



Powers of Criminal Courts (Sentencing) Act 2000

2000 CHAPTER 6

PART VI

FINANCIAL PENALTIES AND ORDERS

Financial circumstances orders

^{F1}126 Powers to order statement as to offender's financial circumstances.

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Textual Amendments

F1 Ss. 126-129 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

Fines: general

^{F1}127 General power of Crown Court to fine offender convicted on indictment.

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Textual Amendments

F1 Ss. 126-129 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 44\(4\)\(r\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#),

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art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F1 128 Fixing of fines.

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Textual Amendments

F1 Ss. 126-129 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

F1 129 Remission of fines.

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Textual Amendments

F1 Ss. 126-129 repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(r) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2; S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by S.I. 2009/3111, art. 2; (3.12.2012) by S.I. 2012/2905, art. 4; (3.12.2012) by 2012 c. 10, Sch. 14 para. 17; S.I. 2012/2906, art. 2(l))

Compensation orders

130 Compensation orders against convicted persons.

- (1) A court by or before which a person is convicted of an offence, instead of or in addition to dealing with him in any other way, may, on application or otherwise, make an order (in this Act referred to as a “compensation order”) requiring him—
 - (a) to pay compensation for any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentence; or
 - (b) to make payments for funeral expenses or bereavement in respect of a death resulting from any such offence, other than a death due to an accident arising out of the presence of a motor vehicle on a road;

but this is subject to the following provisions of this section and to section 131 below.

- (2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under [F2a provision mentioned in subsection (2ZA)], subsection (1) above shall have effect as if the words “instead of or” were omitted.

[F3(2ZA) The provisions referred to in subsection (2) are—

- (a) section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;

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- (b) section 51A(2) of the Firearms Act 1968;
- (c) section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988;
- (d) section 110(2) or 111(2) of this Act;
- (e) section 224A, 225(2) or 226(2) of the Criminal Justice Act 2003;
- (f) section 29(4) or (6) of the Violent Crime Reduction Act 2006.]

[^{F4}(2A) A court must consider making a compensation order in any case where this section empowers it to do so.]

- (3) A court shall give reasons, on passing sentence, if it does not make a compensation order in a case where this section empowers it to do so.
- (4) Compensation under subsection (1) above shall be of such amount as the court considers appropriate, having regard to any evidence and to any representations that are made by or on behalf of the accused or the prosecutor.
- (5) In the case of an offence under the ^{M1}Theft Act 1968 [^{F5}or Fraud Act 2006] , where the property in question is recovered, any damage to the property occurring while it was out of the owner's possession shall be treated for the purposes of subsection (1) above as having resulted from the offence, however and by whomever the damage was caused.
- (6) A compensation order may only be made in respect of injury, loss or damage (other than loss suffered by a person's dependants in consequence of his death) which was due to an accident arising out of the presence of a motor vehicle on a road, if—
 - (a) it is in respect of damage which is treated by subsection (5) above as resulting from an offence under the ^{M2}Theft Act 1968 [^{F6}or Fraud Act 2006] ; or
 - (b) it is in respect of injury, loss or damage as respects which—
 - (i) the offender is uninsured in relation to the use of the vehicle; and
 - (ii) compensation is not payable under any arrangements to which the Secretary of State is a party.
- (7) Where a compensation order is made in respect of injury, loss or damage due to an accident arising out of the presence of a motor vehicle on a road, the amount to be paid may include an amount representing the whole or part of any loss of or reduction in preferential rates of insurance attributable to the accident.
- (8) A vehicle the use of which is exempted from insurance by section 144 of the ^{M3}Road Traffic Act 1988 is not uninsured for the purposes of subsection (6) above.
- (9) A compensation order in respect of funeral expenses may be made for the benefit of anyone who incurred the expenses.
- (10) A compensation order in respect of bereavement may be made only for the benefit of a person for whose benefit a claim for damages for bereavement could be made under section 1A of the ^{M4}Fatal Accidents Act 1976; and the amount of compensation in respect of bereavement shall not exceed the amount for the time being specified in section 1A(3) of that Act.
- (11) In determining whether to make a compensation order against any person, and in determining the amount to be paid by any person under such an order, the court shall have regard to his means so far as they appear or are known to the court.
- (12) Where the court considers—

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- (a) that it would be appropriate both to impose a fine and to make a compensation order, but
 - (b) that the offender has insufficient means to pay both an appropriate fine and appropriate compensation,
- the court shall give preference to compensation (though it may impose a fine as well).

