

**EASTERN CARIBBEAN SUPREME COURT
(SENTENCING GUIDELINES) RULES 2019**

**PRACTICE DIRECTION 7C
NO. 3 OF 2019**

WHEN TO IMPOSE A SUSPENDED SENTENCE

This Practice Direction is made pursuant to rule 6(1) of the Eastern Caribbean Supreme Court (Sentencing Guidelines) Rules 2019 and supplements rule 7(4).

This Practice Direction is applicable to the Territory of Anguilla.

INTRODUCTION

This practice direction highlights the factors to which the court must have regard when imposing a suspended sentence.

IMPOSING A SUSPENDED SENTENCE

- 1 In certain circumstances, a sentence of imprisonment may be suspended.
- 2 A suspended sentence remains a prison sentence and should not be passed unless a term of imprisonment is warranted. It should not be considered another form of non-custodial penalty like probation or community service.
- 3 Subject to local legislation making it permissible, it should be considered rare to suspend a sentence of more than two years' imprisonment, and rare to suspend for more than two years.

- 4 The court may consider the following non-exhaustive list of factors in exercising its discretion whether to suspend a sentence:
- a. Can appropriate punishment only be achieved by immediate custody?
 - b. Does the offender present a risk or danger to the public or to the victim?
 - c. Has there been a history of poor compliance with court orders?
 - d. Is there a realistic prospect of rehabilitation?
 - e. If sentencing a person under 21, is there a realistic prospect that incarceration will so affect an offender as to turn that person more towards criminality and less toward rehabilitation?
 - f. Is there strong personal mitigation?
 - g. What will be the impact of an immediate custodial sentence on dependent relatives, employees, and the community?
- 5 When suspending imprisonment, the offender must be clearly told of the consequences of further offending during the period of suspension. In certain jurisdictions, this may mean the automatic imposition of the term suspended. If imposed, the court must consider whether the term is concurrent or consecutive, in whole or in part, to the sentence for the later offending. The principle of totality should always be considered.

EFFECTIVE DATE

This Practice Direction will come into effect on the 1st day of October, 2019.

Made this 10th day of September, 2019.



Dame Janice M. Pereira, DBE

Chief Justice