



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12 U.K.

#### SENTENCING

### CHAPTER 1 E+W

#### GENERAL PROVISIONS ABOUT SENTENCING

##### Modifications etc. (not altering text)

- C1 Pt. 12 Ch. 1: power to amend conferred (30.11.2009) by [Criminal Justice and Immigration Act 2008](#) (c. 4), ss. 4(3), 153; S.I. 2009/3074, art. 2(d)

#### *Matters to be taken into account in sentencing*

### 142 Purposes of sentencing E+W

- (1) Any court dealing with an offender in respect of his offence must have regard to the following purposes of sentencing—
- the punishment of offenders,
  - the reduction of crime (including its reduction by deterrence),
  - the reform and rehabilitation of offenders,
  - the protection of the public, and
  - the making of reparation by offenders to persons affected by their offences.
- (2) Subsection (1) does not apply—
- in relation to an offender who is aged under 18 at the time of conviction,
  - to an offence the sentence for which is fixed by law,
  - to an offence the sentence for which falls to be imposed <sup>[F1]</sup> under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of

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threatening with offensive weapon in public),] under section 51A(2) of the Firearms Act 1968 (c. 27) (minimum sentence for certain firearms offences), [F<sup>2</sup> under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon),] under subsection (2) of section 110 or 111 of the Sentencing Act (required custodial sentences)[F<sup>3</sup>, under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (minimum sentences in certain cases of using someone to mind a weapon)][F<sup>4</sup>, under section 224A of this Act (life sentence for second listed offence for certain dangerous offenders)] or under [F<sup>5</sup>section 225(2) or 226(2)] of this Act [F<sup>6</sup>(imprisonment or detention for life for certain dangerous offenders)], or

- (d) in relation to the making under Part 3 of the Mental Health Act 1983 (c. 20) of a hospital order (with or without a restriction order), an interim hospital order, a hospital direction or a limitation direction.

(3) In this Chapter “sentence”, in relation to an offence, includes any order made by a court when dealing with the offender in respect of his offence; and “sentencing” is to be construed accordingly.

**Textual Amendments**

- F1 Words in s. 142(2)(c) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 26 para. 16(2); S.I. 2012/2770, art. 2(f)
- F2 Words in s. 142(2)(c) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 26 para. 16(3); S.I. 2012/2770, art. 2(f)
- F3 Words in s. 142(2)(c) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), Sch. 1 para. 9(2); S.I. 2007/858, art. 2(g)
- F4 Words in s. 142(2)(c) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 19 para. 9(a); S.I. 2012/2906, art. 2(q)
- F5 Words in s. 142(2)(c) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, Sch. 26 para. 64; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)
- F6 Words in s. 142(2)(c) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 19 para. 9(b); S.I. 2012/2906, art. 2(q)

**Commencement Information**

- I1 S. 142 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)

PROSPECTIVE

**F<sup>7</sup>142A Purposes etc. of sentencing: offenders under 18** **E+W**

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**Textual Amendments**

- F7 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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### 143 Determining the seriousness of an offence **E+W**

- (1) In considering the seriousness of any offence, the court must consider the offender's culpability in committing the offence and any harm which the offence caused, was intended to cause or might foreseeably have caused.
- (2) In considering the seriousness of an offence ("the current offence") committed by an offender who has one or more previous convictions, the court must treat each previous conviction as an aggravating factor if (in the case of that conviction) the court considers that it can reasonably be so treated having regard, in particular, to—
  - (a) the nature of the offence to which the conviction relates and its relevance to the current offence, and
  - (b) the time that has elapsed since the conviction.
- (3) In considering the seriousness of any offence committed while the offender was on bail, the court must treat the fact that it was committed in those circumstances as an aggravating factor.
- (4) Any reference in subsection (2) to a previous conviction is to be read as a reference to—
  - (a) a previous conviction by a court in the United Kingdom,<sup>F8</sup> . . .
  - [<sup>F9</sup>(aa) a previous conviction by a court in another member State of a relevant offence under the law of that State,]
  - [<sup>F10</sup>(b) a previous conviction of a service offence within the meaning of the Armed Forces Act 2006 ("conviction" here including anything that under section 376(1) and (2) of that Act is to be treated as a conviction).]
  - [<sup>F11</sup>or
  - (c) a finding of guilt in respect of a member State service offence.]
- [<sup>F12</sup>(5) Subsections (2) and (4) do not prevent the court from treating—
  - (a) a previous conviction by a court outside both the United Kingdom and any other member State, or
  - (b) a previous conviction by a court in any member State (other than the United Kingdom) of an offence which is not a relevant offence,as an aggravating factor in any case where the court considers it appropriate to do so.
- (6) For the purposes of this section—
  - (a) an offence is "relevant" if the offence would constitute an offence under the law of any part of the United Kingdom if it were done in that part at the time of the conviction of the defendant for the current offence,
  - (b) "member State service offence" means an offence which—
    - (i) was the subject of proceedings under the service law of a member State other than the United Kingdom, and
    - (ii) would constitute an offence under the law of any part of the United Kingdom, or a service offence (within the meaning of the Armed Forces Act 2006), if it were done in any part of the United Kingdom, by a member of Her Majesty's forces, at the time of the conviction of the defendant for the current offence,
  - (c) "Her Majesty's forces" has the same meaning as in the Armed Forces Act 2006, and

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- (d) “service law”, in relation to a member State other than the United Kingdom, means the law governing all or any of the naval, military or air forces of that State.]

