



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART IV

#### COMMUNITY ORDERS AND REPARATION ORDERS

#### CHAPTER III

##### COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED 16 OR OVER

##### *Probation orders*

#### 41 [F1community rehabilitation orders].

(1) Where a person aged 16 or over is convicted of an offence and the court by or before which he is convicted is of the opinion that his supervision is desirable in the interests of—

- (a) securing his rehabilitation, or
- (b) protecting the public from harm from him or preventing the commission by him of further offences,

the court may (subject to sections 34 to 36 above) make an order requiring him to be under supervision for a period specified in the order of not less than six months nor more than three years.

(2) An order under subsection (1) above is in this Act referred to as a [F2“community rehabilitation order”].

(3) A [F1community rehabilitation order] shall specify the petty sessions area in which the offender resides or will reside.

*Status: Point in time view as at 18/08/2003.*

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- (4) If the offender is aged 18 or over at the time when the [F<sup>1</sup>community rehabilitation order] is made, he shall, subject to paragraph 18 of Schedule 3 to this Act (offender's change of area), be required to be under the supervision of [F<sup>3</sup>an officer of a local probation board] appointed for or assigned to the petty sessions area specified in the order.
- (5) If the offender is aged under 18 at that time, he shall, subject to paragraph 18 of Schedule 3, be required to be under the supervision of—
- (a) [F<sup>3</sup>an officer of a local probation board] appointed for or assigned to the petty sessions area specified in the order; or
  - (b) a member of a youth offending team established by a local authority specified in the order;
- and if an order specifies a local authority for the purposes of paragraph (b) above, the authority specified must be the local authority within whose area it appears to the court that the offender resides or will reside.
- (6) In this Act, “responsible officer”, in relation to an offender who is subject to a [F<sup>1</sup>community rehabilitation order], means [F<sup>3</sup>the officer of a local probation board] or member of a youth offending team responsible for his supervision.
- (7) Before making a [F<sup>1</sup>community rehabilitation 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 42 below);
  - (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 either of the offender or of the responsible officer.
- (8) On making a [F<sup>1</sup>community rehabilitation order], the court may, if it thinks it expedient for the purpose of the offender's reformation, allow any person who consents to do so to give security for the good behaviour of the offender.
- (9) The court by which a [F<sup>1</sup>community rehabilitation order] is made shall forthwith give copies of the order to—
- (a) if the offender is aged 18 or over, [F<sup>3</sup>an officer of a local probation board] assigned to the court, or
  - (b) if the offender is aged under 18, [F<sup>3</sup>an officer of a local probation board] or member of a youth offending team so assigned,
- and he shall give a copy to the offender, to the responsible officer and to the person in charge of any institution in which the offender is required by the order to reside.
- (10) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the [F<sup>4</sup>justices' chief executive] for that area—
- (a) a copy of the order; and
  - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (11) An offender in respect of whom a [F<sup>1</sup>community rehabilitation order] is made shall keep in touch with the responsible officer in accordance with such instructions as he

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may from time to time be given by that officer, and shall notify him of any change of address.

#### Textual Amendments

- F1** Words in s. 41(3)(4)(6)-(9)(11) and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F2** Words in s. 41(2) substituted (1.4.2001) by 2000 c. 43, s. 43(3)(a); S.I. 2001/919, **art. 2(b)**
- F3** Words in s. 41(4)(5)(a)(6)(9) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F4** Words in s. 41(10) substituted (1.4.2001) by S.I. 2001/618, **art. 5(2)**

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

- C1** S. 41(1) amended (1.4.2001) by 2000 c. 43, s. 43(1); S.I. 2001/919, **art. 2(b)**

#### 42 Additional requirements which may be included in [<sup>F5</sup>community rehabilitation orders].

- (1) Subject to subsection (3) below, a [<sup>F5</sup>community rehabilitation order] may in addition require the offender to comply during the whole or any part of the [<sup>F6</sup>community rehabilitation period] with such requirements as the court, having regard to the circumstances of the case, considers desirable in the interests of—
- securing the rehabilitation of the offender; or
  - protecting the public from harm from him or preventing the commission by him of further offences.
- (2) Without prejudice to the generality of subsection (1) above,
- [<sup>F7</sup>(a)] the additional requirements which may be included in a [<sup>F5</sup>community rehabilitation order] shall include the requirements which are authorised by Schedule 2 to this Act.
- [<sup>F8</sup>(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—
- to abstain from misusing specified Class A drugs; and
  - 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—
- that the offender was aged 18 or over on the date of his conviction for the offence;
  - that, in the opinion of the court, the offender is dependent on or has a propensity to misuse specified Class A drugs; and
  - that the offence is a trigger offence.
- (2C) The second set of conditions is—
- that the offender was aged 18 or over on the date of his conviction for the offence; and

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- (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.]
- (3) Without prejudice to the power of the court under section 130 below to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the additional requirements of a [<sup>F5</sup>community rehabilitation order].

