



# 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—
  - (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.

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- (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).

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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—
- (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.

*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—
- (a) determining whether representations as to matters contained in the report need to be made to the court, or
  - (b) making such representations to the court.

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

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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).

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**Commencement Information**

**I8** S. 37 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

## CHAPTER 2

### DEROGATORY ASSERTION ORDERS

#### 38 Derogatory assertion order and restriction on reporting of assertions

- (1) While a derogatory assertion order or interim derogatory assertion order has effect in relation to an assertion, the assertion must not—
- (a) be published in Great Britain in a written publication available to the public, or
  - (b) be included in a relevant programme for reception in Great Britain.
- (2) In this Chapter—
- “derogatory assertion order” means an order made under subsection (3) of section 39 in relation to an assertion to which that section applies;
  - “interim derogatory assertion order” means an order made under subsection (4) of section 39 in relation to an assertion to which that section applies.

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**Commencement Information**

**I9** S. 38 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

#### 39 Order in respect of certain assertions

- (1) This section applies to an assertion that forms part of a speech in mitigation made by or on behalf of an offender before—
- (a) a court determining what sentence should be passed on the offender in respect of an offence, or
  - (b) a magistrates' court determining whether the offender should be committed to the Crown Court for sentence.
- (2) This section also applies to an assertion that forms part of a submission relating to a sentence which is made by or on behalf of the offender before—
- (a) a court hearing an appeal against or reviewing the sentence, or
  - (b) a court determining whether to grant leave to appeal against the sentence.
- (3) The court may make a derogatory assertion order in relation to an assertion to which this section applies where there are substantial grounds for believing—

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- (a) that the assertion is derogatory to a person's character (for instance, because it suggests that the person's conduct is or has been criminal, immoral or improper), and
  - (b) that the assertion is false or that the facts asserted are irrelevant to the sentence.
- (4) Where it appears to the court that there is a real possibility that a derogatory assertion order will be made in relation to an assertion, the court may make an interim derogatory assertion order in relation to it (see subsection (8)).
- (5) No derogatory assertion order or interim derogatory assertion order may be made in relation to an assertion which it appears to the court was previously made—
- (a) at the trial at which the offender was convicted of the offence, or
  - (b) during any other proceedings relating to the offence.
- (6) Section 38(1) has effect where a court makes a derogatory assertion order or an interim derogatory assertion order.
- (7) A derogatory assertion order—
- (a) may be made after the court has made the relevant determination, but only if it is made as soon as is reasonably practicable after the determination has been made;
  - (b) subject to subsection (10), ceases to have effect at the end of the period of 12 months beginning with the day on which it is made;
  - (c) may be made whether or not an interim derogatory assertion order has been made with regard to the case concerned.
- (8) An interim derogatory assertion order—
- (a) may be made at any time before the court makes the relevant determination, and
  - (b) subject to subsection (10), ceases to have effect when the court makes the relevant determination.
- (9) For the purposes of subsections (7) and (8) “relevant determination” means the determination of—
- (a) the sentence (where this section applies by virtue of subsection (1)(a));
  - (b) whether the offender should be committed to the Crown Court for sentence (where this section applies by virtue of subsection (1)(b));
  - (c) what the sentence should be (where this section applies by virtue of subsection (2)(a));
  - (d) whether to grant leave to appeal (where this section applies by virtue of subsection (2)(b)).
- (10) A derogatory assertion order or interim derogatory assertion order may be revoked at any time by the court which made it.

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**Commencement Information**

**I10** S. 39 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)



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#### 40 Reporting of assertions: offences

- (1) If an assertion is published or included in a relevant programme in contravention of section 38, each of the following persons is guilty of an offence—
  - (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
  - (b) in the case of publication in any other form, the person publishing the assertion;
  - (c) in the case of an assertion included in a relevant programme, any body corporate engaged in providing the service in which the programme is included and any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (2) A person guilty of an offence under this section is liable on summary conviction to—
  - (a) in England and Wales, a fine;
  - (b) in Scotland, a fine of an amount not exceeding level 5 on the standard scale.
- (3) Where a person is charged with an offence under this section it is a defence to prove that at the time of the alleged offence the person—
  - (a) was not aware, and neither suspected nor had reason to suspect, that a derogatory assertion order or interim derogatory assertion order had effect at that time, or
  - (b) was not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or (as the case may be) included, the assertion in question.
- (4) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity,that person as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In relation to a body corporate whose affairs are managed by its members, “director” in subsection (4) means a member of the body corporate.

