



Criminal Justice Act 1991

1991 CHAPTER 53

PART I

POWERS OF COURTS TO DEAL WITH OFFENDERS

Community sentences

6 Restrictions on imposing community sentences.

- (1) A court shall not pass on an offender a community sentence, that is to say, a sentence which consists of or includes one or more community orders, unless it is of the opinion that the offence, or the combination of the offence and one [^{F1}or more offences] associated with it, was serious enough to warrant such a sentence.
- (2) Subject to subsection (3) below, 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 [^{F2}one or more] offences associated with it.
- (3) In consequence of the provision made by section 11 below with respect to combination orders, a community sentence shall not consist of or include both a probation order and a community service order.
- (4) In this Part “community order” means any of the following orders, namely—
 - (a) a probation order;
 - [^{F3}(aa) a drug treatment and testing order;]
 - (b) a community service order;
 - (c) a combination order;
 - (d) a curfew order;
 - (e) a supervision order; ^{F4} . . .

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- (f) an attendance centre order.
- [^{F3}(g) an action plan order.]

Textual Amendments

- F1** Words in s. 6(1) substituted (16.8.1993) by 1993 c. 36, s. 66(4)(a)(9); S.I. 1993/1968, art. 2(1), **Sch. 1**
- F2** Words in s. 6(2)(b) substituted (16.8.1993) by 1993 c. 36, s. 66(4)(b)(9); S.I. 1993/1968, art. 2(1), **Sch. 1**
- F3** S. 6(4)(aa)(g) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 74(a)(c)**; S.I. 1998/2327, **art.2(1)(y)(2)(v)**.
- F4** Word “and” immediately following s. 6(4)(e) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 74(b)**, **Sch.10**; S.I. 1998/2327, **art.2(1)(y)(2)(v)(3)(t)**.

Modifications etc. (not altering text)

- C1** S. 6 excluded (1.3.1998) by 1997 c. 43, s. 17(5) (with **Sch. 1 para. 10(4)**)(by 1998 c. 37, s. 120(2), **Sch.10**, the said s. 17(5) is repealed (30.9.1998); S.I. 1998/2327, **art.2(1)(aa)(3)(x)**
S. 6 excluded (1.1.1998) by 1997 c. 43, s. 37(3); S.I. 1997/2200, **art. 3** (with savings in art. 5)

Commencement Information

- I1** S. 6 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

7 Procedural requirements for community sentences.

- (1) In forming any such opinion as is mentioned in subsection (1) or (2)(b) of section 6 above, a court shall take into account all such information about the circumstances of the offence [^{F5}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 subsection (2)(a) of that section, a court may take into account any information about the offender which is before it.
 - (3) [^{F6}Subject to subsection (3A) 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 following orders, namely—
 - (a) a probation order which includes additional requirements authorised by Schedule 1A to the 1973 Act;
 - [^{F7}(aa) a drug treatment and testing order;]
 - (b) a community service order;
 - (c) a combination order; and
 - (d) a supervision order which includes requirements imposed under section 12, 12A, 12AA, 12B or 12C of the ^{M1}Children and Young Persons Act 1969 (“the 1969 Act”).
- [^{F8}(3A) Subsection (3) 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.
- (3B) 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 (3A) above or subsection (5) below unless there exists a previous pre-sentence report obtained in respect of the offender

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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.]

(4) 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 [^{F9}obtain and consider a pre-sentence report before forming an opinion referred to in] that subsection, but any court on an appeal against such a sentence—

- (a) shall [^{F10}, subject to subsection (5) 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.

[^{F11}(5) 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.]

Textual Amendments

- F5** Words in s. 7(1) inserted (16.8.1993) by 1993 c. 36, s. 66(5); S.I. 1993/1968, art. 2(1), **Sch. 1**
- F6** Words in s. 7(3) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(3)(a)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A
- F7** S. 7(3)(aa) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 75**; S.I. 1998/2327, **art.2(1)(y)(2)(v)**.
- F8** S. 7(3A)(3B) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(3)(b)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A
- F9** Words in s. 7(4) substituted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(3)(c)(i)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A
- F10** Words in s. 7(4)(a) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(3)(c)(ii)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A
- F11** S. 7(5) inserted (3.2.1995) by 1994 c. 33, s. 168(1), **Sch. 9 para. 40(3)(d)**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A

Commencement Information

- I2** S. 7 wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

Marginal Citations

- M1** 1969 c. 54.

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