



Sentencing Act 2020

2020 CHAPTER 17

SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

PART 2

POWERS EXERCISABLE BEFORE PASSING SENTENCE

CHAPTER 1

DEFERMENT OF SENTENCE

3 Deferment order

- (1) In this Code “deferment order” means an order deferring passing sentence on an offender in respect of one or more offences until the date specified in the order, to enable a court, in dealing with the offender, to have regard to—
 - (a) the offender's conduct after conviction (including, where appropriate, the offender's making reparation for the offence), or
 - (b) any change in the offender's circumstances.
- (2) A deferment order may impose requirements (“deferment requirements”) as to the offender's conduct during the period of deferment.
- (3) Deferment requirements may include—
 - (a) requirements as to the residence of the offender during all or part of the period of deferment;
 - (b) restorative justice requirements.

Commencement Information

11 S. 3 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Status: Point in time view as at 30/04/2021.

Changes to legislation: Sentencing Act 2020, PART 2 is up to date with all changes known to be in force on or before 22 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 Availability of deferment order

(1) A deferment order is available to the Crown Court or a magistrates' court in respect of an offence where—

- (a) the offender is before the court to be dealt with for the offence, and
- (b) no previous deferment order has been made in respect of the offence.

See also section 11(4) (power of Crown Court to make further deferment order where magistrates' court commits offender for sentence).

(2) But a deferment order is not available to a magistrates' court dealing with an offender in respect of an offence for which section 85(1)(a) (compulsory referral conditions) requires the court to make a referral order.

Commencement Information

I2 S. 4 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

5 Making a deferment order

(1) A court may make a deferment order in respect of an offence only if—

- (a) the offender consents,
- (b) the offender undertakes to comply with any deferment requirements the court proposes to impose,
- (c) if those requirements include a restorative justice requirement, section 7(2) (consent of participants in restorative justice activity) is satisfied, and
- (d) the court is satisfied, having regard to the nature of the offence and the character and circumstances of the offender, that it would be in the interests of justice to make the order.

(2) The date specified under section 3(1) in the order may not be more than 6 months after the date on which the order is made.

(3) A court which makes a deferment order must forthwith give a copy of the order—

- (a) to the offender,
- (b) if it imposes deferment requirements that include a restorative justice requirement, to every person who would be a participant in the activity concerned (see section 7(1)),
- (c) where an officer of a provider of probation services has been appointed to act as a supervisor, to that provider, and
- (d) where a person has been appointed under section 8(1)(b) to act as a supervisor, to that person.

(4) A court which makes a deferment order may not on the same occasion remand the offender, notwithstanding any enactment.

Commencement Information

I3 S. 5 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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6 Effect of deferment order

- (1) Where a deferment order has been made in respect of an offence, the court which deals with the offender for the offence may have regard to—
 - (a) the offender's conduct after conviction, or
 - (b) any change in the offender's circumstances.
- (2) The matters to which the court may have regard in dealing with the offender include, in particular—
 - (a) where appropriate, the making by the offender of reparation for the offence, and
 - (b) the extent to which the offender has complied with any deferment requirements.
- (3) Subsection (4) applies where—
 - (a) the court which made a deferment order proposes to deal with the offender on the date specified in the order, or
 - (b) the offender does not appear on that date.
- (4) The court may—
 - (a) issue a summons requiring the offender to appear before the court at the time and place specified in the summons, or
 - (b) issue a warrant for the offender's arrest which requires the offender to be brought before the court at the time and place specified in the warrant.
- (5) Subsection (6) applies where a magistrates' court makes a deferment order.
- (6) In making the order the court is to be regarded as having adjourned the trial under section 10(1) of the Magistrates' Courts Act 1980.

Accordingly, sections 11(1) and 13(1) to (3A) and (5) of that Act (non-appearance of the accused) apply if the offender does not appear on the date specified in the deferment order (but this is without prejudice to subsection (4)).

