



# Criminal Justice and Courts Services Act 2000

## 2000 CHAPTER 43

### PART III

#### DEALING WITH OFFENDERS

### CHAPTER I

#### COMMUNITY SENTENCES

#### *Miscellaneous*

#### 48 Pre-sentence drug testing

In Chapter I of Part IV of the Powers of Criminal Courts (Sentencing) Act 2000, after section 36 there is inserted—

#### **“36A Pre-sentence drug testing**

- (1) Where a person aged 18 or over is convicted of an offence and the court is considering passing a community sentence, it may make an order under subsection (2) below for the purpose of ascertaining whether the offender has any specified Class A drug in his body.
- (2) The order shall require the offender to provide, in accordance with the order, samples of any description specified in the order.
- (3) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.

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In this subsection, “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.

- (4) The court shall not make an order under subsection (2) above unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.”

#### **49 Community sentences: drug abstinence requirements**

- (1) In section 42 of the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), in subsection (2)—

- (a) after “above” there is inserted—

“(a),

- (b) at the end there is inserted—

“(b) subject to subsections (2D) and (2F) below, the order shall, if the first set of conditions is satisfied, include a drug abstinence requirement and may include such a requirement if the second set of conditions is satisfied.

- (2A) For the purposes of this Part of this Act, a drug abstinence requirement is a requirement for the offender—

- (a) to abstain from misusing specified Class A drugs; and  
 (b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.

- (2B) The first set of conditions is—

- (a) that the offender was aged 18 or over on the date of his conviction for the offence;  
 (b) that, in the opinion of the court, the offender is dependent on or has a propensity to misuse specified Class A drugs; and  
 (c) that the offence is a trigger offence.

- (2C) The second set of conditions is—

- (a) that the offender was aged 18 or over on the date of his conviction for the offence; and  
 (b) that, in the opinion of the court—  
 (i) the offender is dependent on or has a propensity to misuse specified Class A drugs; and  
 (ii) the misuse by the offender of any specified Class A drug caused or contributed to the offence.

- (2D) The order may not include a drug abstinence requirement if—

- (a) the community rehabilitation order includes any requirement in respect of drugs under paragraph 6 of Schedule 2 to this Act; or  
 (b) the community sentence includes a drug treatment and testing order or a drug abstinence order.

- (2E) The function of giving instructions for the purposes of subsection (2A)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.
- (2F) The court shall not include a drug abstinence requirement in the order unless the court has been notified by the Secretary of State that arrangements for implementing such requirements are available in the area proposed to be specified under section 41(3) above and the notice has not been withdrawn.”
- (2) In section 47 of that Act (obligations of person subject to community punishment order), after subsection (3) there is inserted—
- “(3A) Subject to subsection (3B) below, the community punishment order shall, if the set of conditions in section 42(2B) above is satisfied, include a drug abstinence requirement and may include such a requirement if the set of conditions in section 42(2C) above is satisfied.
- (3B) The order may not include a drug abstinence requirement if the community sentence includes a drug treatment and testing order or a drug abstinence order.
- (3C) Subsections (2E) and (2F) of section 42 above apply for the purposes of this section as they apply for the purposes of that.”

## 50 Community sentences: curfew requirements

In Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), after paragraph 6 there is inserted—

### *“Curfew requirements*

- 7 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement that the offender remain, for periods specified in the requirement, at a place so specified.
- (2) A requirement under sub-paragraph (1) above may specify different places or different periods for different days, but shall not specify—
- (a) periods which fall outside the period of six months beginning with the day on which the order is made; or
  - (b) periods which amount to less than two hours or more than twelve hours in any one day.
- (3) A requirement under sub-paragraph (1) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

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- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender's whereabouts during the curfew periods specified in the requirement; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above unless the court has been notified by the Secretary of State that arrangements for monitoring the offender's whereabouts are available in the area in which the place proposed to be specified in the requirement is situated and the notice has not been withdrawn.
- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes a curfew order.
- (7) Before including in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above, the court shall obtain and consider information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).
- (8) The Secretary of State may make rules for regulating—
  - (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender's whereabouts during the curfew periods specified in the requirement.
- (9) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.”

