



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 2

SENTENCING

General sentencing provisions

PROSPECTIVE

9 Purposes etc. of sentencing: offenders under 18

^{F1}(1)

^{F1}(2)

(3) In section 44 of the Children and Young Persons Act 1933 (c. 12) (general considerations) after subsection (1) insert—

“(1A) Subsection (1) is to be read with paragraphs (a) and (c) of section 142A(2) of the Criminal Justice Act 2003 (which require a court dealing with an offender aged under 18 also to have regard to the principal aim of the youth justice system and the specified purposes of sentencing).

(1B) Accordingly, in determining in the case of an offender whether it should take steps as mentioned in subsection (1), the court shall also have regard to the matters mentioned in those paragraphs.”

(4) In section 42(1) of the Crime and Disorder Act 1998 (c. 37) (interpretation of Part 3 of Act), after the definition of “local authority” insert—

““offending” includes re-offending;”.

Status: Point in time view as at 14/07/2008. This version of this cross heading contains provisions that are prospective.

Changes to legislation: Criminal Justice and Immigration Act 2008, Cross Heading: General sentencing provisions is up to date with all changes known to be in force on or before 28 June 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)

Textual Amendments

- F1** S. 9(1)(2) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Modifications etc. (not altering text)

- C1** S. 9 modified in part (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2)(3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1, 5\(2\)\(3\)](#); [S.I. 2012/1236](#), reg. 2

10 Effect of restriction on imposing community sentences

In section 148 of the Criminal Justice Act 2003 (c. 44) (restrictions on imposing community sentences), after subsection (4) insert—

- “(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.”

Commencement Information

- II** [S. 10](#) in force at 14.7.2008 by [S.I. 2008/1586](#), art. 2(1), [Sch. 1 para. 1](#)

11 Restriction on power to make a community order

- (1) After section 150 of the Criminal Justice Act 2003 (community sentence not available where sentence fixed by law etc.) insert—

“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).”
- (2) Section 151 of that Act (community order for persistent offender previously fined) is amended as follows.
- (3) Before subsection (1) insert—

“(A1) Subsection (2) provides for the making of a community order by the court in respect of an offence (“the current offence”) committed by a person to whom subsection (1) or (1A) applies.”

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- (4) In subsection (1)—
- (a) for “Subsection (2) applies where” substitute “This subsection applies to the offender if—
 - (za) the current offence is punishable with imprisonment;”;
 - (b) for paragraph (a) substitute—
 - “(a) the offender was aged 16 or over when he was convicted;”;
 - (c) in paragraph (b) for “he” substitute “ the offender ”.
- (5) After subsection (1) insert—
- “(1A) This subsection applies to the offender if—
 - (a) the current offence is not punishable with imprisonment;
 - (b) the offender was aged 16 or over when he was convicted; and
 - (c) on three or more previous occasions the offender 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.”
- (6) In subsection (3)(a) after “(1)(b)” insert “ or (1A)(b) (as the case may be) ”.
- (7) In subsections (4), (5) and (6), for “subsection (1)(b)” insert “ subsections (1)(b) and (1A)(b) ”.
- (8) In section 166 of that Act (savings for powers to mitigate etc.), in subsection (1)(a), after “148” insert “ or 151(2) ”.

Commencement Information

I2 S. 11(1) in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 2** (with Sch. 2 para. 1)

12 Pre-sentence reports

In section 158 of the Criminal Justice Act 2003 (c. 44) (meaning of “pre-sentence report”), after subsection (1) insert—

- “(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.”

Commencement Information

I3 S. 12 in force at 14.7.2008 by S.I. 2008/1586, art. 2(1), **Sch. 1 para. 3**

Status:

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