Textual Amendments

- F2** Words in s. 130(2) substituted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 5 para. 6\(2\)](#); S.I. 2015/1463, art. 2(b)
- F3** S. 130(2ZA) inserted (17.7.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 5 para. 6\(3\)](#); S.I. 2015/1463, art. 2(b)
- F4** S. 130(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 63\(1\), 151\(1\)](#); S.I. 2012/2906, art. 2(a)
- F5** Words in s. 130(5) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 15\(1\), Sch. 1 para. 29](#); S.I. 2006/3200, art. 2
- F6** Words in s. 130(6)(a) inserted (15.1.2007) by [Fraud Act 2006 \(c. 35\), s. 15\(1\), Sch. 1 para. 29](#); S.I. 2006/3200, art. 2

Marginal Citations

- M1** 1968 c. 60.
- M2** 1968 c. 60.
- M3** 1988 c. 52.
- M4** 1976 c. 30.

131 Limit on amount payable under compensation order of magistrates' court [^{F7} in case of young offender].

[^{F8}(A1) This section applies if (but only if) a magistrates' court has convicted a person aged under 18 (“the offender”) of an offence or offences.]

- (1) The compensation to be paid under a compensation order made by [^{F9}the court in respect of the offence, or any one of the offences,] shall not exceed £5,000.
- (2) The compensation or total compensation to be paid under a compensation order or compensation orders made by [^{F10}the] court in respect of any offence or offences taken into consideration in determining sentence shall not exceed the difference (if any) between—
 - (a) the amount or total amount which under subsection (1) above is the maximum for the offence or offences of which the offender has been convicted; and
 - (b) the amount or total amounts (if any) which are in fact ordered to be paid in respect of that offence or those offences.

Textual Amendments

- F7** Words in s. 131 title inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(5\)](#) (with [Sch. 16 para. 10](#)); S.I. 2013/2981, art. 2(d)
- F8** S. 131(A1) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(2\)](#) (with [Sch. 16 para. 10](#)); S.I. 2013/2981, art. 2(d)
- F9** Words in s. 131(1) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(3\)](#) (with [Sch. 16 para. 10](#)); S.I. 2013/2981, art. 2(d)

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F10 Word in s. 131(2) substituted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 16 para. 8\(4\)](#) (with [Sch. 16 para. 10](#)); [S.I. 2013/2981, art. 2\(d\)](#)

Modifications etc. (not altering text)

C1 Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\), ss. 4\(12\), 12](#); [S.I. 2013/2622, art. 2](#); [S.I. 2013/2861, art. 2](#)

132 Compensation orders: appeals etc.

- (1) A person in whose favour a compensation order is made shall not be entitled to receive the amount due to him until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the order could be varied or set aside.
- (2) [^{F11}Criminal Procedure Rules] may make provision regarding the way in which the magistrates' court for the time being having functions (by virtue of section 41(1) of the ^{M5}Administration of Justice Act 1970) in relation to the enforcement of a compensation order is to deal with money paid in satisfaction of the order where the entitlement of the person in whose favour it was made is suspended.
- (3) The Court of Appeal may by order annul or vary any compensation order made by the court of trial, although the conviction is not quashed; and the order, if annulled, shall not take effect and, if varied, shall take effect as varied.
- (4) Where the [^{F12}Supreme Court] restores a conviction, it may make any compensation order which the court of trial could have made.

[^{F13}(4A) Where an order is made in respect of a person under subsection (3) or (4) above, the Court of Appeal or House of Lords shall make such order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or such variation of the order of the Crown Court under that section, as is necessary to secure that the person's liability under that section is the same as it would be if he were being dealt with by the Crown Court.]

