



Criminal Justice Act 1967

1967 CHAPTER 80

PART II

POWERS OF COURTS TO DEAL WITH OFFENDERS

Suspended sentences

39 Suspended sentences of imprisonment.

- (1) A court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order, being not less than one year or more than three years from the date of the order, the offender commits in Great Britain another offence punishable with imprisonment and thereafter a court having power to do so orders under the next following section that the original sentence shall take effect; and in this Part of this Act "operational period", in relation to a suspended sentence, means the period so specified.
- (2) A court which passes a suspended sentence on any person for an offence shall not make a probation order in his case in respect of another offence of which he is convicted by or before the court or for which he is dealt with by the court.
- (3) A court which passes a sentence of imprisonment for a term of not more than six months in respect of one offence shall make an order under subsection (1) of this section unless—
 - (a) the act or any of the acts constituting that offence consisted of an assault on or threat of violence to another person, or of having or possessing a firearm, an imitation firearm, an explosive or an offensive weapon or of indecent conduct with or towards a person under the age of sixteen years;
 - (b) that offence is one in respect of which a probation order or order for conditional discharge was originally made or the offender was subject to such an order at the time of committing that offence ;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (c) on the occasion on which sentence is passed for that offence, the court passes or proposes to pass a sentence of immediate imprisonment on the offender for another offence which the court is not required to suspend;
 - (d) the offender is serving, or has since the commission of the offence served, a sentence of imprisonment or borstal training previously passed for another offence; or
 - (e) the offender had at any time before the commission of the offence been sentenced to, or served any part of a sentence of, corrective training, imprisonment or borstal training previously passed for another offence or been subject to a suspended sentence.
- (4) The Secretary of State may by order provide that paragraph (e) of the last foregoing subsection shall have effect in any case prescribed by the order as if the reference to any time were a reference to any time during a period so prescribed (being a period of not less than three years); and an order under this subsection may make different provision for different cases.
- (5) The Secretary of State may by order provide that subsection (3) of this section shall have effect as if for the reference to six months there were substituted a reference to twelve months.
- (6) No order shall be made by the Secretary of State under this section unless a draft of the order has been laid before Parliament and approved by both Houses of Parliament.
- (7) On passing a suspended sentence the court shall explain to the offender in ordinary language his liability under the next following section if during the operational period he commits an offence punishable with imprisonment.
- (8) Where a court has passed a suspended sentence on any person, and that person is subsequently sentenced to borstal training, he shall cease to be liable to be dealt with in respect of the suspended sentence unless the subsequent sentence or any conviction or finding on which it was passed is quashed on appeal.
- (9) Subject to any provision to the contrary contained in this Act or any enactment passed or instrument made under any enactment after the commencement of this Act—
- (a) a suspended sentence which has not taken effect under the next following section shall be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments except any enactment or instrument which provides for disqualification for or loss of office, or forfeiture of pensions, of persons sentenced to imprisonment; and
 - (b) where a suspended sentence has taken effect under that section, the offender shall be treated for the purposes of the said excepted enactments and instruments as having been convicted on the ordinary date on which the period allowed for making an appeal against an order under that section expires or, if such an appeal is made, the date on which it is finally disposed of or abandoned or fails for non-prosecution.

40 Power of court on conviction of further offence to deal with suspended sentence.

- (1) Where an offender is convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence and either he is so convicted by or before a court having power under the next following section to deal with him in respect of the suspended sentence or he subsequently appears or is brought

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

before such a court, then, unless the sentence has already taken effect, that court shall consider his case and deal with him by one of the following methods:—

- (a) the court may order that the suspended sentence shall take effect with the original term unaltered ;
- (b) it may order that the sentence shall take effect with the substitution of a lesser term for the original term;
- (c) it may by order vary the original order under subsection (1) of the last foregoing section by substituting for the period specified therein a period expiring not later than three years from the date of the variation; or
- (d) it may make no order with respect to the suspended sentence;

and a court shall make an order under paragraph (a) of this subsection unless the court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence, and where it is of that opinion the court shall state its reasons.

