

SCHEDULE

Article 11(5).

THE CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 1996

PART I

ENFORCEMENT ETC. OF DRUG TREATMENT AND TESTING ORDERS

Preliminary

1. Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 (enforcement etc. of community orders) shall be amended as follows.

Meaning of “relevant order” etc.

2.—(1) In paragraph 1 (preliminary)—

(a) at the beginning insert “(1)” and after “a probation order,” insert “a drug treatment and testing order,”;

(b) at the end insert the following sub-paragraphs—

“(2) In this Schedule, references to the court responsible for a drug treatment and testing order shall be construed in accordance with Article 9 of the Criminal Justice (Northern Ireland) Order 1998.

(3) Where a drug treatment and testing order has been made on an appeal brought from a court of summary jurisdiction, or from the Crown Court, or from the Court of Appeal, for the purposes of this Schedule it shall be deemed to have been made by a court of summary jurisdiction or, as the case may require, the Crown Court.”.

Breach of requirements of order

3. In paragraph 2(2) (issue of summons or warrant), for “before a court of summary jurisdiction acting for the petty sessions district concerned” substitute—

“(a) except where the relevant order is a drug treatment and testing order, before a court of summary jurisdiction acting for the petty sessions district concerned;

(b) in the excepted case, before the court responsible for the order.”.

4. In paragraph 4(1) (powers of Crown Court), after “Where” insert “under paragraph 2 or”.

5. In paragraph 5(2) (exclusions), for “is required by a probation order to submit to treatment for his mental condition, or his dependency on drugs or alcohol,” substitute—

“(a) is required by a probation order to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol; or

(b) is required by a drug treatment and testing order to submit to treatment for his dependency on or propensity to misuse drugs,”.

Revocation of order

6. In paragraph 7 (revocation of order by a court of summary jurisdiction)—

Status: This is the original version (as it was originally made).

- (a) in sub-paragraph (1) after “the petty sessions district concerned” insert “or, where the relevant order is a drug treatment and testing order for which a court of summary jurisdiction is responsible, to that court”;
 - (b) in sub-paragraph (3)—
 - (i) after “a probation order” insert “or drug treatment and testing order”; and
 - (ii) after “supervision” insert “or, as the case may be, treatment”.
7. In paragraph 8 (revocation of order by Crown Court)—
- (a) after sub-paragraph (1) insert the following sub-paragraph—
 - “(1A) This paragraph also applies where—
 - (a) a drug treatment and testing order made by the Crown Court is in force in respect of an offender; and
 - (b) the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other manner for the offence in respect of which the order was made.”;
 - (b) in sub-paragraph (3)—
 - (i) after “a probation order” insert “or drug treatment and testing order”; and
 - (ii) after “supervision” insert “or, as the case may be, treatment”.
8. For paragraph 9(1)(a) (revocation of order following custodial sentence), substitute—
- “(a) an offender in respect of whom a relevant order is in force is convicted of an offence.—
 - (i) by a court of summary jurisdiction other than a court acting for the petty sessions district concerned; or
 - (ii) where the relevant order is a drug treatment and testing order, by a court of summary jurisdiction which is not responsible for the order; and”.

Amendment of order

9. In paragraph 12(1) (amendment by reason of change of residence), after “a relevant order” insert “(other than a drug treatment and testing order)”.

10. After paragraph 14 insert the following paragraph—

“Amendment of drug treatment and testing order

14A.—(1) Without prejudice to the provisions of Article 10(2), (7) and (9) of the Criminal Justice (Northern Ireland) Order 1998, the court responsible for a drug treatment and testing order may by order—

- (a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b); or
 - (b) amend the order on an application by that officer under sub-paragraph (3)(c).
- (2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—
- (a) he shall make a report in writing to that effect to the responsible officer; and
 - (b) that officer shall apply to the court for the variation or cancellation of the requirement.

- (3) Where the responsible officer is of the opinion—
 - (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider;
 - (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled; or
 - (c) that the order should be so amended as to provide for each subsequent review under Article 10 of the Criminal Justice (Northern Ireland) Order 1998 to be made without a hearing instead of at a review hearing, or vice versa,

he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.

- (4) The court—
 - (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
 - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in Article 9(2) of the Criminal Justice (Northern Ireland) Order 1998 or to increase it above the maximum so specified.

(5) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—

- (a) revoke the order; and
- (b) deal with him for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.

(6) In dealing with the offender under sub-paragraph (5)(b), the court—

- (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
- (b) may impose a custodial sentence notwithstanding anything in Article 19(2) of this Order.

(7) In this paragraph—

“review hearing” has the same meaning as in Article 10 of the Criminal Justice (Northern Ireland) Order 1998;

“the treatment requirement” and “the testing requirement” have the same meanings as in Article 2(2) of that Order.”.

11. In paragraph 16 (order not to be amended pending appeal), after “paragraph 13 or 15” insert “or, except with the consent of the offender, under paragraph 14A”.

12. In paragraph 18 (notification of amended order)—

- (a) in sub-paragraph (1) after “a relevant order” insert “(other than a drug treatment and testing order)”;
- (b) after sub-paragraph (1) insert the following sub-paragraph—
 - “(1A) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the clerk to the court shall forthwith give copies of the amending order to the responsible officer.”;
- (c) in sub-paragraph (2) after “sub-paragraph (1)” insert “or (1A)”.

PART II

CONSEQUENTIAL AMENDMENTS AND REPEALS

- 13.** In Article 2(2) (interpretation)—
- (a) insert the following definition—

““drug treatment and testing order” means an order under Article 8 of the Criminal Justice (Northern Ireland) Order 1998;”;
 - (b) in the definition of “community order” after sub-paragraph (a) insert—

“(aa) a drug treatment and testing order;”.
- 14.** In Article 9(3) (procedural requirements for community sentences) after sub-paragraph (a) insert—

“(aa) a drug treatment and testing order;”.
- 15.** In Article 17(3) (regulation of community orders) for “and” after sub-paragraph (a) substitute—

“(aa) in relation to an offender who is subject to a drug treatment and testing order, the probation officer responsible for his supervision; and”.
- 16.** For Article 19(3) (restrictions on imposing custodial sentences) substitute—

“(3) Nothing in paragraph (2) shall prevent the court from passing custodial sentence on the offender if he fails to express his willingness to comply with—

 - (a) a requirement which is proposed by the court to be included in a probation order or supervision order and which requires an expression of such willingness; or
 - (b) a requirement which is proposed by the court to be included in a drug treatment and testing order or an order under Article 8(5) of the Criminal Justice (Northern Ireland) Order 1998.”.
- 17.** In paragraph 5 of Schedule 1 (additional requirements for probation orders) the words “drugs or” in each place where they occur shall cease to have effect.