
STATUTORY INSTRUMENTS

2020 No. 759

The Criminal Procedure Rules 2020

PART 28

[^{F1}Sentencing procedures in special cases and on committal for sentence, etc.]

Reasons for not following usual sentencing requirements

28.1.—(1) This rule applies where the court decides—

- (a) not to follow a relevant sentencing guideline;
- (b) not to make, where it could—
 - (i) a reparation order (unless it passes a custodial or community sentence),
 - (ii) a compensation order,
 - (iii) a slavery and trafficking reparation order, or
 - (iv) a travel restriction order;
- (c) not to order, where it could—
 - (i) that a suspended sentence of imprisonment is to take effect,
 - (ii) the endorsement of the defendant's driving record, or
 - (iii) the defendant's disqualification from driving, for the usual minimum period or at all; or
- (d) to pass a lesser sentence than it otherwise would have passed because the defendant has assisted, or has agreed to assist, an investigator or prosecutor in relation to an offence.

(2) The court must explain why it has so decided, when it explains the sentence that it has passed.

(3) Where paragraph (1)(d) applies, the court must arrange for such an explanation to be given to the defendant and to the prosecutor in writing, if the court thinks that it would not be in the public interest to explain in public.

[Note. See ^{F1}sections 52, 54 and 55 of the Sentencing Act 2020] ; section 8(7) of the Modern Slavery Act 2015(1); section 33(2) of the Criminal Justice and Police Act 2001(2); ^{F2}paragraph 14(1) of Schedule 16 to the 2020 Act] ; section 47(1) of the Road Traffic Offenders Act 1988(3); and ^{F3}section 74 of the 2020 Act].

For the duty to explain the sentence the court has passed, see ^{F4}section 52(1) of the 2020 Act] and rules 24.11(9) (procedure where a magistrates' court convicts) and 25.16(7) (procedure where the Crown Court convicts).

Under ^{F5}section 59 of the 2020 Act], the court when sentencing must follow any relevant sentencing guideline unless satisfied that to do so would be contrary to the interests of justice.

(1) 2015 c. 30.
(2) 2001 c. 16.
(3) 1988 c. 53.

For the circumstances in which the court may make—

- (a) a reparation or compensation order, see ^{F6}sections 110 and 134 of the 2020 Act];
- (b) a slavery and trafficking reparation order, see section 8 of the 2015 Act;
- (c) a travel restriction order against a defendant convicted of drug trafficking, see sections 33 and 34 of the 2001 Act⁽⁴⁾.]

Textual Amendments

- F1** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(i)**
- F2** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(ii)**
- F3** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(iii)**
- F4** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(iv)**
- F5** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(v)**
- F6** Words in rule 28.1 substituted (8.2.2021) by [The Criminal Procedure \(Amendment\) Rules 2021 \(S.I. 2021/40\)](#), rules 2, **14(a)(vi)**

Commencement Information

- I1** Rule 28.1 in force at 5.10.2020, see Preamble

(4) 2001 c. 16; section 33 was amended by sections 39(3) and 39(4) of the Identity Cards Act 2006 (c. 15).

Changes to legislation:

There are currently no known outstanding effects for the The Criminal Procedure Rules 2020, Section 28.1.