



Criminal Justice Act 1982

1982 CHAPTER 48

PART I

TREATMENT OF YOUNG OFFENDERS

Custody and detention of persons under 21

1 General restriction on custodial sentences.

- (1) Subject to subsection (2) below, no court shall pass a sentence of imprisonment on a person under 21 years of age or commit such a person to prison for any reason.
- (2) Nothing in subsection (1) above shall prevent the committal to prison of a person under 21 years of age who is remanded in custody or committed in custody for trial or sentence.
- ^{F1}(3)
- ^{F2}(5) No court shall commit a person under 21 years of age to be detained under section 9 below unless it is of the opinion that no other method of dealing with him is appropriate; and in forming any such opinion, the court—
 - (a) shall take into account all such information about the circumstances of the default or contempt (including any aggravating or mitigating factors) as is available to it; and
 - (b) may take into account any information about that person which is before it.
- (5A) Where a magistrates' court commits a person under 21 years of age to be detained under section 9 below, it shall—
 - (a) state in open court the reason for its opinion that no other method of dealing with him is appropriate; and
 - (b) cause that reason to be specified in the warrant of commitment and to be entered in the register.]

Status: Point in time view as at 01/10/1992.

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- (6) For the purposes of any provision of this Act which requires the determination of the age of a person by the court or the Secretary of State his age shall be deemed to be that which it appears to the court or the Secretary of State (as the case may be) to be after considering any available evidence.

Textual Amendments

- F1** S. 1(3)-(4A) repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(2), [Sch.13](#); [S.I. 1992/333](#), art. 2(2), [Sch.2](#)
- F2** S. 1(5)(5A) substituted (1.10.1992) for s. 1(5) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para.30](#); [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)

[^{F3}1A Detention in a young offender institution.

- (1) Subject to section 8 below and to section 53 of the Children and Young Persons Act ^{M1}1933, where—
- (a) [^{F4}an offender under 21 but not less than 15 years of age] is convicted of an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
- [the court is of the opinion that either or both of paragraphs (a) and (b) of
- ^{F5}(b) subsection (2) of section 1 of the Criminal Justice Act 1991 apply or the case falls within subsection (3) of that section,]
- the sentence that the court is to pass is a sentence of detention in a young offender institution.
- (2) Subject to [^{F6}section 1B(2)] below, the maximum term of detention in a young offender institution that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for that offence.
- (3) Subject to subsection (4) below [^{F7}. . .], a court shall not pass a sentence for an offender's detention in a young offender institution for less than [^{F8}the minimum period applicable to the offender under subsection (4A) below] .
- (4) A court may pass a sentence of detention in a young offender institution for less than [^{F9}the minimum period applicable] for an offence under [^{F10}section 65(6) of the Criminal Justice Act 1991].

[For the purposes of subsections (3) and (4) above, the minimum period of detention ^{F11}(4A) applicable to an offender is—

- (a) in the case of an offender under 21 but not less than 18 years of age, the period of 21 days; and
- (b) in the case of an offender under 18 years of age, the period of two months.]
- (5) Subject to section 1B(4) below, where—
- (a) an offender is convicted of more than one offence for which he is liable to a sentence of detention in a young offender institution; or
- (b) an offender who is serving a sentence of detention in a young offender institution is convicted of one or more further offences for which he is liable to such a sentence.

the court shall have the same power to pass consecutive sentences of detention in a young offender institution as if they were sentences of imprisonment.

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- (6) Where an offender who—
- (a) is serving a sentence of detention in a young offender institution, and
 - (b) is aged over 21 years.
- is convicted of one or more further offences for which he is liable to imprisonment, the court shall have the power to pass one or more sentences of imprisonment to run consecutively upon the sentence of detention in a young offender institution.]

Textual Amendments

- F3** Ss. 1A–1C inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(4), **Sch. 8 para. 16**
- F4** Words in s. 1A(1)(a) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(2)(a), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F5** S. 1A(1)(b) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 31(1)**; S.I. 1992/333, art. 2(2), **Sch. 2**
- F6** Words in s. 1A(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(2)(b), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F7** Words in s. 1A(3) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 63(2)(c), 101(2), **Sch. 13** (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F8** Words in s. 1A(3) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(2)(e), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F9** Words in s. 1A(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(2)(d), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F10** Words in s. 1A(4) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 100, **Sch. 11 para. 31(2)**; S.I. 1992/333, art. 2(2), **Sch.2**
- F11** S. 1A(4A) inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(2)(e), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

- M1** 1933 c.12(20).

[^{F12}1B Special provision for offenders under 17.

^{F13}(1)

- (2) In the case of an offender [^{F14}aged 15, 16 or 17] the maximum term of detention in a young offender institution that a court may impose is whichever is the lesser of—
- (a) the maximum term of imprisonment the court may impose for the offence; and
 - (b) 12 months.

^{F13}(3)

[A court shall not pass on an offender aged 15, 16 or 17 a sentence of detention in a ^{F15}(4) young offender institution whose effect would be that the offender would be sentenced to a total term which exceeds 12 months.

- (5) Where the total term of detention in a young offender institution to which an offender aged 15, 16 or 17 is sentenced exceeds 12 months, so much of the term as exceeds 12 months shall be treated as remitted.]
- (6) In this section “total term” means—

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- (a) in the case of an offender sentenced (whether or not on the same occasion) to two or more terms of detention in a young offender institution which are consecutive or wholly or partly concurrent, the aggregate of those terms;
- (b) in the case of any other offender, the term of the sentence of detention in a young offender institution in question.]

