



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 3

REMANDS OF CHILDREN OTHERWISE THAN ON BAIL

Remands to local authority accommodation

92 Remands to local authority accommodation

- (1) A remand to local authority accommodation is a remand to accommodation provided by or on behalf of a local authority.
- (2) A court that remands a child to local authority accommodation must designate the local authority that is to receive the child.
- (3) That authority must be—
 - (a) in the case of a child who is being looked after by a local authority, that authority, and
 - (b) in any other case, the local authority in whose area it appears to the court that the child habitually resides or the offence or one of the offences was committed.
- (4) The designated authority must—
 - (a) receive the child, and
 - (b) provide or arrange for the provision of accommodation for the child whilst the child is remanded to local authority accommodation.

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- (5) Where a child is remanded to local authority accommodation, it is lawful for any person acting on behalf of the designated authority to detain the child.

93 Conditions etc on remands to local authority accommodation

- (1) A court remanding a child to local authority accommodation may require the child to comply with any conditions that could be imposed under section 3(6) of the Bail Act 1976 if the child were then being granted bail.
- (2) The court may also require the child to comply with any conditions imposed for the purpose of securing the electronic monitoring of the child's compliance with the conditions imposed under subsection (1) if—
- (a) in the case of a child remanded under section 91(1) (proceedings other than extradition proceedings), the requirements in section 94 are met, or
 - (b) in the case of a child remanded under section 91(2) (extradition proceedings), the requirements in section 95 are met.
- (3) A court remanding a child to local authority accommodation may impose on the designated authority—
- (a) requirements for securing compliance with any conditions imposed on the child under subsection (1) or (2), or
 - (b) requirements stipulating that the child must not be placed with a named person.
- (4) A court may only impose a condition under subsection (1) or (2), or a requirement under subsection (3), after consultation with the designated authority.
- (5) Where a child has been remanded to local authority accommodation, a relevant court—
- (a) may, on the application of the designated authority, impose on that child any conditions that could be imposed under subsection (1) or (2) if the court were then remanding the child to local authority accommodation, and
 - (b) where it does so, may impose on the authority requirements for securing compliance with the conditions imposed under paragraph (a).
- (6) Where a child has been remanded to local authority accommodation, a relevant court may, on the application of the designated authority or that child, vary or revoke any conditions or requirements imposed under this section (including as previously varied under this subsection).
- (7) A court that imposes conditions on a child under this section or varies conditions so imposed—
- (a) must explain to the child in open court and in ordinary language why it is imposing or varying those conditions, and
 - (b) if the court is a magistrates' court, must cause a reason given under paragraph (a) to be specified in the warrant of commitment and entered in the register.
- (8) In this section “relevant court”—
- (a) in relation to a child remanded to local authority accommodation by virtue of section 91(1) (proceedings other than extradition proceedings), means—
 - (i) the court by which the child was so remanded, or

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- (ii) any magistrates' court that has jurisdiction in the place where the child is for the time being;
 - (b) in relation to a child remanded to local authority accommodation by virtue of section 91(2) (extradition proceedings), means the court by which the child was so remanded.
- (9) References in this section to consultation are to such consultation (if any) as is reasonably practicable in all the circumstances of the case.

94 Requirements for electronic monitoring

- (1) The requirements referred to in section 93(2)(a) (requirements for imposing electronic monitoring condition: non-extradition cases) are those set out in subsections (2) to (6).
- (2) The first requirement is that the child has reached the age of twelve.
- (3) The second requirement is that the offence mentioned in section 91(1), or one or more of those offences, is an imprisonable offence.
- (4) The third requirement is that—
 - (a) the offence mentioned in section 91(1), or one or more of those offences, is a violent or sexual offence or an offence punishable in the case of an adult with imprisonment for a term of 14 years or more, or
 - (b) the offence or offences mentioned in section 91(1), together with any other imprisonable offences of which the child has been convicted in any proceedings, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (5) The fourth requirement is that the court is satisfied that the necessary provision for electronic monitoring can be made under arrangements currently available in each local justice area which is a relevant area.
- (6) The fifth requirement is that a youth offending team has informed the court that, in its opinion, the imposition of an electronic monitoring condition will be suitable in the child's case.
- (7) For the purposes of this section, a local justice area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.
- (8) In this Chapter—
 - “electronic monitoring condition” means a condition imposed on a child remanded to local authority accommodation for the purpose of securing the electronic monitoring of the child's compliance with conditions imposed under section 93(1) or (5);
 - “imprisonable offence” means—
 - (a) an offence punishable in the case of an adult with imprisonment, or
 - (b) in relation to an offence of which a child has been accused or convicted outside England and Wales, an offence equivalent to an offence that, in England and Wales, is punishable in the case of an adult with imprisonment;

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“sexual offence” means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003;

“violent offence” means murder or an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003;

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998.

