



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

#### CHAPTER 1

##### GENERAL PROVISIONS ABOUT SENTENCING

##### *General restrictions on community sentences*

#### **147 Meaning of “community sentence” etc.**

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

#### **148 Restrictions on imposing community sentences**

- (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—

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- (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).

**149 Passing of community sentence on offender remanded in custody**

- (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).

**150 Community sentence not available where sentence fixed by law etc.**

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,
- (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).

**151 Community order for persistent offender previously fined**

- (1) Subsection (2) applies where—
- (a) a person aged 16 or over is convicted of an offence (“the current offence”),
  - (b) on three or more previous occasions he has, on conviction by a court in the United Kingdom of any offence committed by him after attaining the age of 16, had passed on him a sentence consisting only of a fine, and
  - (c) despite the effect of section 143(2), the court would not (apart from this section) regard the current offence, or the combination of the current offence

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and one or more offences associated with it, as being serious enough to warrant a community sentence.

- (2) The court may make a community order in respect of the current offence instead of imposing a fine if it considers that, having regard to all the circumstances including the matters mentioned in subsection (3), it would be in the interests of justice to make such an order.
- (3) The matters referred to in subsection (2) are—
  - (a) the nature of the offences to which the previous convictions mentioned in subsection (1)(b) relate and their relevance to the current offence, and
  - (b) the time that has elapsed since the offender's conviction of each of those offences.
- (4) In subsection (1)(b), the reference to conviction by a court in the United Kingdom includes a reference to the finding of guilt in service disciplinary proceedings; and, in relation to any such finding of guilt, the reference to the sentence passed is a reference to the punishment awarded.
- (5) For the purposes of subsection (1)(b), a compensation order does not form part of an offender's sentence.
- (6) For the purposes of subsection (1)(b), it is immaterial whether on other previous occasions a court has passed on the offender a sentence not consisting only of a fine.
- (7) This section does not limit the extent to which a court may, in accordance with section 143(2), treat any previous convictions of the offender as increasing the seriousness of an offence.