (a) is a second offence, and
- (b) was committed on or after 1 October 1997 but before 4 April 2005,

see section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 (life sentence for second serious offence), as it has effect by virtue of paragraph 5(2) of Schedule 2 to the Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 ([S.I. 2005/950](#)).

285 Required life sentence for offence carrying life sentence

- (1) This section applies where a court is dealing with an offender for an offence where—
- (a) the offender is aged 21 or over at the time of conviction,
 - (b) the offence is a Schedule 19 offence (see section 307),
 - (c) the offence was committed on or after 4 April 2005, and
 - (d) the court is of the opinion that there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further specified offences (see sections 306(1) and 308).
- (2) The pre-sentence report requirements (see section 30) apply to the court in relation to forming the opinion mentioned in subsection (1)(d).
- (3) If the court considers that the seriousness of—
- (a) the offence, or
 - (b) the offence and one or more offences associated with it,
- is such as to justify the imposition of a sentence of imprisonment for life, the court must impose a sentence of imprisonment for life.
- (4) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.