#### Textual Amendments

- F8** Word in s. 143(4)(a) repealed (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 144, 178, 182, [Sch. 17 para. 6\(2\)\(a\)](#), [Sch. 23 Pt. 5](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, [art. 3\(c\)\(d\)\(iii\)\(f\)\(iii\)](#)
- F9** S. 143(4)(aa) inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 144, 182, [Sch. 17 para. 6\(2\)\(a\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, [art. 3\(a\)\(d\)\(iii\)](#)
- F10** S. 143(4)(b) substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 216](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F11** S. 143(4)(c) and word inserted (15.8.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 144, 182, [Sch. 17 para. 6\(2\)\(b\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, [art. 3\(a\)\(d\)\(iii\)](#)
- F12** S. 143(5)(6) substituted (15.8.2010) for s. 143(5) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 144, 182, [Sch. 17 para. 6\(3\)](#) (with s. 180, [Sch. 22 para. 41](#)); S.I. 2010/1858, [art. 3\(a\)\(d\)\(iii\)](#)

#### Modifications etc. (not altering text)

- C2** S. 143(3) modified (31.10.2009) by [The Armed Forces \(Civilian Courts Dealing with Service Offences\) \(Modification of the Criminal Justice Act 2003\) Regulations 2009 \(S.I. 2009/2042\)](#), [regs. 4, 10](#)
- C3** S. 143(4) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), arts. 1(2)(3)(a), 205, [Sch. 1 para. 53\(5\)](#)

#### Commencement Information

- I2** S. 143 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](#))

## 144 Reduction in sentences for guilty pleas E+W

- (1) In determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court must 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) In the case of an offence the sentence for which falls to be imposed under [<sup>F13</sup>a provision mentioned in subsection (3)], nothing in [<sup>F14</sup>that provision] prevents the court, after taking into account any matter referred to in subsection (1) of this section, from imposing any sentence which is not less than 80 per cent of that specified in [<sup>F14</sup>that provision].
- [<sup>F15</sup>(3) The provisions referred to in subsection (2) are—
- section 1A(6)(a) of the Prevention of Crime Act 1953;
  - section 110(2) of the Sentencing Act;
  - section 111(2) of the Sentencing Act;
  - section 139AA(8)(a) of the Criminal Justice Act 1988.

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- (4) In the case of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), nothing in that provision prevents the court from imposing any sentence that it considers appropriate after taking into account any matter referred to in subsection (1) of this section.
- (5) The provisions referred to in subsection (4) are—  
section 1A(6)(b) of the Prevention of Crime Act 1953;  
section 139AA(8)(b) of the Criminal Justice Act 1988.]

#### Textual Amendments

- F13** Words in s. 144(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 18\(2\)\(a\)](#); S.I. 2012/2770, art. 2(f)
- F14** Words in s. 144(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 18\(2\)\(b\)](#); S.I. 2012/2770, art. 2(f)
- F15** S. 144(3)-(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 18\(3\)](#); S.I. 2012/2770, art. 2(f)

#### Commencement Information

- I3** S. 144 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](#))

### 145 Increase in sentences for racial or religious aggravation **E+W**

- (1) This section applies where a court is considering the seriousness of an offence other than one under sections 29 to 32 of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated assaults, criminal damage, public order offences and harassment etc).
- (2) If the offence was racially or religiously aggravated, the court—  
(a) must treat that fact as an aggravating factor, and  
(b) must state in open court that the offence was so aggravated.
- (3) Section 28 of the Crime and Disorder Act 1998 (meaning of “racially or religiously aggravated”) applies for the purposes of this section as it applies for the purposes of sections 29 to 32 of that Act.

#### Commencement Information

- I4** S. 145 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](#))

### 146 Increase in sentences for aggravation related to disability<sup>F16</sup>, sexual orientation or transgender identity] **E+W**

- (1) This section applies where the court is considering the seriousness of an offence committed in any of the circumstances mentioned in subsection (2).
- (2) Those circumstances are—

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- (a) that, at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on—
- (i) the sexual orientation (or presumed sexual orientation) of the victim,  
<sup>F17</sup>  
 ...
  - (ii) a disability (or presumed disability) of the victim, or
  - [<sup>F18</sup>(iii) the victim being (or being presumed to be) transgender, or]
- (b) that the offence is motivated (wholly or partly)—
- (i) by hostility towards persons who are of a particular sexual orientation,  
<sup>F19</sup>  
 ...
  - (ii) by hostility towards persons who have a disability or a particular disability<sup>F20</sup>, or
  - (iii) by hostility towards persons who are transgender.]
- (3) The court—
- (a) must treat the fact that the offence was committed in any of those circumstances as an aggravating factor, and
  - (b) must state in open court that the offence was committed in such circumstances.
- (4) It is immaterial for the purposes of paragraph (a) or (b) of subsection (2) whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that paragraph.
- (5) In this section “disability” means any physical or mental impairment.
- [<sup>F21</sup>(6) In this section references to being transgender include references to being transsexual, or undergoing, proposing to undergo or having undergone a process or part of a process of gender reassignment.]

#### Textual Amendments

- F16** Words in s. 146 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(3)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F17** Word in s. 146(2)(a)(i) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(4)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F18** S. 146(2)(a)(iii) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(4)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F19** Word in s. 146(2)(b)(i) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(5)(a)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F20** S. 146(2)(b)(iii) and preceding word inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(5)(b)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)
- F21** S. 146(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 65(6)**, 151(1); S.I. 2012/2906, art. 2(a) (with art. 3)

#### Commencement Information

- I5** S. 146 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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### 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) a community order (as defined by section 177), or
  - (b) <sup>F22</sup> .....
  - <sup>F23</sup>(c) a youth rehabilitation order.]
- (2) <sup>F24</sup> .....

