



Criminal Justice Act 1991

1991 CHAPTER 53

PART I

POWERS OF COURTS TO DEAL WITH OFFENDERS

Supplemental

28 Savings for mitigation and mentally disordered offenders.

- (1) Nothing in this Part shall prevent a court from mitigating an offender's sentence by taking into account any such matters as, in the opinion of the court, are relevant in mitigation of sentence.
- (2) Without prejudice to the generality of subsection (1) above, nothing in this Part shall prevent a court—
 - (a) from mitigating any penalty included in an offender's sentence by taking into account any other penalty included in that sentence; or
 - (b) in a case of an offender who is convicted of one or more other offences, from mitigating his sentence by applying any rule of law as to the totality of sentences.

^{F1}(3)

- (4) Nothing in this Part shall be taken—
 - (a) as requiring a court to pass a custodial sentence, or any particular custodial sentence, on a mentally disordered offender; or
 - (b) as restricting any power (whether under the 1983 Act or otherwise) which enables a court to deal with such an offender in the manner it considers to be most appropriate in all the circumstances.

Textual Amendments

F1 S.28(3) repealed (20.9.1993) by 1993 c. 36, s. 79(14), Sch. 6 Pt.I; S.I. 1993/1968, art. 2(2), Sch.2, Appendix.

Status: Point in time view as at 03/02/1995.

Changes to legislation: Criminal Justice Act 1991, Cross Heading: Supplemental is up to date with all changes known to be in force on or before 10 June 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)

Commencement Information

II S. 28 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

[^{F2}29 Effect of previous convictions and of offending while on bail.

- (1) In considering the seriousness of any offence, the court may take into account any previous convictions of the offender or any failure of his to respond to previous sentences.
- (2) In considering the seriousness of any offence committed while the offender was on bail, the court shall treat the fact that it was committed in those circumstances as an aggravating factor.
- (3) A probation order or conditional discharge order made before 1st October 1992 (which, by virtue of section 2 or 7 of the ^{M1}Powers of Criminal Courts Act 1973, would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.
- (4) A conviction in respect of which a probation order or [^{F3}an order discharging the offender absolutely or conditionally] was made before that date (which, by virtue of section 13 of that Act, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.]
- [^{F4}(5) A conditional discharge order made after 30th September 1992 (which, by virtue of section 1A of the Powers of Criminal Courts Act 1973, would otherwise not be a sentence for the purposes of this section) is to be treated as a sentence for those purposes.
- (6) A conviction in respect of which an order discharging the offender absolutely or conditionally was made after 30th September 1992 (which, by virtue of section 1C of the Powers of Criminal Courts Act 1973, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.]

Textual Amendments

- F2** S. 29 substituted (16.8.1993) by 1993 c. 36, s. 66(6); S.I. 1993/1968, art. 2(1), Sch. 1
- F3** Words in s. 29(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), Sch. 9 para. 44(2)(4); S.I. 1995.127, art. 2(1), Sch. 1Appendix A
- F4** S 29(5)(6) inserted (3.2.1995) by 1994 c. 33, s. 168(1), Sch. 9 para. 44(3)(4); S.I. 1995/127, art. 2(1), Sch. 1Appendix A

Marginal Citations

M1 1973 c. 62.

30 Rules, regulations and orders.

- (1) Any power of the Secretary of State ^{F5}. . . to make rules, regulations or orders under this Part—
 - (a) shall be exercisable by statutory instrument; and
 - (b) shall include power to make different provision for different cases or classes of case.

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- (2) A statutory instrument containing any rules, regulations or order under this Part (other than an order under section 12(4) above) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F5** Words in s. 30(1) repealed (20.9.1993) by 1993 c. 36, s. 79(14), **Sch. 6 Pt.I**; S.I. 1993/1968, art. 2(2), **Sch.2**, Appendix.

Commencement Information

- I2** S. 30 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

31 Interpretation of Part I.

- (1) In this Part—

“attendance centre order” means an order under section 17 of the 1982 Act;
“combination order” means an order under section 11 above;
“community order” has the meaning given by section 6(4) above;
“community sentence” has the meaning given by section 6(1) above;
“curfew order” means an order under section 12 above;
“custodial sentence” means—

- (a) in relation to an offender of or over the age of twenty-one years, a sentence of imprisonment; and
(b) in relation to an offender under that age, a sentence of detention in a young offender institution or under section 53 of the ^{M2}Children and Young Persons Act 1933 (“the 1933 Act”), or a sentence of custody for life under section 8(2) of the 1982 Act;

“mentally disordered”, in relation to any person, means suffering from a mental disorder within the meaning of the 1983 Act;

“pre-sentence report” has the meaning given by section 3(5) above;
“responsible officer” has the meaning given by section 15(3) above;

“sentence of imprisonment” does not include a committal or attachment for contempt of court;

[^{F6}“sexual offence” means any of the following—

- (a) an offence under the ^{M3}Sexual Offences Act 1956, other than an offence under section 30, 31 or 33 to 36 of that Act;
(b) an offence under section 128 of the ^{M4}Mental Health Act 1959;
(c) an offence under the ^{M5}Indecency with Children Act 1960;
(d) an offence under section 9 of the ^{M6}Theft Act 1968 of burglary with intent to commit rape;
(e) an offence under section 54 of the ^{M7}Criminal Law Act 1977;
(f) an offence under the ^{M8}Protection of Children Act 1978;
(g) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit any of the offences in paragraphs (a) to (f) above;
(h) an offence under section 1 of the ^{M9}Criminal Attempts Act 1981 of attempting to commit any of those offences;
(i) an offence of inciting another to commit any of those offences;]

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“supervision order” means a supervision order under the 1969 Act;

“violent offence” means an offence which leads, or is intended or likely to lead, to a person’s death or to physical injury to a person, and includes an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).

- (2) For the purposes of this Part, an offence is associated with another if—
- (a) the offender is convicted of it in the proceedings in which he is convicted of the other offence, or (although convicted of it in earlier proceedings) is sentenced for it at the same time as he is sentenced for that offence; or
 - (b) the offender admits the commission of it in the proceedings in which he is sentenced for the other offence and requests the court to take it into consideration in sentencing him for that offence.
- (3) In this Part any reference, in relation to an offender convicted of a violent or sexual offence, to protecting the public from serious harm from him shall be construed as a reference to protecting members of the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him.

Textual Amendments

F6 Definition of "sexual offence" substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 45(1)(2)**; S.I. 1995/127, art. 2(1), **Sch. 1A** Appendix A

Commencement Information

I3 S. 31 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(1), **Sch. 2**.

Marginal Citations

M2 1933 c. 12.
M3 1956 c. 69.
M4 1959 c. 72.
M5 1960 c. 33.
M6 1968 c. 60.
M7 1977 c. 45.
M8 1978 c. 37.
M9 1981 c. 47.

Status:

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