



Criminal Justice and Courts Services Act 2000

2000 CHAPTER 43

PART III

DEALING WITH OFFENDERS

CHAPTER II

MISCELLANEOUS

Young offenders: reprimands and warnings

56 Reprimands and warnings

- (1) In section 65 of the Crime and Disorder Act 1998 (reprimands and warnings)—
 - (a) for subsection (5)(a) there is substituted—
 - “(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and”
 - (b) in subsection (6), after paragraph (a) there is inserted—
 - “(aa) the places where reprimands and warnings may be given”.
- (2) In section 34 of the Police and Criminal Evidence Act 1984 (limitations on police detention), for subsection (5)(b) there is substituted—
 - “(b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the Crime and Disorder Act 1998”.

*Police powers: drugs***57 Testing persons in police detention**

- (1) The Police and Criminal Evidence Act 1984 is amended in accordance with subsections (2) to (4).
- (2) After section 63A there is inserted—

“63B Testing for presence of Class A drugs

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.
- (2) The first condition is—
 - (a) that the person concerned has been charged with a trigger offence; or
 - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.
- (3) The second condition is that the person concerned has attained the age of 18.
- (4) The third condition is that a police officer has requested the person concerned to give the sample.
- (5) Before requesting the person concerned to give a sample, an officer must—
 - (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
 - (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- (6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.
No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (7) Information obtained from a sample taken under this section may be disclosed—
 - (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976) to the person concerned;
 - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
 - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
 - (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

63C Testing for presence of Class A drugs: supplementary

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—
 “Class A drug” and “misuse” have the same meanings as in the Misuse of Drugs Act 1971;
 “specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”
- (3) In section 38 (duties of custody officer after charge)—
 (a) in subsection (1)(a), after sub-paragraph (iii) there is inserted—
 “(iiia) in the case of a person who has attained the age of 18, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under section 63B below”,
 (b) at the end of subsection (2) there is inserted “but may not authorise a person to be kept in police detention by virtue of subsection (1)(a)(iiia) after the end of the period of six hours beginning when he was charged with the offence”.
- (4) At the end of section 66 (codes of practice) there is inserted—
 “(2) Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B above.”
- (5) The Secretary of State may by order amend section 63B(2) of that Act so as to extend it to persons who have been arrested for (but not charged with) the offences in question.

*Bail***58 Right to bail: relevance of drug misuse**

In section 4 of the Bail Act 1976 (general right to bail), after subsection (8) there is inserted—

“(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the Misuse of Drugs Act 1971).”

*Detention***59 Remand centres**

In section 43(1) of the Prison Act 1952 (places of detention provided by Secretary of State), paragraph (a) (remand centres) is to cease to have effect.

60 Life sentences: tariffs

(1) After section 82 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

*“Life sentences***82A Determination of tariffs**

- (1) This section applies if a court passes a life sentence in circumstances where—
 - (a) the sentence is not fixed by law; or
 - (b) the offender was aged under 18 when he committed the offence.
- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
 - (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
 - (b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and
 - (c) the early release provisions as compared with sections 33(2) and 35(1) of the Criminal Justice Act 1991.
- (4) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that,

subject to subsection (5) below, the early release provisions shall not apply to the offender.

(5) If, in a case where an order under subsection (4) above is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall at the appropriate stage direct that the early release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(6) The appropriate stage, for the purposes of subsection (5) above, is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.

(7) In this section—

“court” includes a court-martial;

“life sentence” has the same meaning as in Chapter II of Part II of the Crime (Sentences) Act 1997.

(8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.”

(2) In section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders who commit murder when under 18: duty to detain at Her Majesty’s pleasure), after “murder” there is inserted “or any other offence the sentence for which is fixed by law as life imprisonment”; and, in the sidenote, after “murder” there is inserted “etc.”.

(3) This section has effect in relation to sentences passed after the coming into force of this section.

(4) In relation to any time before the coming into force of section 87 of the Powers of Criminal Courts (Sentencing) Act 2000, section 82A of that Act shall have effect as if, in paragraph (b) of subsection (3), for “of any direction which it would have given under section 87 below (crediting periods of remand in custody)” there were substituted “which section 67 of the Criminal Justice Act 1967 would have had”.

61 Abolition of sentences of detention in a young offender institution, custody for life, etc

(1) No court is to pass a sentence of detention in a young offender institution or a sentence of custody for life, and no court is to make a custodial order except in relation to a person who is aged at least 17 but under 18.

(2) No court is to commit a person to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt) or make an order fixing a term of detention under that section.