Textual Amendments

- F12** Ss. 1A–1C inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(4), **Sch. 8 para. 16**
- F13** S. 1B(1)(3) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), ss. 63(3)(a), 101(2), **Sch. 13** (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F14** Words in s. 1B(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(3)(b), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**
- F15** S. 1B(4)(5) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(3)(c), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**

[^{F16}1C Accommodation of offenders sentenced to detention in a young offender institution.

- (1) Subject to section 22(2)(b) of the Prison Act ^{M2}1952 (removal to hospital etc.), an offender sentenced to detention in a young offender institution shall be detained in such an institution unless a direction under this section is in force in relation to him.
- (2) The Secretary of State may from time to time direct that an offender sentenced to detention in a young offender institution shall be detained in a prison or remand centre instead of a young offender institution, but if he is [^{F17}under 18] at the time of the direction, only for a temporary purpose.]

Textual Amendments

- F16** Ss. 1A–1C inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 123(4), **Sch. 8 para. 16**
- F17** Words in s. 1C(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(4), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), **Sch.2**

Marginal Citations

- M2** 1952 c.52(39:1).

^{F18}2

Textual Amendments

- F18** S. 2 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

3 Restriction on imposing custodial sentences on persons under 21 not legally represented.

- (1) A magistrates’ court on summary conviction or the Crown Court on committal for sentence or on conviction on indictment shall not—

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- [^{F19}(a) pass a sentence of detention in a young offender institution under section 1A above;]
- (c) pass a sentence of custody for life under section 8(2) below; or
- (d) make an order for detention under section 53(2) of the ^{M3}Children and Young Persons Act 1933.

in respect of or on a person who is not legally represented in that court, unless either—

- (i) he applied for legal aid and the application was refused on the ground that it did not appear his means were such that he required assistance; or
- (ii) having been informed of his right to apply for legal aid and had the opportunity to do so, he refused or failed to apply.

- (2) For the purposes of this section a person is to be treated as legally represented in a court if, but only if, he has the assistance of counsel or a solicitor to represent him in the proceedings in that court at some time after he is found guilty and before he is sentenced, and in subsection (1)(i) and (ii) above “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial, it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed him.

Textual Amendments

F19 S. 3(1)(a) substituted (1.10.1992) for s. 3(1)(a)(b) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 100, [Sch. 11 para.32](#); [S.I. 1992/333](#), art. 2(2), [Sch.2](#)

Marginal Citations

M3 1933 c. 12.

4—7. ^{F20}

Textual Amendments

F20 Ss. 4–7 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para. 16](#), [Sch. 16](#)

8 Custody for life.

- (1) Where a person under the age of 21 is convicted of murder or any other offence the sentence for which is fixed by law as imprisonment for life, the court shall sentence him to custody for life unless he is liable to be detained under section 53(1) of the ^{M4}Children and Young Persons Act 1933 (detention of persons under 18 convicted of murder).
- (2) Where a person aged [^{F21}18 years] or over but under the age of 21 is convicted of any other offence for which a person aged 21 years or over would be liable to imprisonment for life, the court shall, if it considers that a custodial sentence for life would be appropriate, sentence him to custody for life.

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Textual Amendments

F21 Words in s. 8(2) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(5), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), Sch.2

Modifications etc. (not altering text)

C1 S. 8(2) modified (1.10.1997) by 1997 c. 43, s. 2(2)(b); S.I. 1997/2200, art. 2(1)(b)

Marginal Citations

M4 1933 c. 12.

9 Detention of persons aged 17 to 20 for default or contempt.

- (1) In any case where, but for section 1(1) above, a court would have power—
- to commit a person under 21 but not less than [^{F22}18 years] of age to prison for default in payment of a fine or any other sum of money; or
 - to make an order fixing a term of imprisonment in the event of such a default by such a person; or
 - to commit such a person to prison for contempt of court or any kindred offence,

the court shall have power, subject to section 1(5) above, to commit him to be detained under this section or, as the case may be, to make an order fixing a term of detention under this section in the event of default, for a term not exceeding the term of imprisonment.

- (2) For the purposes of subsection (1) above, the power of a court to order a person to be imprisoned under section 23 of the ^{M5}Attachment of Earnings Act 1971 shall be taken to be a power to commit him to prison.

Textual Amendments

F22 Words in s. 9(1)(a) substituted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 63(5), (with Sch. 12 para. 17); S.I. 1992/333, art. 2(2), Sch.2

Modifications etc. (not altering text)

- C2** S. 9 restricted by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), s. 6(2)(b)(6)
C3 S. 9 modified by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 75(3), Sch. 8 para. 16
C4 S. 9 modified (3.2.1995) by 1994 c. 37, ss. 9(2)(3)(6), 69(2) (with s. 66(2)).

Marginal Citations

M5 1971 c. 32.

10 Computation of custodial sentences for young offenders.

The following subsections shall be added at the end of section 67 of the ^{M6}Criminal Justice Act 1967 (reduction of custodial sentence by period already spent in custody)

—
“(5) This section applies—

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- (a) to orders made under section 4 of the Criminal Justice Act 1982 (detention centre orders); and
 - (b) to sentences passed by virtue of section 6 of the Criminal Justice Act 1982 (youth custody sentences),
- as it applies to sentences of imprisonment.
- (6) The reference in subsection (1) above to an offender being committed to custody by an order of a court includes a reference to his being committed to a remand centre or to prison under section 23 of the Children and Young Persons Act 1969 or section 37 of the Magistrates' Courts Act 1980 but does not include a reference to his being committed to the care of a local authority under the said section 23.”.

Marginal Citations

M6 1967 c. 80.

Status:

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