



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 10

CUSTODIAL SENTENCES

CHAPTER 7

MINIMUM SENTENCES FOR PARTICULAR OFFENCES

Minimum sentence for repeat offences

314 Minimum sentence of 3 years for third domestic burglary

- (1) This section applies where—
- (a) a person is convicted of a domestic burglary (“the index offence”) committed on or after 1 December 1999,
 - (b) when the index offence was committed—
 - (i) the offender was aged 18 or over, and
 - (ii) had 2 other relevant domestic burglary convictions, and
 - (c) one of the burglaries to which those other relevant domestic burglary convictions relate was committed after the person had been convicted of the other.
- (2) ^[F1]If the index offence was committed before the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court] must impose an appropriate custodial sentence for a term of at least 3 years unless the court is of the opinion that there are particular circumstances which—
- (a) relate to any of the offences or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.

Changes to legislation: Sentencing Act 2020, Section 314 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) View outstanding changes

[^{F2}(2A) If the index offence was committed on or after the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court must impose an appropriate custodial sentence for a term of at least 3 years unless the court is of the opinion that there are exceptional circumstances which—

- (a) relate to any of the offences or to the offender, and
- (b) justify not doing so.]

(3) For the purposes of subsection (1), “relevant domestic burglary conviction” means—

- (a) a conviction in England and Wales of a domestic burglary committed on or after 1 December 1999,
- (b) a conviction in another part of the United Kingdom ^{F3}... of an offence committed on or after 16 August 2010 which would have constituted an offence of domestic burglary, if committed in England and Wales at the time of the conviction,
- (c) a conviction of an offence under section 42 of the Armed Forces Act 2006 in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is an offence of domestic burglary, [^{F4}or]
- (d) a conviction of an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 committed on or after 1 December 1999 in respect of which the corresponding civil offence (within the meaning of the Act in question) is an offence of domestic burglary, ^{F5}...

^{F5}(e)

[^{F6}(3A) If the proceedings for the index offence were instituted before IP completion day (see section 397(5)), for the purposes of subsection (1) “relevant domestic burglary conviction” also includes—

- (a) a conviction in a member State of an offence committed on or after 16 August 2010 which would have constituted an offence of domestic burglary, if committed in England and Wales at the time of the conviction, and
- (b) a conviction of a member State service offence committed on or after 16 August 2010 which would have constituted an offence of domestic burglary if committed in England and Wales at the time of conviction.]

(4) Where—

- (a) a person is charged with a domestic burglary which, apart from this subsection, would be triable either way, and
- (b) the circumstances are such that, if convicted of the burglary, the person could be sentenced for it under subsection (2) [^{F7}or (2A)],

the burglary is to be triable only on indictment.

(5) In this section “domestic burglary” means a burglary committed in respect of a building or part of a building which is a dwelling.

(6) In this section “an appropriate custodial sentence” means—

- (a) in relation to a person who is aged 21 or over when convicted of the index offence, a sentence of imprisonment;
- (b) in relation to a person who is aged under 21 when convicted of the index offence, a sentence of detention in a young offender institution.

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Textual Amendments

- F1** Words in s. 314(2) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(4)(a), 208(5)(k)**
- F2** S. 314(2A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(4)(b), 208(5)(k)**
- F3** Words in s. 314(3)(b) omitted (31.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 417(9), **Sch. 22 para. 91(1)(a)** (with Sch. 27) (as amended by S.I. 2020/1520, regs. 1(1), 5(9)(a))
- F4** Word in s. 314(3)(c) inserted (31.12.2020) by Sentencing Act 2020 (c. 17), s. 417(9), **Sch. 22 para. 91(1)(b)** (with Sch. 27) (as amended by S.I. 2020/1520, regs. 1(1), 5(9)(a))
- F5** S. 314(3)(e) and word omitted (31.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 417(9), **Sch. 22 para. 91(1)(c)** (with Sch. 27) (as amended by S.I. 2020/1520, regs. 1(1), 5(9)(a))
- F6** S. 314(3A) inserted (31.12.2020) by Sentencing Act 2020 (c. 17), **Sch. 22 para. 91(2)** (as inserted by The Taking Account of Convictions (EU Exit) (Amendment) Regulations 2020 (S.I. 2020/1520), regs. 1(1), **5(9)(b)**)
- F7** Words in s. 314(4)(b) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 124(4)(c), 208(5)(k)**

Modifications etc. (not altering text)

- C1** S. 314 applied by 2006 c. 52, **s. 226** (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 para. 47 (with s. 416(7), **Sch. 27**); S.I. 2020/1236, **reg. 2**)
- C2** S. 314 modified (31.12.2020) by 2006 c. 52, **s. 226(1A)** (as inserted by 2020 c. 17, **Sch. 26 para. 15B** (as inserted by The Taking Account of Convictions (EU Exit) (Amendment) Regulations 2020 (S.I. 2020/1520), regs. 1(1), **6(4)**))
- C3** S. 314(2) excluded by 2006 c. 52, **s. 239(5)** (as amended (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 25 para. 54(b) (with s. 416(7), **Sch. 27**); S.I. 2020/1236, **reg. 2**)

Commencement Information

- I1** S. 314 in force at 1.12.2020 by S.I. 2020/1236, **reg. 2**

Changes to legislation:

Sentencing Act 2020, Section 314 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.