## 51 Community sentences: exclusion requirements

In Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), after paragraph 7 there is inserted—

### *“Exclusion requirements*

- 8 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement prohibiting the offender from entering a place specified in the requirement for a period so specified of not more than two years.
- (2) A requirement under sub-paragraph (1) above—
  - (a) may provide for the prohibition to operate only during the periods specified in the order;
  - (b) may specify different places for different periods or days.

- (3) A requirement under sub-paragraph (1) above shall, as far as practicable, be such as to avoid—
  - (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.
- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes an exclusion order.
- (7) The Secretary of State may make rules for regulating—
  - (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates.
- (8) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.
- (9) In this paragraph, “place” includes an area.”

## **52 Community sentences: electronic monitoring of requirements**

After section 36A of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

### **“36B Electronic monitoring of requirements in community orders**

- (1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender’s compliance with any other requirements imposed by the order.
- (2) A court shall not include in a community order a requirement under subsection (1) above unless the court—

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- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
- (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
- the requirement shall not be included in the order without that person’s consent.
- (4) Where—
- (a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender’s compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
- the requirement shall not be included in the order without that person’s consent.
- (5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with requirements included in a community order; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.
- (7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.
- In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.
- (8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—
- (a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;
  - (b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;

(c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.

(9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.

(10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.”

### 53 Breach of community orders: warning and punishment

(1) Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of requirements of community orders) is amended as follows.

(2) After paragraph 1(1) there is inserted—

“(1A) The orders mentioned in paragraphs (a) to (d) and (f) of sub-paragraph (1) above and, if an order made by the Secretary of State so provides, any other order mentioned in that sub-paragraph are referred to in this Schedule as orders to which the warning provisions apply.”

(3) In Part II, before paragraph 3 (and the cross-heading preceding it) there is inserted—

#### *“Functions of responsible officer*

2A (1) Sub-paragraphs (2) and (3) below apply if the responsible officer is of the opinion that a person aged 18 or over (“the offender”) has failed without reasonable excuse to comply with any of the requirements of an order to which the warning provisions apply other than a requirement to abstain from misusing specified Class A drugs.

(2) The officer shall give him a warning under this paragraph if—

- (a) the offender has not within the specified period been given a warning under this paragraph in respect of a failure to comply with any of the requirements of the order; and
- (b) the officer does not cause an information to be laid before a justice of the peace in respect of the failure in question.

(3) If the offender has within the specified period been given such a warning, the officer shall cause an information to be laid before a justice of the peace in respect of the failure in question.

(4) In sub-paragraphs (2) and (3) above, “specified period” means—

- (a) in the case of a curfew order, the period of six months;
  - (b) in any other case, the period of twelve months;
- ending with the failure in question.

(5) A warning under this paragraph must—

- (a) describe the circumstances of the failure;
- (b) state that the failure is unacceptable;

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- (c) inform the offender that if within the next six or (as the case may be) twelve months he again fails to comply with any requirement of the order, he will be liable to be brought before a court; and the officer shall, as soon as is practicable after the warning has been given, record that fact.
- (6) If a community sentence consists of or includes two or more orders to which the warning provisions apply, being orders in respect of the same offence—
- (a) the preceding provisions of this paragraph shall have effect as if those orders were a single order to which the warning provisions apply; and
  - (b) where one of those orders is a curfew order that fact shall be disregarded for the purposes of sub-paragraph (4) above.”
- (4) In paragraph 4, for sub-paragraph (1) there is substituted—
- “(1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.
- (1A) In a case where the offender is aged 18 or over and the order is one to which the warning provisions apply, the magistrates' court shall impose a sentence of imprisonment for the offence in respect of which the order was made unless it is of the opinion—
- (a) that the offender is likely to comply with the requirements of the order during the period for which it remains in force; or
  - (b) that the exceptional circumstances of the case justify not imposing a sentence of imprisonment.
- (1B) The sentence of imprisonment—
- (a) where the offence was an offence punishable by imprisonment, shall be for the term which, if—
    - (i) he had just been convicted of the offence by the court, and
    - (ii) section 79(2) of this Act did not apply,
 the court would impose on him for that offence; and
  - (b) in any other case, shall be for a term not exceeding three months; taking account of the extent to which he has complied with the requirements of the order.
- (1C) If in a case within sub-paragraph (1A) above the court does not impose a sentence of imprisonment or if the case is not within that sub-paragraph, the magistrates' court may deal with him in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 6A below);
  - (b) where the offender is aged 16 or over, by making a community punishment order in respect of him (subject to paragraph 7 below);
  - (c) where the offender is aged under 21, by making an attendance centre order in respect of him (subject to paragraph 8 below); or



