



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART IV

#### COMMUNITY ORDERS AND REPARATION ORDERS

#### CHAPTER I

##### COMMUNITY ORDERS: GENERAL PROVISIONS

### **36 Procedural requirements for community sentences: pre-sentence reports etc**

- (1) In forming any such opinion as is mentioned in subsection (1) or (3)(b) of section 35 above, 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) In forming any such opinion as is mentioned in subsection (3)(a) of that section, a court may take into account any information about the offender which is before it.
- (3) The following provisions of this section apply in relation to—
  - (a) a probation order which includes additional requirements authorised by Schedule 2 to this Act;
  - (b) a community service order;
  - (c) a combination order;
  - (d) a drug treatment and testing order;
  - (e) a supervision order which includes requirements authorised by Schedule 6 to this Act.
- (4) Subject to subsection (5) below, a court shall obtain and consider a pre-sentence report before forming an opinion as to the suitability for the offender of one or more of the orders mentioned in subsection (3) above.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Subsection (4) above 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.
- (6) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (5) above 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.
- (7) No community sentence which consists of or includes such an order as is mentioned in subsection (3) above shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion as to the suitability of the order for the offender, but any court on an appeal against such a sentence—
- (a) shall, subject to subsection (8) below, 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.
- (8) Subsection (7)(a) above 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.
- (9) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (8) above 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.
- (10) Section 156 below (disclosure of pre-sentence report to offender etc.) applies to any pre-sentence report obtained in pursuance of this section.