Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 2

SENTENCING

Custodial sentences

19   Indeterminate sentences: determination of tariffs

(1) Section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (determination of tariffs in cases where the sentence is not fixed by law) is amended as follows.

(2) In subsection (3) (determination of the appropriate part of the sentence) at the end insert—

"In Case A or Case B below, this subsection has effect subject to, and in accordance with, subsection (3C) below."

(3) After subsection (3) insert—

"(3A) Case A is where the offender was aged 18 or over when he committed the offence and the court is of the opinion that the seriousness of the offence, or of the combination of the offence and one or more other offences associated with it,—

(a)   is exceptional (but not such that the court proposes to make an order under subsection (4) below), and

(b)   would not be adequately reflected by the period which the court would otherwise specify under subsection (2) above.

(3B) Case B is where the court is of the opinion that the period which it would otherwise specify under subsection (2) above would have little or no effect

on time spent in custody, taking into account all the circumstances of the particular offender.

(3C) In Case A or Case B above, in deciding the effect which the comparison required by subsection (3)(c) above is to have on reducing the period which the court determines for the purposes of subsection (3)(a) (and before giving effect to subsection (3)(b) above), the court may, instead of reducing that period by one-half,—

    (a) in Case A above, reduce it by such lesser amount (including nil) as the court may consider appropriate according to the seriousness of the offence, or

    (b) in Case B above, reduce it by such lesser amount (but not by less than one-third) as the court may consider appropriate in the circumstances."

(4) In subsection (4A) (no order to be made under subsection (4) in the case of certain sentences) after "No order under subsection (4) above may be made" insert ", and Case A above does not apply,".