#### Textual Amendments

- F5** Words in s. 42 and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F6** Words in s. 42(1) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 166**; S.I. 2001/919, **art. 2(f)(ii)**
- F7** Words in s. 42(2) renumbered as s. 42(2)(a) (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 49(1)(a)**; S.I. 2001/2232, **art. 2(c)**
- F8** S. 42(2)(b)(2A)-(2F) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, **s. 49(1)(b)**; S.I. 2001/2232, **art. 2(c)**

#### 43 Breach, revocation and amendment of [<sup>F9</sup>community rehabilitation 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 [<sup>F9</sup>community rehabilitation orders].

#### Textual Amendments

- F9** Words in s. 43 and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b) (2)**; S.I. 2001/919, **art. 2(f)(i)**

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#### 44 Offenders residing in Scotland or Northern Ireland.

Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to [F10 community rehabilitation orders].

##### Textual Amendments

**F10** Words in s. 44 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

#### 45 [F11 Community rehabilitation orders]: supplementary.

- (1) The Secretary of State may by order direct that subsection (1) of section 41 above shall be amended by substituting, for the minimum or maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.
- (2) An order under subsection (1) above may make in paragraph 19(2)(a) of Schedule 3 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.

##### Textual Amendments

**F11** Words in the sidenote to s. 45 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

*[F12 Community punishment orders]*

##### Textual Amendments

**F12** Words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

#### 46 [F13 Community punishment orders].

- (1) Where a person aged 16 or over is convicted of an offence punishable with imprisonment, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order requiring him to perform unpaid work in accordance with section 47 below.
- (2) An order under subsection (1) above is in this Act referred to as a [F14“community punishment order”].
- (3) The number of hours which a person may be required to work under a [F13 community punishment order] shall be specified in the order and shall be in the aggregate—
  - (a) not less than 40; and
  - (b) not more than 240.

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- (4) A court shall not make a [F13community punishment order] in respect of an offender unless, after hearing (if the court thinks it necessary) an appropriate officer, the court is satisfied that the offender is a suitable person to perform work under such an order.
- (5) In subsection (4) above “an appropriate officer” means—
- (a) in the case of an offender aged 18 or over, [F15an officer of a local probation board] or social worker of a local authority social services department; and
  - (b) in the case of an offender aged under 18, [F15an officer of a local probation board], a social worker of a local authority social services department or a member of a youth offending team.
- (6) A court shall not make a [F13community punishment order] in respect of an offender unless it is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the petty sessions area in which he resides or will reside.
- (7) Subsection (6) above has effect subject to paragraphs 3 and 4 of Schedule 4 to this Act (transfer of order to Scotland or Northern Ireland).
- (8) Where a court makes [F13community punishment orders] in respect of two or more offences of which the offender has been convicted by or before the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but so that the total number of hours which are not concurrent shall not exceed the maximum specified in subsection (3)(b) above.
- (9) A [F13community punishment order]—
- (a) shall specify the petty sessions area in which the offender resides or will reside; and
  - (b) where the offender is aged under 18 at the time the order is made, may also specify a local authority for the purposes of section 47(5)(b) below (cases where functions are to be discharged by member of a youth offending team);
- and if the order specifies a local authority for those purposes, the authority specified must be the local authority within whose area it appears to the court that the offender resides or will reside.
- (10) Before making a [F13community punishment order], the court shall explain to the offender in ordinary language—
- (a) the purpose and effect of the order (and in particular the requirements of the order as specified in section 47(1) to (3) below);
  - (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 court has power (under Parts III and IV of that Schedule) to review the order on the application either of the offender or of the responsible officer.
- (11) The court by which a [F13community punishment order] is made shall forthwith give copies of the order to—
- (a) if the offender is aged 18 or over, [F15an officer of a local probation board] assigned to the court, or
  - (b) if the offender is aged under 18, [F15an officer of a local probation board] or member of a youth offending team so assigned,
- and he shall give a copy to the offender and to the responsible officer.

