



**Law
Commission**
Reforming the law

Sentencing law in England and Wales
Legislation currently in force
Part 3.1 – General provisions

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Part 3. Sentencing powers and duties

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3.1 General provisions

3.1.1. Guilty plea reduction

3.1.1.1. Statutory provisions

Duty to take account of guilty plea

CJA 2003 s.144²⁴⁹: Reduction in sentences for a guilty plea

- s.144(1) - in determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court must take into account:
- (a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and
 - (b) the circumstances in which this indication was given.

Minimum and required sentences

CJA 2003 s.144²⁵⁰: Reduction in sentences for a guilty plea

- s.144(2) - in the case of an offender who—
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (3), and
 - (b) is aged 18 or over when convicted,
- nothing in that provision prevents the court, after taking into account any matter referred to in subsection (1) of this section, from imposing any sentence which is not less than 80 per cent of that specified in that provision.
- s.144(3) - the provisions referred to in subsection (2) are:
- section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
 - section 110(2) of the Sentencing Act;
 - section 111(2) of the Sentencing Act;
 - section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988.

CJA 2003 s.144²⁵¹: Reduction in sentences for a guilty plea

- s.144(4) - in the case of an offender who—
- (a) is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), and
 - (b) is aged 16 or 17 when convicted,
- nothing in that provision prevents the court from imposing any sentence that it considers appropriate after taking into account any matter referred to in subsection (1) of this section.

²⁴⁹ Commencement: 4 April 2005, SI 2005/950 art. 2 and Sch.1 para.7

²⁵⁰ Commencement: 4 April 2005, SI 2005/950 art. 2 and Sch.1 para.7

²⁵¹ Commencement: 4 April 2005, SI 2005/950 art. 2 and Sch.1 para.7

- s.144(5) - the provisions referred to in subsection (4) are:
section 1(2B) or 1A(5) of the Prevention of Crime Act 1953;
section 139(6B), 139A(5B) or 139AA(7) of the Criminal Justice Act 1988.

3.1.1.2. Sentencing Guideline

Reduction in sentence for a guilty plea, Sentencing Guidelines Council

Note: The guideline gives guidance as to the way in which the reduction for a guilty plea should be administered. The guideline is not reproduced here.

3.1.1.3. Early Guilty Plea Scheme

Criminal Practice Directions 2015

Early guilty plea hearing

- 3A.6 The magistrates' court or the Crown Court may order an early guilty plea hearing, in accordance with directions given by the presiding judges, where a guilty plea is anticipated, to allow the Crown Court promptly to deal with such a case.
- 3A.7 Sentence should normally be passed at an early guilty plea hearing. The parties must prepare accordingly in advance of the hearing. This may include:
- i) addressing any issue arising from a basis of plea,
 - ii) making timely application for a pre-sentence report and, if granted, ensuring that the Probation Service is provided with details of the offence(s) in respect of which the defendant intends to plead guilty, the details of any basis of plea(s) and of the defendant's current address and telephone number(s),
 - iii) obtaining medical or other material necessary for sentencing, and
 - iv) quantifying costs.
- 3A.8 The court must be notified promptly of any difficulty which may mean that sentence cannot be passed at the hearing so that an alternative date can be considered.

3.1.1.4. Interaction with other sentencing orders

R. v B [2012] EWCA Crim 1272

In argument it was suggested that a guilty plea should have the effect of reducing the licence period under an extended sentence. That proposition could not be accepted; the guideline only referred to the custodial period and the extension period was designed to protect the public.

3.1.1.5. Other principal sources

R. v Caley [2012] EWCA Crim 2821; [2013] 2 Cr. App. R. (S.) 47 (p.305)

Overarching principles - Sentencing youths guideline, Sentencing Guidelines Council

3.1.2. Time spent on curfew/tag

3.1.2.1. General

Interpretation

CJA 2003 s.240A²⁵²: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(12) - in this section:

“curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person’s compliance with a qualifying curfew condition;

“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day.

CJA 2003 s.242²⁵³: Interpretations of sections 240ZA, 240A and 241

s.242(1) - for the purposes of sections 240ZA, 240A and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted:

“‘sentence of imprisonment’ does not include a committal:

- (a) in default of payment of any sum of money, other than one adjudged to be paid on a conviction,”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

s.242(2) - references in sections 240ZA and 241 to an offender’s being remanded in custody are references to his being:

- (a) remanded in or committed to custody by order of a court,
- (b) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
- (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

²⁵² Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

²⁵³ Commencement: 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

3.1.2.2. Availability

CJA 2003 s.240A²⁵⁴: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(1) - this section applies where:

- (a) a court sentences an offender to imprisonment for a term in respect of an offence,
- (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
- (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition ("the relevant conditions").

Duty to credit period spent on curfew or tag

CJA 2003 s.240A²⁵⁵: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(2) - subject to subsections (3A) and (3B), the court must direct that the credit period is to count as time served by the offender as part of the sentence.

3.1.2.3. Step by step guide

CJA 2003 s.240A²⁵⁶: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(3) - the credit period is calculated by taking the following steps.

Step 1

Add:

- (a) the day on which the offender's bail was first subject to the relevant conditions (and for this purpose a condition is not prevented from being a relevant condition by the fact that it does not apply for the whole of the day in question), and
- (b) the number of other days on which the offender's bail was subject to those conditions (but exclude the last of those days if the offender spends the last part of it in custody).

Step 2

Deduct the number of days on which the offender, whilst on bail subject to the relevant conditions, was also:

²⁵⁴ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

²⁵⁵ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

²⁵⁶ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

- (a) subject to any requirement imposed for the purpose of securing the electronic monitoring of the offender's compliance with a curfew requirement, or
- (b) on temporary release under rules made under section 47 of the Prison Act 1952.

Step 3

From the remainder, deduct the number of days during that remainder on which the offender has broken either or both of the relevant conditions.

Step 4

Divide the result by 2.

Step 5

If necessary, round up to the nearest whole number.

