

2012 No. 2906 (C. 114)

CRIMINAL LAW, ENGLAND AND WALES

DEFENCE

**The Legal Aid, Sentencing and Punishment of Offenders Act
2012 (Commencement No. 4 and Saving Provisions) Order 2012**

Made - - - -

17th November 2012

The Secretary of State makes the following Order in exercise of the powers conferred by section 151(1) and (5)(b) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(a).

Citation and interpretation

1.—(1) This Order may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 4 and Saving Provisions) Order 2012.

(2) In this Order—

“the Act” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“community order” has the meaning given by section 177 of the Criminal Justice Act 2003(b);

“suspended sentence order” has the meaning given by section 189(7) of the Criminal Justice Act 2003;

“youth rehabilitation order” has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008(c);

“service community order” has the meaning given by section 178 of the Armed Forces Act 2006(d); and

“overseas community order” has the meaning given by section 182 of the Armed Forces Act 2006.

Provisions coming into force on 3rd December 2012

2. Subject to articles 3 to 7, the following provisions of the Act come into force on 3rd December 2012—

(a) Chapter 1 of Part 3 (sentencing) except—

(i) section 67(2)(a) and (5)(a) (court’s powers in relation to an offender following a finding that the offender has breached a community order);

(ii) sections 76 and 77(e) (alcohol abstinence and monitoring requirement etc);

(a) 2012 c.10.
(b) 2003 c.44.
(c) 2008 c.4.
(d) 2006 c.52.
(e) Section 77 of the Act came into force on Royal Assent (1st May 2012).

- (iii) section 78(3) so far as it relates to alcohol abstinence and monitoring requirements;
and
- (iv) sections 85 to 88 (fines);
- (b) Chapter 2 of Part 3 (bail);
- (c) Chapter 3 of Part 3 (remands of children otherwise than on bail);
- (d) Chapter 4 of Part 3 (release on licence etc) except section 119(a);
- (e) Chapter 5 of Part 3 (dangerous offenders);
- (f) Chapter 6 of Part 3 (prisoners etc) except section 129;
- (g) Schedule 9 (changes to powers to make suspended sentence orders: consequential and transitory provision);
- (h) Schedule 10 (repeal of sections 181 to 188 of Criminal Justice Act 2003: consequential amendments);
- (i) Schedule 11 (amendments of enactments relating to bail);
- (j) Schedule 12 (remands of children otherwise than on bail: minor and consequential amendments);
- (k) Schedule 13 (crediting of time in custody);
- (l) Schedule 14 (prisoners serving less than 12 months: consequential amendments);
- (m) Schedule 15 (application of sections 108 to 119 and transitional and transitory provision);
- (n) Schedule 16 (amendments of Criminal Justice Act 2003: transitional and consequential provision);
- (o) Schedule 17 (Criminal Justice Act 2003: restatement of transitional provision);
- (p) Schedule 18 (life sentence for second listed offence etc: new Schedule 15B to Criminal Justice Act 2003);
- (q) Schedule 19 (life sentence for second listed offence: consequential and transitory provision);
- (r) Schedule 20 (release of new extended sentence prisoners: consequential amendments of Chapter 6 of Part 12 of the Criminal Justice Act 2003);
- (s) Schedule 21 (abolition of certain sentences for dangerous offenders and new extended sentences: consequential and transitory provision); and
- (t) Schedule 22 (dangerous offenders subject to service law etc).

Saving provision in relation to offences committed before 3rd December 2012

3.—(1) The coming into force of the following provisions of the Act is of no effect in relation to an offence committed before 3rd December 2012—

- (a) section 65 (sentencing where there is aggravation related to transgender identity);
- (b) section 71 (curfew requirement);
- (c) section 72 (foreign travel prohibition requirement); and
- (d) section 81 (youth rehabilitation order: curfew requirement).

(2) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, the offence is to be treated as having been committed on the last of those days.

(a) Section 119 of the Act came into force on Royal Assent (1st May 2012).

Saving provision in relation to breaches of relevant orders which took place before 3rd December 2012

4.—(1) The coming into force of the following provisions of the Act is of no effect in relation to a failure to comply with a requirement of a relevant order where the failure took place before 3rd December 2012—

- (a) section 67(1) to (6) (breach of community order) so far as those provisions are brought into force by article 2(a);
- (b) section 69(1) and (2) (fine for breach of suspended sentence order); and
- (c) section 84(1) to (3) (youth rehabilitation order: fine for breach).

(2) Where a failure to comply with a requirement of a relevant order is found to have taken place over a period of two or more days, or at some time during a period of two or more days, the failure is to be treated as having taken place on the last of those days.

(3) In this article “relevant order” means any of the following—

- (a) a community order;
- (b) a suspended sentence order;
- (c) a youth rehabilitation order;
- (d) a service community order;
- (e) an overseas community order.

