



Criminal Justice Act 1991

1991 CHAPTER 53

PART I

POWERS OF COURTS TO DEAL WITH OFFENDERS

Custodial sentences

3 Procedural requirements for custodial sentences.

- (1) Subject to subsection (2) below, a court shall obtain and consider a pre-sentence report before forming any such opinion as is mentioned in subsection (2) of section 1 or 2 above.
- (2) ^{F1} . . . subsection (1) 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.

[^{F2}(2A) In the case of an offender under the age of eighteen years, save where the offence or any other offence associated with it is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (2) above or subsection (4A) below 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.]

- (3) In forming any such opinion as is mentioned in subsection (2) of section 1 or 2 above a court—
 - (a) shall take into account all such information about the circumstances of the offence [^{F3}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; and
 - (b) in the case of any such opinion as is mentioned in paragraph (b) of that subsection, may take into account any information about the offender which is before it.

Status: Point in time view as at 03/02/1995. This version of this provision has been superseded.

Changes to legislation: Criminal Justice Act 1991, Section 3 is up to date with all changes known to be in force on or before 10 May 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)

- (4) No custodial sentence^{F4} . . . shall be invalidated by the failure of a court to [^{F5}obtain and consider a pre-sentence report before forming an opinion referred to in subsection (1) above] but any court on an appeal against such a sentence—
- (a) shall [^{F6}, subject to subsection (4A) 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.
- [^{F7}(4A) Subsection (4)(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.]

(5) In this Part “pre-sentence report” means a report in writing which—

 - (a) with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by a probation officer or by a social worker of a local authority social services department; and
 - (b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.

Textual Amendments

- F1** Words in s. 3(2) repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), Sch. 9 para. 40(2)(a), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch. 1** AppendicesA,C
- F2** S. 3(2A) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(2)(b)**; S.I. 1995/127, art. 2(1), **Sch. 1** AppendixA
- F3** Words in s. 3(3)(a) inserted (16.8.1993) by 1993 c. 36, s. 66(3)(9); S.I. 1993/1968, art. 2(1), **Sch. 1**
- F4** Words in s. 3(4) repealed (3.2.1995) by 1994 c. 33, s. 168(1)(3), Sch. 9 para. 40(2)(c)(i), **Sch.11**; S.I. 1995/127, art. 2(1), **Sch. 1** AppendicesA,C
- F5** Words in s. 3(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(2)(c)(ii)**; S.I. 1995/127, art. 2(1), **Sch. 1** AppendixA
- F6** Words in s. 3(4)(a) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(2)(c)(iii)**; S.I. 1995/127, art. 2(1), **Sch. 1** AppendixA
- F7** S 3(4A) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(2)(d)**; S.I. 1995/127, art. (1), Sch. 1 AppendixA

Modifications etc. (not altering text)

- C1** Ss. 1-4 extended (1.3.1998) by 1994 c. 33, **ss. 1(6)**; S.I. 1998/277, **art.3(1)** (with art. 4) (by 1998 c. 37, **ss. 120(2), 121(2)**, **Sch.10**, the said s. 1 is repealed (*prosp.*)).
 Ss. 1-4 applied (*prosp.*) by 1998 c. 37, **ss. 73(4), 121(2)**.

Commencement Information

- I1** S. 3 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Status:

Point in time view as at 03/02/1995. This version of this provision has been superseded.

Changes to legislation:

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