- (5) Where a compensation order has been made against any person in respect of an offence taken into consideration in determining his sentence—
 - (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
 - (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.

Textual Amendments

F11 Words in s. 132(2) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\), art. 2\(1\), Sch. para. 42](#) (with [art. 2\(2\)](#))

F12 Words in s. 132(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 69](#); [S.I. 2009/1604, art. 2\(d\)](#)

F13 S. 132(4A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 49](#); [S.I. 2007/602, art. 2\(c\)](#)

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Modifications etc. (not altering text)

C1 Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\), ss. 4\(12\), 12; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2](#)

Marginal Citations

M5 1970 c. 31.

133 Review of compensation orders.

- (1) The magistrates' court for the time being having functions in relation to the enforcement of a compensation order (in this section referred to as "the appropriate court") may, on the application of the person against whom the compensation order was made, discharge the order or reduce the amount which remains to be paid; but this is subject to subsections (2) to (4) below.
- (2) The appropriate court may exercise a power conferred by subsection (1) above only—
 - (a) at a time when (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of an appeal on which the compensation order could be varied or set aside; and
 - (b) at a time before the person against whom the compensation order was made has paid into court the whole of the compensation which the order requires him to pay.
- (3) The appropriate court may exercise a power conferred by subsection (1) above only if it appears to the court—
 - (a) that the injury, loss or damage in respect of which the compensation order was made has been held in civil proceedings to be less than it was taken to be for the purposes of the order; or
 - (b) in the case of a compensation order in respect of the loss of any property, that the property has been recovered by the person in whose favour the order was made; or
 - (c) that the means of the person against whom the compensation order was made are insufficient to satisfy in full both the order and a confiscation order under Part VI of the ^{M6}Criminal Justice Act 1988 [^{F14}, or Part 2 of the Proceeds of Crime Act 2002,]^{F15} or an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 (or both).] made against him in the same proceedings; or
 - (d) that the person against whom the compensation order was made has suffered a substantial reduction in his means which was unexpected at the time when the order was made, and that his means seem unlikely to increase for a considerable period.
- (4) Where the compensation order was made by the Crown Court, the appropriate court shall not exercise any power conferred by subsection (1) above in a case where it is satisfied as mentioned in paragraph (c) or (d) of subsection (3) above unless it has first obtained the consent of the Crown Court.
- (5) Where a compensation order has been made on appeal, for the purposes of subsection (4) above it shall be deemed—
 - (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;

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- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

Textual Amendments

- F14** Words in s. 133(3)(c) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), **Sch. 11 para. 37(3)**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- F15** Words in s. 133(3)(c) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, **Sch. para. 9**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

Modifications etc. (not altering text)

- C1** Ss. 131-133 applied (with modifications) (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), **ss. 4(12), 12**; S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

Marginal Citations

- M6** 1988 c. 33.

134 Effect of compensation order on subsequent award of damages in civil proceedings.

- (1) This section shall have effect where a compensation order, or a service compensation order ^{F16}..., has been made in favour of any person in respect of any injury, loss or damage and a claim by him in civil proceedings for damages in respect of the injury, loss or damage subsequently falls to be determined.
- (2) The damages in the civil proceedings shall be assessed without regard to the order ^{F17}..., but the plaintiff may only recover an amount equal to the aggregate of the following—
- any amount by which they exceed the compensation; and
 - a sum equal to any portion of the compensation which he fails to recover, and may not enforce the judgment, so far as it relates to a sum such as is mentioned in paragraph (b) above, without the leave of the court.

[^{F18}(3) In this section “service compensation order” means a service compensation order under the Armed Forces Act 2006.]

Textual Amendments

- F16** Words in s. 134(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), Sch. 16 para. 167(2), **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F17** Words in s. 134(2) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), Sch. 16 para. 167(2), **Sch. 17**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F18** S. 134(3) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 167(3)**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

Modifications etc. (not altering text)

- C2** S. 134(1) modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 45(4)**

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Young offenders

135 Limit on fines imposed by magistrates' courts in respect of young offenders.

- (1) Where a person aged under 18 is found guilty by a magistrates' court of an offence for which, apart from this section, the court would have power to impose a fine of an amount exceeding £1,000, the amount of any fine imposed by the court shall not exceed £1,000.
- (2) In relation to a person aged under 14, subsection (1) above shall have effect as if for "£1,000", in both places where it occurs, there were substituted "£250".