#### Textual Amendments

- F22** S. 147(1)(b) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 72(2)(a), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)(u)(xxxi)**
- F23** S. 147(1)(c) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 72(2)(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F24** S. 147(2) repealed (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 149, 153, Sch. 4 para. 72(3), **Sch. 28 Pt. 1** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)(u)(xxxi)**

#### Commencement Information

- I6** 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)

#### 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 <sup>F25</sup> . . . —
- (a) the particular requirement or requirements forming part of the community order [<sup>F26</sup>, or, as the case may be, youth rehabilitation order, comprised in 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 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.
- <sup>F27</sup>(2A) Subsection (2) is subject to [<sup>F28</sup> section 177(2A) (community orders: punitive elements) and to] paragraph 3(4) of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance).]
- <sup>F29</sup>(3) .....
- (4) Subsections (1) and (2)(b) have effect subject to section 151(2).
- <sup>F30</sup>(5) The fact that by virtue of any provision of this section—
- (a) a community sentence may be passed in relation to an offence; or

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- (b) particular restrictions on liberty may be imposed by a community order or youth rehabilitation order,  
does not require a court to pass such a sentence or to impose those restrictions.]

#### Textual Amendments

- F25** Words in s. 148(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 73\(2\)\(a\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F26** Words in s. 148(2)(a) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 73\(2\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F27** S. 148(2A) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 73\(3\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F28** Words in s. 148(2A) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 3](#) (with [Sch. 16 para. 4](#)); S.I. 2013/2981, [art. 2\(d\)](#)
- F29** S. 148(3) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 73\(4\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F30** S. 148(5) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 10](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), [Sch. 1 para. 1](#)

#### Modifications etc. (not altering text)

- C4** S. 148(1) excluded (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 1, 153, [Sch. 1 para. 5\(2\)\(b\)](#); S.I. 2009/3074, [art. 2\(m\)](#)
- C5** S. 148(2)(b) excluded (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 1, 153, [Sch. 1 para. 5\(2\)\(b\)](#); S.I. 2009/3074, [art. 2\(m\)](#)

#### Commencement Information

- I7** 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 [<sup>F31</sup>youth rehabilitation 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).

#### Textual Amendments

- F31** Words in s. 149(1) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 74](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

#### Commencement Information

- I8** 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](#))



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

[<sup>F32</sup>(1)] The power to make a community order or [<sup>F33</sup>youth rehabilitation 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),<sup>F34</sup> . . .
- [<sup>F35</sup>(ca) falls to be imposed under section 29(4) or (6) of the Violent Crime Reduction Act 2006 (required custodial sentence in certain cases of using someone to mind a weapon),
- [<sup>F36</sup>(cb) falls to be imposed under section 224A of this Act (life sentence for second listed offence for certain dangerous offenders),]or]
- (d) falls to be imposed under [<sup>F37</sup>section 225(2) or 226(2) of this Act (requirement to impose sentence of imprisonment for life or detention for life)].

[<sup>F38</sup>(2) The power to make a community order is not exercisable in respect of an offence for which the sentence—

- (a) falls to be imposed under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public), or
- (b) falls to be imposed under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point in public or on school premises or with offensive weapon on school premises).]

### Textual Amendments

- F32** S. 150(1): s. 150 renumbered as s. 150(1) (11.12.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 16 para. 23(1)(a)**; S.I. 2013/2981, art. 2(d)
- F33** Words in s. 150 substituted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 75** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiii)**
- F34** Word in s. 150(c) repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 65, 66(2), Sch. 1 para. 9(3), **Sch. 5**; S.I. 2007/858, **art. 2(g)(m)(n)(xvii)**
- F35** S. 150(ca) inserted (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 49, 66(2), **Sch. 1 para. 9(3)**; S.I. 2007/858, **art. 2(g)**
- F36** S. 150(cb) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 19 para. 10**; S.I. 2012/2906, art. 2(q)
- F37** Words in s. 150(d) substituted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 65**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F38** S. 150(2) inserted (11.12.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 16 para. 23(1)(b)**; S.I. 2013/2981, art. 2(d)

### Commencement Information

- I9** 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)

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**[<sup>F39</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**

**F39** 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>F7</sup>151 Community order or youth rehabilitation order for persistent offender previously fined E+W**

.....

**Textual Amendments**

**F7** 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

*General restrictions on discretionary custodial sentences*

**152 General restrictions on imposing discretionary custodial sentences E+W**

- (1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one—
  - (a) fixed by law, or
  - (b) falling to be imposed [<sup>F40</sup>under section 1A(5) of the Prevention of Crime Act 1953, under section 51A(2) of the Firearms Act 1968, under section 139AA(7) of the Criminal Justice Act 1988,] under [<sup>F41</sup>section 110(2) or 111(2) of the Sentencing Act, under section 29(4) or (6) of the Violent Crime Reduction Act 2006] or under [<sup>F42</sup>section [<sup>F43</sup>224A,] 225(2) or 226(2)] of this Act.
- (2) The court must not pass a custodial sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that neither a fine alone nor a community sentence can be justified for the offence.
- (3) Nothing in subsection (2) prevents the court from passing a custodial sentence on the offender if—

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- (a) he fails to express his willingness to comply with a requirement which is proposed by the court to be included in a community order and which requires an expression of such willingness, or
- (b) he fails to comply with an order under section 161(2) (pre-sentence drug testing).

