

Status: Point in time view as at 08/02/2000.

Changes to legislation: Crime and Disorder Act 1998, Cross Heading: Powers of Criminal Courts Act 1973 (c.62) is up to date with all changes known to be in force on or before 28 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)

SCHEDULES

SCHEDULE 7

PRE-CONSOLIDATION AMENDMENTS: POWERS OF CRIMINAL COURTS

Commencement Information

- II** Sch. 7 wholly in force; Sch. 7 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

Powers of Criminal Courts Act 1973 (c.62)

- 13 (1) In subsection (6) of section 1 of the 1973 Act (deferment of sentence), for the words “13(1), (2) and (5)” there shall be substituted the words “ 13(1) to (3) and (5) ”.
- (2) In subsection (8) of that section, for paragraph (a) there shall be substituted the following paragraph—
- “(a) is power to deal with him, in respect of the offence for which passing of sentence has been deferred, in any way in which the court which deferred passing sentence could have dealt with him; and”.
- 14 (1) In subsection (9) of section 1B of the 1973 Act (commission of further offence by person conditionally discharged), for the words from “those which” to the end there shall be substituted the words “powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
- (b) to deal with the offender for that offence in any way in which a magistrates’ court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.”
- (2) Subsection (10) of that section (which is superseded by provision inserted by this Schedule in section 57 of the 1973 Act) shall cease to have effect.
- 15 In section 1C(1) of the 1973 Act (effect of absolute or conditional discharge)—
- (a) in paragraph (a), for the words “the following provisions” there shall be substituted the words “ section 1B ”; and
- (b) paragraph (b) and the word “and” immediately preceding it shall cease to have effect.

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- 16 In section 2(1) of the 1973 Act (probation orders), the words from “For the purposes” to “available evidence” (which are superseded by provision inserted by this Schedule in section 57 of the 1973 Act) shall cease to have effect.
- 17 Section 11 of the 1973 Act (which is superseded by the paragraph 8A inserted by this Schedule in Schedule 2 to the 1991 Act) shall cease to have effect.

Modifications etc. (not altering text)

C1 Sch. 7 para. 17 excluded (19.9.1998) by S.I. 1998/2327, art. 6(2)

- 18 (1) For subsection (2) of section 12 of the 1973 Act (supplementary provision as to probation and discharge) there shall be substituted the following subsection—
- “(2) Where an order for conditional discharge has been made on appeal, for the purposes of this Act it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
 - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.”
- (2) In subsection (3) of that section, for the words from “any question whether a probationer” to “period of conditional discharge,” there shall be substituted the words “any question whether any person in whose case an order for conditional discharge has been made has been convicted of an offence committed during the period of conditional discharge”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) Nothing in section 1A of this Act shall be construed as preventing a court, on discharging an offender absolutely or conditionally in respect of any offence, from making an order for costs against the offender or imposing any disqualification on him or from making in respect of the offence an order under section 35 or 43 of this Act or section 28 of the ^{M1}Theft Act 1968.”

Marginal Citations

M1 1968 c.60.

- 19 (1) In subsection (1) of section 14 of the 1973 Act (community service orders in respect of convicted persons), after the word “imprisonment”, in the first place where it occurs, there shall be inserted the words “ (not being an offence the sentence for which is fixed by law or falls to be imposed under section 2(2), 3(2) or 4(2) of the ^{M2}Crime (Sentences) Act 1997) ”.
- (2) In that subsection, after the words “young offenders” there shall be inserted the words “ ; and for the purposes of this subsection a sentence falls to be imposed under

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section 2(2), 3(2) or 4(2) of the ^{M3}Crime (Sentences) Act 1997 if it is required by that provision and the court is not of the opinion there mentioned ”.

(3) In subsection (7) of that section, for the words “paragraph (b)(i) or (ii)” there shall be substituted the words “ paragraph (b) ”.

(4) Subsection (8) of that section shall cease to have effect.

Marginal Citations

M2 1997 c.43.

M3 1997 c.43.

20 For subsection (3) of section 15 of the 1973 Act (obligations of person subject to community service order) there shall be substituted the following subsection—

“(3) The instructions given by the relevant officer under this section shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the ^{M4}Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

Marginal Citations

M4 1991 c.53.

21 In section 21(3)(b) of the 1973 Act (meaning of “sentence of imprisonment” for purposes of restriction on imposing sentences of imprisonment on persons not legally represented), after the words “contempt of court” there shall be inserted the words “ or any kindred offence ”.