Commencement Information

I4 S. 6 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

7 Restorative justice requirements

- (1) Any reference in this Chapter to a restorative justice requirement is to a requirement to participate in an activity—
 - (a) where the participants consist of, or include, the offender and one or more of the victims,
 - (b) which aims to maximise the offender's awareness of the impact of the offending concerned on the victims, and
 - (c) which gives an opportunity to a victim or victims to talk about, or by other means express experience of, the offending and its impact.
- (2) A restorative justice requirement may not be imposed as a deferment requirement without the consent of every person who would be a participant in the activity.

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- (3) For the purposes of subsection (2), a supervisor and the offender do not count as proposed participants.
- (4) A person running an activity for the purposes of a restorative justice requirement must have regard to any guidance issued from time to time by the Secretary of State with a view to encouraging good practice in connection with such an activity.
- (5) In this section “victim” means a victim of, or other person affected by, the offending concerned.

Commencement Information

I5 S. 7 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

8 Deferment order: supervisor

Appointment of supervisor

- (1) Where a court makes a deferment order that imposes deferment requirements, it may appoint—
 - (a) an officer of a provider of probation services, or
 - (b) any other person the court thinks appropriate who consents to the appointment,
 to act as a supervisor in relation to the offender.

Function of supervisor

- (2) A supervisor must—
 - (a) monitor the offender's compliance with the deferment requirements, and
 - (b) provide the court which deals with the offender for any offence in respect of which the order was made with such information as the court may require relating to the offender's compliance with the deferment requirements.

Supervisor appointed under subsection (1)(b): power of magistrates' court to issue summons

- (3) Where—
 - (a) a deferment order imposes deferment requirements,
 - (b) it falls to a magistrates' court to—
 - (i) deal with the offender for any offence in respect of which the order was made, or
 - (ii) determine under section 9(3)(b) whether the offender has failed to comply with a deferment requirement, and
 - (c) a justice of the peace is satisfied that a supervisor appointed under subsection (1)(b)—
 - (i) is likely to be able to give evidence that may assist the court in doing so, and
 - (ii) will not voluntarily attend as a witness,

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the justice may issue a summons directed to that supervisor requiring the supervisor to attend before the court at the time and place appointed in the summons to give evidence.

Commencement Information

I6 S. 8 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

9 Failure to comply with deferment requirement

- (1) This section applies where—
 - (a) a court has made a deferment order that imposes deferment requirements, and
 - (b) a supervisor has reported to the court that the offender has failed to comply with one or more of the deferment requirements.
- (2) The court may issue—
 - (a) a summons requiring the offender to appear before it at the time and place specified in the summons, or
 - (b) a warrant for the offender's arrest which requires the offender to be brought before it at the time and place specified in the warrant.
- (3) The court may deal with the offender for the offence in respect of which the order was made before the end of the period of deferment if—
 - (a) the offender appears or is brought before the court under subsection (2), and
 - (b) the court is satisfied that the offender has failed to comply with one or more of the deferment requirements.

For the powers of the court in dealing with the offender under this subsection, see section 11.

Commencement Information

I7 S. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

10 Conviction of offence during period of deferment

- (1) This section applies where a court has made a deferment order in respect of an offence.

Power of court which made deferment order

- (2) The court which made the order (“the original court”) may deal with the offender for the offence in respect of which the deferment order was made before the end of the period of deferment if during that period the offender is convicted in Great Britain of any offence.

For the powers of the original court in dealing with the offender under this subsection, see section 11.

- (3) Where the original court proposes to deal with the offender by virtue of subsection (2) before the end of the period of deferment, it may issue—

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- (a) a summons requiring the offender to appear before the court at the time and place specified in the summons, or
- (b) a warrant for the arrest of the offender, requiring the offender to be brought before the court at the time and place specified in the warrant.

Power of court which sentences offender for later offence

- (4) Subsection (5) applies where during the period of deferment the offender is convicted in England and Wales of any offence (“the later offence”).

This is subject to subsection (6).

