
STATUTORY INSTRUMENTS

2008 No. 1216

The Criminal Justice (Northern Ireland) Order 2008

PART 2

SENTENCING

CHAPTER 2

CUSTODIAL SENTENCES

Procedural requirements for custodial sentences

9.—(1) In forming any such opinion as is mentioned in Article 5(2) or 7(2), a court shall 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) Subject to paragraph (3), a court shall obtain and consider a pre-sentence report before forming any such opinion as is mentioned in Article 5(2), 7(2), 13(1)(b) [F1, 13A(1)(d)] or 14(1)(b)(i).

(3) Paragraph (2) 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; and where the court does not obtain and consider a pre-sentence report, it shall state in open court that it is of that opinion and what the circumstances are.

(4) In the case of an offender under the age of 18, except where the offence or any other offence associated with it is punishable only on conviction on indictment, the court shall not form such an opinion as is mentioned in paragraph (3) or (6) 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.

(5) No custodial sentence shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in paragraph (2) but any court on an appeal against such a sentence—

- (a) shall, subject to paragraph (6), obtain a pre-sentence report if none was obtained by the court below; and
- (b) shall consider any such report obtained by it or by that court.

(6) Paragraph (5)(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.

Changes to legislation: *The Criminal Justice (Northern Ireland) Order 2008, Section 9 is up to date with all changes known to be in force on or before 24 April 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) View outstanding changes*

Textual Amendments

- F1** Word in [art. 9\(2\)](#) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2) (v), [Sch. 13 para. 66\(7\)](#)
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Commencement Information

- I1** [Art. 9](#) wholly in operation at 1.4.2009, see [art. 1\(4\)](#) and [S.R. 2009/120](#), [art. 2](#), [Sch. 1](#) (subject to [Sch. 2 paras. 1\(1\)\(2\)\(a\), 4](#))

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 Pt. 1 para. 31A renumbered as 31(B) by [2022 c. 19 \(N.I.\) Sch. 4 para. 3\(a\)](#)
- art. 19(1A) inserted by [2015 c. 9 \(N.I.\) s. 82](#)
- art. 45(1A) inserted by [2011 c. 24 \(N.I.\) s. 58\(2\)](#)