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*Changes to legislation: Criminal Justice Act 2003, Cross Heading: General restrictions on community sentences is up to date with all changes known to be in force on or before 14 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12 **U.K.**

#### SENTENCING

### CHAPTER 1 **E+W**

#### GENERAL PROVISIONS ABOUT SENTENCING

VALID FROM 04/04/2005

#### *General restrictions on community sentences*

#### **147** Meaning of “community sentence” etc. **E+W**

- (1) In this Part “community sentence” means a sentence which consists of or includes—
- a community order (as defined by section 177), or
  - one or more youth community orders.
- (2) In this Chapter “youth community order” means—
- a curfew order as defined by section 163 of the Sentencing Act,
  - an exclusion order under section 40A(1) of that Act,
  - an attendance centre order as defined by section 163 of that Act,
  - a supervision order under section 63(1) of that Act, or
  - an action plan order under section 69(1) of that Act.

#### **Commencement Information**

- 11** S. 147 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), Sch. 1 para. 7 (subject to [art. 2\(2\)](#), Sch. 2)

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### 148 Restrictions on imposing community sentences E+W

- (1) A court must not pass a community sentence on an offender unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence.
- (2) Where a court passes a community sentence which consists of or includes a community order—
  - (a) the particular requirement or requirements forming part of the community order must be such as, in the opinion of the court, is, or taken together are, the most suitable for the offender, and
  - (b) the restrictions on liberty imposed by the order must be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (3) Where a court passes a community sentence which consists of or includes one or more youth community orders—
  - (a) the particular order or orders forming part of the sentence must be such as, in the opinion of the court, is, or taken together are, the most suitable for the offender, and
  - (b) the restrictions on liberty imposed by the order or orders must be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (4) Subsections (1) and (2)(b) have effect subject to section 151(2).

#### Commencement Information

- I2** S. 148 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 149 Passing of community sentence on offender remanded in custody E+W

- (1) In determining the restrictions on liberty to be imposed by a community order or youth community order in respect of an offence, the court may have regard to any period for which the offender has been remanded in custody in connection with the offence or any other offence the charge for which was founded on the same facts or evidence.
- (2) In subsection (1) “remanded in custody” has the meaning given by section 242(2).

#### Commencement Information

- I3** S. 149 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 150 Community sentence not available where sentence fixed by law etc. E+W

The power to make a community order or youth community order is not exercisable in respect of an offence for which the sentence—

- (a) is fixed by law,

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- (b) falls to be imposed under section 51A(2) of the Firearms Act 1968 (c. 27) (required custodial sentence for certain firearms offences),
- (c) falls to be imposed under section 110(2) or 111(2) of the Sentencing Act (requirement to impose custodial sentences for certain repeated offences committed by offenders aged 18 or over), or
- (d) falls to be imposed under any of sections 225 to 228 of this Act (requirement to impose custodial sentences for certain offences committed by offenders posing risk to public).

#### Commencement Information

- I4** S. 150 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 7 (subject to **art. 2(2)**, Sch. 2)

VALID FROM 14/07/2008

#### [<sup>F1</sup>150A Community order available only for offences punishable with imprisonment or for persistent offenders previously fined **E+W**

- (1) The power to make a community order is only exercisable in respect of an offence if—
  - (a) the offence is punishable with imprisonment; or
  - (b) in any other case, section 151(2) confers power to make such an order.
- (2) For the purposes of this section and section 151 an offence triable either way that was tried summarily is to be regarded as punishable with imprisonment only if it is so punishable by the sentencing court (and for this purpose section 148(1) is to be disregarded).]

#### Textual Amendments

- F1** S. 150A inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 11(1)**, 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 2

PROSPECTIVE

#### [<sup>F2</sup>151 Community order or youth rehabilitation order for persistent offender previously fined **E+W**

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#### Textual Amendments

- F2** Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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