- (5) The court which passes sentence on the offender for the later offence may also deal with the offender for the offence or offences in respect of which the deferment order was made (if this has not already been done).

For the powers of the court in dealing with the offender under this subsection, see section 11.

- (6) Subsection (5) does not apply where—
- (a) the deferment order was made by the Crown Court, and
 - (b) the court which passes sentence on the offender for the later offence is a magistrates' court.
- (7) Subsection (5)—
- (a) is without prejudice to subsection (2), and
 - (b) applies whether or not the offender is sentenced for the later offence during the period of deferment.

Commencement Information

18 S. 10 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

11 Powers of court dealing with offender following deferment order

- (1) Subsection (2) applies where an offender who is subject to a deferment order is being dealt with for any offence in respect of which the order was made—
- (a) by the court which made the order (“the original court”)—
 - (i) at the end of the period of deferment, in accordance with the deferment order,
 - (ii) under section 9(3) (failure to comply with deferment requirement), or
 - (iii) under section 10(2) (original court dealing with offender following conviction during period of deferment), or
 - (b) by any court under section 10(5) (conviction during period of deferment: convicting court dealing with offender).
- (2) The court may deal with the offender for the offence in any way in which the original court could have dealt with the offender for the offence if it had not made a deferment order.
- (3) Where a magistrates' court is dealing with the offender, its power under that subsection includes, in particular, the power in section 14 to commit the offender to the Crown Court for sentence.

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- (4) Where a magistrates' court deals with the offender by committing the offender to the Crown Court under section 14, the power of the Crown Court to deal with the offender includes the same power to make a deferment order as if the offender had just been convicted of the offence on indictment before it.

Commencement Information

I9 S. 11 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

12 Saving for power to bind over and other powers to defer sentence

Nothing in this Chapter affects—

- (a) the power of the Crown Court to bind over an offender to come up for judgment when called upon, or
- (b) any other power of a court to defer passing sentence.

Commencement Information

I10 S. 12 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

13 Deferment orders: interpretation

- (1) In this Chapter—

“deferment requirement” has the meaning given by section 3(2);
“period of deferment”, in relation to a deferment order, means the period from the date on which the deferment order is made until the date specified in the order under section 3(1);
“restorative justice requirement” has the meaning given by section 7;
“supervisor”, in relation to a deferment order, means a person appointed under section 8(1).

- (2) In relation to a deferment order made by a magistrates' court, any reference in this Chapter to the court which made the order includes a reference to any magistrates' court acting in the same local justice area as that court.

Commencement Information

I11 S. 13 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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CHAPTER 2

COMMITTAL TO THE CROWN COURT FOR SENTENCE

Committal following summary trial: adults and corporations

14 Committal for sentence on summary trial of offence triable either way: adults and corporations

- (1) This section applies where—
- (a) on the summary trial of an offence triable either way a person aged 18 or over is convicted of the offence, and
 - (b) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was so serious that the Crown Court should have the power to deal with the offender in any way it could deal with the offender if the offender had been convicted on indictment.

This is subject to the provisions mentioned in subsection (4).

- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 21(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.
- (4) For offences in relation to which this section does not apply see sections 17D and 33 of the Magistrates' Courts Act 1980 (exclusion in respect of certain offences where value involved is small).
- (5) This section applies to a corporation as if—
 - (a) the corporation were an individual aged 18 or over, and
 - (b) in subsection (2) the words “in custody or on bail” were omitted.

Commencement Information

I12 S. 14 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

15 Committal for sentence of dangerous adult offenders

- (1) This section applies where—
- (a) on the summary trial of a specified offence (see section 306) triable either way a person aged 18 or over is convicted of the offence, and
 - (b) the court is of the opinion that an extended sentence of detention in a young offender institution or of imprisonment (see section 266 or 279) would be available in relation to the offence.
- (2) The court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 21(2).

