



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 7

SENTENCING AND RELEASE

CHAPTER 1

CUSTODIAL SENTENCES

Life sentences: time to be served

125 Whole life order as starting point for premeditated child murder

In Schedule 21 to the Sentencing Code (minimum terms in mandatory life sentences), in paragraph 2(2), after paragraph (b) insert—

“(ba) the murder of a child involving a substantial degree of premeditation or planning, where the offence was committed on or after the day on which section 125 of the Police, Crime, Sentencing and Courts Act 2022 came into force,”.

Commencement Information

II [S. 125](#) in force at 28.6.2022, see [s. 208\(5\)\(l\)](#)

126 Whole life orders for young adult offenders in exceptional cases

- (1) The Sentencing Code is amended as follows.
- (2) In section 321 (orders to be made on passing life sentence)—

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(a) in subsection (3)(a), for the words from “the offender” to “committed” substitute “the case is within subsection (3A) or (3B)”;

(b) after subsection (3) insert—

“(3A) A case is within this subsection if the offender was aged 21 or over when the offence was committed.

(3B) A case is within this subsection if—

(a) the offence was committed on or after the day on which section 126 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and

(b) the offender was aged 18 or over but under 21 when the offence was committed.

(3C) In a case within subsection (3B), the court may arrive at the opinion set out in subsection (3)(b) only if it considers that the seriousness of the offence, or combination of offences, is exceptionally high even by the standard of offences which would normally result in a whole life order in a case within subsection (3A).”

(3) In section 322 (further provision about mandatory life sentences), in subsection (3) (a), after “321(3)” insert “or (3C)”.

Commencement Information

I2 S. 126 in force at 28.6.2022, see s. 208(5)(l)

127 Starting points for murder committed when under 18

In Schedule 21 to the Sentencing Code (minimum terms in mandatory life sentences), for paragraph 6 substitute—

“5A (1) This paragraph applies if—

(a) the offender was aged under 18 when the offence was committed, and

(b) the offender was convicted of the offence on or after the day on which section 127 of the Police, Crime, Sentencing and Courts Act 2022 came into force.

(2) The appropriate starting point, in determining the minimum term, is the period given in the entry in column 2, 3 or 4 of the following table that corresponds to—

(a) the age of the offender when the offence was committed, as set out in column 1, and

(b) the provision of this Schedule that would have supplied the appropriate starting point had the offender been aged 18 when the offence was committed, as set out in the headings to columns 2, 3 and 4.

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Cross Heading: Life sentences: time to be served. (See end of Document for details)

| <i>1</i> | <i>2</i> | <i>3</i> | <i>4</i> |
|---|---|---|--|
| <i>Age of offender when offence committed</i> | <i>Starting point supplied by paragraph 3(1) had offender been 18</i> | <i>Starting point supplied by paragraph 4(1) had offender been 18</i> | <i>Starting point supplied by paragraph 5 had offender been 18</i> |
| <i>17</i> | 27 years | 23 years | 14 years |
| <i>15 or 16</i> | 20 years | 17 years | 10 years |
| <i>14 or under</i> | 15 years | 13 years | 8 years |

- 6 (1) This paragraph applies if—
- the offender was aged under 18 when the offence was committed, and
 - the offender was convicted of the offence before the day on which section 127 of the Police, Crime, Sentencing and Courts Act 2022 came into force.
- (2) The appropriate starting point, in determining the minimum term, is 12 years.”

Commencement Information

I3 S. 127 in force at 28.6.2022, see s. 208(5)(l)

128 Sentences of detention during Her Majesty’s pleasure: review of minimum term

- (1) Before the italic heading above section 28 of the Crime (Sentences) Act 1997 insert—

“Sentence of detention during Her Majesty’s pleasure: review of minimum term

27A Sentence of detention during Her Majesty’s pleasure imposed on a person under 18: application for minimum term review

- (1) This section applies to a person who—
- is serving a DHMP sentence, and
 - was under the age of 18 when sentenced;
- and such a person is referred to in this section as a “relevant young offender”.
- (2) A relevant young offender may make an application for a minimum term review to the Secretary of State after serving half of the minimum term.
- (3) An “application for a minimum term review” is an application made by a relevant young offender for a reduction in the minimum term.
- (4) Where a relevant young offender has made an application for a minimum term review under this section, the offender may only make a further such application if—