Saving provisions in relation to community orders and youth rehabilitation orders made before 3rd December 2012

5.—(1) The coming into force of section 66(5) of the Act (power of court to extend a community order) is of no effect in relation to a community order made before 3rd December 2012.

(2) The coming into force of section 83(5) of the Act (power of court to extend a youth rehabilitation order) is of no effect in relation to a youth rehabilitation order made before 3rd December 2012.

Saving provision in relation to persons convicted before 3rd December 2012

6. The coming into force of the following provisions of the Act is of no effect in relation to a person convicted before 3rd December 2012—

- (a) section 123 (abolition of certain sentences for dangerous offenders); and
- (b) the following provisions of Schedule 22—
 - (i) paragraphs 3 and 4 (abolition of sentence of imprisonment for public protection: dangerous offenders aged 18 or over subject to service law);
 - (ii) paragraph 6 (abolition of extended sentence for certain violent and sexual offences: dangerous offenders aged 18 or over subject to service law);
 - (iii) paragraphs 7 and 8 (abolition of sentence of detention for public protection: dangerous offenders aged under 18 subject to service law); and
 - (iv) paragraph 10 (abolition of extended sentence for certain violent and sexual offences: dangerous offenders aged under 18 subject to service law).

Saving provisions in relation to children remanded to prison or local authority accommodation before 3rd December 2012

7.—(1) Chapter 3 of Part 3 of the Act (except section 105(1)) is of no effect in relation to proceedings in which a child is subject to a pre-commencement remand.

(2) The following provisions of Schedule 12 to the Act are of no effect in relation to proceedings in which a child is subject to a pre-commencement remand—

- (a) paragraphs 6 to 8;
 - (b) paragraphs 10 to 12;
 - (c) paragraph 17;
 - (d) paragraphs 20 and 21;
 - (e) paragraphs 23 to 25;
 - (f) paragraphs 28 and 29;
 - (g) paragraph 31; and
 - (h) paragraphs 33 to 58.
- (3) A pre-commencement remand is a remand which—
- (a) commenced before 3rd December 2012; and
 - (b) is a remand—
 - (i) to prison by virtue of section 27(1) of the Criminal Justice Act 1948(a);
 - (ii) to local authority accommodation by virtue of section 23(1) or (1A) of the Children and Young Persons Act 1969(b); or
 - (iii) to prison by virtue of section 23(1) of the Children and Young Persons Act 1969 as modified by section 98 of the Crime and Disorder Act 1998(c).

Signed by authority of the Secretary of State

Jeremy Wright
Parliamentary Under Secretary of State
Ministry of Justice

17th November 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the fourth commencement order made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the 2012 Act”). It brings various provisions of the 2012 Act into force on 3rd December 2012 and makes various saving provisions.

Article 2 brings various provisions in Part 3 of the Act into force subject to the saving provisions set out in article 3 to 7.

Article 3 makes a saving in relation to various sentencing provisions of the Act relating to criminal offences. The provisions have no effect in relation to offences committed before 3rd December 2012.

Article 4 makes a saving in relation to various provisions of the Act relating to breaches of non-custodial sentences. The provisions have no effect in relation to breaches taking place before 3rd December 2012.

Article 5 makes savings in relation to provisions of the Act giving the court powers to extend community orders and youth rehabilitation orders. The provisions have no effect in relation to orders made before 3rd December 2012.

Article 6 makes a saving in relation to provisions of the Act abolishing certain sentences for dangerous offenders. The provisions have no effect in relation to any person convicted before 3rd December 2012.

(a) 1948 c.58.
(b) 1969 c.54.
(c) 1998 c.37.

Article 7 makes savings in relation to Chapter 3 of Part 3 of and Schedule 12 to the Act, which provide for the remand of children otherwise than on bail, and repeal existing legislation governing that area. Certain of the provisions have no effect in relation to proceedings where the child is subject to a remand which commenced before 3rd December 2012.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 45(1) and (8)	1st October 2012	2012/2412
Section 55	1st October 2012	2012/2412
Section 61	1st October 2012	2012/2412
Section 62	1st October 2012	2012/2412
Section 140	1st October 2012	2012/2412
Section 141(7) to (9) and (12)	1st October 2012	2012/2412
Section 142	3rd December 2012	2012/2770
Section 143	3rd December 2012	2012/2770
Section 144	1st September 2012	2012/1956
Section 145	3rd December 2012	2012/2770
Section 146	3rd December 2012	2012/2770
Section 147	3rd December 2012	2012/2770
Schedule 7	1st October 2012	2012/2412
Schedule 8	1st October 2012	2012/2412
Schedule 26	3rd December 2012	2012/2770
Schedule 27	3rd December 2012	2012/2770

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STATUTORY INSTRUMENTS

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The Legal Aid, Sentencing and Punishment of Offenders Act
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£4.00

E5034 11/2012 125034T 19585

ISBN 978-0-11-153100-6



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