136 Power to order statement as to financial circumstances of parent or guardian.

- (1) Before exercising its powers under section 137 below (power to order parent or guardian to pay fine, costs [^{F19}, compensation or surcharge]) against the parent or guardian of an individual who has been convicted of an offence, the court may make a financial circumstances order with respect to the parent or (as the case may be) guardian.
- (2) In this section "financial circumstances order" has the meaning given by subsection (3) of [^{F20}section 162 of the Criminal Justice Act 2003], and subsections (4) to (6) of that section shall apply in relation to a financial circumstances order made under this section as they apply in relation to such an order made under that section.

Textual Amendments

F19 Words in s. 136(1) substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 50](#); [S.I. 2007/602](#), art. 2(c)

F20 Words in s. 136(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 118](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\)](#), [50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(l))

137 Power to order parent or guardian to pay fine, costs [^{F21}, compensation or surcharge] .

- (1) Where—
 - (a) a child or young person (that is to say, any person aged under 18) is convicted of any offence for the commission of which a fine or costs may be imposed or a compensation order may be made, and
 - (b) the court is of the opinion that the case would best be met by the imposition of a fine or costs or the making of such an order, whether with or without any other punishment,

the court shall order that the fine, compensation or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—

- (i) that the parent or guardian cannot be found; or
- (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.

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- [^{F22}(1A) Where but for this subsection a court would order a child or young person to pay a surcharge under section 161A of the Criminal Justice Act 2003, the court shall order that the surcharge be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—
- (a) that the parent or guardian cannot be found; or
 - (b) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.]
- (2) Where but for this subsection a court would impose a fine on a child or young person under—
- [^{F23}(za) paragraph 6(2)(a) or 8(2)(a) of Schedule 2 to the Criminal Justice and Immigration Act 2008 (breach of youth rehabilitation order),]
 - [^{F24}(a) paragraph 4(1)(a) or 5(1)(a) of Schedule 3 to this Act (breach of curfew, probation, community service, combination or drug treatment and testing order),
 - (b) paragraph 2(1)(a) of Schedule 5 to this Act (breach of attendance centre order or attendance centre rules),
 - (c) paragraph 2(2)(a) of Schedule 7 to this Act (breach of supervision order),]
 - (d) paragraph 2(2)(a) of Schedule 8 to this Act (breach of ^{F25}... reparation order),
 - (e) section 104(3)(b) above (breach of requirements of supervision under a detention and training order), or
 - (f) section 4(3)(b) of the ^{M7}Criminal Justice and Public Order Act 1994 (breach of requirements of supervision under a secure training order),
- the court shall order that the fine be paid by the parent or guardian of the child or young person instead of by the child or young person himself, unless the court is satisfied—
- (i) that the parent or guardian cannot be found; or
 - (ii) that it would be unreasonable to make an order for payment, having regard to the circumstances of the case.
- (3) In the case of a young person aged 16 or over, [^{F26}subsections (1) to (2)] above shall have effect as if, instead of imposing a duty, they conferred a power to make such an order as is mentioned in those subsections.
- (4) Subject to subsection (5) below, no order shall be made under this section without giving the parent or guardian an opportunity of being heard.
- (5) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so.
- (6) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates' court.
- (7) A parent or guardian may appeal to the Court of Appeal against an order under this section made by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.
- (8) In relation to a child or young person for whom a local authority have parental responsibility and who—
- (a) is in their care, or
 - (b) is provided with accommodation by them in the exercise of any functions (in particular those under the ^{M8}Children Act 1989) which ^{F27}[^{F28}are social

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services functions within the meaning of] the ^{M9}Local Authority Social Services Act 1970,

references in this section to his parent or guardian shall be construed as references to that authority.

(9) In subsection (8) above “local authority” and “parental responsibility” have the same meanings as in the ^{M10}Children Act 1989.