3.1.2.4. Applying the discount

How does the credit manifest itself?

CJA 2003 s.240A²⁵⁷: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(3A) - a day of the credit period counts as time served:

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

s.240A(3B) - a day of the credit period is not to count as time served as part of any automatic release period served by the offender (see section 255B(1)).

Duty to state discount in open court

CJA 2003 s.240A²⁵⁸: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(8) - where the court gives a direction under subsection (2) it shall state in open court:

- (a) the number of days on which the offender was subject to the relevant conditions, and
- (b) the number of days (if any) which it deducted under each of steps 2 and 3.

²⁵⁷ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

²⁵⁸ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJIA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

Supplementary provisions

CJA 2003 s.240A²⁵⁹: Time remanded on bail to count towards time served: terms of imprisonment and detention

s.240A(11) - Subsections (7) to (9) and (11) of section 240ZA apply for the purposes of this section as they apply for the purposes of that section but as if:

- (a) in subsection (7):
 - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
 - (ii) in paragraph (a) after “Schedule 12” there were inserted “or section 119(1)(a) or (b) of the Sentencing Act”; and
- (b) in subsection (9) the references to subsections (3) and (5) of section 240ZA are to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted “or Part 2 of the Criminal Justice Act 1991”.

CJA 2003 s.240ZA²⁶⁰: Time remanded in custody to count as time served: terms of imprisonment and detention

s.240ZA(7) - for the purposes of this section a suspended sentence—

- (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
- (b) is to be treated as being imposed by the order under which it takes effect.

s.240ZA(8) - in this section “*related offence*” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.

s.240ZA(9) - for the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender’s “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if:

- (a) the sentences were passed on the same occasion, or
- (b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.

s.240ZA(11) - this section applies to a determinate sentence of detention under section 91 or 96 of the Sentencing Act or section 226A, 226B, 227 or 228 of this Act as it applies to an equivalent sentence of imprisonment.

²⁵⁹ Commencement: Section 21(1) and (3) to (7) in force 3 November 2008, as inserted by CJA 2008 s.21(4), SI 2008/2712 art.2 and Sch.1 para.1. Section 21(2) in force 31 October 2009, SI 2009/2606 art.3(a).

²⁶⁰ Commencement: 3 December 2012, as inserted by LASPOA 2012 s.108(2), SI 2012/2906 art.2(d). The insertion applies in relation to any person who falls to be released under Chapter 6 on or after the commencement date, LASPOA 2012 Sch.15 para.2(1)(a).

3.1.2.5. Particular situations

Bailed after sentencing pending appeal

R. v Robertson [2012] EWCA Crim 609

The language of section 240A(1)(b) is broad enough to cover such a period.

Detention and Training Orders

PCC(S)A 2000 s.101²⁶¹: Term of order, consecutive terms and taking account of remands

s.101(8) - in determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded:

- (a) in custody, or
- (b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003), in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.

s.101(11) - any reference in subsection (8) or (9) above to an offender's being remanded in custody is a reference to his being—

- (a) held in police detention;
- (b) remanded in or committed to custody by an order of a court;
- (c) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; or
- (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983.

Effect upon release

CJA 2003 s.241²⁶²: Effect of section 240ZA or direction under section 240A on release on licence

s.241(1) - in determining for the purposes of this Chapter whether a person to whom section 240ZA applies or a direction under section 240A relates —

- (a) has served, or would (but for his release) have served, a particular proportion of his sentence, or
 - (b) has served a particular period,
- the number of days specified in section 240ZA or in the direction under section 240A are to be treated as having been served by him as part of that sentence or period.

s.241(1A) - in subsection (1) the reference to section 240ZA includes section 246 of the Armed Forces Act 2006.

²⁶¹ Commencement: 25 August 2000, PCC(S)A 2000 s.168(1).

²⁶² Commencement: 26 January 2004 for the purposes of the passing of a sentence of imprisonment to which an intermittent custody order relates and the release on licence of a person serving such a sentence, SI 2003/3282 art.2 and Sch.1. Otherwise in force 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

Extradited prisoners

CJA 2003 s.243²⁶³: Persons extradited to the United Kingdom

- s.243(1) - a fixed-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed or he received that sentence —
 - (i) after having been extradited to the United Kingdom, and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
 - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a).
- s.243(2) - in the case of an extradited prisoner, the court must specify in open court the number of days for which the prisoner was kept in custody while awaiting extradition.
- s.243(2A) - Section 240ZA applies to days specified under subsection (2) as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.

3.1.3. Time spent on remand

3.1.3.1. General

Note: CJA 1982 s.10 remains in force and amends CJA 1967 s.67 in relation to the reduction in sentence for time spent on remand, however s.67 has been repealed.

Interpretation

CJA 2003 s.240ZA²⁶⁴: Time remanded in custody to count as time served: terms of imprisonment and detention

- s.240ZA(7) - for the purposes of this section a suspended sentence:
- (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
 - (b) is to be treated as being imposed by the order under which it takes effect.
- s.240ZA(8) - in this section “*related offence*” means an offence, other than the offence for which the sentence is imposed (“*offence A*”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.
- s.240ZA(9) - for the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender’s “*sentence*”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if:
- (a) the sentences were passed on the same occasion, or

²⁶³ Commencement: 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

²⁶⁴ Commencement: 3 December 2012, as inserted by LASPOA 2012 s.108(2), SI 2012/2906 art.2(d). The insertion applies in relation to any person who falls to be released under Chapter 6 on or after the commencement date, LASPOA 2012 Sch.15 para.2(1)(a).

- (b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.
- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes:
 - (a) detention pursuant to any custodial sentence;
 - (b) committal in default of payment of any sum of money;
 - (c) committal for want of sufficient distress to satisfy any sum of money;
 - (d) committal for failure to do or abstain from doing anything required to be done or left undone.
- (11) This section applies to a determinate sentence of detention under section 91 or 96 of the Sentencing Act or section 226A, 226B, 227 or 228 of this Act as it applies to an equivalent sentence of imprisonment.