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Changes and effects yet to be applied to :

- s. 314(2) words substituted by 2020 c. 17 Sch. 22 para. 67(a)
- s. 314(2A) words substituted by 2020 c. 17, Sch. 22 para. 67(aa) (as inserted) by 2022 c. 32 s. 124(9)(b)
- s. 314(6) omitted by 2020 c. 17 Sch. 22 para. 67(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A and cross-heading inserted by 2020 c. 17 Sch. 22 para. 1
- s. 80(3)(f) inserted by 2021 c. 17 s. 54(2)
- s. 179(4A) inserted by 2020 c. 17 Sch. 22 para. 11(1)
- s. 179A inserted by 2020 c. 17 Sch. 22 para. 12(2)
- s. 179A(1)(b)(i)(ii) substituted for words by 2020 c. 17 Sch. 22 para. 16(2)
- s. 180(5) inserted by 2020 c. 17 Sch. 22 para. 11(2)
- s. 186(8A) inserted by 2020 c. 17 Sch. 22 para. 11(3)
- s. 202(1A)(1B) inserted by 2020 c. 17 Sch. 22 para. 13(b)
- s. 202(1A)(b)(i)(ii) substituted for words by 2020 c. 17 Sch. 22 para. 17(2)
- s. 204A inserted by 2020 c. 17 Sch. 22 para. 14(2)
- s. 204A(3)(c)(i)(ii) substituted for words by 2020 c. 17 Sch. 22 para. 18(2)
- s. 215(1A)(1B) inserted by 2022 c. 32 s. 149(2)(a)
- s. 215(2A) inserted by 2022 c. 32 s. 149(2)(c)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by 2020 c. 17 Sch. 22 para. 43
- s. 230(3A) and words inserted by 2020 c. 17 Sch. 22 para. 2
- s. 234(1)(aa) inserted by 2020 c. 17 Sch. 22 para. 27(1)(b)
- s. 234(1)(aa) omitted by 2020 c. 17 Sch. 22 para. 28(1)
- s. 235(3A) inserted by 2020 c. 17 Sch. 22 para. 27(2)
- s. 236(2A) inserted by 2020 c. 17 Sch. 22 para. 29(3)
- s. 236(2A)(b) word substituted by 2020 c. 17 Sch. 22 para. 47(b)
- s. 301(1A)(1B) inserted by 2022 c. 32 s. 149(3)(a)
- s. 301(2A) inserted by 2022 c. 32 s. 149(3)(c)
- s. 323(2A)-(2C) inserted by 2020 c. 17 Sch. 22 para. 85(3)
- s. 343(4) inserted by 2022 c. 32 s. 178(2)
- s. 348A348B inserted by 2022 c. 32 s. 178(4)
- s. 350(6C)(6D) inserted by 2022 c. 32 s. 178(5)
- s. 387A inserted by 2021 c. 17 s. 54(3)
- s. 397A inserted by 2020 c. 17 Sch. 22 para. 15
- s. 397A(4)(a)(ia) inserted by 2020 c. 17 Sch. 22 para. 19(2)(b)
- s. 397A(4)(a)(i) words omitted by 2020 c. 17 Sch. 22 para. 19(2)(a)
- s. 397A(5) words inserted by 2020 c. 17 Sch. 22 para. 19(3)
- s. 397A(6)(7) inserted by 2020 c. 17 Sch. 22 para. 19(4)
- s. 418(2A) inserted by 2021 c. 11 Sch. 13 para. 43(5)
- Sch. 1 para. 13A inserted by 2020 c. 17 Sch. 22 para. 4(a)
- Sch. 10 para. 10(5)(d) inserted by 2020 c. 17 Sch. 22 para. 21(2)(a)
- Sch. 10 para. 10(9A) inserted by 2020 c. 17 Sch. 22 para. 21(2)(c)
- Sch. 10 para. 11(2)(d) inserted by 2020 c. 17 Sch. 22 para. 21(3)(a)
- Sch. 10 para. 11(6A) inserted by 2020 c. 17 Sch. 22 para. 21(3)(c)
- Sch. 10 para. 10(9A) omitted by 2020 c. 17 Sch. 22 para. 74(1)(b)
- Sch. 10 para. 11(6A) omitted by 2020 c. 17 Sch. 22 para. 75(1)(b)

- Sch. 10 para. 10(5)(d) words substituted by 2020 c. 17 Sch. 22 para. 25(a)
- Sch. 10 para. 10(5)(d) words substituted by 2020 c. 17 Sch. 22 para. 74(1)(a)
- Sch. 10 para. 11(2)(d) words substituted by 2020 c. 17 Sch. 22 para. 26(a)
- Sch. 10 para. 11(2)(d) words substituted by 2020 c. 17 Sch. 22 para. 75(1)(a)
- Sch. 17A para. 24A inserted by 2020 c. 17, Sch. 22 para. 79A (as inserted) by 2021 c. 11 Sch. 13 para. 11(20)(m)
- Sch. 18 para. 26A and cross-heading inserted by 2020 c. 17 Sch. 22 para. 80
- Sch. 19 para. 22A and cross-heading inserted by 2020 c. 17 Sch. 22 para. 84
- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)