- (9) References in this Chapter to a child being subject to a custodial remand are to the child being—
- (a) remanded to local authority accommodation or youth detention accommodation, or
 - (b) subject to a form of custodial detention in a country or territory outside England and Wales while awaiting trial or sentence in that country or territory or during a trial in that country or territory.
- (10) The reference in subsection (9) to a child being remanded to local authority accommodation or youth detention accommodation includes—
- (a) a child being remanded to local authority accommodation under section 23 of the Children and Young Persons Act 1969, and
 - (b) a child being remanded to prison under that section as modified by section 98 of the Crime and Disorder Act 1998 or under section 27 of the Criminal Justice Act 1948.

95 Requirements for electronic monitoring: extradition cases

- (1) The requirements referred to in section 93(2)(b) (requirements for imposing electronic monitoring condition: extradition cases) are those set out in subsections (2) to (6).
- (2) The first requirement is that the child has reached the age of twelve.
- (3) The second requirement is that the offence to which the extradition proceedings relate, or one or more of those offences, is an imprisonable offence.
- (4) The third requirement is that—
 - (a) the conduct constituting the offence to which the extradition proceedings relate, or one or more of those offences, would, if committed in England and Wales, constitute a violent or sexual offence or an offence punishable in the case of an adult with imprisonment for a term of 14 years or more, or
 - (b) the offence or offences to which the extradition proceedings relate, together with any other imprisonable offences of which the child has been convicted, amount or would, if the child were convicted of that offence or those offences, amount to a recent history of committing imprisonable offences while on bail or subject to a custodial remand.
- (5) The fourth requirement is that the court is satisfied that the necessary provision for electronic monitoring can be made under arrangements currently available in each local justice area which is a relevant area.
- (6) The fifth requirement is that a youth offending team has informed the court that, in its opinion, the imposition of an electronic monitoring condition will be suitable in the child’s case.
- (7) For the purposes of this section, a local justice area is a relevant area in relation to a proposed electronic monitoring condition if the court considers that it will

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not be practicable to secure the electronic monitoring in question unless electronic monitoring arrangements are available in that area.

96 Further provisions about electronic monitoring

- (1) Where a court imposes an electronic monitoring condition, the condition must include provision making a person responsible for the monitoring.
- (2) A person who is made responsible by virtue of subsection (1) must be of a description specified in an order made by the Secretary of State.
- (3) The Secretary of State may make rules for regulating—
 - (a) the electronic monitoring of compliance with conditions imposed under section 93(1) or (5), and
 - (b) in particular, the functions of persons made responsible by virtue of subsection (1) of this section.
- (4) Rules under this section may make different provision for different cases.
- (5) Any power of the Secretary of State to make an order or rules under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing rules under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

97 Liability to arrest for breaking conditions of remand

- (1) A child may be arrested without warrant by a constable if—
 - (a) the child has been remanded to local authority accommodation,
 - (b) conditions under section 93 have been imposed in respect of the child, and
 - (c) the constable has reasonable grounds for suspecting that the child has broken any of those conditions.
- (2) Subject to subsection (3), a child arrested under subsection (1) must be brought before a justice of the peace—
 - (a) as soon as practicable, and
 - (b) in any event within the period of 24 hours beginning with the child's arrest.
- (3) If the child was arrested during the period of 24 hours ending with the time appointed for the child to appear before the court in pursuance of the remand, the child must be brought before the court before which the child was to have appeared.
- (4) In reckoning a period of 24 hours for the purposes of subsection (2) or (3), no account is to be taken of Christmas Day, Good Friday or any Sunday.
- (5) If a justice of the peace before whom a child is brought under subsection (2) is of the opinion that the child has broken any condition imposed in respect of the child under section 93, the justice of the peace must remand the child.
- (6) Section 91 applies to a child in relation to whom subsection (5) applies as if—
 - (a) except in a case within paragraph (b), the child was then charged with or convicted of the offence for which the child had been remanded, or

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- (b) in the case of a child remanded in connection with extradition proceedings, the child was then appearing before the justice of the peace in connection with those proceedings.
- (7) If a justice of the peace before whom a child is brought under subsection (2) is not of the opinion mentioned in subsection (5), the justice of the peace must remand the child to the place to which the child had been remanded at the time of the child's arrest subject to the same conditions as those which had been imposed on the child at that time.