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STATUTORY INSTRUMENTS

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**1996 No. 3160**

**The Criminal Justice (Northern Ireland) Order 1996**

**PART II**

**TREATMENT OF OFFENDERS**

*Miscellaneous*

**Reduction in sentences for guilty pleas**

**33.**—(1) In determining what sentence to pass on an offender who has pleaded guilty to an offence a court shall take into account—

- (a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and
- (b) the circumstances in which this indication was given.

(2) If, as a result of taking into account any matter referred to in paragraph (1), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, it shall state in open court that it has done so.

**Reports of probation officers**

**34.**—(1) Subject to paragraph (2), where a report by a probation officer is made to any court (other than a juvenile court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, the copy of the report shall be given by the court to the offender or his counsel or solicitor.

(2) If the offender is under the age of 17 years and is not represented by counsel or a solicitor, a copy of the report need not be given to him but shall be given to his parents or guardian if present in court.

**Remands**

**35.** For Article 47(3) of the Magistrates' Courts (Northern Ireland) Order 1981 (extended period of remand in custody or on bail) there shall be substituted—

“(3) A magistrates' court may remand the accused in custody for a period exceeding 8 days if—

- (a) it has previously remanded him in custody for the same offence; and
- (b) he is before the court,

but only if, after affording the accused and the prosecution an opportunity to make representations, it has set a date on which it expects that it will be possible for the next stage in the proceedings, other than a hearing relating to a further remand in custody or on bail, to take place, and

- (i) for a period ending not later than that date; or
  - (ii) for a period of 28 days,
- whichever is the lesser.”.

### **Savings for mitigation and mentally disordered offenders**

**36.**—(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 paragraph (1), 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) 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 Mental Health (Northern Ireland) Order 1986 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.

### **Effect of previous convictions and of offending while on bail**

**37.**—(1) In considering the seriousness of any offence, the court may take into account any previous convictions of the offender or any failure of his to respond to previous sentences.

(2) In considering the seriousness of any offence committed while the offender was on bail, the court shall treat the fact that it was committed in those circumstances as an aggravating factor.

(3) A probation order or conditional discharge order made before 1 the coming into operation of this Part (which, by virtue of section 1 or 5 of the Probation Act (Northern Ireland) 1950, would otherwise not be a sentence for the purposes of this Article) is to be treated as a sentence for those purposes.

(4) A conviction in respect of which a probation order or an order discharging the offender absolutely or conditionally was made before the coming into operation of this Part (which, by virtue of section 8 of that Act, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.

(5) A conditional discharge order made after the coming into operation of this Part (which, by virtue of Article 4 would otherwise not be a sentence for those purposes) is to be treated as a sentence for those purposes.

(6) A conviction in respect of which an order discharging the offender absolutely or conditionally was made after the coming into operation of this Part (which, by virtue of Article 6, would otherwise not be a conviction for those purposes) is to be treated as a conviction for those purposes.