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- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.
- (4) In doing anything under or contemplated by this section, the court is not bound by any indication of sentence given in respect of the offence under section 20 of the Magistrates' Courts Act 1980 (procedure where summary trial appears more suitable).
- (5) Nothing the court does under this section may be challenged or be the subject of any appeal in any court on the ground that it is inconsistent with an indication of sentence.
- (6) Nothing in this section prevents the court from committing an offender convicted of a specified offence to the Crown Court for sentence under section 14 or 18 if the provisions of that section are satisfied.

Commencement Information

I13 S. 15 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Committal following summary trial: persons under 18

16 Committal for sentence of young offenders on summary trial of certain serious offences

- (1) This section applies where—
 - (a) on the summary trial of an offence within paragraph (a) or (b) of the table in section 249(1) (offences punishable with imprisonment for 14 years or more and certain sexual offences), a person is convicted of the offence,
 - (b) the person is aged under 18 at the time of conviction, and
 - (c) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,was such that the Crown Court should have power to deal with the offender by imposing a sentence of detention under section 250.
- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.

Commencement Information

I14 S. 16 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

[^{F1}16A Committal for sentence of young offenders on summary trial of certain terrorist offences

- (1) This section applies where—

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- (a) on summary trial of an offence within section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern), a person is convicted of the offence,
 - (b) the person is aged under 18 at the time of conviction, and
 - (c) the court is of the opinion that—
 - (i) the offence, or
 - (ii) the combination of the offence and one or more offences associated with it,
 was such that the Crown Court should have power to deal with the offender by imposing a sentence of detention under section 252A for a term of more than two years.
- (2) The court may commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.]

Textual Amendments

F1 S. 16A inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 26(2)**

17 Committal for sentence of dangerous young offenders

- (1) This section applies where—
- (a) on the summary trial of a specified offence (see section 306) a person aged under 18 is convicted of the offence, and
 - (b) the court is of the opinion that an extended sentence of detention under section 254 would be available in relation to the offence.
- (2) The court must commit the offender in custody or on bail to the Crown Court for sentence in accordance with section 22(2).
- (3) For powers of the court, where it commits a person under subsection (2), also to commit in respect of other offences, see section 20.
- (4) Nothing in this section prevents the court from committing a person convicted of a specified offence to the Crown Court for sentence under section 16 ^[F2], 16A] or 19 if the provisions of that section are satisfied.

Textual Amendments

F2 Word in s. 17(4) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 26(3)**

Commencement Information

I15 S. 17 in force at 1.12.2020 by **S.I. 2020/1236, reg. 2**

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Committal for sentence following indication of guilty plea

18 Committal for sentence on indication of guilty plea to offence triable either way: adult offenders

- (1) Where a magistrates' court—
 - (a) has convicted an offender aged 18 or over of an offence triable either way following an indication of a guilty plea, and
 - (b) has sent the offender to the Crown Court for trial for one or more related offences,it may commit the offender in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 21(2).
- (2) For offences in relation to which subsection (1) does not apply, see section 17D of the Magistrates' Courts Act 1980 (cases where value involved is small).
- (3) Where a magistrates' court—
 - (a) convicts an offender aged 18 or over of an offence triable either way following an indication of a guilty plea, and
 - (b) is still to determine to send, or whether to send, the offender to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998, for one or more related offences,it must adjourn the proceedings relating to the offence until after it has made those determinations.
- (4) Where the court—
 - (a) commits the offender under subsection (1) to the Crown Court to be dealt with in respect of the offence, and
 - (b) in its opinion also has power under section 14(2) or is required under section 15(2) to commit the offender to the Crown Court to be dealt with in respect of the offence,the court may make a statement of that opinion.
- (5) For powers of the court, where it commits a person under subsection (1), also to commit in respect of other offences, see section 20.
- (6) For the purposes of this section, a magistrates' court convicts a person of an offence triable either way following an indication of a guilty plea if—
 - (a) the person appears or is brought before the court on an information charging the person with the offence,
 - (b) the person or (where applicable) the person's representative indicates under—
 - (i) section 17A or 17B of the Magistrates' Courts Act 1980 (indication of intention as to plea in case of offence triable either way), or
 - (ii) section 20(7) of that Act (summary trial appears more suitable),that the person would plead guilty if the offence were to proceed to trial, and
 - (c) proceeding as if—
 - (i) section 9(1) of that Act were complied with, and
 - (ii) the person pleaded guilty under it,the court convicts the person of the offence.
- (7) For the purposes of this section—