#### Commencement Information

I11 S. 40 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

#### 41 Reporting of assertions: supplementary

- (1) In sections 38 and 40—

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;

“written publication” includes a film, a soundtrack and any other record in permanent form but does not include an indictment or other document prepared for use in particular legal proceedings.
- (2) For the purposes of sections 38 and 40 an assertion is published or included in a programme if the material published or included—

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- (a) names the person about whom the assertion is made or, without naming the person, contains enough to make it likely that members of the public will identify that person as the person about whom it is made, and
  - (b) reproduces the actual wording of the matter asserted or contains its substance.
- (3) Nothing in section 38 or 39 affects any prohibition or restriction imposed by virtue of any other enactment on a publication or on matter included in a programme.

**Commencement Information**

**I12** S. 41 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

## CHAPTER 3

### SURCHARGE

#### **42 Court's duty to order payment of surcharge**

- (1) A court when dealing with an offender for one or more offences committed on or after 1 April 2007 must also order the offender to pay a surcharge.

This is subject to subsections (2) to (4).

- (2) Subsection (1)—
- (a) does not apply in such cases as may be prescribed by regulations made by the Secretary of State, and
  - (b) is subject to section 15 of the Proceeds of Crime Act 2002 (effect on duty in subsection (1) when proceedings on confiscation order are postponed).
- (3) Where a court dealing with an offender considers—
- (a) that it would be appropriate to make one or more of—
    - (i) a compensation order,
    - (ii) an unlawful profit order, and
    - (iii) a slavery and trafficking reparation order, but
  - (b) that the offender has insufficient means to pay both the surcharge and appropriate amounts under such of those orders as it would be appropriate to make,

the court must reduce the surcharge accordingly (if necessary to nil).

But see section 13(4) of the Proceeds of Crime Act 2002 (court not to take confiscation order into account.)

- (4) Where an offender aged under 18 is convicted of an offence and, but for this subsection, a court would order the offender to pay a surcharge—
- (a) section 380 (orders for payment by parent or guardian) applies to the surcharge, and
  - (b) for the purposes of any order under that section in respect of the surcharge, subsection (3)(b) of this section is to be read as if the reference to the offender's means were to the means of the offender's parent or guardian.
- (5) For the purposes of this section a court does not “deal with” a person if it—

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- (a) discharges the person absolutely, or
  - (b) makes an order under the Mental Health Act 1983 in respect of the person.
- (6) In this section—
- “slavery and trafficking reparation order” means an order under section 8 of the Modern Slavery Act 2015;
  - “unlawful profit order” means an unlawful profit order under section 4 of the Prevention of Social Housing Fraud Act 2013.
- (7) Regulations under subsection (2) are subject to the negative resolution procedure.

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

**C3** S. 42(1) excluded by S.I. 2012/1696, art. 2 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 405](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

**Commencement Information**

**I13** S. 42 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**43 Amount of surcharge**

- (1) The surcharge payable under section 42 is such amount as the Secretary of State may specify by regulations.
- (2) Regulations under this section may provide for the amount to depend on—
- (a) the offence or offences committed;
  - (b) how the offender is otherwise dealt with (including, where the offender is fined, the amount of the fine);
  - (c) the age of the offender.
- (3) Regulations under this section are subject to the negative resolution procedure.

**Commencement Information**

**I14** S. 43 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**CHAPTER 4**

CRIMINAL COURTS CHARGE

**44 Criminal courts charge duty where court dealing with offender for offence**

Where the Crown Court or a magistrates' court deals with an offender for an offence, the criminal courts charge duty applies to the court (see section 46).

**Commencement Information**

**I15** S. 44 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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#### 45 Other occasions where criminal courts charge duty arises

For other occasions where the criminal courts charge duty applies to a court, see—

- (a) section 52A of the Senior Courts Act 1981 (dismissal of appeal by Crown Court);
- (b) section 30B of the Criminal Appeal Act 1968 (dismissal of appeal by Court of Appeal);
- (c) section 256AC of the Criminal Justice Act 2003 (breach of supervision requirements imposed on release);
- (d) paragraph 10(6) of Schedule 10 (magistrates' court dealing with offender for breach of requirement of community order);
- (e) paragraph 11(3) of that Schedule (Crown Court dealing with offender for breach of community order);
- (f) paragraph 13(2) of Schedule 16 (magistrates' court or Crown Court dealing with offender for breach of community requirement of suspended sentence order).

#### Commencement Information

**I16** S. 45 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

#### 46 Criminal courts charge duty

- (1) Where the criminal courts charge duty applies to a court in relation to an offender, the court must order the offender to pay a charge in respect of relevant court costs, unless—

- (a) the offender was aged under 18 when the offence was committed,
- (b) the offence was committed before 13 April 2015, or
- (c) the case is, or is of a class, prescribed by the Lord Chancellor by regulations.

