



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

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.

- (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are available in the area proposed to be specified in the order under section 54(1) below and the notice has not been withdrawn.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 a probation officer 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 the probation officer 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.

- (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.

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;
 - (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

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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 a probation officer assigned to the court.
- (2) Where such an order is amended under section 55(1) above, the court amending the order shall forthwith give copies of the order as amended to a probation officer 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 a probation officer assigned to that court.
- (4) A probation officer 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.

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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.