



# Criminal Justice and Courts Services Act 2000

## 2000 CHAPTER 43

### PART III

#### DEALING WITH OFFENDERS

### CHAPTER I

#### COMMUNITY SENTENCES

#### *New community orders*

#### 46 Exclusion orders

After section 40 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

#### *“Exclusion orders*

#### **40A Exclusion orders**

- (1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order prohibiting him from entering a place specified in the order for a period so specified of not more than two years.
- (2) An order under subsection (1) above is in this Act referred to as an “exclusion order”.
- (3) An exclusion order—

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- (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.
- (4) In relation to an offender aged under 16 on conviction, subsection (1) above shall have effect as if the reference to two years were a reference to three months.
- (5) The requirements in an exclusion order 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.
- (6) An exclusion order 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.
- (7) An exclusion order shall specify the petty sessions area in which the offender resides or will reside.
- (8) A court shall not make an exclusion order 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available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.
- (9) Before making an exclusion order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.
- (10) Before making an exclusion order, the court shall explain to the offender in ordinary language—
  - (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 36B above (electronic monitoring));
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; and
  - (c) that the court has power (under Parts III and IV of that Schedule) to review the order on the application of the offender, the responsible officer or any affected person.
- (11) The court by which an exclusion order is made shall—
  - (a) give a copy of the order to the offender and the responsible officer; and
  - (b) give to any affected person any information relating to the order which the court considers it appropriate for him to have.
- (12) In this section, “place” includes an area.
- (13) For the purposes of this Act, a person is an affected person in relation to an exclusion order if—

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- (a) a requirement under section 36B(1) above is included in the order by virtue of his consent; or
- (b) a prohibition is included in the order for the purpose (or partly for the purpose) of protecting him from being approached by the offender.

(14) In this Act, “responsible officer”, in relation to an offender subject to an exclusion order, means the person who is responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates.

#### **40B Breach, revocation and amendment of exclusion orders**

Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to exclusion orders.

#### **40C Exclusion orders: supplementary**

- (1) The Secretary of State may make rules for regulating—
  - (a) the monitoring of the whereabouts of persons who are subject to exclusion orders; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons who are responsible officers in relation to offenders subject to exclusion orders.
- (2) The Secretary of State may by order direct that section 40A(5) above shall have effect with such additional restrictions as may be specified in the order.”

### **47 Drug abstinence orders**

After section 58 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

#### *“Drug abstinence orders*

##### **58A Drug abstinence orders**

- (1) Where a person aged 18 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which requires 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.
- (2) An order under subsection (1) above is in this Act referred to as a “drug abstinence order”.
- (3) The court shall not make a drug abstinence order in respect of an offender unless—
  - (a) in the opinion of the court, the offender is dependent on, or has a propensity to misuse, specified Class A drugs; and

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- (b) the offence in question is a trigger offence or, in the opinion of the court, the misuse by the offender of any specified Class A drug caused or contributed to the offence in question.
- (4) A drug abstinence order shall provide that, for the period for which the order has effect, the offender shall be under the supervision of a person, being a person of a description specified in an order made by the Secretary of State.
- (5) In this Act, “responsible officer”, in relation to an offender who is subject to a drug abstinence order, means the person who is responsible for his supervision.
- (6) The function of giving instructions for the purposes of subsection (1)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State.
- (7) A drug abstinence order shall have effect for a period specified in the order of not less than six months nor more than three years.
- (8) The Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.
- (9) A court shall not make a drug abstinence order unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the order under section 54(1) above (as applied by section 58B(2) below) and the notice has not been withdrawn.

#### **58B Drug abstinence orders: supplementary**

- (1) Before making a drug abstinence order, the court shall explain to the offender in ordinary language—
  - (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements; and
  - (c) that the order may be reviewed (under Parts III and IV of that Schedule) on the application either of the offender or of the responsible officer.
- (2) Section 54 above (except subsections (2), (3) and (6)) and section 57 above (except subsections (2), (3A) and (4)(b)) shall apply for the purposes of section 58A above and this section as if references to drug treatment and testing orders were references to drug abstinence orders.
- (3) Schedule 3 to this Act (which makes provision for dealing with failures to comply with the requirements of certain community orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to drug abstinence orders.”