(3) A person who—

(a) has been sentenced (before the coming into force of this section) to a term of detention in a young offender institution, to custody for life or to a custodial order, and

(b) is aged at least 18 but under 21,

may be detained in a young offender institution, or in a prison, determined by the Secretary of State.

Status: This is the original version (as it was originally enacted).

- (4) A person—
- (a) who has been committed (before the coming into force of this section) to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 or in respect of whom an order fixing a term of detention under that section has been made (before the coming into force of this section), and
 - (b) who is aged under 21,
- may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (5) A person who has been sentenced to imprisonment and is aged under 21 may be detained—
- (a) in a prison, or
 - (b) in a young offender institution in which one or more persons mentioned in subsection (3) or (4) are detained,
- determined by the Secretary of State.
- (6) A determination of the Secretary of State under this section may be made in respect of an individual or any description of individuals.
- (7) The repeal by this Act of section 106(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (interaction of sentences of detention in a young offender institution) does not affect the validity of any order made, or having effect as if made, under paragraph (b) of that subsection.
- (8) In this section—
- “court” includes a court-martial and a Standing Civilian Court,
- “custodial order” means an order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the Army Act 1955,
 - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the Air Force Act 1955,
 - (c) section 43AA of, or paragraph 10 of Schedule 4A to, the Naval Discipline Act 1957.
- (9) On the coming into force of this section—
- (a) paragraph (b) of the definition of “qualifying sentence” in section 30(1), and
 - (b) paragraph (b) of the definition of “relevant sentence” in section 69(7),
- are omitted.

Release of prisoners on licence etc.

62 Release on licence etc: conditions as to monitoring

- (1) This section applies where a sentence of imprisonment has been imposed on a person and, by virtue of any enactment—
- (a) the Secretary of State is required to, or may, release the person from prison, and
 - (b) the release is required to be, or may be, subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) The conditions may include—

- (a) conditions for securing the electronic monitoring of his compliance with any other conditions of his release,
 - (b) conditions for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with other conditions of his release).
- (3) In relation to a prisoner released under section 34A(3) of the Criminal Justice Act 1991 (power to release short-term prisoners on licence) the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 37A of that Act (curfew conditions).
- (4) The Secretary of State may make rules about the conditions that may be imposed by virtue of this section.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
 - (b) a sentence of detention in a young offender institution,
 - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
 - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
 - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

63 Supervision of young offenders after release

- (1) Section 65 of the Criminal Justice Act 1991 is amended as follows.
- (2) After subsection (5) there is inserted—
- “(5A) The requirements that may be specified in a notice under subsection (5) above include—
- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
 - (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);
 - (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
 - (b) his term of detention was imposed for a trigger offence; and
 - (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.

Status: This is the original version (as it was originally enacted).

- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.
- (5D) The function of giving such an instruction as is mentioned in subsection (5A) (c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.”
- (3) After subsection (8) there is inserted—
- “(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”

64 Release on licence etc: drug testing requirements

- (1) This section applies where—
- (a) the Secretary of State releases from prison a person aged 18 or over on whom a sentence of imprisonment has been imposed for a trigger offence, and
 - (b) the release is subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) For the purpose of determining whether the person is complying with any of the conditions, they may include the following requirement.
- (3) The requirement is that the person must provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (4) The function of giving such an instruction is to be exercised in accordance with guidance given from time to time by the Secretary of State; and regulations made by the Secretary of State may regulate the provision of samples in pursuance of such an instruction.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
 - (b) a sentence of detention in a young offender institution,
 - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
 - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
 - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

65 Short-term prisoners: release subject to curfew conditions

In section 34A of the Criminal Justice Act 1991 (power to release short-term prisoners on licence), after subsection (2)(d) there is inserted—

“(da) the prisoner is subject to the notification requirements of Part I of the Sex Offenders Act 1997;”.

Sexual or violent offenders

66 Amendments of the Sex Offenders Act 1997

Schedule 5 (which amends the Sex Offenders Act 1997 in respect of persons who are subject to the notification requirements of that Act to make provision, in particular, for—

- (a) altering the requirements,
- (b) increasing penalties,
- (c) enabling courts to make restraining orders, and
- (d) improving the information held about such persons),

is to have effect.

67 Arrangements for assessing etc. risks posed by certain offenders

(1) In this section—

“relevant sexual or violent offender” has the meaning given by section 68, and

“responsible authority”, in relation to any area, means the chief officer of police and the local probation board for that area acting jointly.

(2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—

- (a) relevant sexual or violent offenders, and
- (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public.