CJA 2003 s.242²⁶⁵: Interpretations of sections 240ZA, 240A and 241

s.242(1) - for the purposes of sections 240ZA, 240A and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted:

“*sentence of imprisonment*’ does not include a committal:

- (a) in default of payment of any sum of money, other than one adjudged to be paid on a conviction,”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

s.242(2) - references in sections 240ZA and 241 to an offender’s being remanded in custody are references to his being:

- (a) remanded in or committed to custody by order of a court,
- (b) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
- (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

CJA 2003 s.305²⁶⁶: Interpretation of Part 12

s.305(1) [...] “*sentence of imprisonment*” does not include a committal—

- (a) in default of payment of any sum of money,
- (b) for want of sufficient distress to satisfy any sum of money, or
- (c) for failure to do or abstain from doing anything required to be done or left undone,

²⁶⁵ Commencement: 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

²⁶⁶ Commencement: Section 305(1) in force 26 January 2004 for the purposes of the passing of a sentence of imprisonment to which an intermittent custody order relates and the release on licence of a person serving such a sentence, SI 2003/3282 art.2. Section 305 otherwise in force 4 April 2005, SI 2005/950 art.2 and Sch.1 para.24.

and references to sentencing an offender to imprisonment are to be read accordingly [...]

3.1.3.2. Applying the credit

Availability

CJA 2003 s.240ZA²⁶⁷: Time remanded in custody to count as time served: terms of imprisonment and detention

s.240ZA(1) - this section applies where:

- (a) an offender is serving a term of imprisonment in respect of an offence, and
- (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.

Remanded for other offences

CJA 2003 s.240ZA²⁶⁸: Time remanded in custody to count as time served: terms of imprisonment and detention

s.240ZA(2) - it is immaterial for that purpose whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).

s.240ZA(5) - a day counts as time served:

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

How does the discount manifest itself?

CJA 2003 s.240ZA²⁶⁹: Time remanded in custody to count as time served: terms of imprisonment and detention

s.240ZA(3) - the number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.

But this is subject to subsections (4) to (6).

s.240ZA(4) - if, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.

s.240ZA(6) - a day is not to count as time served as part of any automatic release period served by the offender (see section 255B(1)).

²⁶⁷ Commencement: 3 December 2012, as inserted by LASPOA 2012 s.108(2), SI 2012/2906 art.2(d). The insertion applies in relation to any person who falls to be released under Chapter 6 on or after the commencement date, LASPOA 2012 Sch.15 para.2(1)(a).

²⁶⁸ Commencement: 3 December 2012, as inserted by LASPOA 2012 s.108(2), SI 2012/2906 art.2(d). The insertion applies in relation to any person who falls to be released under Chapter 6 on or after the commencement date, LASPOA 2012 Sch.15 para.2(1)(a).

²⁶⁹ Commencement: 3 December 2012, as inserted by LASPOA 2012 s.108(2), SI 2012/2906 art.2(d). The insertion applies in relation to any person who falls to be released under Chapter 6 on or after the commencement date, LASPOA 2012 Sch.15 para.2(1)(a).

3.1.3.3. Particular situations

Attorney General's references

CJA 1988 Sch.3²⁷⁰: Reviews of sentencing

para.5 - the time during which a person whose case has been referred for review under section 36 above is in custody pending its review and pending any reference to the Supreme Court under subsection (5) of that section shall be reckoned as part of the term of any sentence to which he is for the time being subject.

Community orders

CJA 2003 s.149²⁷¹: Passing of community order on offender remanded in custody

s.149(1) - in determining the restrictions on liberty to be imposed by a community order or youth rehabilitation order in respect of an offence, the court may have regard to any period for which the offender has been remanded in custody in connection with the offence or any other offence the charge for which was founded on the same facts or evidence.

s.149(2) - in subsection (1) "*remanded in custody*" has the meaning given by section 242(2).

Detention and Training Orders

PCC(S)A 2000 s.101²⁷²: Term of order, consecutive terms and taking account of remands

s.101(8) - in determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded:

- (a) in custody, or
 - (b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003),
- in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.

s.101(11) - any reference in subsection (8) or (9) above to an offender's being remanded in custody is a reference to his being:

- (a) held in police detention;
- (b) remanded in or committed to custody by an order of a court;
- (c) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; or
- (d) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983.

²⁷⁰ Commencement: 1 February 1989, SI 1989/1 art.2(b).

²⁷¹ Commencement: 4 April 2005, SI 2005/950 art.2, Sch.1 para.7. The coming into force of the section is of no effect in relation to an offence committed before 4 April 2005, 2005/950 Sch.2 para.5(2)(a).

²⁷² Commencement: 25 August 2000, PCC(S)A 2000 s.168(1).

Detention in police custody

Note: The statute refers to “remand in custody” and so days spent in police custody do not count subject to the exception for Detention and Training Orders noted above.

Extradition

CJA 2003 s.243²⁷³: Persons extradited to the United Kingdom

s.243(1) - a fixed-term prisoner is an extradited prisoner for the purposes of this section if:

- (a) he was tried for the offence in respect of which his sentence was imposed or he received that sentence:
 - (i) after having been extradited to the United Kingdom, and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
- (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a).

s.243(2) - in the case of an extradited prisoner, the court must specify in open court the number of days for which the prisoner was kept in custody while awaiting extradition.

s.243(2A) - Section 240ZA applies to days specified under subsection (2) as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.

PCC(S)A 2000 s.101²⁷⁴: Term of order, consecutive terms and taking account of remands

s.101(8) - in determining the term of a detention and training order for an offence, the court shall take account of any period for which the offender has been remanded:

- (a) in custody, or
 - (b) on bail subject to a qualifying curfew condition and an electronic monitoring condition (within the meaning of section 240A of the Criminal Justice Act 2003),
- in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.

s.101(12A) - Section 243 of the Criminal Justice Act 2003 (persons extradited to the United Kingdom) applies in relation to a person sentenced to a detention and training order as it applies in relation to a fixed-term prisoner, with the reference in subsection (2A) of that section to section 240ZA being read as a reference to subsection (8) above.