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- (a) the period of 2 years beginning with the day on which the previous application was determined has expired, and
- (b) the offender is under the age of 18 on the day on which the further application is made.
- (5) Where the Secretary of State receives an application under this section, the Secretary of State must—
- (a) consider the application, and
- (b) unless the Secretary of State forms the view that the application is frivolous or vexatious, refer it to the High Court.
- (6) Where the Secretary of State decides not to refer the application to the High Court, the Secretary of State must give notice of that decision, and the reasons for it, to the relevant young offender.
- (7) If the relevant young offender makes representations or provides further evidence in support of the application before the end of the period of 4 weeks beginning with the day on which the notice under subsection (6) is given, the Secretary of State must consider the representations or evidence and—
- (a) if the Secretary of State is no longer of the view mentioned in subsection (5)(b), refer the application to the High Court, or
- (b) give notice to the offender confirming the decision not to refer the application.
- (8) In this section—
- “DHMP sentence” means a sentence of detention during Her Majesty’s pleasure imposed (whether before or after this section comes into force) under a provision listed in column 1 of the table in subsection (9);
- “minimum term”, in relation to a person serving a DHMP sentence, means the part of the sentence specified—
- (a) in the minimum term order made in respect of the sentence, or
- (b) where one or more reduction orders have been made under section 27B in respect of the sentence, in the most recent of those orders;
- “minimum term order”, in relation to a DHMP sentence, means the order made under the provision listed in column 2 of the table in subsection (9) that corresponds to the entry in column 1 that relates to the sentence.
- (9) The table is as follows—

| <i>Provision under which DHMP sentence imposed</i> | <i>Provision under which minimum term order made</i> |
|---|--|
| Section 259 of the Sentencing Code | Section 322 of the Sentencing Code |
| Section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 | Section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 or section 269 of the Criminal Justice Act 2003 |
| Section 218 of the Armed Forces Act 2006 | Section 269 of the Criminal Justice Act 2003 or section 322 of the Sentencing Code. |

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- (10) For the purposes of subsection (4), an application for a minimum term review is determined—
- (a) when the court makes a reduction order or a decision confirming the minimum term (see section 27B), or
 - (b) in a case where the application is not referred to the court, when the Secretary of State gives the relevant young offender notice in relation to the application under subsection (6).
- (11) There is no right for any person who is serving a DHMP sentence to request a review of the minimum term other than that conferred by this section.

27B Power of High Court to reduce minimum term

- (1) This section applies where the Secretary of State refers an application for a minimum term review made by a relevant young offender under section 27A to the High Court.
- (2) The court may—
- (a) make a reduction order in relation to relevant young offender, or
 - (b) confirm the minimum term in respect of the offender’s DHMP sentence,
- and a decision of the court under this subsection is final.
- (3) A reduction order is an order that the relevant young offender’s minimum term is to be reduced to such part of the offender’s DHMP sentence as the court considers appropriate and is specified in the reduction order.
- (4) In deciding whether to make a reduction order, the court must, in particular, take into account any evidence—
- (a) that the relevant young offender’s rehabilitation has been exceptional;
 - (b) that the continued detention or imprisonment of the offender for the remainder of the minimum term is likely to give rise to a serious risk to the welfare or continued rehabilitation of the offender which cannot be eliminated or mitigated to a significant degree.
- (5) In this section “DHMP sentence”, “minimum term” and “relevant young offender” have the same meaning as in section 27A.”
- (2) In section 28 of that Act (duty to release certain life prisoners), in subsection (1A), for the words from “the part of” to the end substitute—
- “(a) the part of the sentence specified in the minimum term order, or
 - (b) in a case where one or more reduction orders has been made in relation to the prisoner (see section 27B), the part of the sentence specified in the most recent of those orders.”
- (3) A pre-commencement application—
- (a) is to be treated for the purposes of subsection (4) of section 27A of the Crime (Sentences) Act 1997 as if it was made under that section if, at the time the relevant young offender made the application, they had served at least half of the minimum term;

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- (b) if not determined before the day on which this section comes into force, is to be dealt with in the manner in which it would have been dealt with immediately before this section comes into force.

