



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART V

#### CUSTODIAL SENTENCES ETC.

### CHAPTER I

#### GENERAL PROVISIONS

##### *Procedural requirements for imposing discretionary custodial sentences*

#### **81 Pre-sentence reports and other requirements**

- (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 79 or 80 above.
- (2) 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.
- (3) 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 (2) 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.
- (4) In forming any such opinion as is mentioned in subsection (2) of section 79 or 80 above, a court—

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*Status: This is the original version (as it was originally enacted).*

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- (a) 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; 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.
- (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 subsection (1) above, but any court on an appeal against such a sentence—
- (a) shall, subject to subsection (6) 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.
- (6) Subsection (5)(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.
- (7) 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 (6) 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.
- (8) Section 156 below (disclosure of pre-sentence report to offender etc.) applies to any pre-sentence report obtained in pursuance of this section.

## **82 Additional requirements in case of mentally disordered offender**

- (1) Subject to subsection (2) below, in any case where the offender is or appears to be mentally disordered, the court shall obtain and consider a medical report before passing a custodial sentence other than one fixed by law or falling to be imposed under section 109(2) below.
- (2) 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 medical report.
- (3) Before passing a custodial sentence, other than one fixed by law or falling to be imposed under section 109(2) below, on an offender who is or appears to be mentally disordered, a court shall consider—
  - (a) any information before it which relates to his mental condition (whether given in a medical report, a pre-sentence report or otherwise); and
  - (b) the likely effect of such a sentence on that condition and on any treatment which may be available for it.

- (4) No custodial sentence which is passed in a case to which subsection (1) above applies shall be invalidated by the failure of a court to comply with that subsection, but any court on an appeal against such a sentence—
  - (a) shall obtain a medical report if none was obtained by the court below; and
  - (b) shall consider any such report obtained by it or by that court.
- (5) In this section, “mentally disordered”, in relation to any person, means suffering from a mental disorder within the meaning of the Mental Health 83.
- (6) In this section, “medical report” means a report as to an offender’s mental condition made or submitted orally or in writing by a registered medical practitioner who is approved for the purposes of section 12 of the Mental Health Act 1983 by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder.
- (7) Nothing in this section shall be taken as prejudicing the generality of section 81 above.