²⁷³ Commencement: 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

²⁷⁴ Commencement: 25 August 2000, PCC(S)A 2000 s.168(1).

Remand to hospital etc.

CJA 2003 s.242²⁷⁵: Interpretations of sections 240ZA, 240A and 241

s.242(2) - references in sections 240ZA and 241 to an offender's being remanded in custody are references to his being:

- (a) remanded in or committed to custody by order of a court,
- (b) remanded to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
- (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

Life sentences (non-murder cases)

PCC(S)A 2000 s.82A²⁷⁶: Determination of tariffs

s.82A(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 240ZA of the Criminal Justice Act 2003 (crediting periods of remand in custody) or under section 246 of the Armed Forces Act 2006 (equivalent provision for service courts) or under section 240A of that Act of 2003 (crediting periods of remand on bail subject to certain types of condition) if it had sentenced him to a term of imprisonment; and
- (c) the early release provisions as compared with section 244(1) of the Criminal Justice Act 2003.

Mandatory life

CJA 2003 s.269²⁷⁷: Determination of minimum term in relation to mandatory life sentence

s.269(3) - the part of his sentence is to be such as the court considers appropriate taking into account:

- (a) the seriousness of the offence, or of the combination of the offence and any one or more offences associated with it, and
- (b) the effect of section 240ZA (crediting periods of remand in custody) or of any direction which it would have given under section 240A (crediting periods of remand on certain types of bail) if it had sentenced him to a term of imprisonment.

s.269(3A) - the reference in subsection (3)(b) to section 240ZA includes section 246 of the Armed Forces Act 2006 (crediting periods in service custody).

²⁷⁵ Commencement: 4 April 2005, SI 2005/950 art.2 and Sch.1 para.19.

²⁷⁶ Commencement: 30 November 2000, as inserted by CJCSA 2000 s.60(1), CJCSA 2000 s.80.

²⁷⁷ Commencement: 18 December 2003, CJA 2003 s.336(2).

Non-custodial sentences

New Sentences: CJA 2003 Guideline, Sentencing Guidelines Council

Time on remand

- 1.1.37 The court will need to consider whether to give any credit for time spent in custody on remand.¹⁰ (For further detail from the Panel's Advice, see Annex A)
- The court should seek to give credit for time spent on remand (in custody or equivalent status) in all cases. It should make clear, when announcing sentence, whether or not credit for time on remand has been given (bearing in mind that there will be no automatic reduction in sentence once section 67 of the Criminal Justice Act 1967 is repealed) and should explain its reasons for not giving credit when it considers either that this is not justified, would not be practical, or would not be in the best interests of the offender.
- 1.1.38 Where an offender has spent a period of time in custody on remand, there will be occasions where a custodial sentence is warranted but the length of the sentence justified by the seriousness of the offence would mean that the offender would be released immediately. Under the present framework, it may be more appropriate to pass a community sentence since that will ensure supervision on release.
- 1.1.39 However, given the changes in the content of the second part of a custodial sentence of 12 months or longer, a court in this situation where the custodial sentence would be 12 months or more should, under the new framework, pass a custodial sentence in the knowledge that licence requirements will be imposed on release from custody. This will ensure that the sentence imposed properly reflects the seriousness of the offence.
- 1.1.40 Recommendations made by the court at the point of sentence will be of particular importance in influencing the content of the licence. This will properly reflect the gravity of the offence(s) committed.

Retrial

CAA 1968 Sch.2: Procedural and other provisions applicable on order for retrial

- para.2(4) - Sections 240ZA and 240A of the Criminal Justice Act 2003 (crediting of periods of remand in custody or on bail subject to certain types of condition: terms of imprisonment and detention) shall apply to any sentence imposed on conviction on retrial as if it had been imposed on the original conviction.

3.1.4. Explaining sentences

3.1.4.1. The general rule

Sentencers' duties

CJA 2003 s.174²⁷⁸: Duty to give reasons for and to explain effect of sentence

- s.174(1) - a court passing sentence on an offender has the duties in subsections (2) and (3).
- s.174(2) - the court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- s.174(3) - the court must explain to the offender in ordinary language—
 - (a) the effect of the sentence,
 - (b) the effects of non-compliance with any order that the offender is required to comply with and that forms part of the sentence,
 - (c) any power of the court to vary or review any order that forms part of the sentence, and
 - (d) the effects of failure to pay a fine, if the sentence consists of or includes a fine.

Sentencing Guidelines

CJA 2003 s.174²⁷⁹: Duty to give reasons for and to explain effect of sentence

- s.174(2) - the court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- s.174(5) - subsections (6) to (8) are particular duties of the court in complying with the duty in subsection (2).
- s.174(6) - the court must identify any definitive sentencing guidelines relevant to the offender's case and—
 - (a) explain how the court discharged any duty imposed on it by section 125 of the Coroners and Justice Act 2009 (duty to follow guidelines unless satisfied it would be contrary to the interests of justice to do so);
 - (b) where the court was satisfied it would be contrary to the interests of justice to follow the guidelines, state why.
- s.174(9) - in this section "*definitive sentencing guidelines*" means sentencing guidelines issued by the Sentencing Council for England and Wales under section 120 of the Coroners and Justice Act 2009 as definitive guidelines, as revised by any subsequent guidelines so issued.

²⁷⁸ Commencement: Section 174(4) in force 5 April 2004, SI 2004/829 art.2(2)(e). Otherwise, in force 4 April 2005, SI 2005/950 art.2 and Sch.1 art.7.

²⁷⁹ Commencement: Section 174(4) in force 5 April 2004, SI 2004/829 art.2(2)(e). Otherwise, in force 4 April 2005, SI 2005/950 art.2 and Sch.1 art.7.

