

Status: Point in time view as at 03/02/1995. This version of this provision has been superseded.

Changes to legislation: Criminal Justice and Public Order Act 1994, Paragraph 40 is up to date with all changes known to be in force on or before 02 July 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)

SCHEDULE 9

MINOR AMENDMENTS

Extent Information

E1 [Sch. 9](#) does not extend to Scotland in so far as it relates to s. 17(1) of the Video Act 1984 see [s. 172\(16\)](#)

Pre-sentence reports

- 40 (1) The ^{M1}Criminal Justice Act 1991 shall be amended as follows.
- (2) In section 3 (requirement to obtain pre-sentence reports before passing custodial sentences)—
- (a) in subsection (2), the words from the beginning to “indictment,” shall be omitted;
 - (b) after subsection (2), there shall be inserted the following subsection—

“(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.”;
 - (c) in subsection (4)—
 - (i) the words from “which is” to “applies” shall be omitted;
 - (ii) for the words “comply with that subsection” there shall be substituted the words “obtain and consider a pre-sentence report before forming an opinion referred to in subsection (1) above”; and
 - (iii) in paragraph (a), after the word “shall” there shall be inserted the words “, subject to subsection (4A) below, ”;
 - (d) after subsection (4) there shall be inserted the following subsection—

“(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.”.

(3) In section 7 (requirement to obtain pre-sentence reports before passing certain community sentences)—

 - (a) in subsection (3), at the beginning, there shall be inserted the words “ Subject to subsection (3A) below, ”;
 - (b) after subsection (3), there shall be inserted the following subsections—

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- “(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 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.”;
- (c) in subsection (4)—
- (i) for the words “comply with” there shall be substituted the words “obtain and consider a pre-sentence report before forming an opinion referred to in ”; and
 - (ii) in paragraph (a), after the word “shall” there shall be inserted the words “, subject to subsection (5) below, ”;
- (d) after subsection (4) there shall be inserted the following subsection—
- “(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.”.

Commencement Information

II Sch. 9 para. 40 wholly in force at 3.2.1995; Sch. 9 para. 40 not in force at Royal Assent see s. 172; Sch. 9 para. 40 in force at 3.2.1995 (subject to savings) by S.I. 1995/127, art. 2(1), Sch. 1 APPENDIX A (with savings in Sch. 2 para. 6)

Marginal Citations

M1 1991 c. 53.

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