(4) In this section—

“minimum term”, in relation to a relevant young offender, means the part of the offender’s DHMP sentence specified in the minimum term order made in respect of the sentence (and for these purposes “DHMP sentence” and “minimum term order” have same meanings as in that section 27A);

“pre-commencement application” means an application by a relevant young offender for a review of the minimum term that was made to the Secretary of State before the day on which this section comes into force;

“relevant young offender” has the same meaning as in section 27A of the Crime (Sentences) Act 1997.

Commencement Information

I4 S. 128 in force at 28.6.2022, see s. 208(5)(l)

129 Life sentence not fixed by law: minimum term

(1) In section 323 of the Sentencing Code (minimum term order for life sentence not fixed by law)—

(a) after subsection (1) insert—

“(1A) The starting point, in determining the minimum term, is the relevant portion of the notional determinate sentence.

(1B) The “notional determinate sentence”, in relation to a life sentence, is the custodial sentence that the court would have imposed if the court had not imposed the life sentence.

(1C) The “relevant portion” of the notional determinate sentence is—

(a) where that sentence is within section 247A(2A) of the Criminal Justice Act 2003 (terrorist prisoners not entitled to early release), the term that the court would have determined as the appropriate custodial term (within the meaning given by subsection (8) of that section);

(b) where that sentence is a sentence under section 252A, 254, 265, 266, 278 or 279 (and is not within paragraph (a)), two-thirds of the term that the court would have determined as the appropriate custodial term under that section;

(c) where that sentence is any other custodial sentence, two-thirds of the term of the sentence.”;

(b) in subsection (2)—

(i) for the words before paragraph (a), substitute “The minimum term must be the starting point adjusted as the court considers appropriate, taking into account—”;

(ii) omit paragraph (b) (but not the final “and”).

(2) In section 261A(3) of the Armed Forces Act 2006 (life sentences: further provision), before paragraph (a) insert—

Changes to legislation: There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Cross Heading: Life sentences: time to be served. (See end of Document for details)

- “(za) subsection (1C)(b) has effect as if for “section 252A, 254, 265, 266, 278 or 279” there were substituted—
- (i) section 224A or 224B of the Armed Forces Act 2006, or
 - (ii) section 254, 266, 278 or 279 passed as a result of section 219A, 219ZA or 221A of that Act,”.
- (3) In the Sentencing Act 2020—
- (a) in section 61 (sentencing guidelines for life sentences etc)—
 - (i) for subsection (6), for the words from “the notional” to “made under” substitute “the notional determinate sentence within the meaning of”;
 - (ii) omit subsection (7);
 - (b) omit the following (which concern the commencement of paragraph 85 of Schedule 22)—
 - (i) section 407(1)(b)(ii) (but not the final “or”);
 - (ii) section 417(8);
 - (c) in Schedule 22 (prospective amendments of the Sentencing Code)—
 - (i) in paragraph 68A (amendments of section 323 of the Sentencing Code in relation to prospective abolition of detention in young offender institution), before sub-paragraph (a) insert—
 - “(za) in subsection (1C)(b), omit “265, 266,”;
 - (ii) omit paragraph 85 (prospective amendments of section 323);
 - (d) in paragraph 20A of Schedule 26 (amendments of section 261A of Armed Forces Act 2006 in relation to prospective abolition of detention in young offender institution), before sub-paragraph (a) insert—
 - “(za) in paragraph (za)—
 - (i) in the words before sub-paragraph (i), omit “265, 266,”;
 - (ii) in sub-paragraph (ii), omit “266,”.”

Commencement Information

- I5** S. 129, see **s. 208(1)**
- I6** S. 129(1)(3)(a)(c)(d) in force at 28.6.2022 by S.I. 2022/520, **reg. 5(n)**
- I7** S. 129(2)(3)(b)(ii) in force at 28.6.2022 by S.I. 2022/520, **reg. 5(l)**
- I8** S. 129(3)(b)(i) in force at 28.6.2022 by S.I. 2022/520, **reg. 5(m)**

Changes to legislation:

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