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- (12) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the [F16]justices' chief executive] for that area—
- (a) a copy of the order; and
  - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
- (13) In this section and Schedule 3 to this Act “responsible officer”, in relation to an offender subject to a [F13]community punishment order], means the person mentioned in subsection (4) [F17. . .] or (5)(b) of section 47 below who, as respects the order, is responsible for discharging the functions conferred by that section.

#### Textual Amendments

- F13** Words in s. 46(3)(4)(6)(8)(11)(13) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2); S.I. 2001/919, art. 2(f)(i)**
- F14** Words in s. 46(2) substituted (1.4.2001) by 2000 c. 43, s. 44(3)(a); S.I. 2001/919, **art. 2(b)**
- F15** Words in s. 46(5)(11) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2); S.I. 2001/919, art. 2(f)(i)**
- F16** Words in s. 46(12) substituted (1.4.2001) by S.I. 2001/618, **art. 5(3)**
- F17** Words in s. 46(13) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, **Sch. 7 Pt. II para. 168, Sch. 8; S.I. 2001/919, art. 2(f)(ii)(g)**

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

- C2** S. 46(1) applied (with modifications) (25.8.2000) by 1997 c. 43, s. 35(4) (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 184(3)**)
- S. 46(1) amended (1.4.2001) by 2000 c. 43, s. 44(1); S.I. 2001/919, **art. 2(b)**

#### 47 Obligations of person subject to [F18]community punishment order].

- (1) An offender in respect of whom a [F18]community punishment order] is in force shall—
- (a) keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer and notify him of any change of address; and
  - (b) perform for the number of hours specified in the order such work at such times as he may be instructed by the responsible officer.
- (2) The instructions given by the responsible officer under this section 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.
- (3) Subject to paragraph 22 of Schedule 3 to this Act (power to extend order), the work required to be performed under a [F18]community punishment order] shall be performed during the period of twelve months beginning with the date of the order; but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it.

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- [<sup>F19</sup>(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.]
- (4) If the offender is aged 18 or over at the time when the order is made, the functions conferred by this section on “the responsible officer” shall be discharged by [<sup>F20</sup>an officer of a local probation board appointed for or assigned to the petty sessions area specified in the order]
- (5) If the offender is aged under 18 at that time, those functions shall be discharged by—
- (a) a person mentioned in subsection (4) [<sup>F21</sup>(a) or (b)]above; or
  - (b) a member of a youth offending team established by a local authority specified in the order.
- (6) The reference in subsection (4) above to the petty sessions area specified in the order and the reference in subsection (5) above to a local authority so specified are references to the area or an authority for the time being so specified, whether under section 46(9) above or by virtue of Part IV of Schedule 3 to this Act (power to amend orders).

#### Textual Amendments

- F18** Words in s. 47(1)(3) and the sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F19** S. 47(3A)-(3C) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 49(2); S.I. 2001/2232, **art. 2(c)**
- F20** Words in s. 47(4) substituted (1.4.2001) for s. 47(4)(a)(b) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 169(a)**; S.I. 2001/919, **art. 2(f)(ii)**
- F21** Words in s. 47(5)(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, **Sch. 7 Pt. I para. 169(b)**, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)**

#### 48 Breach, revocation and amendment of [<sup>F22</sup>community punishment 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 [<sup>F22</sup>community punishment orders].

#### Textual Amendments

- F22** Words in s. 48 and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**



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#### 49 Offenders residing in Scotland or Northern Ireland.

Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to [<sup>F23</sup>community punishment orders].

##### Textual Amendments

**F23** Words in s. 49 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

#### 50 [<sup>F24</sup>Community punishment orders]: supplementary.

The Secretary of State may by order direct that subsection (3) of section 46 above shall be amended by substituting, for the maximum number of hours for the time being specified in paragraph (b) of that subsection, such number of hours as may be specified in the order.

##### Textual Amendments

**F24** Words in the sidenote to s. 50 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

*[<sup>F25</sup>Community punishment and rehabilitation orders]*

##### Textual Amendments

**F25** Words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

#### 51 [<sup>F26</sup>Community punishment and rehabilitation orders].

<sup>F27</sup>(1) Where a person aged 16 or over is convicted of an offence punishable with imprisonment and the court by or before which he is convicted is of the opinion mentioned in subsection (3) below, the court may (subject to sections 34 to 36 above) make an order requiring him both—

- (a) to be under supervision for a period specified in the order, being not less than twelve months nor more than three years; and
- (b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than 40 nor more than 100.

