



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART IV

#### DEALING WITH OFFENDERS

#### CHAPTER I

#### ENGLAND AND WALES

#### *Young offenders: non-custodial orders*

#### **67    Reparation orders.**

- (1) This section applies where a child or young person is convicted of an offence other than one for which the sentence is fixed by law.
- (2) Subject to the provisions of this section and section 68 below, the court by or before which the offender is convicted may make an order (a “reparation order”) which requires the offender to make reparation specified in the order—
  - (a) to a person or persons so specified; or
  - (b) to the community at large;and any person so specified must be a person identified by the court as a victim of the offence or a person otherwise affected by it.
- (3) The court shall not make a reparation 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for implementing such orders are available in the area proposed to be named in the order and the notice has not been withdrawn.
- (4) The court shall not make a reparation order in respect of the offender if it proposes—
  - (a) to pass on him a custodial sentence or a sentence under section 53(1) of the 1933 Act; or

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- (b) to make in respect of him a community service order, a combination order, a supervision order which includes requirements imposed in pursuance of sections 12 to 12C of the 1969 Act or an action plan order.
- (5) A reparation order shall not require the offender—
- (a) to work for more than 24 hours in aggregate; or
  - (b) to make reparation to any person without the consent of that person.
- (6) Subject to subsection (5) above, requirements specified in a reparation order shall be such as in the opinion of the court are commensurate with seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (7) Requirements so specified 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 community order to which he may be subject; and
  - (b) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment.
- (8) Any reparation required by a reparation order—
- (a) shall be made under the supervision of the responsible officer; and
  - (b) shall be made within a period of three months from the date of the making of the order.
- (9) A reparation order shall name the petty sessions area in which it appears to the court making the order, or to the court varying any provision included in the order in pursuance of this subsection, that the offender resides or will reside.
- (10) In this section “responsible officer”, in relation to a reparation order, means one of the following who is specified in the order, namely—
- (a) a probation officer;
  - (b) a social worker of a local authority social services department; and
  - (c) a member of a youth offending team.
- (11) The court shall give reasons if it does not make a reparation order in a case where it has power to do so.

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

**C1** S. 67 restricted (*prosp.*) by 1999 c. 23, ss. 4(4)(c), 68(4) (with Sch. 7 paras. 3(3), 5(2)); which s. 4 of the 1999 Act is repealed (*prosp.*) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I**

**Commencement Information**

**II** S. 67 partly in force; S. 67 not in force at Royal Assent see s. 121. In force at 30.9.1998 for certain purposes by S.I. 1998/2327, **art. 2(1)** (subject to savings in arts. 5-8)

**68 Reparation orders: supplemental.**

- (1) Before making a reparation order, a court shall obtain and consider a written report by a probation officer, a social worker of a local authority social services department or a member of a youth offending team, indicating—
- (a) the type of work that is suitable for the offender; and

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- (b) the attitude of the victim or victims to the requirements proposed to be included in the order.
- (2) Before making a reparation order, a 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 Schedule 5 to this Act) if he fails to comply with any of those requirements; and
  - (c) that the court has power (under that Schedule) to review the order on the application either of the offender or of the responsible officer.
- (3) Schedule 5 to this Act shall have effect for dealing with failure to comply with the requirements of reparation orders, for varying such orders and for discharging them with or without the substitution of other sentences.

#### Commencement Information

**I2** S. 68 wholly in force; S. 68 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 69 Action plan orders.

- (1) This section applies where a child or young person is convicted of an offence other than one for which the sentence is fixed by law.
- (2) Subject to the provisions of this section and section 70 below, the court by or before which the offender is convicted may, if it is of the opinion that it is desirable to do so in the interests of securing his rehabilitation, or of preventing the commission by him of further offences, make an order (an “action plan order”) which—
- (a) requires the offender, for a period of three months beginning with the date of the order, to comply with an action plan, that is to say, a series of requirements with respect to his actions and whereabouts during that period;
  - (b) places the offender under the supervision for that period of the responsible officer; and
  - (c) requires the offender to comply with any directions given by that officer with a view to the implementation of that plan.
- (3) The court shall not make an action plan 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 named in the order and the notice has not been withdrawn.
- (4) The court shall not make an action plan order in respect of the offender if—
- (a) he is already the subject of such an order; or
  - (b) the court proposes to pass on him a custodial sentence or a sentence under section 53(1) of the 1933 Act, or to make in respect of him a probation order, a community service order, a combination order, a supervision order or an attendance centre order.
- (5) Requirements included in an action plan order, or directions given by a responsible officer, may require the offender to do all or any of the following things, namely—
- (a) to participate in activities specified in the requirements or directions at a time or times so specified;

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- (b) to present himself to a person or persons specified in the requirements or directions at a place or places and at a time or times so specified;
  - (c) to attend at an attendance centre specified in the requirements or directions for a number of hours so specified;
  - (d) to stay away from a place or places specified in the requirements or directions;
  - (e) to comply with any arrangements for his education specified in the requirements or directions;
  - (f) to make reparation specified in the requirements or directions to a person or persons so specified or to the community at large; and
  - (g) to attend any hearing fixed by the court under section 70(3) below.
- (6) Such requirements and directions 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.
- (7) Subsection (5)(c) above does not apply unless the offence committed by the offender is punishable with imprisonment in the case of a person aged 21 or over.
- (8) A person shall not be specified in requirements or directions under subsection (5)(f) above unless—
- (a) he is identified by the court or, as the case may be, the responsible officer as a victim of the offence or a person otherwise affected by it; and
  - (b) he consents to the reparation being made.
- (9) An action plan order shall name the petty sessions area in which it appears to the court making the order, or to the court varying any provision included in the order in pursuance of this subsection, that the offender resides or will reside.
- (10) In this section “responsible officer”, in relation to an action plan order, means one of the following who is specified in the order, namely—
- (a) a probation officer;
  - (b) a social worker of a local authority social services department; and
  - (c) a member of a youth offending team.
- (11) An action plan order shall be a community order for the purposes of Part I of the 1991 Act; and the provisions of that Part, which include provisions with respect to restrictions on imposing, and procedural requirements for, community sentences (sections 6 and 7), shall apply accordingly.