Guilty pleas

CJA 2003 s.174²⁸⁰: Duty to give reasons for and to explain effect of sentence

s.174(7) - where, as a result of taking into account any matter referred to in section 144(1) (guilty pleas), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, the court must state that fact.

Offenders aged under 18

CJA 2003 s.174²⁸¹: Duty to give reasons for and to explain effect of sentence

s.174(8) - where the offender is under 18 and the court imposes a sentence that may only be imposed in the offender's case if the court is of the opinion mentioned in—

- (a) section 1(4)(a) to (c) of the Criminal Justice and Immigration Act 2008 and section 148(1) of this Act (youth rehabilitation order with intensive supervision and surveillance or with fostering), or
- (b) section 152(2) of this Act (discretionary custodial sentence),

the court must state why it is of that opinion.

3.1.5. Sentencing procedure in special cases

3.1.5.1. Power to make rules

Criminal Procedure Rules amendment of duties under s.174

CJA 2003 s.174²⁸²: Duty to give reasons for and to explain effect of sentence

s.174(4) - the Criminal Procedure Rules may—

- (a) prescribe cases in which either duty does not apply, and
- (b) make provision about how an explanation under subsection (3) is to be given.

3.1.5.2. Giving reasons for, and explanations of, sentences

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.1(1) This rule applies where the court decides—

- (a) not to follow a relevant sentencing guideline;
- (b) not to make, where it could—
 - (i) a reparation order (unless it passes a custodial or community sentence),
 - (ii) a compensation order,
 - (iii) a slavery and trafficking reparation order, or

²⁸⁰ Commencement: Section 174(4) in force 5 April 2004, SI 2004/829 art.2(2)(e). Otherwise, in force 4 April 2005, SI 2005/950 art.2 and Sch.1 art.7.

²⁸¹ Commencement: Section 174(4) in force 5 April 2004, SI 2004/829 art.2(2)(e). Otherwise, in force 4 April 2005, SI 2005/950 art.2 and Sch.1 art.7.

²⁸² Commencement: Section 174(4) in force 5 April 2004, SI 2004/829 art.2(2)(e). Otherwise, in force 4 April 2005, SI 2005/950 art.2 and Sch.1 art.7.

- (iv) a travel restriction order;
- (c) not to order, where it could—
 - (i) that a suspended sentence of imprisonment is to take effect,
 - (ii) the endorsement of the defendant’s driving record, or
 - (iii) the defendant’s disqualification from driving, for the usual minimum period or at all;
- (d) to pass a lesser sentence than it otherwise would have passed because the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence.

rule.28.1(2) The court must explain why it has so decided, when it explains the sentence that it has passed.

rule.28.1(3) Where paragraph (1)(d) applies, the court must arrange for such an explanation to be given to the defendant and to the prosecutor in writing, if the court thinks that it would not be in the public interest to explain in public.

*Note.*²⁸³ See section 174 of the Criminal Justice Act 2003; section 73(8) of the Powers of Criminal Courts (Sentencing) Act 2000; section 130(3) of the 2000 Act; section 8(7) of the Modern Slavery Act 2015; section 33(2) of the Criminal Justice and Police Act 2001; paragraph 8(3) of Schedule 12 to the 2003 Act; section 47(1) of the Road Traffic Offenders Act 1988; and section 73 of the Serious Organised Crime and Police Act 2005.

For the duty to explain the sentence the court has passed, see section 174(1) of the 2003 Act and rules 24.11(9) (procedure where a magistrates’ court convicts) and 25.16(7) (procedure where the Crown Court convicts).

Under section 125 of the Coroners and Justice Act 2009, the court when sentencing must follow any relevant sentencing guideline unless satisfied that to do so would be contrary to the interests of justice.

For the circumstances in which the court may make—

- (a) a reparation or compensation order, see sections 73 and 130 of the 2000 Act;
- (b) a slavery and trafficking reparation order, see section 8 of the 2015 Act;
- (c) a travel restriction order against a defendant convicted of drug trafficking, see sections 33 and 34 of the 2001 Act.

3.1.5.3. Community orders and Suspended Sentence Orders

Requirements under community orders and suspended sentence orders

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.2(1) This rule applies where the court—

- (a) makes a suspended sentence order;
- (b) imposes a requirement under—
 - (i) a community order,

²⁸³ This note is contained within the CPR.

- (ii) a youth rehabilitation order, or
- (iii) a suspended sentence order; or
- (c) orders the defendant to attend meetings with a supervisor.

rule.28.2(2) The court officer must notify—

- (a) the defendant of—
 - (i) the length of the sentence suspended by a suspended sentence order, and
 - (ii) the period of the suspension;
- (b) the defendant and, where the defendant is under 14, an appropriate adult, of—
 - (i) any requirement or requirements imposed, and
 - (ii) the identity of any responsible officer or supervisor, and the means by which that person may be contacted;
- (c) any responsible officer or supervisor, and, where the defendant is under 14, the appropriate qualifying officer (if that is not the responsible officer), of—
 - (i) the defendant's name, address and telephone number (if available),
 - (ii) the offence or offences of which the defendant was convicted, and
 - (iii) the requirement or requirements imposed; and
- (d) the person affected, where the court imposes a requirement—
 - (i) for the protection of that person from the defendant, or
 - (ii) requiring the defendant to reside with that person.

rule.28.2(3) If the court imposes an electronic monitoring requirement, the monitor of which is not the responsible officer, the court officer must—

- (a) notify the defendant and, where the defendant is under 16, an appropriate adult, of the monitor's identity, and the means by which the monitor may be contacted; and
- (b) notify the monitor of—
 - (i) the defendant's name, address and telephone number (if available),
 - (ii) the offence or offences of which the defendant was convicted,
 - (iii) the place or places at which the defendant's presence must be monitored,
 - (iv) the period or periods during which the defendant's presence there must be monitored, and
 - (v) the identity of the responsible officer, and the means by which that officer may be contacted.

*Note.*²⁸⁴ See section 219(1) of the Criminal Justice Act 2003; paragraph 34(1) of Schedule 1 to the Criminal Justice and Immigration Act 2008; and section 1A(7) of the Street Offences Act 1959.

