



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) ^{F1}
 - [^{F2}(c) a youth rehabilitation order.]
- (2) ^{F3}

Textual Amendments

- F1** S. 147(1)(b) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 72(2)(a), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5);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\(p\)\(xiii\)\(u\)\(xxxi\)](#)
- F2** 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\(p\)\(xiii\)](#)
- F3** S. 147(2) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, Sch. 4 para. 72(3), [Sch. 28 Pt. 1](#) (with Sch. 27 paras. 1, 5);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\(p\)\(xiii\)\(u\)\(xxxi\)](#)

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Commencement Information

- II** 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

- (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 ^{F4} . . . —
- (a) the particular requirement or requirements forming part of the community order [^{F5}, 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.
- [^{F6}(2A) Subsection (2) is subject to paragraph 3(4) of Schedule 1 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation order with intensive supervision and surveillance).]
- (3) ^{F7}
- (4) Subsections (1) and (2)(b) have effect subject to section 151(2).
- [^{F8}(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
- (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

- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** 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)

- C1** 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)**
- C2** 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)**

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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

- (1) In determining the restrictions on liberty to be imposed by a community order or [^{F9}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

- F9** 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

- 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.

The power to make a community order or [^{F10}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), ^{F11} . . .
- [^{F12}(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), or]
- (d) falls to be imposed under [^{F13}section 225(2) or 226(2) of this Act (requirement to impose sentence of imprisonment for life or detention for life)]

Textual Amendments

- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** 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)

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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)

[^{F14}**150A** Community order available only for offences punishable with imprisonment or for persistent offenders previously fined

- (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

- F14** 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

^{F15}**151** Community order or youth rehabilitation order for persistent offender previously fined

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Textual Amendments

- F15** 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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