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#### Textual Amendments

- F40** Words in s. 152(1)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 20](#); S.I. 2012/2770, art. 2(f)
- F41** Words in s. 152(1) substituted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(4\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F42** Words in s. 152(1)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 66](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 48(a)
- F43** Word in s. 152(1)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 11](#); S.I. 2012/2906, art. 2(q)

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#### Commencement Information

- I10** S. 152 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)

### 153 Length of discretionary custodial sentences: general provision **E+W**

- (1) This section applies where a court passes a custodial sentence other than one fixed by law or <sup>F44</sup>... imposed under section [<sup>F45</sup>224A,] 225 or 226.
- (2) Subject to [<sup>F46</sup>section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988,] sections 110(2) and 111(2) of the Sentencing Act<sup>F47</sup>, section 29(4) or (6) of the Violent Crime Reduction Act 2006] and sections [<sup>F48</sup>226A(4) and 226B(2)] of this Act, the custodial sentence must be for the shortest term (not exceeding the permitted maximum) that in the opinion of the court is commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

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#### Textual Amendments

- F44** Words in s. 153(1) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 149, 153, [Sch. 26 para. 67](#), [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 50(2)(c)
- F45** Words in s. 153(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 12](#); S.I. 2012/2906, art. 2(q)
- F46** Words in s. 153(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 26 para. 21](#); S.I. 2012/2770, art. 2(f)
- F47** Words in s. 153(2) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), [Sch. 1 para. 9\(5\)](#); S.I. 2007/858, [art. 2\(g\)](#)
- F48** Words in s. 153(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 21](#); S.I. 2012/2906, art. 2(s)

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#### Commencement Information

- I11** S. 153 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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PROSPECTIVE

*General limit on magistrates' court's power to impose imprisonment*

**F7 154 General limit on magistrates' court's power to impose imprisonment** E+W

.....

**Textual Amendments**

**F7** 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

**155 Consecutive terms of imprisonment** E+W

- (1) Section 133 of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment) is amended as follows.
- (2) In subsection (1), for <sup>F49</sup>“the words from “the longest” to “being imposed”] there is substituted “ 65 weeks ”.
- (3) Subsection (2) is omitted.
- (4) In subsection (3) for “the preceding subsections” there is substituted “ subsection (1) above ”.

**Textual Amendments**

**F49** Words in s. 155(2) substituted (14.7.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(2\)](#); S.I. 2022/816, regs. 1(2), 3(d)

*Procedural requirements for imposing community sentences and discretionary custodial sentences*

**156 Pre-sentence reports and other requirements** E+W

- (1) In forming any such opinion as is mentioned in section 148(1) [<sup>F50</sup>or (2)(b)], section 152(2) or section 153(2), [<sup>F51</sup>or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders with intensive supervision and surveillance or fostering),] a court must take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it, including any aggravating or mitigating factors.
- (2) In forming any such opinion as is mentioned in section 148(2)(a) <sup>F52</sup>... , the court may take into account any information about the offender which is before it.
- (3) Subject to subsection (4), a court must obtain and consider a pre-sentence report before—

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- (a) in the case of a custodial sentence, forming any such opinion as is mentioned in section 152(2), section 153(2), section 225(1)(b), section 226(1)(b), [F53 section 226A(1)(b) or section 226B(1)(b)], or
  - (b) in the case of a community sentence, forming any such opinion as is mentioned in section 148(1) [F54 or (2)(b), or in section 1(4)(b) or (c) of the Criminal Justice and Immigration Act 2008,] or any opinion as to the suitability for the offender of the particular requirement or requirements to be imposed by the community order [F55 or youth rehabilitation order].
- (4) Subsection (3) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.
- (5) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (4) unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender, and
  - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- (6) No custodial sentence or community sentence is invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in subsection (3), but any court on an appeal against such a sentence—
- (a) must, subject to subsection (7), obtain a pre-sentence report if none was obtained by the court below, and
  - (b) must consider any such report obtained by it or by that court.
- (7) Subsection (6)(a) does not apply if the court is of the opinion—
- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report, or
  - (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.
- (8) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (7) unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender, and
  - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- [F56(9) References in subsections (1) and (3) to a court forming the opinions mentioned in sections 152(2) and 153(2) include a court forming those opinions for the purposes of section 224A(3).]
- [F57(10) The reference in subsection (1) to a court forming the opinion mentioned in section 153(2) includes a court forming that opinion for the purposes of section 226A(6) or 226B(4).]

#### Textual Amendments

- F50** Words in s. 156(1) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(2\)\(a\)](#) (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)\(xiii\)](#)

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- F51** Words in s. 156(1) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(2\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F52** Words in s. 156(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 77\(3\)](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F53** Words in s. 156(3)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 22\(2\)](#); S.I. 2012/2906, [art. 2\(s\)](#)
- F54** Words in s. 156(3)(b) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(4\)\(a\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F55** Words in s. 156(3)(b) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 77\(4\)\(b\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F56** S. 156(9) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 13](#); S.I. 2012/2906, [art. 2\(q\)](#)
- F57** S. 156(10) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 21 para. 22\(3\)](#); S.I. 2012/2906, [art. 2\(s\)](#)

#### **Commencement Information**

- I12** S. 156 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](#))

### **157 Additional requirements in case of mentally disordered offender** E+W

- (1) Subject to subsection (2), in any case where the offender is or appears to be mentally disordered, the court must obtain and consider a medical report before passing a custodial sentence other than one fixed by law.
- (2) Subsection (1) does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a medical report.
- (3) Before passing a custodial sentence other than one fixed by law on an offender who is or appears to be mentally disordered, a court must consider—
  - (a) any information before it which relates to his mental condition (whether given in a medical report, a pre-sentence report or otherwise), and
  - (b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.
- (4) No custodial sentence which is passed in a case to which subsection (1) applies is invalidated by the failure of a court to comply with that subsection, but any court on an appeal against such a sentence—
  - (a) must obtain a medical report if none was obtained by the court below, and
  - (b) must consider any such report obtained by it or by that court.
- (5) In this section “mentally disordered”, in relation to any person, means suffering from a mental disorder within the meaning of the Mental Health Act 1983 (c. 20).
- (6) In this section “medical report” means a report as to an offender’s mental condition made or submitted orally or in writing by a registered medical practitioner who is approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State [<sup>F58</sup>, or by another person by virtue of section 12ZA or 12ZB of that Act,] as having special experience in the diagnosis or treatment of mental disorder.
- (7) Nothing in this section is to be taken to limit the generality of section 156.

