



Isle of Man

Ellan Vannin

AT 18 of 1993

CRIMINAL JUSTICE (PENALTIES, ETC.)

ACT 1993



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Index

Section	Page
PART 1 – INCREASE IN FINES ETC.	5
1 General increase in fines etc.....	5
2 Imprisonment on default of payment of fines etc.....	6
3 Power to alter maximum fines etc.....	6
4 Interpretation of Part 1.....	7
PART 2 – AMENDMENTS TO MISCELLANEOUS ENACTMENTS	7
5 Sexual offences.....	7
6 Amendment Criminal Law Act 1981.....	7
7 Orders combining probation and community service.....	7
8 and 9 [Repealed].....	8
PART 3 – MISCELLANEOUS AND SUPPLEMENTAL	8
10 Appeal in cases of contempt of court.....	8
11 Repeals.....	9
12 Short title and commencement.....	9
SCHEDULE 1	11
SCHEDULE 2	11
REPEAL OF ENACTMENTS	11
ENDNOTES	13
TABLE OF ENDNOTE REFERENCES	13



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Received Royal Assent: 19 October 1993
Passed: 20 October 1993
Commenced: See endnotes

AN ACT to provide for increases in fines; to increase the penalty for indecent assaults; to amend the law relating to indecency with children; to amend the law relating to whipping; to amend the law relating to community service orders; to enable courts to impose combined probation and community service orders; to amend the law relating to the detention of juveniles; and for connected purposes.

PART 1 – INCREASE IN FINES ETC.

1 General increase in fines etc

- (1) Where an enactment passed or made before this Act makes a person liable on conviction on summary conviction for an offence under any enactment to a maximum fine not exceeding £2,000 or such lesser amount as may be specified in that enactment, that fine shall be increased in accordance with the following Table —

TABLE

<i>Old maximum fine</i>	<i>New maximum fine</i>
£50 or less	£200
More than £50 but not more than £100	£500
More than £100 but not more than £400	£1,000
More than £400 but not more than £1,000	£2,500
More than £1,000 but not more than £2,000	£5,000.

- (2) Where an Act passed before this Act confers on any person the power to make a public document in which a maximum fine may be fixed for conviction on summary conviction for an offence under that public document, any fine specified in the Act as the maximum fine which may be so fixed shall be increased in accordance with the table in subsection (1).
- (3) Subject to subsection (6), where an enactment provides on conviction for a maximum fine in respect of a specified quantity or a specified number of

things, that maximum fine shall be treated for the purposes of this section as being the maximum fine for the offence.

- (4) Where an enactment provides for different maximum fines in relation to different circumstances or persons of different descriptions, they are to be treated separately for the purposes of this section.
- (5) This section shall not affect so much of any enactment as (in whatever words) makes a person liable on conviction to a maximum fine for each period of a specified length during which a continuing offence is continued.
- (6) Where an enactment provides on conviction for a maximum fine in respect of a specified quantity or a specified number of things but also specifies an alternative fine or maximum fine, subsection (1) shall have effect to increase —
 - (a) the alternative fine; and
 - (b) any amount that the enactment specifies as the maximum which a fine under it may not exceed,

as well as the fine or maximum fine which it has effect to increase under subsection (3).

2 Imprisonment on default of payment of fines etc

- (1) [Amends section 95 of the *Summary Jurisdiction Act 1989*.]
- (2) This section shall not have effect in relation to any order made, or warrant issued, under section 95 of the *Summary Jurisdiction Act 1989* before this section comes into operation.

3 Power to alter maximum fines etc

- (1) The Council of Ministers may by order amend any enactment (whether passed before or after this Act) so as to increase any maximum fine which may be imposed on conviction for an offence under any enactment.
- (2) Without prejudice to the generality of subsection (1), the Council of Ministers may by order amend the Table in section 1(1) for the purpose of increasing the new maximum fines specified in column 2 of that Table.
- (3) The Council of Ministers may by order amend column 1 of the table in section 95(4) of the *Summary Jurisdiction Act 1989* (periods of imprisonment on default of payment of fine) as a consequence of an order under subsection (1) or (2).
- (3A) An order under subsection (1) or (2) may increase the amount of the fines specified in sections 19 and 27 of the *Summary Jurisdiction Act 1989* to such extent as appears to the Council of Ministers to be necessary as a consequence of the order.¹

- (4) An order under subsection (1) or (2) shall increase maximum fines only to such extent as appears to the Council of Ministers to be justified by a change in the value of money appearing to it to have taken place since the last occasion on which the fines were fixed.
- (5) An order under this section shall not come into operation unless it is approved by Tynwald.

4 Interpretation of Part 1

In this Part, “**fine**” includes pecuniary penalty.

PART 2 – AMENDMENTS TO MISCELLANEOUS ENACTMENTS

5 Sexual offences

- (1)
 - (a) [Amends section 13 of the *Sexual Offences Act 1992* by substituting subsection (1).]
 - (b) [Substitutes section 14 of the *Sexual Offences Act 1992*.]
- (2) Subsection (1)(a) applies in respect of any sentence imposed on or after the date on which this section comes into operation, whether the offence was committed before, on or after that date.

