



# Powers of Criminal Courts Act 1973

## 1973 CHAPTER 62

### PART I

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Powers relating to persistent offenders*

#### **28 Punishment of persistent offenders**

- (1) Where an offender is convicted on indictment of an offence punishable with imprisonment for a term of two years or more and the conditions specified in subsection (3) below are satisfied, then, if the court is satisfied, by reason of his previous conduct and of the likelihood of his committing further offences, that it is expedient to protect the public from him for a substantial time, the court may impose an extended term of imprisonment under this section.
- (2) The extended term which may be imposed under this section for any offence may exceed the maximum term authorised for the offence apart from this section if the maximum so authorised is less than ten years, but shall not exceed ten years if the maximum so authorised is less than ten years or exceed five years if the maximum so authorised is less than five years.
- (3) The conditions referred to in subsection (1) above are:—
  - (a) the offence was committed before the expiration of three years from a previous conviction of an offence punishable on indictment with imprisonment for a term of two years or more or from his final release from prison after serving a sentence of imprisonment, corrective training or preventive detention passed on such a conviction; and
  - (b) the offender has been convicted on indictment on at least three previous occasions since he attained the age of twenty-one of offences punishable on indictment with imprisonment for a term of two years or more; and
  - (c) the total length of the sentences of imprisonment, corrective training or preventive detention to which he was sentenced on those occasions was not less than five years and—

---

*Status: This is the original version (as it was originally enacted).*

---

- (i) on at least one of those occasions a sentence of preventive detention was passed on him; or
  - (ii) on at least two of those occasions a sentence of imprisonment (other than a suspended sentence which has not taken effect) or of corrective training was so passed and of those sentences one was a sentence of imprisonment for a term of three years or more in respect of one offence or two were sentences of imprisonment each for a term of two years or more in respect of one offence.
- (4) Where an extended term of imprisonment is imposed on an offender under this section, the court shall issue a certificate (hereafter in this Act referred to as "an extended sentence certificate ") stating that the term was so imposed.

## **29 Supplementary provisions as to persistent offenders**

- (1) For the purposes of section 28(3)(a) of this Act a certificate purporting to be signed by the governor of a prison to the effect—
- (a) that a prisoner was finally released from that prison on a date specified in the certificate after serving a sentence so specified ; or
  - (b) that a prisoner had not been finally released from that prison on a date so specified after serving a sentence so specified;
- shall be evidence of the matter so certified.
- (2) For the purposes of section 28(3)(b) of this Act a person who has been convicted by a magistrates' court of an indictable offence and sentenced for that offence—
- (a) by the Crown Court, or on appeal from the Crown Court, to imprisonment; or
  - (b) by a court of quarter sessions, or on appeal from such a court, to imprisonment, corrective training or preventive detention;
- shall be treated as if he had been convicted of that offence on indictment.
- (3) For the purpose of determining whether the conditions specified in section 28(3) of this Act are satisfied in relation to an offender no account shall be taken of any previous conviction or sentence unless notice has been given to the offender at least three days before the later sentence is passed on him that it is intended to prove the previous conviction or sentence to the court.
- (4) For the purpose of subsection (3) above a certificate purporting to be signed by a constable or a prison officer that a copy of a notice annexed to the certificate was given to an offender shall be evidence that it was so given and of the contents of the notice.
- (5) In this section and in section 28 of this Act " final release" includes a release on licence under section 60 or 61 of the Criminal Justice Act 1967, but does not include any temporary discharge.
- (6) A person sentenced at any time to corrective training or preventive detention in Scotland or Northern Ireland and transferred under section 26 of the Criminal Justice Act 1961 to England and Wales shall be treated for the purposes of detention, release, recall and otherwise as having been sentenced in England and Wales to a term of imprisonment of the same length as the term of his original sentence and, if he was originally sentenced to preventive detention, he shall also be so treated as if an extended sentence certificate had been issued in respect of him.

---

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

---

- (7) A person sentenced to an extended term of imprisonment under section 28 of this Act and transferred under section 26 of the Criminal Justice Act 1961 to Scotland or Northern Ireland shall, notwithstanding anything in section 26(4) (treatment of prisoners so transferred) be treated as if an extended sentence certificate had not been issued in respect of him.