But this is subject to section 15(2) of the Proceeds of Crime Act 2002 (effect on duty when proceedings on confiscation order are postponed).

- (2) In this section—

“court costs” means costs of providing the judiciary and the rest of the system of courts, but does not include defence or prosecution costs;

“relevant court costs” means court costs incurred in connection with—

- (a) criminal proceedings, or
- (b) proceedings for a relevant failure,

but does not include costs of providing the Supreme Court or judges of that Court;

“relevant failure” means a failure to comply with—

- (a) a requirement of a community order,
- (b) a community requirement of a suspended sentence order, or
- (c) a supervision requirement imposed under section 256AA of the Criminal Justice Act 2003.

- (3) In this Code, “criminal courts charge order” means an order under subsection (1).

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**Commencement Information**

**I17** S. 46 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**47 Court to disregard criminal courts charge duty in dealing with offender**

- (1) This section applies where the criminal courts charge duty applies to a court in dealing with an offender for—
  - (a) an offence, or
  - (b) a failure to comply with a requirement.
- (2) In dealing with the offender (other than under the duty) for the offence or failure, the court must not take into account—
  - (a) the criminal courts charge duty, or
  - (b) any criminal courts charge order.

**Commencement Information**

**I18** S. 47 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**48 Amount of criminal courts charge**

- (1) A charge ordered to be paid by a criminal courts charge order must be of an amount specified by the Lord Chancellor by regulations.
- (2) When specifying amounts under this section, the Lord Chancellor must seek to secure that an amount specified in respect of a class of case does not exceed the relevant court costs reasonably attributable to a case of that class.
- (3) In this section “relevant court costs” has the same meaning as in section 46.

**Commencement Information**

**I19** S. 48 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**49 Interest on criminal courts charge**

- (1) The Lord Chancellor may by regulations provide that a person who is ordered by a criminal courts charge order to pay a charge must pay interest on the charge so far as it remains unpaid.
- (2) The regulations may, in particular—
  - (a) make provision about the rate of interest,
  - (b) make provision about periods when interest is or is not payable, and
  - (c) make provision by reference to a measure or document as amended from time to time.
- (3) The regulations may not make provision for a rate of interest that is higher than the rate that the Lord Chancellor considers would maintain the value in real terms of amounts that remain unpaid.

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- (4) An amount of interest payable under the regulations is to be treated as part of the charge ordered to be paid by the criminal courts charge order.

**Commencement Information**

**I20** S. 49 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**50 Power of magistrates' court to remit criminal courts charge**

- (1) This section applies where a court has made a criminal courts charge order against a person.
- (2) A magistrates' court may remit the whole or part of the criminal courts charge, but this is subject to subsections (3) to (5).
- (3) It may remit the charge only if—
- (a) it is satisfied that the person has taken all reasonable steps to pay it, having regard to the person's personal circumstances, or
  - (b) it is satisfied that collection and enforcement of the charge is impracticable.
- (4) It may not remit the charge at a time when the person is detained in prison.
- (5) It may not remit the charge unless each of the following has expired—
- (a) a specified period beginning with the day on which a criminal courts charge order was last made in respect of the person;
  - (b) a specified period beginning with the day on which the person was last convicted of an offence;
  - (c) where relevant, a specified period beginning with the day on which the person was last released from prison.
- (6) Where a court remits a criminal courts charge after an order has been made under section 300(2) of the Criminal Justice Act 2003 (power to impose unpaid work requirement etc on fine defaulter) for default in paying the charge (or the charge and other amounts), the court must—
- (a) reduce the total number of hours or days to which the order relates by the same proportion as the amount remitted bears to the total amount in respect of which the order was made, or
  - (b) if the total number of hours or days would be reduced to nil under paragraph (a), revoke the order.
- (7) In calculating a reduction required by subsection (6), any fraction of an hour or day is to be rounded down to the nearest hour or day.
- (8) In this section—
- “criminal courts charge” means the charge ordered to be paid by a criminal courts charge order;
- “prison” includes any place where a person serving a sentence of detention for an offence is liable to be detained;
- “specified period” means a period of a length specified by the Lord Chancellor by regulations.

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**Commencement Information**

**I21** S. 50 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**51 Regulations under Chapter**

- (1) Subsections (4) and (6) of section 407 (general powers to make provision in regulations) do not apply to the powers to make regulations conferred by this Chapter.
- (2) Regulations under this Chapter are subject to the negative resolution procedure.