²⁸⁴ This note is contained within the CPR.

For the circumstances in which the court may—

- (a) *make a suspended sentence order, see section 189 of the 2003 Act;*
- (b) *make a community order (defined by section 177 of the Criminal Justice Act 2003(5)), or a youth rehabilitation order (defined by section 7 of the Criminal Justice and Immigration Act 2008), and for the identity and duties of responsible officers and qualifying officers, see generally—*
 - (i) *Part 12 of the 2003 Act, and*
 - (ii) *Part 1 of the 2008 Act;*
- (c) *order the defendant to attend meetings with a supervisor, see section 1(2A) of the Street Offences Act 1959.*

Under sections 190 or 215 of the 2003 Act, or section 1(2) of the 2008 Act, the court may impose an electronic monitoring requirement to secure the monitoring of the defendant's compliance with certain other requirements (for example, a curfew or an exclusion).

3.1.5.4. Notification regimes

Notification requirements

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.3(1) *This rule applies where, on a conviction, sentence or order, legislation requires the defendant—*

- (a) *to notify information to the police; or*
- (b) *to be included in a barred list.*

rule.28.3(2) *The court must tell the defendant that such requirements apply, and under what legislation.*

*Note.*²⁸⁵ *For the circumstances in which a defendant is required to notify information to the police, see—*

- (a) *Part 2 of, and Schedule 3 to, the Sexual Offences Act 2003 (notification after conviction of a specified sexual offence for which a specified sentence is imposed);*
- (b) *Part 4 of the Counter Terrorism Act 2008 (notification after conviction of a specified offence of, or connected with, terrorism, for which a specified sentence is imposed).*

For the circumstances in which a defendant will be included in a barred list, see paragraphs 1, 2, 7, 8 and 24 of Schedule 3 to the Safeguarding Vulnerable Groups Act 2006. See also paragraph 25 of that Schedule.

These requirements are not part of the court's sentence.

²⁸⁵ This note is contained within the CPR.

3.1.5.5. Variation or alteration of sentence

Varying or altering sentence

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.4(1) This rule—

- (a) applies where a magistrates' court or the Crown Court can vary or rescind a sentence or order, other than an order to which rule 24.18 applies (Setting aside a conviction or varying a costs etc. order); and
- (b) authorises the Crown Court, in addition to its other powers, to do so within the period of 56 days beginning with another defendant's acquittal or sentencing where—
 - (i) defendants are tried separately in the Crown Court on the same or related facts alleged in one or more indictments, and
 - (ii) one is sentenced before another is acquitted or sentenced.

rule.28.4(2) The court may exercise its power—

- (a) on application by a party, or on its own initiative;
- (b) at a hearing, in public or in private, or without a hearing.

rule.28.4(3) A party who wants the court to exercise that power must—

- (a) apply in writing as soon as reasonably practicable after—
 - (i) the sentence or order that that party wants the court to vary or rescind, or
 - (ii) where paragraph (1)(b) applies, the other defendant's acquittal or sentencing;
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) each other party; and
- (c) in the application—
 - (i) explain why the sentence should be varied or rescinded,
 - (ii) specify the variation that the applicant proposes, and
 - (iii) if the application is late, explain why.

rule.28.4(4) The court must not exercise its power in the defendant's absence unless—

- (a) the court makes a variation—
 - (i) which is proposed by the defendant, or
 - (ii) the effect of which is that the defendant is no more severely dealt with under the sentence as varied than before; or
- (b) the defendant has had an opportunity to make representations at a hearing (whether or not the defendant in fact attends).

rule.28.4(5) The court may—

- (a) extend (even after it has expired) the time limit under paragraph (3), unless the court's power to vary or rescind the sentence cannot be exercised;
- (b) allow an application to be made orally.

*Note.*²⁸⁶ Under section 142 of the Magistrates' Courts Act 1980, in some cases a magistrates' court can vary or rescind a sentence or other order that it has imposed or made, if that appears to be in the interests of justice. The power cannot be exercised if the Crown Court or the High Court has determined an appeal about that sentence or order. See also rule 24.18 (Setting aside a conviction or varying a costs etc. order), which governs the exercise by a magistrates' court of the power conferred by section 142 of the 1980 Act in the circumstances to which that rule applies.

Under section 155 of the Powers of Criminal Courts (Sentencing) Act 2000, the Crown Court can vary or rescind a sentence or other order that it has imposed or made. The power cannot be exercised—

- (a) after the period of 56 days beginning with the sentence or order (but see the note below); or
- (b) if an appeal or application for permission to appeal against that sentence or order has been determined.

Under section 155(7), Criminal Procedure Rules can extend that period of 56 days where another defendant is tried separately in the Crown Court on the same or related facts alleged in one or more indictments.

3.1.5.6. Variation or discharge of compensation order

Application to vary/discharge a compensation order

Criminal Procedure Rules 2015 (SI 2015/1490)

rule28.5(1) This rule applies where on application by the defendant a magistrates' court can vary or discharge—

- (a) a compensation order; or
- (b) a slavery and trafficking reparation order.

rule28.5(2) A defendant who wants the court to exercise that power must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
- (b) serve the application on the magistrates' court officer;
- (c) where the order was made in the Crown Court, serve a copy of the application on the Crown Court officer; and
- (d) in the application, specify the order that the defendant wants the court to vary or discharge and explain (as applicable)—
 - (i) what civil court finding shows that the injury, loss or damage was less than it had appeared to be when the order was made,
 - (ii) in what circumstances the person for whose benefit the order was made has recovered the property for the loss of which it was made,
 - (iii) why a confiscation order, unlawful profit order or slavery and trafficking reparation order makes the defendant now unable to pay compensation or reparation in full, or
 - (iv) in what circumstances the defendant's means have been reduced substantially and unexpectedly, and why they seem unlikely to increase for a considerable period.

