

EXPLANATORY MEMORANDUM TO
THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012
(CONSEQUENTIAL AND SAVING PROVISIONS) REGULATIONS 2012

2012 No. 2824

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These Regulations make various amendments to secondary legislation. The amendments are consequential on various provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the Act”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The Act contains provisions covering a wide range of subjects. For the purposes of these Regulations, it is to be noted that it does the following:
 - 4.1.1 it establishes a new legislative framework for the remand of children otherwise than on bail;
 - 4.1.2 it abolishes certain sentences for dangerous offenders, both in relation to civilian and service law;
 - 4.1.3 it increases the maximum sentence of imprisonment in respect of which a court may make a suspended sentence order.
 - 4.2 These provisions of the Act come into force on 3rd December 2012.
 - 4.3 These Regulations do the following:
 - 4.3.1 They amend the Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505) to remove references to the old remand framework and insert references to the new one. See regulation 2(1) to (3). They also provide that the references to the old framework continue to have effect in relation to cases where the child was remanded before 3rd December but remains subject to that remand. See regulation 2(4) and (5). This ensures that the obligations imposed by the Children (Secure Accommodation) Regulations 1991 can continue to operate after 3rd December 2012 where necessary.
 - 4.3.2 They remove amendments which were made in relation to sentences of imprisonment for public protection for serious offences and extended sentences for public protection for serious offences. These sentences are

abolished by section 123 of the Act, and the amendments are therefore obsolete. See regulations 3 and 4.

- 4.3.3 They make provision about how the new life sentence for a second listed offence and the new extended sentence for certain violent or sexual offenders are to operate for offenders aged at least 18 but under 21, where the offenders are subject to service law. In relation to the new life sentence for a second listed offence, the offender is to receive a sentence of custody for life. In relation to the new extended sentence, the offender is to receive a sentence of detention in a young offender institution. These provisions mirror provisions in the Act about civilian offenders aged at least 18 but under 21.
- 4.3.4 They amend the Criminal Justice Act 2003 (Surcharge) Order 2012 (S.I. 2012/1696) to reflect the changes made in the Act to the court's power to make a suspended sentence order in relation to a sentence of imprisonment, and the abolition of certain sentences for dangerous offenders.

5. Territorial Extent and Application

5.1 Section 149 of the Act extends to the United Kingdom, but so far as it confers power to make provisions relating to the Armed Forces Act 2006 (or related provisions), section 149 has the same extent as the Armed Forces Act 2006 (the UK, the Isle of Man and the British Overseas Territories). The Regulations do make provision relating to the Armed Forces Act 2006, and accordingly they extend to the UK, the Isle of Man and the British Overseas Territories.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 The policy intention behind the Regulations is to give full effect to the provisions of the Act by making the necessary consequential amendments to secondary legislation. Consequential amendments to primary legislation are set out in the Act itself.

8. Consultation outcome

8.1 No consultation has been carried out in relation to these Regulations.

9. Guidance

9.1 The Regulations make no changes to existing financial arrangements and transactions.

10. Impact

10.1 This statutory instrument has no impact on businesses, charities or voluntary bodies.

10.2 This statutory instrument has no impact on the public sector.

10.3 No Impact Assessment has been prepared for this instrument because no impact on the private sector or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not affect small business.

12. Monitoring & review

12.1 It is not proposed to monitor or review the effect of this legislation.

13. Contact

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