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### Textual Amendments

**F58** Words in s. 157(6) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 38(5)(d), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### Commencement Information

**I13** S. 157 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)

## 158 Meaning of “pre-sentence report” **E+W**

(1) In this Part “pre-sentence report” means a report which—

- (a) with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by an appropriate officer, and
- (b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.

[<sup>F59</sup>(1A) Subject to any rules made under subsection (1)(b) and to subsection (1B), the court may accept a pre-sentence report given orally in open court.

(1B) But a pre-sentence report that—

- (a) relates to an offender aged under 18, and
- (b) is required to be obtained and considered before the court forms an opinion mentioned in section 156(3)(a),

must be in writing.]

(2) In subsection (1) “an appropriate officer” means—

- (a) where the offender is aged 18 or over, an officer of a local probation board [<sup>F60</sup>or an officer of a provider of probation services] , and
- (b) where the offender is aged under 18, an officer of a local probation board [<sup>F61</sup>, an officer of a provider of probation services] , a social worker of a local authority <sup>F62</sup> . . . or a member of a youth offending team.

### Textual Amendments

**F59** S. 158(1A)(1B) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 12, 153; S.I. 2008/1586, art. 2(1), Sch. 1 para. 3

**F60** Words in s. 158(2)(a) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(2)(a)

**F61** Words in s. 158(2)(b) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, Sch. 1 para. 19(2)(b)

**F62** Words in s. 158(2)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 64, 67, Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(g); S.I. 2006/885, art. 2(2)(h)

### Modifications etc. (not altering text)

**C6** S. 158(1) applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 257(1)-(3), 383 (with ss. 271(1), 385); S.I. 2009/812, art. 3 (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

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### Commencement Information

**I14** S. 158 wholly in force at 4.4.2005; s. 158 not in force at Royal Assent, see s. 336(3); s. 158(1)(b) in force at 7.3.2005 by S.I. 2005/373, art. 2; s. 158 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 7 (subject to art. 2(2), Sch. 2)

### *Disclosure of pre-sentence reports etc*

## 159 Disclosure of pre-sentence reports **E+W**

- (1) This section applies where the court obtains a pre-sentence report, other than a report given orally in open court.
- (2) Subject to subsections (3) and (4), the court must give a copy of the report—
  - (a) to the offender or his [<sup>F63</sup>legal representative] ,
  - (b) if the offender is aged under 18, to any parent or guardian of his who is present in court, and
  - (c) to the prosecutor, that is to say, the person having the conduct of the proceedings in respect of the offence.
- (3) If the offender is aged under 18 and it appears to the court that the disclosure to the offender or to any parent or guardian of his of any information contained in the report would be likely to create a risk of significant harm to the offender, a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.
- (4) If the prosecutor is not of a description prescribed by order made by the Secretary of State, a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for him to be given it.
- (5) No information obtained by virtue of subsection (2)(c) may be used or disclosed otherwise than for the purpose of—
  - (a) determining whether representations as to matters contained in the report need to be made to the court, or
  - (b) making such representations to the court.
- (6) In relation to an offender aged under 18 for whom a local authority have parental responsibility and who—
  - (a) is in their care, or
  - (b) is provided with accommodation by them in the exercise of any social services functions,
 references in this section to his parent or guardian are to be read as references to that authority.
- (7) In this section and section 160—
 

“harm” has the same meaning as in section 31 of the Children Act 1989 (c. 41);

“local authority” and “parental responsibility” have the same meanings as in that Act;

“social services functions”, in relation to a local authority, has the meaning given by section 1A of the Local Authority Social Services Act 1970 (c. 42).



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#### Textual Amendments

**F63** Words in s. 159(2)(a) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 147](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

#### Modifications etc. (not altering text)

**C7** S. 159(1)-(3)(5) applied (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 257\(4\)](#), 383 (with [ss. 271\(1\)](#), 385); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Commencement Information

**I15** S. 159 wholly in force at 4.4.2005; s. 159 not in force at Royal Assent, see s. 336(3); s. 159(4) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 159 in force at 4.4.2005 in so far as not already in force by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 160 Other reports of local probation boards <sup>F64</sup>, providers of probation services] and members of youth offending teams **E+W**

- (1) This section applies where—
  - (a) a report by an officer of a local probation board <sup>F65</sup>, an officer of a provider of probation services] or a member of a youth offending team is made to any court (other than a youth court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, and
  - (b) the report is not a pre-sentence report.
- (2) Subject to subsection (3), the court must give a copy of the report—
  - (a) to the offender or his <sup>F66</sup>legal representative] , and
  - (b) if the offender is aged under 18, to any parent or guardian of his who is present in court.
- (3) If the offender is aged under 18 and it appears to the court that the disclosure to the offender or to any parent or guardian of his of any information contained in the report would be likely to create a risk of significant harm to the offender, a complete copy of the report need not be given to the offender, or as the case may be, to that parent or guardian.
- (4) In relation to an offender aged under 18 for whom a local authority have parental responsibility and who—
  - (a) is in their care, or
  - (b) is provided with accommodation by them in the exercise of any social services functions,references in this section to his parent or guardian are to be read as references to that authority.

