

**2012 No. 2824**

**CHILDREN AND YOUNG PERSONS, ENGLAND AND  
WALES**

**CRIMINAL LAW, ENGLAND AND WALES**

**DEFENCE**

**The Legal Aid, Sentencing and Punishment of Offenders Act  
2012 (Consequential and Saving Provisions) Regulations 2012**

<i>Made</i> - - - -	<i>8th November 2012</i>
<i>Laid before Parliament</i>	<i>12th November 2012</i>
<i>Coming into force</i> - -	<i>3rd December 2012</i>

The Secretary of State makes the following Regulations in exercise of the power conferred by section 149(1) and (2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(a)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Consequential and Saving Provisions) Regulations 2012 and come into force on 3rd December 2012.

**Amendments of the Children (Secure Accommodation) Regulations 1991 and saving provision**

2.—(1) The Children (Secure Accommodation) Regulations 1991<sup>(b)</sup> are amended as follows.

(2) In regulation 6(1)(b) (modification of section 25 of the Children Act 1989<sup>(c)</sup> in relation to children looked after by a local authority by virtue of being remanded to local authority accommodation), for “section 23 of the Children and Young Persons Act 1969 (remand to local authority accommodation)” substitute “section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (remands of children to local authority accommodation)”.

(3) In regulation 13 (maximum periods of authorisation by court for remanded children), for “section 23 of the Children and Young Persons Act 1969” substitute “section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012”.

(4) The amendments made by paragraphs (2) and (3) are of no effect in relation to proceedings in which a child is subject to a pre-commencement remand.

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(a) 2012 c.10.  
(b) S.I. 1991/1505.  
(c) 1989 c.41.

- (5) 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).

### **Amendments of the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005**

3.—(1) In article 3 of the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005(d), omit—

- (a) paragraph (4)(b) and (c); and
- (b) paragraph (5).

(2) The coming into force of paragraph (1) is of no effect in relation to a person convicted before 3rd December 2012.

### **Amendments of the Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008**

4.—(1) Omit article 2(2) and (3) of the Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008(e).

(2) The coming into force of paragraph (1) is of no effect in relation to a person convicted before 3rd December 2012.

### **Amendments of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009**

5.—(1) Schedule 2 to the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009(f) (transitory provisions) is amended as follows.

(2) After paragraph 9 (power to impose detention in a young offender institution) insert—

#### **“Life and extended sentences: offenders aged at least 18 but under 21**

9A.—(1) This paragraph applies in relation to an offender aged at least 18 but under 21 on conviction, until the coming into force of section 61 of CJCSA 2000.

(2) Section 218A of AFA 2006 (life sentence for second listed offence) has effect as if the reference in subsection (4) to imprisonment were to detention in a young offender institution.

(3) Section 219A of AFA 2006 (extended sentence for certain violent or sexual offenders aged 18 or over) has effect as if—

- (a) the reference in subsection (1)(d) to imprisonment for life were to custody for life; and
- (b) the reference in subsection (3) to an extended sentence of imprisonment were to an extended sentence of detention in a young offender institution.”

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(a) 1948 c. 58.  
(b) 1969 c.54.  
(c) 1998 c.37.  
(d) S.I. 2005/643.  
(e) S.I. 2008/1587.  
(f) S.I. 2009/1059.

- (3) Omit paragraph 13 (crediting of time in service custody).
- (4) In paragraph 16 (meaning of “custodial sentence”), after sub-paragraph (c) insert—
  - “(ca) an extended sentence of detention in a young offender institution passed under section 226A of CJA 2003 as a result of section 219A of AFA 2006;”.

**Amendments of the Criminal Justice Act 2003 (Surcharge) Order 2012**

- 6.—(1) In table 2 in the Schedule to the Criminal Justice Act 2003 (Surcharge) Order 2012(a)—
- (a) in the fifth entry, in column 1 (which relates to suspended sentences of imprisonment), omit the words “but not more than 12 months”; and
  - (b) omit the penultimate entry (which relates to sentences of imprisonment for public protection or detention in a young offender institution for public protection).
- (2) The coming into force of paragraph (1)(b) is of no effect in relation to a person convicted before 3rd December 2012.

Signed by the authority of the Secretary of State

*Jeremy Wright*  
Parliamentary Under Secretary of State  
Ministry of Justice

8th November 2012

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(a) S.I. 2012/1696.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under section 149(1) and (2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the Act”).

Regulation 2 makes amendments which are consequential on Chapter 3 of Part 3 of the Act (remand of children otherwise than on bail). Regulation 2(1) to (3) updates the references in regulations 6 and 13 of the Children (Secure Accommodation) Regulations 1991 (S.I. 1991/1505) in light of the commencement of section 91 of the Act. Regulation 2(4) to (5) disapplies the changes in regulation 2(2) and (3) for children remanded to certain accommodation before 3rd December 2012.

Regulations 3 and 4 make amendments which are consequential on section 123 of the Act (abolition of certain sentences for dangerous offenders).

Regulation 5(1), (2) and (4) makes amendments which are consequential on the commencement of provisions in Schedule 22 to the Act (dangerous offenders subject to service law etc) relating to new sections 218A and 219A of the Armed Forces Act 2006. Regulation 5(3) is consequential on Schedule 13 to the Act.

Regulation 6(a) makes an amendment which is consequential on section 68 of the Act (changes to powers to make suspended sentence order). Regulation 6(b) makes an amendment which is consequential on section 123 of the Act (abolition of certain sentences for dangerous offenders).

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