



# Criminal Procedure and Investigations Act 1996

## 1996 CHAPTER 25

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Derogatory assertions*

#### **58 Orders in respect of certain assertions**

- (1) This section applies where a person has been convicted of an offence and a speech in mitigation is made by him or on his behalf before—
  - (a) a court determining what sentence should be passed on him in respect of the offence, or
  - (b) a magistrates' court determining whether he should be committed to the Crown Court for sentence.
- (2) This section also applies where a sentence has been passed on a person in respect of an offence and a submission relating to the sentence is made by him or on his behalf before—
  - (a) a court hearing an appeal against or reviewing the sentence, or
  - (b) a court determining whether to grant leave to appeal against the sentence.
- (3) Where it appears to the court that there is a real possibility that an order under subsection (8) will be made in relation to the assertion, the court may make an order under subsection (7) in relation to the assertion.
- (4) Where there are substantial grounds for believing—
  - (a) that an assertion forming part of the speech or submission is derogatory to a person's character (for instance, because it suggests that his conduct is or has been criminal, immoral or improper), and
  - (b) that the assertion is false or that the facts asserted are irrelevant to the sentence,

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*Status: This is the original version (as it was originally enacted).*

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the court may make an order under subsection (8) in relation to the assertion.

- (5) An order under subsection (7) or (8) must not be made in relation to an assertion if it appears to the court that the assertion was previously made—
- (a) at the trial at which the person was convicted of the offence, or
  - (b) during any other proceedings relating to the offence.
- (6) Section 59 has effect where a court makes an order under subsection (7) or (8).
- (7) An order under this subsection—
- (a) may be made at any time before the court has made a determination with regard to sentencing;
  - (b) may be revoked at any time by the court;
  - (c) subject to paragraph (b), shall cease to have effect when the court makes a determination with regard to sentencing.
- (8) An order under this subsection—
- (a) may be made after the court has made a determination with regard to sentencing, but only if it is made as soon as is reasonably practicable after the making of the determination;
  - (b) may be revoked at any time by the court;
  - (c) subject to paragraph (b), shall cease to have effect at the end of the period of 12 months beginning with the day on which it is made;
  - (d) may be made whether or not an order has been made under subsection (7) with regard to the case concerned.
- (9) For the purposes of subsections (7) and (8) the court makes a determination with regard to sentencing—
- (a) when it determines what sentence should be passed (where this section applies by virtue of subsection (1)(a));
  - (b) when it determines whether the person should be committed to the Crown Court for sentence (where this section applies by virtue of subsection (1)(b));
  - (c) when it determines what the sentence should be (where this section applies by virtue of subsection (2)(a));
  - (d) when it determines whether to grant leave to appeal (where this section applies by virtue of subsection (2)(b)).