#### Textual Amendments

**F64** Words in s. 160 inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(3\)\(a\)](#)

**F65** Words in s. 160(1)(a) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, [Sch. 1 para. 19\(3\)\(b\)](#)

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**F66** Words in s. 160(2)(a) substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 148](#) (with ss. 29, 192, 193); [S.I. 2009/3250](#), [art. 2\(h\)](#) (with art. 9)

#### Commencement Information

**I16** S. 160 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](#))

### *Pre-sentence drug testing*

#### 161 Pre-sentence drug testing **E+W**

- (1) Where a person <sup>F67</sup> . . . is convicted of an offence and the court is considering passing a community sentence or a suspended sentence, it may make an order under subsection (2) for the purpose of ascertaining whether the offender has any specified Class A drug in his body.
- (2) The order requires the offender to provide, in accordance with the order, samples of any description specified in the order.
- (3) Where the offender has not attained the age of 17, the order must provide for the samples to be provided in the presence of an appropriate adult.
- (4) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.
- (5) In subsection (4) “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.
- (6) The court may not make an order under subsection (2) unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (7) <sup>F68</sup> . . . . .
- (8) In this section—
  - “appropriate adult”, in relation to a person under the age of 17, means—
    - (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation,
    - (b) a social worker of a local authority <sup>F69</sup> . . . , or
    - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;
  - “specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000 (c. 43).

#### Textual Amendments

**F67** Words in s. 161(1) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 78\(a\)](#), {[Sch. 28 para. Pt. 1](#)} (with [Sch. 27 paras. 1, 5](#)); [S.I. 2009/3074](#), [art. 2\(p\)](#) ([\(xiii\)\(u\)\(xxxi\)](#))

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- F68** S. 161(7) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 78(b), {Sch. 28 para. Pt. 1} (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)](#) ([xxxii](#))
- F69** Words in s. 161(8)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); S.I. 2005/394, [art. 2\(2\)\(g\)](#); S.I. 2006/885, [art. 2\(2\)\(h\)](#)

## <sup>F70</sup> Surcharges

### Textual Amendments

- F70** Ss. 161A, 161B and cross-heading inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 14\(1\)](#), 59, 60 (with Sch. 12 para. 7); S.I. 2007/602, [art. 2\(a\)](#)

## 161A Court's duty to order payment of surcharge **E+W**

- (1) A court when dealing with a person for one or more offences must also (subject to subsections (2) and (3)) order him to pay a surcharge.
- (2) Subsection (1) does not apply in such cases as may be prescribed by an order made by the Secretary of State.
- (3) Where a court dealing with an offender considers—
  - (a) that it would be appropriate to make a compensation order [<sup>F71</sup>or an unlawful profit order (or both)], but
  - (b) that he has insufficient means to pay both the surcharge and appropriate compensation [<sup>F72</sup>or both the surcharge and an appropriate amount under the unlawful profit order (or the surcharge, appropriate compensation and an appropriate amount under the unlawful profit order)] ,the court must reduce the surcharge accordingly (if necessary to nil).
- (4) For the purposes of this section a court does not “deal with” a person if it—
  - (a) discharges him absolutely, or
  - (b) makes an order under the Mental Health Act 1983 in respect of him.

[<sup>F73</sup>(5) In this section “unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.]

### Textual Amendments

- F71** Words in s. 161A(3)(a) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(2\)\(a\)](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2
- F72** Words in s. 161A(3)(b) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(2\)\(b\)](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2
- F73** S. 161A(5) inserted (15.10.2013 for E., 5.11.2013 for W.) by [Prevention of Social Housing Fraud Act 2013 \(c. 3\)](#), s. 12, [Sch. para. 30\(3\)](#); S.I. 2013/2622, art. 2; S.I. 2013/2861, art. 2

### Modifications etc. (not altering text)

- C8** S. 161A(1) excluded (1.10.2012) by [The Criminal Justice Act 2003 \(Surcharge\) Order 2012 \(S.I. 2012/1696\)](#), arts. 1(1), 2
- C9** S. 161A(1) excluded (1.4.2007) by [The Criminal Justice Act 2003 \(Surcharge\) Order 2007 \(S.I. 2007/707\)](#), [art. 2](#)

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**C10** S. 161A(1) excluded (1.4.2007) by The Criminal Justice Act 2003 (Surcharge)(No 2) Order 2007 (S.I. 2007/1079), {art. 3}

### **161B Amount of surcharge** E+W

- (1) The surcharge payable under section 161A is such amount as the Secretary of State may specify by order.
- (2) An order under this section may provide for the amount to depend on—
  - (a) the offence or offences committed,
  - (b) how the offender is otherwise dealt with (including, where the offender is fined, the amount of the fine),
  - (c) the age of the offender.

This is not to be read as limiting section 330(3) (power to make different provision for different purposes etc).]

### *Fines*

### **162 Powers to order statement as to offender’s financial circumstances** E+W

- (1) Where an individual has been convicted of an offence, the court may, before sentencing him, make a financial circumstances order with respect to him.
- (2) Where a magistrates' court has been notified in accordance with section 12(4) of the Magistrates' Courts Act 1980 (c. 43) that an individual desires to plead guilty without appearing before the court, the court may make a financial circumstances order with respect to him.
- (3) In this section “a financial circumstances order” means, in relation to any individual, an order requiring him to give to the court, within such period as may be specified in the order, such a statement of his [<sup>F74</sup>assets and other] financial circumstances as the court may require.
- (4) An individual who without reasonable excuse fails to comply with a financial circumstances order is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) If an individual, in furnishing any statement in pursuance of a financial circumstances order—
  - (a) makes a statement which he knows to be false in a material particular,
  - (b) recklessly furnishes a statement which is false in a material particular, or
  - (c) knowingly fails to disclose any material fact,
 he is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) Proceedings in respect of an offence under subsection (5) may, notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980 (c. 43) (limitation of time), be commenced at any time within two years from the date of the commission of the offence or within six months from its first discovery by the prosecutor, whichever period expires the earlier.