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- (a) “related offence” means an offence which, in the opinion of the court, is related to the offence, and
 - (b) one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.
- (8) In doing anything under or contemplated by this section, the court is not bound by any indication of sentence given in respect of the offence under section 20 of the Magistrates' Courts Act 1980 (procedure where summary trial appears more suitable).
- (9) Nothing the court does under this section may be challenged or be the subject of any appeal in any court on the ground that it is inconsistent with an indication of sentence.

Commencement Information

I16 S. 18 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

19 Committal for sentence on indication of guilty plea by child with related offences

- (1) Where—
- (a) a magistrates' court—
 - (i) has convicted a person aged under 18 of an offence following an indication of a guilty plea, and
 - (ii) has sent the person to the Crown Court for trial for one or more related offences, and
 - (b) the offence falls within paragraph (a) or (b) of the table in section 249(1) (offences punishable with imprisonment for 14 years or more and certain sexual offences) [^{F3}or section 252A(1)(a) (terrorism offences attracting special sentence for offenders of particular concern)],
- the court may commit the offender in custody or on bail to the Crown Court to be dealt with in respect of the offence in accordance with section 22(2).
- (2) Where a magistrates' court—
- (a) convicts a person aged under 18 of an offence mentioned in paragraph (a) or (b) of the table in section 249(1) [^{F4}or within section 252A(1)(a)] following an indication of a guilty plea, and
 - (b) is still to determine to send, or whether to send, the person to the Crown Court for trial under section 51 or 51A of the Crime and Disorder Act 1998 for one or more related offences,
- it must adjourn the proceedings relating to the offence until after it has made those determinations.
- (3) Where the court—
- (a) commits the offender under subsection (1) to the Crown Court to be dealt with in respect of the offence, and
 - (b) in its opinion, also has power so to commit the offender under section 16(2) [^{F5}, 16A(2)] or 17(2),
- the court may make a statement of that opinion.
- (4) For powers of the court, where it commits a person under subsection (1), also to commit in respect of other offences, see section 20.

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- (5) For the purposes of this section, a magistrates' court convicts a person aged under 18 of an offence following an indication of a guilty plea if—
- (a) the person appears or is brought before the court when aged under 18 on an information charging the person with the offence,
 - (b) the person or the person's representative indicates under section 24A or 24B of the Magistrates' Courts Act 1980 (child or young person to indicate intention as to plea in certain cases) that the person would plead guilty if the offence were to proceed to trial, and
 - (c) proceeding as if—
 - (i) section 9(1) of that Act were complied with, and
 - (ii) the person pleaded guilty under it,the court convicts the person of the offence.
- (6) For the purposes of this section—
- (a) “related offence” means an offence which, in the opinion of the court, is related to the offence, and
 - (b) one offence is related to another if, were they both to be prosecuted on indictment, the charges for them could be joined in the same indictment.

Textual Amendments

- F3** Words in s. 19(1)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(a\)](#)
- F4** Words in s. 19(2)(a) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(b\)](#)
- F5** Word in s. 19(3)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(4\)\(c\)](#)

Commencement Information

- I17** S. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Committal for sentence where offender committed in respect of another offence

20 Committal in certain cases where offender committed in respect of another offence

- (1) This section applies where a magistrates' court (“the committing court”) commits an offender to the Crown Court under—
- (a) sections 14 to 19 (committal for sentence for indictable offences),
 - (b) paragraph 5(4) of Schedule 2 (further offence committed by offender given conditional discharge order),
 - (c) paragraph 24(2) of Schedule 10 (committal to Crown Court where offender convicted of further offence while community order is in force),
 - (d) paragraph 11(2) of Schedule 16 (committal to Crown Court where offender commits further offence during operational period of suspended sentence order),
 - (e) section 43 of the Mental Health Act 1980 (power of magistrates' courts to commit for restriction order),

