



Sentencing Act 2020

2020 CHAPTER 17

SECOND GROUP OF PARTS Provisions applying to sentencing courts generally

PART 3

PROCEDURE

CHAPTER 1

INFORMATION AND REPORTS

Pre-sentence reports

30 Pre-sentence report requirements

- (1) This section applies where, by virtue of any provision of this Code, the pre-sentence report requirements apply to a court in relation to forming an opinion.
- (2) If the offender is aged 18 or over, the court must obtain and consider a pre-sentence report before forming the opinion unless, in the circumstances of the case, it considers that it is unnecessary to obtain a pre-sentence report.
- (3) If the offender is aged under 18, the court must obtain and consider a pre-sentence report before forming the opinion unless—
 - (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court considers—
 - (i) in the circumstances of the case, and
 - (ii) having had regard to the information contained in that report or, if there is more than one, the most recent report,that it is unnecessary to obtain a pre-sentence report.

Status: Point in time view as at 01/12/2020.

Changes to legislation: Sentencing Act 2020, CHAPTER 1 is up to date with all changes known to be in force on or before 21 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)

- (4) Where a court does not obtain and consider a pre-sentence report before forming an opinion in relation to which the pre-sentence report requirements apply, no custodial sentence or community sentence is invalidated by the fact that it did not do so.

Commencement Information

II S. 30 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

31 Meaning of “pre-sentence report” etc

“Pre-sentence report”

- (1) In this Code “pre-sentence report” means a report which—
- (a) is made or submitted by an appropriate officer with a view to assisting the court in determining the most suitable method of dealing with an offender, and
 - (b) contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.
- (2) In subsection (1), “an appropriate officer” means—
- (a) where the offender is aged 18 or over, an officer of a provider of probation services;
 - (b) where the offender is aged under 18—
 - (i) an officer of a provider of probation services,
 - (ii) a social worker of a local authority, or
 - (iii) a member of a youth offending team.
- (3) Rules under subsection (1)(b) are subject to the negative resolution procedure.

“Obtaining” a pre-sentence report

- (4) Where by any provision of this Code, the court is required to obtain a pre-sentence report, it may accept a pre-sentence report given orally in open court.

But this is subject to—

- (a) any rules made under subsection (1)(b), and
 - (b) subsection (5).
- (5) A pre-sentence report must be in writing if it—
- (a) relates to an offender aged under 18, and
 - (b) is required to be obtained and considered before the court forms an opinion mentioned in—
 - (i) section 230(2) (seriousness threshold for discretionary custodial sentence),
 - (ii) section 231(2) (determining term of custodial sentence),
 - (iii) section 255(1)(c) (determining risk of harm to public for purpose of extended sentence), or
 - (iv) section 258(1)(c) (determining risk of harm to public for purpose of required life sentence).

Status: Point in time view as at 01/12/2020.

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Modifications etc. (not altering text)

- C1** S. 31(1) applied (with modifications) by 2006 c. 52, s. 257(2) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 57\(a\)\(b\)](#)) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

Commencement Information

- I2** S. 31 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

32 Disclosure of pre-sentence reports

- (1) This section applies where the court obtains a pre-sentence report, other than a report given orally in open court.

Copy for offender and parent or guardian

- (2) The court must give a copy of the report—
- to the offender or the offender's legal representative, and
 - if the offender is aged under 18, to any parent or guardian of the offender who is present in court.

- (3) But if—

- the offender is aged under 18, and
- it appears to the court that the disclosure of any information contained in the report—
 - to the offender, or
 - to a parent or guardian of the offender,would be likely to create a risk of significant harm to the offender,

a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.

For this purpose, “harm” has the same meaning as in section 31 of the Children Act 1989.

Copy for prosecutor

- (4) The court must give a copy of the report to the prosecutor, that is to say, the person having the conduct of the proceedings in respect of the offence.
- (5) But a copy of the report need not be given to the prosecutor if the court considers that it would be inappropriate for the prosecutor to be given it.

But this subsection does not apply if the prosecutor is of a description specified in regulations made by the Secretary of State.

- (6) No information obtained by virtue of subsection (4) may be used or disclosed otherwise than for the purpose of—
- determining whether representations as to matters contained in the report need to be made to the court, or
 - making such representations to the court.

- (7) Regulations under subsection (5) are subject to the negative resolution procedure.

Status: Point in time view as at 01/12/2020.