(2) An order under subsection (1) above is in this Act referred to as a [<sup>F28</sup>“community punishment and rehabilitation order”].

(3) The opinion referred to in subsection (1) above is that the making of a [<sup>F26</sup>community punishment and rehabilitation order] is desirable in the interests of—

- (a) securing the rehabilitation of the offender; or
- (b) protecting the public from harm from him or preventing the commission by him of further offences.

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- (4) Subject to subsection (1) above, sections 41, 42, 46 and 47 above and Schedule 2 to this Act shall apply in relation to [<sup>F26</sup>community punishment and rehabilitation orders]—
- (a) in so far as those orders impose such a requirement as is mentioned in paragraph (a) of subsection (1) above, as if they were [<sup>F29</sup>community rehabilitation orders]; and
  - (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were [<sup>F30</sup>community punishment orders].
- (5) 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 [<sup>F26</sup>community punishment and rehabilitation orders].
- (6) Schedule 4 to this Act (which makes provision for and in connection with the making and amendment in England and Wales of certain community orders relating to persons residing in Scotland or Northern Ireland) shall have effect so far as relating to [<sup>F26</sup>community punishment and rehabilitation orders].

#### Textual Amendments

- F26** Words in s. 51(3)-(6) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F27** S. 51(1) amended (E.W.) (1.4.2001) by 2000 c. 43, s. 45(1); S.I. 2001/919, **art. 2(b)**
- F28** Words in s. 51(2) substituted (E.W.) (1.4.2001) by 2000 c. 43, s. 45(3)(a); S.I. 2001/919, **art. 2(b)**
- F29** Words in s. 51(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F30** Words in s. 51(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

### *Drug treatment and testing orders*

#### 52 Drug treatment and testing orders.

- (1) Where a person aged 16 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—
- (a) has effect for a period specified in the order of not less than six months nor more than three years (“the treatment and testing period”); and
  - (b) includes the requirements and provisions mentioned in sections 53 and 54 below;
- but this section does not apply in relation to an offence committed before 30th September 1998.
- (2) An order under subsection (1) above is in this Act referred to as a “drug treatment and testing order”.
- (3) A court shall not make a drug treatment and testing order in respect of an offender unless it is satisfied—
- (a) that he is dependent on or has a propensity to misuse drugs; and
  - (b) that his dependency or propensity is such as requires and may be susceptible to treatment.

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- (4) For the purpose of ascertaining for the purposes of subsection (3) above whether the offender has any drug in his body, the court may by order require him to provide samples of such description as it may specify; but the court shall not make such an order unless the offender expresses his willingness to comply with its requirements.
- (5) A court shall not make a drug treatment and testing order unless it 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) below and the notice has not been withdrawn.
- (6) Before making a drug treatment and testing 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;
  - (c) that the order will be periodically reviewed at intervals as provided for in the order (by virtue of section 54(6) below); and
  - (d) that the order may be reviewed (under Parts III and IV of Schedule 3) on the application either of the offender or of the responsible officer;and “responsible officer” here has the meaning given by section 54(3) below.
- (7) A court shall not make a drug treatment and testing order unless the offender expresses his willingness to comply with its requirements.

### **53 The treatment and testing requirements.**

- (1) A drug treatment and testing order shall include a requirement (“the treatment requirement”) that the offender shall submit, during the whole of the treatment and testing period, to treatment by or under the direction of a specified person having the necessary qualifications or experience (“the treatment provider”) with a view to the reduction or elimination of the offender’s dependency on or propensity to misuse drugs.
- (2) The required treatment for any particular period shall be—
  - (a) treatment as a resident in such institution or place as may be specified in the order; or
  - (b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.
- (3) A court shall not make a drug treatment and testing order unless it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).
- (4) A drug treatment and testing order shall include a requirement (“the testing requirement”) that, for the purpose of ascertaining whether he has any drug in his body during the treatment and testing period, the offender shall during that period, at such times or in such circumstances as may (subject to the provisions of the order) be determined by the treatment provider, provide samples of such description as may be so determined.

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- (5) The testing requirement shall specify for each month the minimum number of occasions on which samples are to be provided.