Textual Amendments

- F21** Words in s. 137 heading substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 51\(2\)](#); S.I. 2007/602, art. 2(c)
- F22** S. 137(1A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 51\(3\)](#); S.I. 2007/602, art. 2(c)
- F23** S. 137(2)(za) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 57\(a\)](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(viii)
- F24** S. 137(2)(a)-(c) repealed (30.11.2009 for specified purposes) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 57\(b\), Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(u)(vii)
- F25** Words in s. 137(2)(d) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 4 para. 57\(c\), Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 15](#)); S.I. 2009/3074, art. 2(p)(u)(vii)
- F26** Words in s. 137(3) substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 51\(4\)](#); S.I. 2007/602, art. 2(c)
- F27** Words in s. 137(8)(b) substituted (W.) (1.4.2002) by [S.I. 2002/808, art. 34](#)
- F28** Words in s. 137(8)(b) substituted (E.) (11.7.2001) by [S.I. 2001/2237, art. 38](#)

Marginal Citations

- M7** 1994 c. 33.
- M8** 1989 c. 41.
- M9** 1970 c. 42.
- M10** 1989 c. 41.

138 Fixing of fine [^{F29}, compensation or surcharge] to be paid by parent or guardian.

(1) For the purposes of any order under section 137 above made against the parent or guardian of a child or young person—

- [^{F30}(za) subsection (3) of section 161A of the Criminal Justice Act 2003 (surcharges) and subsection (4A) of section 164 of that Act (fixing of fines) shall have effect as if any reference in those subsections to the offender’s means were a reference to those of the parent or guardian;]
- (a) [^{F31}section 164 of the Criminal Justice Act 2003] (fixing of fines) shall have effect as if any reference in subsections (1) to (4) to the financial circumstances of the offender were a reference to the financial circumstances of the parent or guardian, and as if subsection (5) were omitted;
- (b) section 130(11) above (determination of compensation order) shall have effect as if any reference to the means of the person against whom the compensation order is made were a reference to the financial circumstances of the parent or guardian; and
- (c) section 130(12) above (preference to be given to compensation if insufficient means to pay both compensation and a fine) shall have effect as if the reference to the offender were a reference to the parent or guardian;

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but in relation to an order under section 137 made against a local authority this subsection has effect subject to subsection (2) below.

- (2) For the purposes of any order under section 137 above made against a local authority, [F32]section 164(1) of the Criminal Justice Act 2003 and section] 130(11) above shall not apply.
- (3) For the purposes of any order under section 137 above, where the parent or guardian of an offender who is a child or young person—
- (a) has failed to comply with an order under section 136 above, or
 - (b) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

and the court considers that it has insufficient information to make a proper determination of the parent's or guardian's financial circumstances, it may make such determination as it thinks fit.

- (4) Where a court has, in fixing the amount of a fine, determined the financial circumstances of a parent or guardian under subsection (3) above, subsections (2) to (4) of [F33]section 165 of the Criminal Justice Act 2003] (remission of fines) shall (so far as applicable) have effect as they have effect in the case mentioned in [F34]section 165(1)], but as if the reference in [F35]section 165(2)] to the offender's financial circumstances were a reference to the financial circumstances of the parent or guardian.

- (5) In this section “local authority” has the same meaning as in the ^{M11}Children Act 1989.

Textual Amendments

- F29** Words in s. 138 heading substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 52\(2\)](#); S.I. 2007/602, art. 2(c)
- F30** S. 138(za) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), s. 60, Sch. 10 para. 52\(3\)](#); S.I. 2007/602, art. 2(c)
- F31** Words in s. 138(1)(a) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(2\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F32** Words in s. 138(2) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(3\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F33** Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(a\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))
- F34** Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(b\)](#); S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (with Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, art. 2; and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); S.I. 2008/1586, Sch. 1 paras. 48(s), 50(2)(d); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); S.I. 2012/2906, art. 2(l))

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F35 Words in s. 138(4) substituted (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 32 para. 119\(4\)\(c\)](#); [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (with [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122, art. 2](#); and as amended: (14.7.2008) by [2008 c. 4, Sch. 26 para. 78, Sch. 28 Pt. 2](#); [S.I. 2008/1586, Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111, art. 2](#); (3.12.2012) by [S.I. 2012/2905, art. 4](#); (3.12.2012) by [2012 c. 10, Sch. 14 para. 17](#); [S.I. 2012/2906, art. 2\(l\)](#))

Marginal Citations

M11 [1989 c. 41](#).