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Modifications etc. (not altering text)

- C2** S. 32(1)-(4) (6) applied by 2006 c. 52, s. 257(4) (as amended (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), [Sch. 25 para. 57\(c\)\(i\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#); [S.I. 2020/1236](#), [reg. 2](#))

Commencement Information

- I3** S. 32 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

33 Appeals: requirements relating to pre-sentence reports

- (1) Any court, on an appeal against a custodial sentence or a community sentence, must—
 - (a) subject to subsection (2) or (3), obtain a pre-sentence report if none was obtained by the court below, and
 - (b) consider any such report obtained by it or by the court below.
- (2) If the offender is aged 18 or over, the court need not obtain a pre-sentence report if it considers—
 - (a) that the court below was justified in not obtaining a pre-sentence report, or
 - (b) that, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.
- (3) If the offender is aged under 18, the court need not obtain a pre-sentence report if—
 - (a) there exists a previous pre-sentence report obtained in respect of the offender, and
 - (b) the court considers, having had regard to the information contained in that report or, if there is more than one, the most recent report—
 - (i) that the court below was justified in not obtaining a pre-sentence report, or
 - (ii) that, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.

Commencement Information

- I4** S. 33 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Other reports of providers of probation services etc

34 Disclosure of other reports

- (1) This section applies where—
 - (a) a report by—
 - (i) an officer of a provider of probation services, or
 - (ii) a member of a youth offending team,
 is made to any court (other than a youth court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, and
 - (b) the report is not a pre-sentence report.

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- (2) The court must give a copy of the report—
- (a) to the offender or the offender's legal representative, and
 - (b) if the offender is aged under 18, to any parent or guardian of the offender who is present in court.
- (3) But if—
- (a) the offender is aged under 18, and
 - (b) it appears to the court that the disclosure of any information contained in the report—
 - (i) to the offender, or
 - (ii) to a parent or guardian of the offender,would be likely to create a risk of significant harm to the offender,
- a complete copy of the report need not be given to the offender or, as the case may be, to that parent or guardian.

For this purpose, “harm” has the same meaning as in section 31 of the Children Act 1989.

Commencement Information

I5 S. 34 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Financial circumstances orders

35 Powers to order statement as to offender's financial circumstances

- (1) In this Code, “financial circumstances order”, in relation to an individual, means an order requiring the individual to give the court, before the end of the period specified in the order, such a statement of the individual's assets and other financial circumstances as the court may require.
- (2) Where an individual has been convicted of an offence, the court may, before sentencing the individual, make a financial circumstances order with respect to the individual.
- (3) Where a magistrates' court has been notified in accordance with section 12(4) of the Magistrates' Courts Act 1980 that an individual desires to plead guilty without appearing before the court, the court may make a financial circumstances order with respect to the individual.
- (4) Where—
- (a) an individual aged under 18 has been convicted of an offence, and
 - (b) the court is considering whether to make an order under section 380 in respect of the individual's parent or guardian (power to order parent or guardian to pay fine, costs, compensation or surcharge),
- the court may make a financial circumstances order with respect to the parent or (as the case may be) guardian.

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Commencement Information

I6 S. 35 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

36 Financial circumstances order: offences

- (1) It is an offence for an individual to fail without reasonable excuse to comply with a financial circumstances order.
- (2) An individual who is guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) It is an offence for an individual, in furnishing any statement in pursuance of a financial circumstances order—
 - (a) to make a statement which the individual knows to be false in a material particular,
 - (b) recklessly to furnish a statement which is false in a material particular, or
 - (c) knowingly to fail to disclose any material fact.
- (4) An individual who is guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) Proceedings for an offence under subsection (3) may be commenced at any time which is both—
 - (a) within 2 years from the date of the offence, and
 - (b) within 6 months from its first discovery by the prosecutor.

This subsection has effect despite anything in section 127(1) of the Magistrates' Courts Act 1980 (limitation of time).

Commencement Information

I7 S. 36 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Other powers to obtain reports etc

37 Reports and information: other powers of court

- (1) For other powers and duties of a court in relation to obtaining information or a report before passing sentence, see—
 - (a) section 232 (medical report before passing certain custodial sentence in case of offender suffering from mental disorder);
 - (b) section 48(3) of the Children and Young Persons Act 1933 (power of youth court to remand for purpose of enabling information to be obtained with respect to offender aged under 18);
 - (c) section 10(3) of the Magistrates' Courts Act 1980 (adjournment by magistrates' court for purpose of enabling enquiries);
 - (d) section 35 of the Mental Health Act 1983 (remand to hospital for a report on the person's mental condition).

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- (2) See also section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand by magistrates' court for medical examination) where a magistrates' court is considering whether to make an order under section 37(3) of the Mental Health Act 1983 (hospital admission or guardianship).

Commencement Information

18 S. 37 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Status:

Point in time view as at 01/12/2020.

Changes to legislation:

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