#### **54 Provisions of order as to supervision and periodic review.**

- (1) A drug treatment and testing order shall include a provision specifying the petty sessions area in which it appears to the court making the order that the offender resides or will reside.
- (2) A drug treatment and testing order shall provide that, for the treatment and testing period, the offender shall be under the supervision of [F31 an officer of a local probation board] appointed for or assigned to the petty sessions area specified in the order.
- (3) In this Act “responsible officer”, in relation to an offender who is subject to a drug treatment and testing order, means [F31 the officer of a local probation board] responsible for his supervision.
- (4) A drug treatment and testing order shall—
- (a) require the offender to keep in touch with the responsible officer in accordance with such instructions as he may from time to time be given by that officer, and to notify him of any change of address; and
  - (b) provide that the results of the tests carried out on the samples provided by the offender in pursuance of the testing requirement shall be communicated to the responsible officer.
- (5) Supervision by the responsible officer shall be carried out to such extent only as may be necessary for the purpose of enabling him—
- (a) to report on the offender’s progress to the court responsible for the order;
  - (b) to report to that court any failure by the offender to comply with the requirements of the order; and
  - (c) to determine whether the circumstances are such that he should apply to that court for the revocation or amendment of the order.
- (6) A drug treatment and testing order shall—
- (a) provide for the order to be reviewed periodically at intervals of not less than one month;
  - (b) provide for each review of the order to be made, subject to section 55(6) below, at a hearing held for the purpose by the court responsible for the order (a “review hearing”);
  - (c) require the offender to attend each review hearing;
  - (d) provide for the responsible officer to make to the court responsible for the order, before each review, a report in writing on the offender’s progress under the order; and
  - (e) provide for each such report to include the test results communicated to the responsible officer under subsection (4)(b) above and the views of the treatment provider as to the treatment and testing of the offender.
- (7) In this section references to the court responsible for a drug treatment and testing order are references to—
- (a) where a court is specified in the order in accordance with subsection (8) below, that court;
  - (b) in any other case, the court by which the order is made.

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- (8) Where the area specified in a drug treatment and testing order made by a magistrates' court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purposes of subsection (7) above a magistrates' court which acts for the area specified in the order.
- (9) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of subsection (7)(b) above it shall be deemed to have been made by the Crown Court.

#### Textual Amendments

**F31** Words in s. 54(2)(3) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 4(1)(2); S.I. 2001/919, art. 2(f)(i)

## 55 Periodic reviews.

- (1) At a review hearing (within the meaning given by subsection (6) of section 54 above) the court may, after considering the responsible officer's report referred to in that subsection, amend any requirement or provision of the drug treatment and testing order.
- (2) The court—
  - (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended;
  - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 52(1) above, or to increase it above the maximum so specified; and
  - (c) except with the consent of the offender, shall not amend any requirement or provision of the order while an appeal against the order is pending.
- (3) 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 way in which it could deal with him if he had just been convicted by the court of the offence.
- (4) In dealing with the offender under subsection (3)(b) above, 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 (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) below.
- (5) Where the order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (3)(b) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—
  - (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;

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- (b) to deal with the offender for that offence in any way in which the court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (6) If at a review hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is satisfactory, the court may so amend the order as to provide for each subsequent review to be made by the court without a hearing.
- (7) If at a review without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.
- (8) At that hearing the court, after considering that report, may—
  - (a) exercise the powers conferred by this section as if the hearing were a review hearing; and
  - (b) so amend the order as to provide for each subsequent review to be made at a review hearing.
- (9) In this section any reference to the court, in relation to a review without a hearing, shall be construed—
  - (a) in the case of the Crown Court, as a reference to a judge of the court;
  - (b) in the case of a magistrates' court, as a reference to a justice of the peace acting for the commission area for which the court acts.

## **56 Breach, revocation and amendment of drug treatment and testing 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 drug treatment and testing orders.

## **57 Copies of orders.**

- (1) Where a drug treatment and testing order is made, the court making the order shall (subject to subsection (3) below) forthwith give copies of the order to [<sup>F32</sup>an officer of a local probation board] assigned to the court.
- (2) Where such an order is amended under section 55(1) above, the court amending the order shall [<sup>F33</sup>(subject to subsection (3A) below)] forthwith give copies of the order as amended to [<sup>F32</sup>an officer of a local probation board] so assigned.
- (3) Where a drug treatment and testing order is made by a magistrates' court and another magistrates' court is responsible for the order (within the meaning given by section 54(7) above) by virtue of being specified in the order in accordance with section 54(8)—
  - (a) the court making the order shall not give copies of it as mentioned in subsection (1) above but shall forthwith send copies of it to the court responsible for the order; and
  - (b) that court shall, as soon as reasonably practicable after the order is made, give copies of it to [<sup>F32</sup>an officer of a local probation board] assigned to that court.