- (d) where the relevant order was made by a magistrates' court, by dealing with him, for the offence in respect of which the order was made, in any way in which the court could deal with him if he had just been convicted by it of the offence.”

(5) In paragraph 5, for sub-paragraph (1) there is substituted—

“(1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(4) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.

(1A) In a case where the offender is aged 18 or over and the order is one to which the warning provisions apply, the Crown Court shall impose a sentence of imprisonment for the offence in respect of which the order was made unless it is of the opinion—

- (a) that the offender is likely to comply with the requirements of the order during the period for which it remains in force; or
- (b) that the exceptional circumstances of the case justify not imposing a sentence of imprisonment.

(1B) The sentence of imprisonment—

- (a) where the offence was an offence punishable by imprisonment, shall be for the term which, if—
  - (i) he had just been convicted of the offence by the court, and
  - (ii) section 79(2) of this Act did not apply,the court would impose on him for that offence; and
- (b) in any other case, shall be for a term not exceeding three months; taking account of the extent to which he has complied with the requirements of the order.

(1C) If in a case within sub-paragraph (1A) above the court does not impose a sentence of imprisonment or if the case is not within that sub-paragraph, the Crown Court may deal with him in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—

- (a) by making a curfew order in respect of him (subject to paragraph 6A below);
- (b) where the offender is aged 16 or over, by making a community punishment order in respect of him (subject to paragraph 7 below);
- (c) where the offender is aged under 21, by making an attendance centre order in respect of him (subject to paragraph 8 below); or
- (d) by dealing with him, for the offence in respect of which the order was made, in any way in which the Crown Court could deal with him if he had just been convicted before it of the offence.”

(6) In paragraph 6, at the end there is inserted—

“(3) Paragraphs 4(1A) and 5(1A) above do not apply in respect of a failure to comply with a requirement to abstain from misusing specified Class A drugs.”

**54 Breach of community orders: failure to answer summons**

After paragraph 3(2) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach, revocation and amendment of certain community orders) there is inserted—

- “(3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.
- (4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.”

**55 Regulation of community orders**

- (1) Regulations made by the Secretary of State may provide for—
  - (a) the supervision of persons subject to community rehabilitation orders or community punishment and rehabilitation orders,
  - (b) the arrangements to be made by local probation boards for persons subject to community punishment orders, or community punishment and rehabilitation orders, to perform work and the performance of such work.
- (2) In particular, they may regulate the functions of—
  - (a) officers of local probation boards and members of youth offending teams who are responsible for the supervision of offenders subject to community rehabilitation orders, and
  - (b) officers of local probation boards or other persons who are, in relation to persons subject to community punishment orders, responsible officers (within the meaning of section 46(13) of the Powers of Criminal Courts (Sentencing) Act 2000).
- (3) Regulations made by virtue of subsection (1)(b) may, in particular, make provision—
  - (a) limiting the number of hours of work to be done by a person on any one day,
  - (b) as to the reckoning of hours worked and the keeping of work records, and
  - (c) for the payment of travelling and other expenses in connection with the performance of work.