Miscellaneous powers and duties of Crown Court in relation to fines etc.

139 Powers and duties of Crown Court in relation to fines and forfeited recognizances.

- (1) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court may make an order—
 - (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
 - (b) directing payment of that amount by instalments of such amounts and on such dates as may be specified in the order;
 - (c) in the case of a recognizance, discharging the recognizance or reducing the amount due under it.
- (2) Subject to the provisions of this section, if the Crown Court imposes a fine on any person or forfeits his recognizance, the court shall make an order fixing a term of imprisonment or of detention under section 108 above (detention of persons aged 18 to 20 for default) which he is to undergo if any sum which he is liable to pay is not duly paid or recovered.
- (3) No person shall on the occasion when a fine is imposed on him or his recognizance is forfeited by the Crown Court be committed to prison or detained in pursuance of an order under subsection (2) above unless—
 - (a) in the case of an offence punishable with imprisonment, he appears to the court to have sufficient means to pay the sum forthwith;
 - (b) it appears to the court that he is unlikely to remain long enough at a place of abode in the United Kingdom to enable payment of the sum to be enforced by other methods; or
 - (c) on the occasion when the order is made the court sentences him to immediate imprisonment, custody for life or detention in a young offender institution for that or another offence, or so sentences him for an offence in addition to forfeiting his recognizance, or he is already serving a sentence of custody for life or a term—
 - (i) of imprisonment;
 - (ii) of detention in a young offender institution; or
 - (iii) of detention under section 108 above.
- (4) The periods set out in the second column of the following Table shall be the maximum periods of imprisonment or detention under subsection (2) above applicable respectively to the amounts set out opposite them.

Table

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An amount not exceeding £200	7 days
An amount exceeding £200 but not exceeding £500	14 days
An amount exceeding £500 but not exceeding £1,000	28 days
An amount exceeding £1,000 but not exceeding £2,500	45 days
An amount exceeding £2,500 but not exceeding £5,000	3 months
An amount exceeding £5,000 but not exceeding £10,000	6 months
An amount exceeding £10,000 but not exceeding £20,000	12 months
An amount exceeding £20,000 but not exceeding £50,000	18 months
An amount exceeding £50,000 but not exceeding £100,000	2 years
An amount exceeding £100,000 but not exceeding £250,000	3 years
An amount exceeding £250,000 but not exceeding £1 million	5 years
An amount exceeding £1 million	10 years

- (5) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment or detention in a young offender institution or a term of detention under section 108 above, the court may order that any term of imprisonment or detention fixed under subsection (2) above shall not begin to run until after the end of the first-mentioned term.
- (6) The power conferred by this section to discharge a recognizance or reduce the amount due under it shall be in addition to the powers conferred by any other Act relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited under recognizances.
- (7) Subject to subsection (8) below, the powers conferred by this section shall not be taken as restricted by any enactment which authorises the Crown Court to deal with an offender in any way in which a magistrates' court might have dealt with him or could deal with him.
- (8) Any term fixed under subsection (2) above as respects a fine imposed in pursuance of such an enactment, that is to say a fine which the magistrates' court could have imposed, shall not exceed the period applicable to that fine (if imposed by the magistrates' court) under section 149(1) of the ^{M12}Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).
- (9) This section shall not apply to a fine imposed by the Crown Court on appeal against a decision of a magistrates' court, but subsections (2) to (4) above shall apply in relation

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to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the [^{F36}Supreme Court] on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court, and the references to the Crown Court in subsections (2) and (3) above shall be construed accordingly.

- (10) For the purposes of any reference in this section, however expressed, to the term of imprisonment or other detention to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall, unless the context otherwise requires, be treated as a single term.
- (11) Any reference in this section, however expressed, to a previous sentence shall be construed as a reference to a previous sentence passed by a court in Great Britain.