#### Commencement Information

**I3** S. 69 partly in force; S. 69 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 70 Action plan orders: supplemental.

- (1) Before making an action plan order, a court shall obtain and consider—

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- (a) a written report by a probation officer, a social worker of a local authority social services department or a member of a youth offending team, indicating—
    - (i) the requirements proposed by that person to be included in the order;
    - (ii) the benefits to the offender that the proposed requirements are designed to achieve; and
    - (iii) the attitude of a parent or guardian of the offender to the proposed requirements; and
  - (b) where the offender is under the age of 16, information about the offender's family circumstances and the likely effect of the order on those circumstances.
- (2) Before making an action plan order, a 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 Schedule 5 to this Act) if he fails to comply with any of those requirements; and
  - (c) that the court has power (under that Schedule) to review the order on the application either of the offender or of the responsible officer.
- (3) Immediately after making an action plan order, a court may—
- (a) fix a further hearing for a date not more than 21 days after the making of the order; and
  - (b) direct the responsible officer to make, at that hearing, a report as to the effectiveness of the order and the extent to which it has been implemented.
- (4) At a hearing fixed under subsection (3) above, the court—
- (a) shall consider the responsible officer's report; and
  - (b) may, on the application of the responsible officer or the offender, vary the order—
    - (i) by cancelling any provision included in it; or
    - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision that the court could originally have included in it.
- (5) Schedule 5 to this Act shall have effect for dealing with failure to comply with the requirements of action plan orders, for varying such orders and for discharging them with or without the substitution of other sentences.

#### Commencement Information

**14** S. 70 partly in force; S. 70 not in force at Royal Assent see s. 121. In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

## 71 Supervision orders.

- (1) In subsection (3) of section 12A of the 1969 Act (young offenders), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) to make reparation specified in the order to a person or persons so specified or to the community at large;”.

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- (2) In subsection (5) of that section, for the words “subsection (3)(a) or (b)” there shall be substituted the words “ subsection (3)(a), (aa) or (b) ”.
- (3) In subsection (7) of that section, after paragraph (a) there shall be inserted the following paragraph—
- “(aa) any requirement to make reparation to any person unless that person—
- (i) is identified by the court as a victim of the offence or a person otherwise affected by it; and
- (ii) consents to the inclusion of the requirement; or”.
- (4) In subsection (6) of section 12AA of the 1969 Act (requirement for young offender to live in local authority accommodation), for paragraphs (b) to (d) there shall be substituted the following paragraphs—
- “(b) that order imposed—
- (i) a requirement under section 12, 12A or 12C of this Act; or
- (ii) a residence requirement;
- (c) he fails to comply with that requirement, or is found guilty of an offence committed while that order was in force; and
- (d) the court is satisfied that—
- (i) the failure to comply with the requirement, or the behaviour which constituted the offence, was due to a significant extent to the circumstances in which he was living; and
- (ii) the imposition of a residence requirement will assist in his rehabilitation;” and for the words “the condition in paragraph (d)” there shall be substituted the words “ sub-paragraph (i) of paragraph (d) ”.
- (5) In section 13 of the 1969 Act (selection of supervisor), subsection (2) shall cease to have effect.

#### Commencement Information

- I5** S. 71 partly in force; S. 71 not in force at Royal Assent see s. 121. S. 71(5) in force at 30.9.1998 for certain purposes by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8); S. 71(4) in force at 1.4.1999 by S.I. 1998/3263, art. 5; s. 71 (1)-(3) in force at 1.6.2000 by S.I. 2000/924, art. 5

## 72 Breach of requirements in supervision orders.

- (1) In subsection (3) of section 15 of the 1969 Act (variation and discharge of supervision orders), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
- “(a) whether or not it also makes an order under subsection (1) above, may order him to pay a fine of an amount not exceeding £1,000, or make in respect of him—
- (i) subject to section 16A(1) of this Act, an order under section 17 of the <sup>M1</sup>Criminal Justice Act 1982 (attendance centre orders); or
- (ii) subject to section 16B of this Act, an order under section 12 of the <sup>M2</sup>Criminal Justice Act 1991 (curfew orders);

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- (b) if the supervision order was made by a relevant court, may discharge the order and deal with him, for the offence in respect of which the order was made, in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made; or
  - (c) if the order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.”
- (2) For subsections (4) to (6) of that section there shall be substituted the following subsections—
- “(4) Where a court deals with a supervised person under subsection (3)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—
- (a) particulars of the supervised person’s failure to comply with the requirement in question; and
  - (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (5) Where—
- (a) by virtue of subsection (3)(c) above the supervised person is brought or appears before the Crown Court; and
  - (b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,
- that court may deal with him, for the offence in respect of which the order was made, in any manner in which it could have dealt with him for that offence if it had not made the order.
- (6) Where the Crown Court deals with a supervised person under subsection (5) above, it shall discharge the supervision order if it is still in force.”
- (3) In subsections (7) and (8) of that section, for the words “or (4)” there shall be substituted the words “or (5)”.

#### Commencement Information

**I6** S. 72 wholly in force; S. 72 not in force at Royal Assent see s. 121; In force at 30.9.1998 by S.I. 1998/2327, art. 2(1) (subject to savings in arts. 5-8)

#### Marginal Citations

**M1** 1982 c.48.  
**M2** 1991 c.53.

**Status:**

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