



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

#### CHAPTER 1

##### GENERAL PROVISIONS ABOUT SENTENCING

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

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

- (1) In forming any such opinion as is mentioned in section 148(1), (2)(b) or (3)(b), section 152(2) or section 153(2), a court must 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.
- (2) In forming any such opinion as is mentioned in section 148(2)(a) or (3)(a), the court may take into account any information about the offender which is before it.
- (3) Subject to subsection (4), a court must obtain and consider a pre-sentence report before—
  - (a) in the case of a custodial sentence, forming any such opinion as is mentioned in section 152(2), section 153(2), section 225(1)(b), section 226(1)(b), section 227(1)(b) or section 228(1)(b)(i), or
  - (b) in the case of a community sentence, forming any such opinion as is mentioned in section 148(1), (2)(b) or (3)(b) or any opinion as to the suitability for the offender of the particular requirement or requirements to be imposed by the community order.

*Status: Point in time view as at 04/04/2005.*

*Changes to legislation: Criminal Justice Act 2003, Cross Heading: Procedural requirements for imposing community sentences and discretionary custodial sentences is up to date with all changes known to be in force on or before 26 June 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) Subsection (3) 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.
- (5) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (4) 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.
- (6) No custodial sentence or community sentence is invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion referred to in subsection (3), but any court on an appeal against such a sentence—
- (a) must, subject to subsection (7), obtain a pre-sentence report if none was obtained by the court below, and
  - (b) must consider any such report obtained by it or by that court.
- (7) Subsection (6)(a) 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.
- (8) In a case where the offender is aged under 18, the court must not form the opinion mentioned in subsection (7) 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.

#### **Commencement Information**

- II** S. 156 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 7](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

- (1) Subject to subsection (2), in any case where the offender is or appears to be mentally disordered, the court must obtain and consider a medical report before passing a custodial sentence other than one fixed by law.
- (2) Subsection (1) 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 on an offender who is or appears to be mentally disordered, a court must 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.

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- (4) No custodial sentence which is passed in a case to which subsection (1) applies is invalidated by the failure of a court to comply with that subsection, but any court on an appeal against such a sentence—
- (a) must obtain a medical report if none was obtained by the court below, and
  - (b) must 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 Act 1983 (c. 20).
- (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 is to be taken to limit the generality of section 156.

#### Commencement Information

- I2** S. 157 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 7 (subject to [art. 2\(2\)](#), Sch. 2)

## 158 Meaning of “pre-sentence report”

- (1) In this Part “pre-sentence report” means a report 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 an appropriate officer, 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 local probation board, and
  - (b) where the offender is aged under 18, an officer of a local probation board, a social worker of a local authority<sup>F1</sup> . . . or a member of a youth offending team.

#### Textual Amendments

- F1** Words in s. 158(2)(b) repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); S.I. 2005/394, [art. 2\(2\)\(g\)](#); S.I. 2006/885, [art. 2\(2\)\(h\)](#)

#### Modifications etc. (not altering text)

- C1** S. 158(1) applied (with modifications) (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. [257\(1\)-\(3\)](#), 383 (with ss. 271(1), 385); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

#### Commencement Information

- I3** S. 158 wholly in force at 4.4.2005; s. 158 not in force at Royal Assent, see s. 336(3); s. 158(1)(b) in force at 7.3.2005 by S.I. 2005/373, [art. 2](#); s. 158 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 7 (subject to [art. 2\(2\)](#), Sch. 2)

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