



Criminal Justice Act 1993

1993 CHAPTER 36

PART VI

MISCELLANEOUS

68 Appeals in Scotland against lenient disposals, etc

- (1) In section 228(1) of the Criminal Procedure (Scotland) Act 1975 (right of appeal of person convicted on indictment)—
 - (a) after paragraph (b) (and before the word “or”) insert—
 - “(bb) against his absolute discharge or admonition;
 - (bc) against any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978;
 - (bd) against any order deferring sentence;”;
 - (b) in paragraph (c), after “sentence” add “or disposal or order”.
- (2) In section 228A of that Act (appeal by Lord Advocate against sentence in solemn proceedings etc.)—
 - (a) after “conviction” insert “or against any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978 or against the person’s absolute discharge or admonition or against any order deferring sentence”; and
 - (b) for paragraph (a) substitute—
 - “(a) if it appears to the Lord Advocate that, as the case may be—
 - (i) the sentence is unduly lenient;
 - (ii) the making of the probation order or community service order is unduly lenient or its terms are unduly lenient;
 - (iii) to dismiss with an admonition or to discharge absolutely is unduly lenient; or

Status: This is the original version (as it was originally enacted).

- (iv) the deferment of sentence is inappropriate or on unduly lenient conditions;”.
- (3) In section 442(1) of that Act (rights of appeal in summary proceedings)—
 - (a) in paragraph (a)—
 - (i) after “person convicted” insert “, or found to have committed an offence.”;
 - (ii) in sub-paragraph (i), after “conviction” insert “or finding”;
 - (iii) after sub-paragraph (ii) (and before the word “or”) insert—
 - “(iia) against his absolute discharge or admonition or any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978 or any order deferring sentence;”;and
 - (iv) in sub-paragraph (iii), after “sentence” add “or disposal or order”; and
 - (b) in paragraph (c)—
 - (i) after “conviction” insert “or, whether the person has been convicted or not, against any probation order or any community service order under the Community Service by Offenders (Scotland) Act 1978 or against the person’s absolute discharge or admonition or against any order deferring sentence”;
 - (ii) for “the sentence is unduly lenient” substitute—
 - “, as the case may be—
 - (i) the sentence is unduly lenient;
 - (ii) the making of the probation order or community service order is unduly lenient or its terms are unduly lenient;
 - (iii) to dismiss with an admonition or to discharge absolutely is unduly lenient; or
 - (iv) the deferment of sentence is inappropriate or on unduly lenient conditions;”.