6 Amendment Criminal Law Act 1981

- (a) and (b) [Amend paragraph 1 of Schedule 3 to the *Criminal Law Act 1981*.]
- (c) to (f) [Amend paragraphs 2, 5, 7 and 21 respectively of Schedule 3 to the *Criminal Law Act 1981*.]

7 Orders combining probation and community service

- (1) Subject to subsection (2), where a person of or over 14 years of age is convicted of an offence (not being an offence for which the sentence is fixed by law) the court by or before which he is convicted may, instead of dealing with him in any other way, make a combination order.
- (2) A court shall not make a combination order in respect of an offender unless it is of the opinion that —
 - (a) the offence, or the combination of the offence and another offence associated with it, is serious enough to warrant such a sentence; and
 - (b) the order is the most suitable for the offender.

- (3) A combination order is an order requiring the convicted person both —
 - (a) to be under the supervision of a probation officer for a period specified in the order, not being less than 12 months nor more than 3 years; and
 - (b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than 40 nor more than 120.²
- (4) Sections 2 to 9 of the *Criminal Justice Act 1963* (probation orders) shall apply in relation to combination orders in so far as they impose such a requirement as is mentioned in subsection (3)(a) as if they were probation orders.
- (5) Schedule 3 to the *Criminal Law Act 1981* (community service orders) shall apply in relation to combination orders in so far as they impose such a requirement as is mentioned in subsection (3)(b) as if they were community service orders.

8 and 9 [Repealed]³

PART 3 – MISCELLANEOUS AND SUPPLEMENTAL

10 Appeal in cases of contempt of court

- (1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt).
- (2) In relation to such an order or decision this section shall have effect in substitution for any other statutory provision relating to appeals in civil or criminal proceedings.
- (3) An appeal under this section shall lie —
 - (a) in any case, at the instance of the defendant, and
 - (b) in the case of an application for committal or attachment, at the instance of the applicant.
- (4) An appeal shall lie —
 - (a) from an order or decision of any court of first instance to the Staff of Government Division;
 - (b) from an order or decision of the Staff of Government Division (including a decision on an appeal under this section) to the Privy Council.
- (5) The court to which an appeal is brought under this section may reverse or vary the order or decision of the court below, and make such other order as may be just.

- (6) Without prejudice to the inherent powers of any court referred to in subsection (4), provision may be made by rules of court for authorising the release on bail of an appellant under this section.
- (7) In this section, “court” includes any tribunal or person having power to punish for contempt.
- (8) References in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court include references —
 - (a) to an order or decision of the High Court under any statutory provision enabling the court to deal with an offence as if it were contempt of court;
 - (b) to an order or decision of a court of summary jurisdiction under section 90 or 102(3) of the *Summary Jurisdiction Act 1989*,
but do not include references —
 - (i) to orders made under section 17 of the *Bankruptcy Procedure Act 1892* and section 2 of the *Imprisonment for Debt Act 1928* (imprisonment of debtors who have means to pay but fail to pay after judgment and execution), or
 - (ii) under any provision of the *Summary Jurisdiction Act 1989* except those referred to in paragraph (b).
- (9) This section does not apply to a conviction or sentence in respect of which an appeal lies under section 30 of the *Criminal Jurisdiction Act 1993* or to a decision of the Staff of Government Division under that Act.

11 Repeals

The enactments specified in Schedule 2 are repealed to the extent specified in that Schedule.

12 Short title and commencement

- (1) This Act may be cited as the Criminal Justice (Penalties, Etc.) Act 1993.
- (2) This Act shall come into operation on such day as the Department of Home Affairs may by order appoint and different days may be so appointed for different provisions or for different purposes.⁴

SCHEDULE 1⁵

SCHEDULE 2

REPEAL OF ENACTMENTS

Section 11

[Sch 2 repeals the following Acts in part —

Criminal Code 1872

Petty Sessions and Summary Jurisdiction Act 1927

Summary Jurisdiction Act 1960

Criminal Justice Act 1963⁶

Children and Young Persons Act 1966

Criminal Law Act 1981

Statute Law Revision Act 1992.]

ENDNOTES

Table of Endnote References

¹ Subs (3A) inserted by Criminal Justice Act 1996 s 10.

² Para (b) amended by Criminal Justice Act 2001 s 33.

³ Ss 8 and 9 repealed by Children and Young Persons Act 2001 Sch 13.

⁴ ADO (ss 1 to 7, 10 to 12, in Sch 2 the entries relating to Criminal Code 1872, Petty Sessions and Summary Jurisdiction Act 1927, Summary Jurisdiction Act 1960, Criminal Justice Act 1963, paras 9 and 10 of Part I of Sch 1 to Criminal Law Act 1981 and para 2(a) of Sch 3 to Criminal Law Act 1981) 1/1/1994 (SD528/93); (s 9, Sch 1, and the remainder of Sch 2) 25/4/1994 (SD110/94).

⁵ Sch 1 repealed by Children and Young Persons Act 2001 Sch 13.