Textual Amendments

F36 Words in s. 139(9) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 69](#); S.I. 2009/1604, art. 2(d)

Modifications etc. (not altering text)

- C3** S. 139(2)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 35\(2\), 458\(1\)](#); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- C4** S. 139(2)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 36\(2\), 458\(1\)](#); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- C5** S. 139(2)(3) applied (with modifications) by 2002 c. 29, s. 35(2) (as amended) (1.6.2015) by [Serious Crime Act 2015 \(c. 9\), s. 88\(1\), Sch. 4 para. 30](#); S.I. 2015/820, reg. 3(q)(iii)
- C6** S. 139(4) applied by 2006 c. 52, s. 269A(2) (as inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\), ss. 16\(1\), 32\(3\)](#); S.I. 2013/2501, art. 3(e))
- C7** S. 139(4) applied by 2006 c. 52, s. 269B(4) (as inserted (1.11.2013) by [Armed Forces Act 2011 \(c. 18\), ss. 16\(1\), 32\(3\)](#); S.I. 2013/2501, art. 3(e))
- C8** S. 139(9) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 36\(2\), 458\(1\)](#); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- C9** S. 139(9) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 35\(2\), 458\(1\)](#); S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- C10** S. 139(9) applied (with modifications) by 2002 c. 29, s. 35(2) (as amended) (1.6.2015) by [Serious Crime Act 2015 \(c. 9\), s. 88\(1\), Sch. 4 para. 30](#); S.I. 2015/820, reg. 3(q)(iii)

Marginal Citations

M12 1979 c. 2.

140 Enforcement of fines imposed and recognizances forfeited by Crown Court.

- (1) Subject to subsection (5) below, a fine imposed or a recognizance forfeited by the Crown Court shall be treated for the purposes of collection, enforcement and remission of the fine or other sum as having been imposed or forfeited—
- (a) by a magistrates' court specified in an order made by the Crown Court, or
 - (b) if no such order is made, by the magistrates' court by which the offender [^{F37}was committed to the Crown Court to be tried or dealt with or by which he] was sent to the Crown Court for trial under section 51 [^{F38}or 51A] of the ^{M13}Crime and Disorder Act 1998,
- and, in the case of a fine, as having been so imposed on conviction by the magistrates' court in question.

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- (2) Subsection (3) below applies where a magistrates' court issues a warrant of commitment on a default in the payment of—
- (a) a fine imposed by the Crown Court; or
 - (b) a sum due under a recognizance forfeited by the Crown Court.
- (3) In such a case, the term of imprisonment or detention under section 108 above specified in the warrant of commitment as the term which the offender is liable to serve shall be—
- (a) the term fixed by the Crown Court under section 139(2) above, or
 - (b) if that term has been reduced under section 79(2) of the ^{M14}Magistrates' Courts Act 1980 (part payment) or section 85(2) of that Act (remission), that term as so reduced,
- notwithstanding that that term exceeds the period applicable to the case under section 149(1) of the ^{M15}Customs and Excise Management Act 1979 (maximum periods of imprisonment in default of payment of certain fines).
- (4) Subsections (1) to (3) above shall apply in relation to a fine imposed or recognizance forfeited by the criminal division of the Court of Appeal, or by the [^{F39}Supreme Court] on appeal from that division, as they apply in relation to a fine imposed or recognizance forfeited by the Crown Court; and references in those subsections to the Crown Court (except the references in subsection (1)(b)) shall be construed accordingly.
- (5) A magistrates' court shall not, under section 85(1) or 120 of the ^{M16}Magistrates' Courts Act 1980 as applied by subsection (1) above, remit the whole or any part of a fine imposed by, or sum due under a recognizance forfeited by—
- (a) the Crown Court,
 - (b) the criminal division of the Court of Appeal, or
 - (c) the [^{F39}Supreme Court] on appeal from that division,
- without the consent of the Crown Court.
- (6) Any fine or other sum the payment of which is enforceable by a magistrates' court by virtue of this section shall be treated for the purposes of the Justices of the ^{M17}Peace Act 1997 and, in particular, section 60 of that Act (application of fines and fees) as having been imposed by a magistrates' court, or as being due under a recognizance forfeited by such a court.