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- (f) section 6(6) or 9(3) of the Bail Act 1976 (committal to Crown Court for offences of absconding by person released on bail or agreeing to indemnify sureties in criminal proceedings), or
 - (g) the Vagrancy Act 1824 (incorrigible rogues),
- to be sentenced or otherwise dealt with in respect of an offence (“the relevant offence”).
- (2) Where—
- (a) the relevant offence is an indictable offence, and
 - (b) the committing court has power to deal with the offender in respect of another offence,
- the committing court may also commit the offender to the Crown Court to be dealt with in respect of the other offence in accordance with section 23.
- (3) It is immaterial for the purposes of subsection (2) whether the court which convicted the offender of the other offence was the committing court or another court.
- (4) Where the relevant offence is a summary offence, the committing court may commit the offender to the Crown Court to be dealt with, in accordance with section 23, in respect of—
- (a) any other offence of which the committing court has convicted the offender which is punishable with—
 - (i) imprisonment, or
 - (ii) driving disqualification, or
 - (b) any suspended sentence in respect of which it falls to the committing court to deal with the offender by virtue of paragraph 11(1) of Schedule 16.
- (5) For the purposes of subsection (4)(a) an offence is punishable with driving disqualification if the committing 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.
- (6) A committal to the Crown Court under this section is to be in custody or on bail as the case may require.

Commencement Information

I18 S. 20 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power of Crown Court on committal for sentence

21 Power of Crown Court on committal for sentence of offender under section 14, 15 or 18

- (1) This section applies where an offender is committed by a magistrates' court for sentence under—
- (a) section 14(2) (committal for sentence on summary trial of offence triable either way),
 - (b) section 15(2) (committal for sentence of dangerous adult offenders), or
 - (c) section 18(1) (committal for sentence on indication of guilty plea to offence triable either way).

Status: Point in time view as at 30/04/2021.

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- (2) The Crown Court—
- (a) must inquire into the circumstances of the case, and
 - (b) may deal with the offender in any way in which it could deal with the offender if the offender had been convicted of the offence on indictment before the court.

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

- (3) Any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
- (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead be exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

- (4) Subsection (5) applies where a magistrates' court—
- (a) commits an offender under section 18(1) to be dealt with in respect of an offence (“the offence”), but
 - (b) does not make a statement under section 18(4) (statement of power to commit under section 14(2) or 15(2)).
- (5) Unless the offender is convicted before the Crown Court of at least one of the offences for which the magistrates' court has sent the offender for trial (see section 18(1)(b))—
- (a) subsection (2)(b) does not apply, and
 - (b) the Crown Court may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender for it.
- (6) Section 20A(1) of the Magistrates' Courts Act 1980 (which relates to the effect of an indication of sentence under section 20 of that Act) does not apply in respect of a specified offence (see section 306)—
- (a) in respect of which the offender is committed under section 15(2) (dangerous adult offenders), or
 - (b) in respect of which—
 - (i) the offender is committed under section 18(1) (guilty plea to offence triable either way), and
 - (ii) the court makes a statement under section 18(4) that, in its opinion, it also has power to commit the offender under section 15(2).

