



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.
- (3) Any mitigation of a fine the amount of which falls to be fixed under section 18 above shall be effected by determining under subsection (2)(a) of that section a smaller number of units than would otherwise have been determined.
- (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.

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29 Effect of previous convictions etc

- (1) An offence shall not be regarded as more serious for the purposes of any provision of this Part by reason of any previous convictions of the offender or any failure of his to respond to previous sentences.
- (2) Where any aggravating factors of an offence are disclosed by the circumstances of other offences committed by the offender, nothing in this Part shall prevent the court from taking those factors into account for the purpose of forming an opinion as to the seriousness of the offence.

30 Rules, regulations and orders

- (1) Any power of the Secretary of State or the Lord Chancellor 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.
- (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.

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 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;
 - “sexual offence” means an offence under the Sexual Offences Act 1956, the Indecency with Children Act 1960, the Sexual Offences Act 1967, section 54 of the Criminal Law Act 1977 or the Protection of Children Act 1978, other than—
 - (a) an offence under section 12 or 13 of the Sexual Offences Act 1956 which would not be an offence but for section 2 of the Sexual Offences Act 1967;

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- (b) an offence under section 30, 31 or 33 to 36 of the said Act of 1956; and
- (c) an offence under section 4 or 5 of the said Act of 1967;

“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.