²⁸⁶ This note is contained within the CPR.

rule.28.5(3) The court officer must serve a copy of the application on the person for whose benefit the order was made.

rule.28.5(4) The court must not vary or discharge the order unless—

- (a) the defendant, and the person for whose benefit it was made, each has had an opportunity to make representations at a hearing (whether or not either in fact attends); and
- (b) where the order was made in the Crown Court, the Crown Court has notified its consent.

*Note.*²⁸⁷ For the circumstances in which—

- (a) the court may make a compensation order, see section 130 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (b) the court may make a slavery and trafficking reparation order, see section 8 of the Modern Slavery Act 2015;
- (c) a magistrates' court with power to enforce such an order may vary or discharge it under the 2000 Act, see section 133. (Under section 133(4), where the order was made in the Crown Court, the magistrates' court must first obtain the Crown Court's consent.)

3.1.5.7. Disqualifications or restrictions

Application to remove, revoke or suspend a disqualification or restriction

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.6(1) This rule applies where, on application by the defendant, the court can remove, revoke or suspend a disqualification or restriction included in a sentence (except a disqualification from driving).

rule.28.6(2) A defendant who wants the court to exercise such a power must—

- (a) apply in writing, no earlier than the date on which the court can exercise the power;
- (b) serve the application on the court officer; and
- (c) in the application—
 - (i) specify the disqualification or restriction, and
 - (ii) explain why the defendant wants the court to remove, revoke or suspend it.

rule.28.6(3) The court officer must serve a copy of the application on the chief officer of police for the local justice area.

*Note.*²⁸⁸ Part 29 contains rules about disqualification from driving. See in particular rule 29.2.

Part 34 (Appeal to the Crown Court) and Part 35 (Appeal to the High Court by case stated) contain rules about applications to suspend disqualifications pending appeal.

²⁸⁷ This note is contained within the CPR.

²⁸⁸ This note is contained within the CPR.

For the circumstances in which the court may—

- (a) *remove a disqualification from keeping a dog, see section 4(6) of the Dangerous Dogs Act 1991(1). The court may not consider an application made within 1 year of the disqualification; or, after that, within 1 year of any previous application that was refused.*
- (b) *revoke or suspend a travel restriction order against a defendant convicted of drug trafficking, see section 35 of the Criminal Justice and Police Act 2001(2). The court may not consider an application made within 2 years of the disqualification, in any case; or, after that, before a specified period has expired.*

3.1.5.8. Restitution orders

Application for a restitution order by the victim of a theft

Criminal Procedure Rules 2015 (SI 2015/1490)

rule 28.7(1) This rule applies where, on application by the victim of a theft, the court can order a defendant to give that person goods obtained with the proceeds of goods stolen in that theft.

rule 28.7(2) A person who wants the court to exercise that power if the defendant is convicted must—

- (a) apply in writing as soon as practicable (without waiting for the verdict);
- (b) serve the application on the court officer; and
- (c) in the application—
 - (i) identify the goods, and
 - (ii) explain why the applicant is entitled to them.

rule 28.7(3) The court officer must serve a copy of the application on each party.

rule 28.7(4) The court must not determine the application unless the applicant and each party has had an opportunity to make representations at a hearing (whether or not each in fact attends).

rule 28.7(5) The court may —

- (a) extend (even after it has expired) the time limit under paragraph (2); and
- (b) allow an application to be made orally.

*Note.*²⁸⁹ *For the circumstances in which the court may order—*

- (a) *the return of stolen goods, see section 148 of the Powers of Criminal Courts (Sentencing) Act 2000;*
- (b) *the defendant to give the victim of the theft goods that are not themselves the stolen goods but which represent their proceeds, see section 148(2)(b) of the 2000 Act.*

²⁸⁹ This note is contained within the CPR.

3.1.5.9. Medical reports etc.

Requests for medical reports, etc.

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.8(1) This rule applies where the court—

- (a) requests a medical examination of the defendant and a report; or
- (b) requires information about the arrangements that could be made for the defendant where the court is considering—
 - (i) a hospital order, or
 - (ii) a guardianship order.

rule.28.8(2) Unless the court otherwise directs, the court officer must, as soon as practicable, serve on each person from whom a report or information is sought a note that—

- (a) specifies the power exercised by the court;
- (b) explains why the court seeks a report or information from that person; and
- (c) sets out or summarises any relevant information available to the court.

*Note.*²⁹⁰ *The court may request a medical examination of the defendant and a report in connection with—*

- (a) *section 4 of the Criminal Procedure (Insanity) Act 1964, under which the Crown Court may determine a defendant's fitness to plead;*
- (b) *section 35 of the Mental Health Act 1983, under which the court may order the defendant's detention in hospital to obtain a further medical report;*
- (c) *section 36 of the 1983 Act, under which the Crown Court may order the defendant's detention in hospital instead of in custody pending trial;*
- (d) *section 37 of the 1983 Act, under which the court may order the defendant's detention and treatment in hospital, or make a guardianship order, instead of disposing of the case in another way;*
- (e) *section 38 of the 1983 Act, under which the court may order the defendant's temporary detention and treatment in hospital instead of disposing of the case in another way;*
- (f) *section 157 of the Criminal Justice Act 2003, under which the court must usually obtain and consider a medical report before passing a custodial sentence if the defendant is, or appears to be, mentally disordered;*
- (g) *section 207 of the 2003 Act (in the case of a defendant aged 18 or over), or section 1(1)(k) of the Criminal Justice and Immigration Act 2008 (in the case of a defendant who is under 18), under which the court may impose a mental health treatment requirement.*

For the purposes of the legislation listed in (a), (d) and (e) above, the court requires the written or oral evidence of at least two registered medical practitioners, at least one of whom is approved as having special experience in the diagnosis or treatment of mental disorder. For the purposes of (b), the court requires one medical practitioner's evidence. For the purposes of (c), the court requires two medical practitioners' evidence. For the purposes of (f) and (g), the court requires the evidence of a registered medical practitioner with special experience in the diagnosis or treatment of mental disorder.