**Commencement Information**

**I22** S. 51 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**CHAPTER 5**

DUTIES TO EXPLAIN OR GIVE REASONS

**52 Duty to give reasons for and to explain effect of sentence**

- (1) A court passing sentence on an offender has the duties in subsections (2) and (3).
- (2) The court must state in open court, in ordinary language and in general terms, the court's reasons for deciding on the sentence.
- (3) The court must explain to the offender in ordinary language—
  - (a) the effect of the sentence,
  - (b) the effects of non-compliance with any order that the offender is required to comply with and that forms part of the sentence,
  - (c) any power of the court to vary or review any order that forms part of the sentence, and
  - (d) the effects of failure to pay a fine, if the sentence consists of or includes a fine.
- (4) Criminal Procedure Rules may—
  - (a) prescribe cases in which either duty does not apply, and
  - (b) make provision about how an explanation under subsection (3) is to be given.
- (5) Subsections (6) to (9) are particular duties of the court in complying with the duty in subsection (2).

*Sentencing guidelines*

- (6) The court must identify any sentencing guidelines relevant to the offender's case and—
  - (a) explain how the court discharged any duty imposed on it by section 59 or 60 (duty to follow guidelines unless satisfied it would be contrary to the interests of justice to do so);
  - (b) where the court was satisfied it would be contrary to the interests of justice to follow the guidelines, state why.

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- (7) Where as a result of taking into account any matter mentioned in section 73(2) (guilty pleas), the court imposes a punishment on the offender which is less severe than the punishment it would otherwise have imposed, the court must state that fact.

*Offender aged under 18*

- (8) If the court imposes a youth rehabilitation order with supervision and surveillance, or a youth rehabilitation order with fostering, it must state why it is of the opinion mentioned in each of—
- (a) section 179(2), and
  - (b) paragraph (a) and, if applicable, paragraph (b) of section 180(2).
- (9) If—
- (a) the offender is aged under 18, and
  - (b) the court imposes a sentence that may only be imposed in the offender's case if the court is of the opinion mentioned in section 230(2) (discretionary custodial sentence),
- the court must state why it is of that opinion.

**Commencement Information**

**I23** S. 52 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**53 Offender aged under 16: duties to give reasons where order not made in respect of parent or guardian**

- (1) Where an offender aged under 16 is convicted of an offence, for the duty of the court to make a statement in certain circumstances—
- (a) if it does not make a parenting order under section 366 in respect of a parent or guardian of the offender, see subsection (3)(b) of that section;
  - (b) if it—
    - (i) makes a criminal behaviour order in respect of the offender, and
    - (ii) does not make a parenting order under section 8(1)(b) of the Crime and Disorder Act 1998 in respect of a parent or guardian of the offender,
 see section 9(1B) of that Act;
  - (c) if it does not make an order under section 376 (binding over of parent or guardian), see subsection (4)(b) of that section.
- (2) Section 404 (certain references to parent or guardian to be read as references to local authority) does not apply to this section.

**Commencement Information**

**I24** S. 53 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

**54 Duty to give reasons where reparation order not made**

Where—



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- (a) a court is dealing with an offender for an offence, and
  - (b) a reparation order is available,
- the court must give reasons if it does not make a reparation order.

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**Commencement Information**

**I25** S. 54 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**55 Duty to give reasons where compensation order not made**

Where—

- (a) a court is dealing with an offender for an offence, and
  - (b) a compensation order is available,
- the court must give reasons if it does not make a compensation order.

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**Commencement Information**

**I26** S. 55 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**56 Other duties of court to give reasons where certain orders not made**

- (1) For other duties of the court dealing with an offender for an offence to give reasons, in certain circumstances, for a decision not to make an order, see—

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<i>Duty to give reasons</i>	<i>Type of order</i>	<i>Type of offence</i>
<b>Criminal Justice and Police Act 2001</b>		
section 33(2)(c)	travel restriction order under section 33	sentence of imprisonment for certain drug-trafficking offences
<b>Animal Welfare Act 2006</b>		
section 33(6)	order under section 33 (deprivation)	certain offences under that Act
section 34(8)	order under section 34 (disqualification)	certain offences under that Act
<b>Football Spectators Act 1989</b>		
section 14A(3)	banning order under Part 2	relevant offence within the meaning of that Part
<b>Prevention of Social Housing Fraud Act 2013</b>		
section 4(4)	unlawful profit order under section 4	offence under section 1 or 2
<b>Modern Slavery Act 2015</b>		
section 8(7)(b)	slavery and trafficking reparation order	offence under section 1, 2 or 4

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- (2) Nothing in this section is to be taken to affect—
- (a) any power to make an order mentioned in the table in subsection (1), or
  - (b) any requirement to give reasons for a decision not to exercise any power to make an order not mentioned in the table.

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**Commencement Information**

**I27** S. 56 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)–(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)