Textual Amendments

- F37** Words in s. 140(1)(b) repealed (18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 74\(4\) \(a\), Sch. 37 Pt. 4](#); S.I. 2012/1320, art. 4(1)(c)(d)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F38** Words in s. 140(1)(b) inserted (9.5.2005 for specified purposes, 18.6.2012 for specified purposes; 5.11.2012 for specified purposes; 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\), s. 336\(3\)\(4\), Sch. 3 para. 74\(4\)\(b\)](#); S.I. 2005/1267, art. 2(1)(2)(b), Sch. Pt. 2; S.I. 2012/1320, art. 4(1)(c)(2)(3) (with art. 5) (see S.I. 2012/2574, art. 4(2) and S.I. 2013/1103, art. 4); S.I. 2012/2574, art. 2(2)(2)(c)(d)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by S.I. 2012/2761, art. 2) (with S.I. 2013/1103, art. 4); S.I. 2013/1103, art. 2(1)(c)(2)(3) (with arts. 3, 4)
- F39** Words in s. 140(4)(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 9 para. 69](#); S.I. 2009/1604, art. 2(d)

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Modifications etc. (not altering text)

C11 S. 140(1)-(4) applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), ss. 35\(2\), 458\(1\); S.I. 2003/333, art. 2, Sch. \(with arts. 10-13\)](#)

Marginal Citations

M13 1998 c. 37.
M14 1980 c. 43.
M15 1979 c. 2.
M16 1980 c. 43.
M17 1997 c. 25.

141 Power of Crown Court to allow time for payment, or payment by instalments, of costs and compensation.

Where the Crown Court makes any such order as is mentioned in Part I of Schedule 9 to the ^{M18}Administration of Justice Act 1970 (orders against accused for the payment of costs or compensation), the court may—

- (a) allow time for the payment of the sum due under the order;
- (b) direct payment of that sum by instalments of such amounts and on such dates as the court may specify.

Marginal Citations

M18 1970 c. 31.

142 Power of Crown Court to order search of persons before it.

(1) Where—

- [^{F40}(za) the Crown Court orders a person to pay a surcharge under section 161A of the Criminal Justice Act 2003,]
 - (a) the Crown Court imposes a fine on a person or forfeits his recognizance,
 - (b) the Crown Court makes against a person any such order as is mentioned in paragraph 3, 4 or 9 of Schedule 9 to the Administration of Justice Act 1970 (orders for the payment of costs),
 - [^{F41}(ba) the Crown Court makes an order against a person under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge),]
 - (c) the Crown Court makes a compensation order against a person,
 - [^{F42}(ca) the Crown Court makes an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013 against a person,]
 - (d) the Crown Court makes against a person an order under section 137 above (order for parent or guardian to pay fine, costs [^{F43}, compensation or surcharge]), or
 - (e) on the determination of an appeal brought by a person under section 108 of the ^{M19}Magistrates' Courts Act 1980 a sum is payable by him, whether by virtue of an order of the Crown Court or by virtue of a conviction or order of the magistrates' court against whose decision the appeal was brought,
- then, if that person is before it, the Crown Court may order him to be searched.

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- (2) Any money found on a person in a search under this section may be applied, unless the court otherwise directs, towards payment of the fine or other sum payable by him; and the balance, if any, shall be returned to him.

Textual Amendments

- F40** S. 142(1)(za) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 53\(a\)](#); S.I. 2007/602, art. 2(c)
- F41** S. 142(1)(ba) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 12 para. 10](#); S.I. 2015/778, art. 3, Sch. 1 para. 78
- F42** S. 142(1)(ca) inserted (15.10.2013 for E.; 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 10](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2
- F43** Words in s. 142(1)(d) substituted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 10 para. 53\(b\)](#); S.I. 2007/602, art. 2(c)

Marginal Citations

- M19** 1980 c. 43.

Status:

Point in time view as at 17/07/2015.

Changes to legislation:

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