



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART VI

#### FINANCIAL PENALTIES AND ORDERS

##### *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 [<sup>F1</sup>, 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 [<sup>F2</sup>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.

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### Textual Amendments

- F1** 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)
- F2** 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 [<sup>F3</sup>, 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.

[<sup>F4</sup>(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—

- (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 action plan order or 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 <sup>M1</sup>Criminal Justice and Public Order Act 1994 (breach of requirements of supervision under a secure training order),

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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, [<sup>F5</sup>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 <sup>M2</sup>Children Act 1989) which <sup>F6</sup>[<sup>F7</sup>are social services functions within the meaning of] the <sup>M3</sup>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 <sup>M4</sup>Children Act 1989.

#### Textual Amendments

- F3** 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)
- F4** 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)
- F5** 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)
- F6** Words in s. 137(8)(b) substituted (W.) (1.4.2002) by S.I. 2002/808, [art. 34](#)
- F7** Words in s. 137(8)(b) substituted (E.) (11.7.2001) by S.I. 2001/2237, [art. 38](#)

#### Marginal Citations

- M1** 1994 c. 33.
- M2** 1989 c. 41.
- M3** 1970 c. 42.
- M4** 1989 c. 41.

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### 138 Fixing of fine <sup>F8</sup>, 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—

<sup>F9</sup>(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) <sup>F10</sup>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;

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, <sup>F11</sup>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 <sup>F12</sup>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 <sup>F13</sup>section 165(1)], but as if the reference in <sup>F14</sup>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 <sup>M5</sup>Children Act 1989.

#### Textual Amendments

**F8** 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)

**F9** 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)

**F10** 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))

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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))

**F11** 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))

**F12** 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))

**F13** 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))

**F14** 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

**M5** 1989 c. 41.

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