

OFFENDER REHABILITATION ACT 2014

EXPLANATORY NOTES

COMMENTARY

Drugs and offenders released during custodial sentence

Section 11: Drug testing

93. **Section 11** amends section 64 of the Criminal Justice and Court Services Act 2000, which makes provision for the Secretary of State to impose a drug testing requirement on offenders aged 18 or over released from prison on licence.
94. Subsection (2) of section 11 removes the condition that an offender must have committed a specified trigger offence in order to have a drug testing requirement imposed as part of a licence. It substitutes a two-limbed test such that a requirement can only be imposed if the Secretary of State is satisfied that:
- The misuse of a specified Class A or B drug by the offender caused or contributed to a past offence or is likely to cause or contribute to further offending; and
 - The offender is dependent on, or has a propensity to misuse, a specified Class A or Class B drug.
95. Subsections (2) and (3) of section 11 expand the categories of drugs that an offender can be tested for from Class A to Class A and Class B drugs.

Section 12: Drug appointments

96. **Section 12** inserts new section 64A into the Criminal Justice and Court Services Act 2000, which provides the Secretary of State with a power to impose a new licence condition requiring offenders aged 18 or over on release from prison to attend, in accordance with instructions, appointments designed to address the offender's dependency on or propensity to misuse a controlled drug.
97. Subsection (2) of new section 64A provides that the licence condition can only be imposed where it has been recommended by an officer of a provider of probation services, and where the Secretary of State is satisfied the offender is dependent on or has a propensity to misuse drugs; that the misuse has either contributed to an offence for which the offender has been convicted or is likely to cause or contribute to further offending; and the dependency or propensity is susceptible to treatment and arrangements have been or can be made for the offender to be treated.
98. Subsection (4) of new section 64A provides that the condition must set out where and with whom the offender is required to meet. Subsection (5) provides that the person with whom the offender is required to meet to address his or her drug problems must have the necessary qualifications or experience. Subsection (6) makes clear that the only instructions that may be given by the officer of a provider of probation services are the duration of each appointment and when each appointment takes place.

*These notes refer to the Offender Rehabilitation Act 2014
(c.11) which received Royal Assent on 13 March 2014*

99. Subsection (7) makes clear that the offender is not required to submit to medical treatment at the appointment. The offender will only be treated as breaching his licence condition if he fails to attend or remain at the appointment for the duration instructed by the officer of a provider of probation services.

Section 13: Drug testing and appointments: transfer within the British Islands

100. **Section 13** amends Schedule 1 to the Crime (Sentences) Act 1997 to allow for drug testing and drug appointment conditions imposed under section 64 and new section 64A of the Criminal Justice and Court Services Act 2000 to be transferred to Scotland or Northern Ireland on a restricted basis.