Commencement Information

I19 S. 21 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

22 Power of Crown Court on committal for sentence of person under 18 under section 16, [F6 16A,] 17 or 19

- (1) This section applies where an offender is committed by a magistrates' court for sentence under—
- (a) section 16(2) (committal for sentence of young offenders on summary trial of certain serious offences),

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- [^{F7}(aa) section 16A(2) (committal for sentence of young offenders on summary trial of certain terrorist offences),]
- (b) section 17(2) (committal for sentence of dangerous young offenders), or
- (c) section 19(1) (committal for sentence on indication of guilty plea by child or young person with related offences).
- (2) The Crown Court—
- (a) must inquire into the circumstances of the case, and
- (b) may deal with the offender in any way in which it could deal with the offender if the offender had been convicted of the offence on indictment before the court.
- This is subject to subsections (4) and (5).
- (3) Any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
- (a) is not to be discharged or exercised by that court, but
- (b) is instead to be discharged or may instead be exercised by the Crown Court.
- This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).
- (4) Subsection (5) applies where a magistrates' court—
- (a) commits an offender under section 19(1) to be dealt with in respect of an offence (“the offence”), but
- (b) does not make a statement under section 19(3) (statement of power to commit under section 16(2) [^{F8}, 16A(2)] or 17(2)).
- (5) Unless the offender is convicted before the Crown Court of at least one of the offences for which the magistrates' court has sent the offender for trial (see section 19(1)(a))—
- (a) subsection (2)(b) does not apply, and
- (b) the Crown Court may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender for it.

Textual Amendments

- F6** Word in s. 22 heading inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(a\)](#)
- F7** S. 22(1)(aa) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(b\)](#)
- F8** Word in s. 22(4)(b) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 26\(5\)\(c\)](#)

Commencement Information

- I20** S. 22 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

23 Power of Crown Court on committal for sentence under section 20

- (1) Subsection (2) applies where under section 20(2) or (4)(a) (committal for sentence in certain cases where offender committed in respect of another offence) a magistrates' court commits a person to be dealt with by the Crown Court in respect of an offence.

Status: Point in time view as at 30/04/2021.

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- (2) The Crown Court—
- (a) must inquire into the circumstances of the case, and
 - (b) may deal with the offender for the offence in any way in which the magistrates' court could have dealt with the offender (assuming it had convicted the offender of the offence).
- (3) Subsection (4) applies where under section 20(4)(b) a magistrates' court commits a person to be dealt with by the Crown Court in respect of a suspended sentence.
- (4) The powers under paragraphs 13 and 14 of Schedule 16 (power of court to deal with suspended sentence) are exercisable by the Crown Court.
- (5) Subsection (6) applies where under section 20 a magistrates' court commits a person to be dealt with by the Crown Court.
- (6) Without prejudice to subsections (1) to (4), any duty or power which, apart from this subsection, would fall to be discharged or exercised by the magistrates' court—
- (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead be exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

Commencement Information

I21 [S. 23](#) in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Further powers to commit to Crown Court for sentence

24 Further powers to commit offender to the Crown Court to be dealt with

- (1) For other powers of a magistrates' court to commit an offender to the Crown Court to be dealt with for an offence, see—
- (a) paragraph 22(2) and (4) of Schedule 7 (offender subject to youth rehabilitation order made by Crown Court convicted of further offence by magistrates' court);
 - (b) section 70 of the Proceeds of Crime Act 2002 (request by prosecution with a view to consideration of confiscation order under section 6 of that Act);
 - (c) section 43(1) of the Mental Health Act 1983 (power of magistrates' courts to commit for restriction order);
 - (d) section 6(6) of the Bail Act 1976 (offence of absconding by person released on bail);
 - (e) section 9(3) of that Act (offence of agreeing to indemnify sureties in criminal proceedings);
 - (f) the Vagrancy Act 1824 (incorrigible rogues).
- (2) Nothing in subsection (1) is to be taken to limit any other power of a magistrates' court to commit an offender to the Crown Court.

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Commencement Information

I22 S. 24 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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,
 - (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.

Status: Point in time view as at 30/04/2021.

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- (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.

Commencement Information

I23 S. 25 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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.

Commencement Information

I24 S. 26 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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”).

Status: Point in time view as at 30/04/2021.

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- (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.

Commencement Information

I25 S. 27 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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.
- (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.

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- (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.

Commencement Information

I26 S. 28 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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.

Commencement Information

I27 S. 29 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Status:

Point in time view as at 30/04/2021.

Changes to legislation:

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