



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 1

GENERAL PROVISIONS ABOUT SENTENCING

Savings for power to mitigate etc

166 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders

(1) Nothing in—

- (a) section 148 [^{F1} 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),
- [^{F2}(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 [^{F3}(f)] prevents a court—

Status: Point in time view as at 06/01/2014.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Savings for power to mitigate etc is up to date with all changes known to be in force on or before 13 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)

- (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 [F⁴(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

- F1** 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\(p\)\(xiii\)](#)
- F2** 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\(p\)\(xiii\)](#)
- F3** 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\(p\)\(xiii\)](#)
- F4** 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\(p\)\(xiii\)](#)

Commencement Information

- I1** 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](#))

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