
STATUTORY INSTRUMENTS

1996 No. 3160

The Criminal Justice (Northern Ireland) Order 1996

PART II

TREATMENT OF OFFENDERS

Community sentences

Restrictions on imposing community sentences

8.—(1) A court shall not pass on an offender a community sentence unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence.

(2) Subject to paragraph (3), where a court passes a community sentence—

- (a) the particular order or orders comprising or forming part of the sentence shall be such as in the opinion of the court is, or taken together are, the most suitable for the offender; and
- (b) the restrictions on liberty imposed by the order or orders shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.

(3) In consequence of the provision made by Article 15 with respect to combination orders, a community sentence shall not consist of or include both a probation order and a community service order.

Procedural requirements for community sentences

9.—(1) In forming any such opinion as is mentioned in Article 8(1) or (2)(b), a court shall take into account all such information 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) as is available to it.

(2) In forming any such opinion as is mentioned in Article 8(2)(a), a court may take into account any information about the offender which is before it.

(3) Subject to paragraph (4), 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 following orders, namely—

- (a) a probation order which includes additional requirements authorised by Schedule 1;
- (b) a community service order;
- (c) a combination order; and
- (d) a supervision order which includes requirements imposed under paragraphs 7 to 10 of Schedule 3 to the Children and Young Persons Act (Northern Ireland) 1968.

(4) Paragraph (3) 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.

(5) In the case of an offender under the age of 17 years, 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 (4) or (7) unless there exists a previous pre-sentence report obtained in respect of the offender and 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.

(6) No community sentence which consists of or includes such an order as is mentioned in paragraph (3) shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in that paragraph, but any court on an appeal against such a sentence—

- (a) shall, subject to paragraph (7), 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.

(7) Paragraph (6)(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.