²⁹⁰ This note is contained within the CPR.

Under section 11 of the Powers of Criminal Courts (Sentencing) Act 2000, a magistrates' court may adjourn a trial to obtain medical reports.

Part 19 (Expert evidence) contains rules about the content of expert medical reports.

For the authorities from whom the court may require information about hospital treatment or guardianship, see sections 39 and 39A of the 1983 Act.

3.1.5.10. Hospital or guardianship admission

Information to be supplied on admission to hospital or guardianship

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.9(1) This rule applies where the court—

- (a) orders the defendant's detention and treatment in hospital; or
- (b) makes a guardianship order.

rule.28.9(2) Unless the court otherwise directs, the court officer must, as soon as practicable, serve on (as applicable) the hospital or the guardian—

- (a) a record of the court's order;
- (b) such information as the court has received that appears likely to assist in treating or otherwise dealing with the defendant, including information about—
 - (i) the defendant's mental condition,
 - (ii) the defendant's other circumstances, and
 - (iii) the circumstances of the offence.

Note.²⁹¹ For the circumstances in which the court may order the defendant's detention and treatment in hospital, see sections 35, 36, 37, 38 and 44 of the Mental Health Act 1983(1). For the circumstances in which the court may make a guardianship order, see the same section 37.

3.1.5.11. Committal for sentence

Information to be supplied on committal for sentence, etc.

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.10(1) This rule applies where a magistrates' court or the Crown Court convicts the defendant and—

- (a) commits or adjourns the case to another court—
 - (i) for sentence, or
 - (ii) for the defendant to be dealt with for breach of a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by that other court;
- (b) deals with a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by another court; or
- (c) makes an order that another court is, or may be, required to enforce.

²⁹¹ This note is contained within the CPR.

rule.28.10(2) Unless the convicting court otherwise directs, the court officer must, as soon as practicable—

- (a) where paragraph (1)(a) applies, arrange the transmission from the convicting to the other court of a record of any relevant—
 - (i) certificate of conviction,
 - (ii) magistrates' court register entry,
 - (iii) decision about bail, for the purposes of section 5 of the Bail Act 1976(1),
 - (iv) note of evidence,
 - (v) statement or other document introduced in evidence,
 - (vi) medical or other report,
 - (vii) representation order or application for such order, and
 - (viii) interim driving disqualification;
- (b) where paragraph (1)(b) or (c) applies, arrange—
 - (i) the transmission from the convicting to the other court of notice of the convicting court's order, and
 - (ii) the recording of that order at the other court;
- (c) in every case, notify the defendant and, where the defendant is under 14, an appropriate adult, of the location of the other court.

*Note.*²⁹² For the circumstances in which—

- (a) a magistrates' court may (and in some cases must) commit the defendant to the Crown Court for sentence, see sections 3, 3A, 3B, 3C, 4, 4A and 6 of the Powers of Criminal Courts (Sentencing) Act 2000(2) and section 43 of the Mental Health Act 1983(3);
- (b) a magistrates' court may adjourn the case to another magistrates' court for sentence, see section 10 of the Magistrates' Courts Act 1980(4) and section 10 of the 2000 Act(5);
- (c) a magistrates' court or the Crown Court may (and in some cases must) adjourn the case to a youth court for sentence, see section 8 of the 2000 Act(6);
- (d) a youth court may adjourn the case to a magistrates' court for sentence, see section 9 of the 2000 Act(7);
- (e) a magistrates' court may transfer a fine to be enforced to another court, see sections 89 and 90 of the 1980 Act(8).

For the court's powers where it convicts a defendant who is subject to a deferred sentence, a conditional discharge, or a suspended sentence of imprisonment, imposed by another court, see sections 1C and 13 of the 2000 Act(9) and section 189 of, and Schedule 12 to, the Criminal Justice Act 2003(10).

Under section 140 of the 2000 Act(11), a fine imposed or other sum ordered to be paid in the Crown Court is enforceable by a magistrates' court specified in the order, or from which the case was committed or sent to the Crown Court.

See also section 219(3) of the 2003 Act(12); paragraph 34(3) of Schedule 1 to the Criminal Justice and Immigration Act 2008(13); and section 1A(9) of the Street Offences Act 1959

²⁹² This note is contained within the CPR.

3.1.5.12. Assistance given by an informant

Application to review sentence because of assistance given or withheld

Criminal Procedure Rules 2015 (SI 2015/1490)

rule.28.11(1) This rule applies where the Crown Court can reduce or increase a sentence on application by a prosecutor in a case in which—

- (a) since being sentenced, the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence; or
- (b) since receiving a reduced sentence for agreeing to give such assistance, the defendant has failed to do so.

rule.28.11(2) A prosecutor who wants the court to exercise that power must—

- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) the defendant; and
- (c) in the application—
 - (i) explain why the sentence should be reduced, or increased, as appropriate, and
 - (ii) identify any other matter relevant to the court's decision, including any sentencing guideline or guideline case.

rule.28.11(3) The general rule is that the application must be determined by the judge who passed the sentence, unless that judge is unavailable.

rule.28.11(4) The court must not determine the application in the defendant's absence unless the defendant has had an opportunity to make representations at a hearing (whether or not the defendant in fact attends).

*Note.*²⁹³ *Under section 73 of the Serious Organised Crime and Police Act 2005(1), the Crown Court may pass a lesser sentence than it otherwise would have passed because the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence.*

Under section 74 of the 2005 Act(2), where the Crown Court has sentenced a defendant a prosecutor may apply to the court—

- (a) *to reduce the sentence, if the defendant subsequently assists, or agrees to assist, in the investigation or prosecution of an offence; or*
- (b) *to increase a reduced sentence to that which the court otherwise would have passed, if the defendant agreed to give such assistance but subsequently has knowingly failed to do so.*

Such an application may be made only where the defendant is still serving the sentence and the prosecutor thinks it is in the interests of justice to apply.

²⁹³ This note is contained within the CPR.