[<sup>F34</sup>(3A) Where—

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- (a) a magistrates' court amends a drug treatment and testing order under section 55(1) above; and
- (b) the order as amended provides for a magistrates' court other than that mentioned in paragraph (a) above to be responsible for the order;

the court amending the order shall not give copies of the order as amended as mentioned in subsection (2) above but shall forthwith send copies of it to the court responsible for the order and that court shall, as soon as reasonably practicable after the order is amended, give copies to an officer of a local probation board assigned to that court.]

- (4) [<sup>F32</sup>an officer of a local probation board] to whom copies of an order are given under this section shall give a copy to—
  - (a) the offender;
  - (b) the treatment provider; and
  - (c) the responsible officer.

#### Textual Amendments

- F32** Words in s. 57(1)-(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F33** Words in s. 57(2) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 171(a)**; S.I. 2001/919, **art. 2(f)(ii)**
- F34** S. 57(3A) inserted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 171(b)**; S.I. 2001/919, **art. 2(f)(ii)**

## 58 Drug treatment and testing orders: supplementary.

The Secretary of State may by order amend subsection (1) of section 52 above by substituting a different period for the minimum or maximum period for the time being specified in that subsection.

*[<sup>F35</sup> Drug abstinence orders]*

#### Textual Amendments

- F35** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, **art. 2(a)**

## <sup>F36</sup>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”.

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- (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
  - (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.

#### **Textual Amendments**

**F36** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, art. 2(a)

#### **[<sup>F37</sup> 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.]



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### Textual Amendments

**F37** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, art. 2(a)

### *Orders for persistent petty offenders*

## **59 Curfew orders and [<sup>F38</sup>community punishment orders] for persistent petty offenders.**

- (1) This section applies where—
  - (a) a person aged 16 or over is convicted of an offence;
  - (b) the court by or before which he is convicted is satisfied that each of the conditions mentioned in subsection (2) below is fulfilled; and
  - (c) if it were not so satisfied, the court would be minded to impose a fine in respect of the offence.
- (2) The conditions are that—
  - (a) one or more fines imposed on the offender in respect of one or more previous offences have not been paid; and
  - (b) if a fine were imposed in an amount which was commensurate with the seriousness of the offence, the offender would not have sufficient means to pay it.
- (3) The court may—
  - (a) subject to subsections (5) and (7) below, make a curfew order under section 37(1) above, or
  - (b) subject to subsections (6) and (7) below, make a [<sup>F38</sup>community punishment order] under section 46(1) above, in respect of the offender instead of imposing a fine.
- (4) Subsection (3) above applies notwithstanding anything in subsections (1) and (3)(b) of section 35 above (restrictions on imposing community sentences).
- (5) Section 37(1) above (curfew orders) shall apply for the purposes of subsection (3)(a) above as if for the words from the beginning to “make” there were substituted “ Where section 59 below applies, the court may make in respect of the offender ”; and—
  - (a) section 37(3), (5) to (8) and (10) to (12), and
  - (b) so far as applicable, the other provisions of this Part relating to curfew orders, have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any other curfew order.
- (6) Section 46(1) above ([<sup>F38</sup>community punishment orders]) shall apply for the purposes of subsection (3)(b) above as if for the words from the beginning to “make” there were substituted “ Where section 59 below applies, the court may make in respect of the offender ”; and—
  - (a) section 46(3) and (4), and
  - (b) so far as applicable, the following provisions of section 46 and the other provisions of this Part relating to [<sup>F38</sup>community punishment orders],

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have effect in relation to a [<sup>F38</sup>community punishment order] made by virtue of this section as they have effect in relation to any other community service order.

- (7) A court shall not make an order by virtue of subsection (3)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing orders so made are available in the relevant area and the notice has not been withdrawn.
- (8) In subsection (7) above “the relevant area” means—
- (a) in relation to a curfew order, the area in which the place proposed to be specified in the order is situated;
  - (b) in relation to a [<sup>F38</sup>community punishment order], the area proposed to be specified in the order.

#### **Textual Amendments**

**F38** Words in s. 59(3)(b)(6)(8)(b) and sidenote substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

**Status:**

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**Changes to legislation:**

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