22 In subsection (3) of section 22 of the 1973 Act (suspended sentences of imprisonment)—

- (a) for the words “make a probation order in his case in respect of another offence” there shall be substituted the words “ impose a community sentence in his case in respect of that offence or any other offence ”; and
- (b) at the end there shall be inserted the words “ ; and in this subsection “community sentence” has the same meaning as in Part I of the ^{M5}Criminal Justice Act 1991. ”

Marginal Citations

M5 1991 c.53.

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- 23 (1) In section 31 of the 1973 Act (powers etc. of Crown Court in relation to fines and forfeited recognizances), the following provisions shall cease to have effect—
- (a) in subsection (3A), the words “Subject to subsections (3B) and (3C) below,”;
 - (b) subsections (3B) and (3C); and
 - (c) in subsection (4), the words “4 or”.
- (2) In subsection (6) of that section—
- (a) the words “about committal by a magistrates’ court to the Crown Court” shall cease to have effect; and
 - (b) after the words “dealt with him” there shall be inserted the words “ or could deal with him ”.
- (3) In subsection (8) of that section, for the words “(2) to (3C)” there shall be substituted the words “ (2) to (3A) ”.
- 24 (1) In subsection (2) of section 32 of the 1973 Act (enforcement etc. of fines imposed and recognizances forfeited by Crown Court), for the words “section 85(1)” there shall be substituted the words “ section 85(2) ”.
- (2) In subsection (3) of that section, after the words “to the Crown Court” there shall be inserted the words “ (except the reference in subsection (1)(b) above) ”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) A magistrates’ court shall not, under section 85(1) or 120 of the ^{M6}Magistrates’ Courts Act 1980 as applied by subsection (1) above, remit the whole or any part of a fine imposed by, or sum due under a recognizance forfeited by—
- (a) the Crown Court,
 - (b) the criminal division of the Court of Appeal, or
 - (c) the House of Lords on appeal from that division,
- without the consent of the Crown Court.”
- (4) Subsection (5) of that section shall cease to have effect.

Marginal Citations

M6 1980 c.43.

- 25 In section 46 of the 1973 Act (reports of probation officers), after subsection (2) there shall be added the following subsection—
- “(3) For the purposes of this section—
- (a) references to an offender’s parent shall be construed in accordance with section 1 of the ^{M7}Family Law Reform Act 1987; and
 - (b) “guardian” has the same meaning as in the ^{M8}Children and Young Persons Act 1933.”

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Marginal Citations

M7 1987 c.42.

M8 1933 c.12.

26 (1) For subsection (5) of section 57 of the 1973 Act (interpretation) there shall be substituted the following subsection—

“(5) Where a compensation order or supervision order has been made on appeal, for the purposes of this Act (except section 26(5)) it shall be deemed—

- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by that magistrates’ court;
- (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.”

(2) After subsection (6) of that section there shall be added the following subsection—

“(7) For the purposes of any provision of this Act which requires the determination of the age of a person by the court, his age shall be deemed to be that which it appears to the court to be after considering any available evidence.”

27 (1) In paragraph 2 of Schedule 1A to the 1973 Act (additional requirements in probation orders), for sub-paragraph (7) there shall be substituted the following sub-paragraph—

“(7) Instructions given by a probation officer under sub-paragraph (4) or (6) above shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the ^{M9}Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

(2) In paragraph 3 of that Schedule, for sub-paragraph (4) there shall be substituted the following sub-paragraph—

“(4) Instructions given by a probation officer under sub-paragraph (3) above shall, as far as practicable, be such as to avoid—

- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order (within the meaning of Part I of the ^{M10}Criminal Justice Act 1991) to which he may be subject; and
- (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.”

(3) In paragraph 5 of that Schedule, for the words “duly qualified medical practitioner”, wherever they occur, there shall be substituted the words “ registered medical practitioner ”.

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- (4) In that paragraph (both as amended by subsection (3) of section 38 of the 1997 Act and so far as that paragraph has effect without that amendment), in sub-paragraph (4), after the words “have been” there shall be inserted the words “ or can be ”.
- (5) In sub-paragraph (10) of that paragraph, before the definition of “chartered psychologist” there shall be inserted the following definition—
- ““registered medical practitioner” means a fully registered person within the meaning of the ^{M11}Medical Act 1983;”.
- (6) In paragraph 6 of that Schedule (both as amended by subsection (4) of section 38 of the 1997 Act and so far as that paragraph has effect without that amendment), in sub-paragraph (4), after the words “have been” there shall be inserted the words “ or can be ”.
- (7) Sub-paragraph (7) of that paragraph shall cease to have effect.

Marginal Citations

M9 1991 c.53.

M10 1991 c.53.

M11 1983 c.54.

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