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#### Textual Amendments

**F74** Words in s. 162(3) inserted (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 16 para. 24](#); [S.I. 2013/2981](#), art. 2(d)

#### Commencement Information

**I17** S. 162 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](#))

### 163 General power of Crown Court to fine offender convicted on indictment **E+W**

Where a person is convicted on indictment of any offence, other than an offence for which the sentence is fixed by law or falls to be imposed under section 110(2) or 111(2) of the Sentencing Act or under [<sup>F75</sup>section [<sup>F76</sup>224A,] 225(2) or 226(2)] of this Act, the court, if not precluded from sentencing an offender by its exercise of some other power, may impose a fine instead of or in addition to dealing with him in any other way in which the court has power to deal with him, subject however to any enactment requiring the offender to be dealt with in a particular way.

#### Textual Amendments

**F75** Words in s. 163 substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 68](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)

**F76** Words in s. 163 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 19 para. 14](#); [S.I. 2012/2906](#), art. 2(q)

#### Commencement Information

**I18** S. 163 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](#))

### 164 Fixing of fines **E+W**

- (1) Before fixing the amount of any fine to be imposed on an offender who is an individual, a court must inquire into his financial circumstances.
- (2) The amount of any fine fixed by a court must be such as, in the opinion of the court, reflects the seriousness of the offence.
- (3) In fixing the amount of any fine to be imposed on an offender (whether an individual or other person), a court must take into account the circumstances of the case including, among other things, the financial circumstances of the offender so far as they are known, or appear, to the court.
- (4) Subsection (3) applies whether taking into account the financial circumstances of the offender has the effect of increasing or reducing the amount of the fine.

[<sup>F77</sup>(4A) In applying subsection (3), a court must not reduce the amount of a fine on account of any surcharge it orders the offender to pay under section 161A, except to the extent that he has insufficient means to pay both.]

- (5) Where—

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- (a) an offender has been convicted in his absence in pursuance of section 11 or 12 of the Magistrates' Courts Act 1980 (c. 43) (non-appearance of accused), or
- (b) an offender—
  - (i) has failed to furnish a statement of his financial circumstances in response to a request which is an official request for the purposes of section 20A of the Criminal Justice Act 1991 (c. 53) (offence of making false statement as to financial circumstances),
  - (ii) has failed to comply with an order under section 162(1), or
  - (iii) has otherwise failed to co-operate with the court in its inquiry into his financial circumstances,

and the court considers that it has insufficient information to make a proper determination of the financial circumstances of the offender, it may make such determination as it thinks fit.

#### Textual Amendments

**F77** S. 164(4A) inserted (1.4.2007) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 14\(2\), 59, 60](#) (with [Sch. 12 para. 7](#)); [S.I. 2007/602](#), [art. 2\(a\)](#)

#### Commencement Information

**I19** S. 164 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](#))

## 165 Remission of fines **E+W**

- (1) This section applies where a court has, in fixing the amount of a fine, determined the offender's financial circumstances under section 164(5).
- (2) If, on subsequently inquiring into the offender's financial circumstances, the court is satisfied that had it had the results of that inquiry when sentencing the offender it would—
  - (a) have fixed a smaller amount, or
  - (b) not have fined him,
 it may remit the whole or part of the fine.
- (3) Where under this section the court remits the whole or part of a fine after a term of imprisonment has been fixed under section 139 of the Sentencing Act (powers of Crown Court in relation to fines) or section 82(5) of the Magistrates' Courts Act 1980 (magistrates' powers in relation to default) it must reduce the term by the corresponding proportion.
- (4) In calculating any reduction required by subsection (3), any fraction of a day is to be ignored.

#### Commencement Information

**I20** S. 165 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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*Savings for power to mitigate etc*

**166 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders** **E+W**

(1) Nothing in—

- (a) section 148 [<sup>F78</sup> or (2B)](imposing community sentences),
- (b) section 152, 153 or 157 (imposing custodial sentences),
- (c) section 156 (pre-sentence reports and other requirements),
- (d) section 164 (fixing of fines),
- [<sup>F79</sup>(e) paragraph 3 of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance), or
- (f) paragraph 4 of Schedule 1 to that Act (youth rehabilitation order with fostering),]

prevents 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) Section 152(2) does not prevent a court, after taking into account such matters, from passing a community sentence even though it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was so serious that a community sentence could not normally be justified for the offence.

(3) Nothing in the sections mentioned in subsection (1)(a) to [<sup>F80</sup>(f)] prevents a court—

- (a) from mitigating any penalty included in an offender’s sentence by taking into account any other penalty included in that sentence, and
- (b) in the 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.

(4) Subsections (2) and (3) are without prejudice to the generality of subsection (1).

(5) Nothing in the sections mentioned in subsection (1)(a) to [<sup>F81</sup>(f)] is to 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 Act 1983 (c. 20) 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.

(6) In subsection (5) “mentally disordered”, in relation to a person, means suffering from a mental disorder within the meaning of the Mental Health Act 1983.

