



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 youth detention accommodation

101 Second set of conditions for a remand to youth detention accommodation: extradition cases

- (1) For the purposes of section 91(4)(b), the second set of conditions for a remand to youth detention accommodation in an extradition case is met in relation to a child if each of the following is met in relation to the child—
 - (a) the age condition (see subsection (2)),
 - (b) the sentencing condition (see subsection (3)),
 - (c) the offence condition (see subsection (4)),
 - (d) the first or second history condition or both (see subsections (5) and (6)),
 - (e) the necessity condition (see subsection (7)), and
 - (f) the first or second legal representation condition (see subsections (8) and (9)).
- (2) The age condition is that the child has reached the age of twelve.
- (3) The sentencing condition is that it appears to the court that, if the child were convicted in England and Wales of an offence equivalent to the offence to which the extradition proceedings relate or one or more of those offences, [F¹it is very likely] that the child would be sentenced to a custodial sentence for that offence or those offences.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 101 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) The offence condition is that the offence to which the extradition proceedings relate, or one or more of those offences, is an imprisonable offence.
- (5) The first history condition is that—
- (a) the child has a recent [^{F2}and significant] history of absconding while subject to a custodial remand, [^{F3}and it appears to the court that the history is relevant in all the circumstances of the case,] and
 - (b) the offence to which the extradition proceedings relate, or one or more of those offences, is alleged to be or has been found to have been committed while the child was subject to a custodial remand.
- (6) The second history condition is that 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 [^{F4}and significant] history of committing imprisonable offences while on bail or subject to a custodial remand [^{F5}, and this appears to the court relevant in all the circumstances of the case].
- (7) The necessity condition is that the court is of the opinion, after considering all the options for the remand of the child, that only remanding the child to youth detention accommodation would be adequate—
- (a) to protect the public from death or serious personal injury (whether physical or psychological) occasioned by further offences committed by the child, or
 - (b) to prevent the commission by the child of imprisonable offences [^{F6}, and that the risks posed by the child cannot be managed safely in the community].
- (8) The first legal representation condition is that the child is legally represented before the court.
- (9) The second legal representation condition is that the child is not legally represented before the court and—
- (a) representation was provided to the child under Part 1 of this Act for the purposes of the proceedings, but was withdrawn—
 - (i) because of the child's conduct, or
 - (ii) because it appeared that the child's financial resources were such that the child was not eligible for such representation,
 - (b) the child applied for such representation and the application was refused because it appeared that the child's financial resources were such that the child was not eligible for such representation, or
 - (c) having been informed of the right to apply for such representation and having had the opportunity to do so, the child refused or failed to apply.

Textual Amendments

- F1** Words in s. 101(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(a\)](#), 208(5)(t)
- F2** Words in s. 101(5)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(b\)\(i\)](#), 208(5)(t)
- F3** Words in s. 101(5)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(b\)\(ii\)](#), 208(5)(t)
- F4** Words in s. 101(6) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(c\)\(i\)](#), 208(5)(t)

Changes to legislation: *Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 101 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

F5 Words in s. 101(6) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(c\)\(ii\)](#), [208\(5\)\(t\)](#)

F6 Words in s. 101(7) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 157\(6\)\(d\)](#), [208\(5\)\(t\)](#)

Commencement Information

I1 S. 101 wholly in force at 3.12.2012, see s. 151(1) and S.I. 2012/2906, [art. 2\(c\)](#) (with [art. 7\(1\)\(3\)](#))

Changes to legislation:

Legal Aid, Sentencing and Punishment of Offenders Act 2012, Section 101 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2016/286, art. 4(1) by [S.I. 2017/225 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(3)(4) inserted by [2022 c. 36 s. 25\(2\)](#)
- s. 9A inserted by [2023 c. 32 s. 89\(3\)](#)
- s. 9B inserted by [2023 c. 32 s. 90](#)
- s. 10(3A)-(3E) inserted by [2022 c. 36 s. 67](#)
- Sch. 1 Pt. 1 para. 31ZA and cross-heading inserted by [2022 c. 36 s. 25\(1\)](#)
- Sch. 1 Pt. 1 para. 31B and cross-heading inserted by [2022 c. 36 s. 57\(2\)](#)
- Sch. 1 Pt. 1 para. 19(1A)(1B) and heading inserted by [2022 c. 36 s. 66\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 19(2A) inserted by [2022 c. 36 s. 66\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(8A) and heading inserted by [2022 c. 36 s. 66\(2\)\(c\)](#)
- Sch. 1 Pt. 1 para. 25(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 26(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 27A(1A) and heading inserted by [2022 c. 36 s. 66\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 25(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 26(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 27A(3)(4) and heading inserted by [2022 c. 36 s. 66\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(1A) and heading inserted by [2022 c. 36 s. 66\(4\)\(a\)](#)
- Sch. 1 Pt. 1 para. 30(2A) inserted by [2022 c. 36 s. 66\(4\)\(b\)](#)
- Sch. 1 Pt. 1 para. 30(3A) and heading inserted by [2022 c. 36 s. 66\(4\)\(c\)](#)
- Sch. 1 Pt. 1 para. 31A(2A) and heading inserted by [2022 c. 36 s. 66\(5\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31A(3A)(3B) and heading inserted by [2022 c. 36 s. 66\(5\)\(b\)](#)
- Sch. 1 Pt. 1 para. 19(6A) inserted by [2023 c. 37 s. 56\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31C inserted by [2023 c. 37 s. 56\(3\)](#)
- Sch. 1 Pt. 1 para. 27A(1) inserted by [S.I. 2017/617 reg. 3\(4\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 11(1A) inserted by [S.I. 2023/150 art. 4\(3\)\(a\)](#)
- Sch. 1 Pt. 1 para. 11(3A) inserted by [S.I. 2023/150 art. 4\(3\)\(b\)](#)
- Sch. 1 Pt. 1 para. 2(1)(b) omitted by [2018 anaw 2 Sch. 1 para. 21\(2\)\(a\)\(ii\)](#)
- Sch. 1 Pt. 1 para. 45(2) omitted by [2023 c. 32 s. 91\(2\)](#)
- Sch. 1 Pt. 1 para. 45(3) substituted by [2023 c. 32 s. 91\(3\)](#)
- Sch. 1 Pt. 1 para. 26(1) substituted by [S.I. 2017/617 reg. 3\(2\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))

- Sch. 1 Pt. 1 para. 27(1) substituted by [S.I. 2017/617 reg. 3\(3\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 19(10) words inserted by [2023 c. 37 s. 56\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(a\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words inserted by [S.I. 2023/147 art. 2\(2\)\(b\)](#)
- Sch. 1 Pt. 1 para. 31(1)(a) words omitted by [2016 c. 19 Sch. 11 para. 2\(1\)](#)
- Sch. 1 Pt. 1 para. 45(4) words omitted by [2023 c. 32 s. 91\(4\)](#)
- Sch. 1 Pt. 1 para. 26 heading words substituted by [S.I. 2017/617 reg. 3\(2\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 1 para. 27 heading words substituted by [S.I. 2017/617 reg. 3\(3\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 16A inserted by [2023 c. 37 s. 56\(4\)](#)
- Sch. 1 Pt. 3 para. 11(b) and word inserted by [S.I. 2017/617 reg. 3\(6\)\(b\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 8(b) omitted by [S.I. 2017/617 reg. 3\(5\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 3 para. 11(a) and word omitted by [S.I. 2017/617 reg. 3\(6\)\(a\)](#) (This amendment comes into force on the commencement of paragraph 1 of Schedule 10 to the Immigration Act 2016 (c. 19))
- Sch. 1 Pt. 4 para. 8 inserted by [2022 c. 36 s. 66\(6\)](#)