(3) The responsible authority for each area must keep the arrangements established by it under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.

(4) As soon as practicable after the end of the period of 12 months beginning with the coming into force of this section and each subsequent period of 12 months, the responsible authority for each area must—

- (a) prepare a report on the discharge by it during that period of the functions conferred by this section, and
- (b) publish the report in that area.

(5) The report must include—

- (a) details of the arrangements established by the responsible authority, and
- (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

- (6) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section.

68 Section 67: interpretation

- (1) For the purposes of section 67, a person is a relevant sexual or violent offender if he falls within one or more of subsections (2) to (5).
- (2) A person falls within this subsection if he is subject to the notification requirements of Part I of the Sex Offenders Act 1997.
- (3) A person falls within this subsection if—
- (a) he is convicted by a court in England or Wales of a sexual or violent offence (within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000), and
 - (b) one of the following sentences is imposed on him in respect of the conviction—
 - (i) a sentence of imprisonment for a term of 12 months or more,
 - (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (iii) a sentence of detention during Her Majesty’s pleasure,
 - (iv) a sentence of detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
 - (v) a detention and training order for a term of 12 months or more, or
 - (vi) a hospital or guardianship order within the meaning of the Mental Health Act 1983.
- (4) A person falls within this subsection if—
- (a) he is found not guilty by a court in England or Wales of a sexual or violent offence (within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000) by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and
 - (b) one of the following orders is made in respect of the act charged against him as the offence—
 - (i) an order that he be admitted to hospital, or
 - (ii) a guardianship order within the meaning of the Mental Health Act 1983.
- (5) A person falls within this subsection if the first condition set out in section 28(2) or 29(2) or the second condition set out in section 28(3) or 29(3) is satisfied in his case.
- (6) In this section “court” does not include a court-martial or the Courts-Martial Appeal Court.

69 Duties of local probation boards in connection with victims of certain offences

- (1) This section applies in a case where a court—
- (a) convicts an offender of a sexual or violent offence, and
 - (b) imposes a relevant sentence on him in respect of that conviction.

- (2) In cases where this section applies, the local probation board for the area in which the offender is sentenced must take all reasonable steps to ascertain whether any appropriate person wishes to—
- (a) make representations about whether the offender should be subject to any conditions or requirements on his release and, if so, what conditions or requirements, or
 - (b) receive information about any conditions or requirements to which the offender is to be subject on his release.
- (3) In this section, “appropriate person”, in relation to an offence, means any person who appears to the local probation board in question to be, or to act for, the victim of the offence (“the victim”).
- (4) Where it is ascertained that an appropriate person wishes to make representations in accordance with paragraph (a) of subsection (2), the relevant local probation board must forward those representations to the person responsible for determining the matters mentioned in that paragraph.
- (5) Where it is ascertained that an appropriate person wishes to receive information in accordance with subsection (2)(b), the relevant local probation board must take all reasonable steps—
- (a) to inform that person whether or not the offender is to be subject to any conditions or requirements on his release,
 - (b) if the offender is to be subject to any such conditions or requirements, to provide that person with details of any conditions or requirements which relate to contact with the victim or his family, and
 - (c) to provide that person with such other information as is considered by that local probation board to be appropriate in all the circumstances of the case.
- (6) For the purposes of subsections (4) and (5), “relevant local probation board” means—
- (a) where the offender is to be supervised on release by an officer of a local probation board, that local probation board,
 - (b) in any other case, the local probation board for the area in which the prison or other place of detention from which the offender is to be released is situated.
- (7) In this section—
- “conditions” means conditions in a licence,
- “court” does not include a court-martial or the Courts-Martial Appeal Court,
- “relevant sentence” means—
- (a) a sentence of imprisonment for a term of 12 months or more,
 - (b) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (c) a sentence of detention during Her Majesty’s pleasure,
 - (d) a sentence of detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences), or
 - (e) a detention and training order for a term of 12 months or more,
- “requirements” means requirements specified in a notice under section 65(5) of the Criminal Justice Act 1991 (requirements imposed in connection with supervision of young offenders after release).

Status: This is the original version (as it was originally enacted).

- (8) An offence is a sexual or violent offence for the purposes of this section if it is—
- (a) a sexual or violent offence within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000,
 - (b) an offence in respect of which the offender is subject to the notification requirements of Part I of the Sex Offenders Act 1997, or
 - (c) an offence against a child within the meaning of Part II of this Act.
- (9) This section has effect in relation to cases where the relevant sentence is imposed after the section comes into force.