

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 19: Varying designations of authorities responsible for remanded young persons

325. *Section 19* amends provisions in Chapter 3 of Part 3 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”) relating to the designation of a local authority for a child who is remanded to youth detention accommodation.
326. Section 102(6) of the 2012 Act requires the court (where a child is remanded to youth detention accommodation) to designate a local authority as the designated authority for the child. The designation operates for various purposes, including for the purpose of regulations made under section 103(2) about the recovery of costs from the designated authority.
327. *Section 102(7)(a)* provides that the court must, where the child is looked after, designate the authority which looks after the child. *Section 102(7)(b)* provides that, where *section 102(7)(a)* does not apply, the court must designate either the local authority in whose area it appears to the court that the child habitually resides, or the local authority in whose area it appears to the court that the offence was committed. *Subsection (4)* of *section 19* inserts new *section 102(7A)* and *(7B)* into the 2012 Act to provide that a court is to designate the local authority in whose area the child habitually resides, unless it considers it inappropriate to do so, or is unable to identify any place in England and Wales where the child habitually resides. It also provides that where it appears to the court that the offence was not committed in England and Wales, and it is not required under new *section 102(7A)* to designate the local authority in whose area the child habitually resides, the court may designate a local authority which it considers appropriate in the circumstances of the case.
328. *Subsection (5)* inserts new *section 102(7C)* to *(7J)* into the 2012 Act. These provisions give a court the power to make an order to replace a designated local authority with another local authority. A court currently has the power to change the designated authority, but such a change only has effect from the date on which the change is made. A replacement designation under the new provisions would have the effect that the newly designated local authority becomes liable, by virtue of any regulations made under *section 103(2)* of the 2012 Act, to pay any costs of accommodation, including during the period before the replacement (that is, when the original local authority was designated). The provisions would make further, ancillary provision. In particular, new *section 102(7H)* provides that if a designated local authority has paid an amount by virtue of regulations made under *section 103(2)* for the costs of the remand of a child to youth detention accommodation, and a replacement designation has been made, that amount must be repaid to the original local authority.
329. *Subsections (6) and (7)* provide that, although a replacement designation under new *section 102(7C)* of the 2012 Act may be made in respect of a remand ordered before

*These notes refer to the Crime and Courts Act 2013
(c.22) which received Royal Assent on 25 April 2013*

the commencement of section 19, the substitution of a newly designated local authority does not have effect in respect to any time before commencement. Subject to this, the amendments to section 102 of the 2012 Act made by section 19 would only have effect in relation to remands ordered after commencement.