- (2) Where a court orders that a suspended sentence shall take effect, with or without any variation of the original term, the court may order that that sentence shall take effect immediately or that the term thereof shall commence on the expiration of another term of imprisonment passed on the offender by that or another court.
- (3) Where under subsection (1)(a) or (b) of this section a court orders that a suspended sentence shall take effect with a term of not more than six months and the court would have had power to sentence the offender to be detained in a detention centre for that term if it had convicted him of the original offence on the occasion of the order, the order may include a direction that he shall serve the sentence in a detention centre.
- (4) Without prejudice to the last foregoing subsection, where under the said subsection (1) (a) or (b) a court orders that a suspended sentence shall take effect with a term of less than three months, the court may include such a direction in the order if the offender is then liable to be detained in a detention centre by virtue of an order or warrant made or issued by that or another court.
- (5) An order under the said subsection (1)(a) or (b) which includes such a direction shall be treated for all purposes as an order under section 4 of the Criminal Justice Act 1961 (detention of offenders aged fourteen to twenty) for the detention of the offender in a detention centre, and subsection (2) of this section shall not apply in relation to any such order.
- (6) In proceedings for dealing with an offender in respect of a suspended sentence which take place before a court of assize or quarter sessions any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.
- (7) Where a court deals with an offender under this section in respect of a suspended sentence the clerk of the court shall notify the clerk of the court which passed the sentence of the method adopted.
- (8) Where on consideration of the case of an offender a court makes no order with respect to a suspended sentence, the clerk of the court shall record that fact.
- (9) For the purposes of any enactment conferring rights of appeal in criminal cases any such order made by a court shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

41 Court by which suspended sentence is to be dealt with.

- (1) An offender may be dealt with in respect of a suspended sentence by any court of assize or quarter sessions before which he appears or is brought or, where the sentence was passed by a magistrates' court, by any magistrates' court before which he appears or is brought.
- (2) Where an offender is convicted by a magistrates' court of an offence punishable with imprisonment and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by a court of assize or quarter sessions.—
 - (a) the court may, if it thinks fit, commit him in custody or on bail to a court of assize or quarter sessions having power to deal with him in respect of the suspended sentence; and
 - (b) if it does not, shall give written notice of the conviction to the clerk of the court by which the suspended sentence was passed.
- (3) The court to which a magistrates' court commits an offender under the last foregoing subsection shall be the court of assize or quarter sessions by which the suspended sentence was passed, except that the magistrates' court may commit him to some other court of assize or quarter sessions if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by the court by which that sentence was passed, it would be more convenient that he should be dealt with by that other court:

Provided that a magistrates' court shall not commit the offender to that other court of assize or quarter sessions in any case where it appears to the magistrates' court that he would thereby suffer hardship.

- (4) For the purposes of this and the next following sections a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced.

42 Discovery of further offences.

- (1) If it appears to a judge or justice of the peace on whom jurisdiction is conferred by the next following subsection that an offender has been convicted in Great Britain of an offence punishable with imprisonment committed during the operational period of a suspended sentence and that he has not been dealt with in respect of the suspended sentence, the judge or justice may issue a summons requiring the offender to appear at the place and time specified therein, or may, subject to the following provisions of this section, issue a warrant for his arrest.
- (2) The following persons shall have jurisdiction for the purposes of the foregoing subsection, that is to say—
 - (a) if the suspended sentence was passed by the Central Criminal Court, a judge of that court;
 - (b) if it was passed by the Crown Court at Liverpool or the Crown Court at Manchester, a judge of the court by which it was passed;
 - (c) if it was passed by a court of assize (other than the Central Criminal Court or one of the said Crown Courts), a judge of the High Court;
 - (d) if it was passed by a court of quarter sessions, a justice acting for the area for which that court was held ;

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (e) if it was passed by a magistrates' court, a justice acting for the area for which that court acted.
- (3) Where an offender is convicted by a court in Scotland of an offence punishable with imprisonment and the court is informed that the offence was committed during the operational period of a suspended sentence passed in England or Wales, the court shall give written notice of the conviction to the clerk of the court by which the suspended sentence was passed.
- (4) Unless he is acting in consequence of a notice under subsection (2) of the last foregoing section or under the last foregoing subsection, a justice of the peace shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.
- (5) A summons or warrant issued under this section shall direct the offender to appear or to be brought before the court by which the suspended sentence was passed ; but if a warrant is so issued requiring him to be brought before a court of assize or quarter sessions and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a magistrates' court for the place where he is arrested and the latter court shall commit him in custody or on bail to that court of assize or quarter sessions or if, having regard to the time when and the place where he is likely to be dealt with in respect of the suspended sentence by that court, it would be more convenient that he should be dealt with by another court of assize or quarter sessions, to that other court:
- Provided that a magistrates' court shall not commit the offender to that other court in any case where it appears to the magistrates' court that he would thereby suffer hardship.
- (6) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland and vice versa) shall apply to any process issued by any judge or justice under this section as it applies to process issued under the Magistrates' Courts Act 1952 by a magistrates' court.