**Textual Amendments**

- F78** Words in s. 166(1)(a) inserted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 76\(7\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F79** S. 166(1)(e)(f) added (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 79\(2\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F80** Word in s. 166(3) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 79\(3\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)
- F81** Word in s. 166(5) substituted (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 79\(3\)](#) (with [Sch. 27 paras. 1, 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

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### Commencement Information

- I21** S. 166 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)

## *Sentencing and allocation guidelines*

### 167 The Sentencing Guidelines Council **E+W**

**F82** .....

#### Textual Amendments

- F82** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

### 168 Sentencing Guidelines Council: supplementary provisions **E+W**

**F83** .....

#### Textual Amendments

- F83** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

### 169 The Sentencing Advisory Panel **E+W**

**F84** .....

#### Textual Amendments

- F84** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

### 170 Guidelines relating to sentencing and allocation **E+W**

**F85** .....

#### Textual Amendments

- F85** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

### 171 Functions of Sentencing Advisory Panel in relation to guidelines **E+W**

**F86** .....



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**Textual Amendments**

**F86** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

**172 Duty of court to have regard to sentencing guidelines** **E+W**

**F87** .....

**Textual Amendments**

**F87** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b) (with art. 7(2))

**173 Annual report by Council** **E+W**

**F88** .....

**Textual Amendments**

**F88** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, Sch. paras. 15, 22(b)

*Duty of court to explain sentence*

**[<sup>F89</sup>174 Duty to give reasons for and to explain effect of sentence** **E+W**

- (1) A court passing sentence on an offender has the duties in subsections (2) and (3).
- (2) The court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- (3) The court must explain to the offender in ordinary language—
  - (a) the effect of the sentence,
  - (b) the effects of non-compliance with any order that the offender is required to comply with and that forms part of the sentence,
  - (c) any power of the court to vary or review any order that forms part of the sentence, and
  - (d) the effects of failure to pay a fine, if the sentence consists of or includes a fine.
- (4) Criminal Procedure Rules may—
  - (a) prescribe cases in which either duty does not apply, and
  - (b) make provision about how an explanation under subsection (3) is to be given.
- (5) Subsections (6) to (8) are particular duties of the court in complying with the duty in subsection (2).
- (6) The court must identify any definitive sentencing guidelines relevant to the offender's case and—

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- (a) explain how the court discharged any duty imposed on it by section 125 of the Coroners and Justice Act 2009 (duty to follow guidelines unless satisfied it would be contrary to the interests of justice to do so);
  - (b) where the court was satisfied it would be contrary to the interests of justice to follow the guidelines, state why.
- (7) Where, as a result of taking into account any matter referred to in section 144(1) (guilty pleas), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, the court must state that fact.
- (8) Where the offender is under 18 and the court imposes a sentence that may only be imposed in the offender's case if the court is of the opinion mentioned in—
- (a) section 1(4)(a) to (c) of the Criminal Justice and Immigration Act 2008 and section 148(1) of this Act (youth rehabilitation order with intensive supervision and surveillance or with fostering), or
  - (b) section 152(2) of this Act (discretionary custodial sentence),
- the court must state why it is of that opinion.
- (9) In this section “definitive sentencing guidelines” means sentencing guidelines issued by the Sentencing Council for England and Wales under section 120 of the Coroners and Justice Act 2009 as definitive guidelines, as revised by any subsequent guidelines so issued.]

#### Textual Amendments

**F89** S. 174 substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 64(2), 151(1)**; S.I. 2012/2906, art. 2(a)

#### *Publication of information by Secretary of State*

### 175 **Duty to publish information about sentencing** E+W

In section 95 of the Criminal Justice Act 1991 (c. 53) (information for financial and other purposes) in subsection (1) before the “or” at the end of paragraph (a) there is inserted—

- “(aa) enabling such persons to become aware of the relative effectiveness of different sentences—
- (i) in preventing re-offending, and
  - (ii) in promoting public confidence in the criminal justice system;”.

#### Commencement Information

**I22** S. 175 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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## Interpretation of Chapter

### 176 Interpretation of Chapter 1 **E+W**

In this Chapter—

**F90** .....

**F90** .....

**F90** .....

“sentence” and “sentencing” are to be read in accordance with section 142(3);

**F90** .....

**F91** .....

[<sup>F92</sup>“youth rehabilitation order” has the meaning given by section 1(1) of the Criminal Justice and Immigration Act 2008;

“youth rehabilitation order with fostering” has the meaning given by paragraph 4 of Schedule 1 to that Act;

“youth rehabilitation order with intensive supervision and surveillance” has the meaning given by paragraph 3 of Schedule 1 to that Act. ]

#### Textual Amendments

**F90** S. 176: definitions of "allocation guidelines", "the Council" and "the Panel", "sentence" and "sentencing", "sentencing guidelines", "youth community order" repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, [Sch. 23 Pt. 4](#) (with s. 180); S.I. 2010/816, [art. 2](#), Sch. paras. 15, 22(b)(iv)

**F91** S. 176: definition of "youth community order" repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 81(a), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)\(u\)\(xxxi\)](#)

**F92** S. 176: definitions of "youth rehabilitation order", "youth rehabilitation order with fostering" and "youth rehabilitation order with intensive supervision and surveillance" added (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 153, [Sch. 4 para. 81\(b\)](#) (with Sch. 27 paras. 1, 5); S.I. 2009/3074, [art. 2\(p\)\(xiii\)](#)

#### Commencement Information

**I23** S. 176 wholly in force at 5.4.2004, see s. 336(3) and S.I. 2004/829, [art. 2\(1\)\(2\)](#) (subject to art. 2(3)-(6))

**Status:**

Point in time view as at 11/12/2013. This version of this chapter contains provisions that are prospective.

**Changes to legislation:**

Criminal Justice Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 04 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.