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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

[^{F1}Community punishment orders]

Textual Amendments

F1 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 [^{F2}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 [^{F3}“community punishment order”].
- (3) The number of hours which a person may be required to work under a [^{F2}community punishment order] shall be specified in the order and shall be in the aggregate—
 - (a) not less than 40; and

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- (b) not more than 240.
- (4) A court shall not make a [F²community 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, [F⁴an 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, [F⁴an 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 [F²community 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 [F²community 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 [F²community 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 [F²community 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 [F²community punishment order] is made shall forthwith give copies of the order to—
- (a) if the offender is aged 18 or over, [F⁴an officer of a local probation board] assigned to the court, or
 - (b) if the offender is aged under 18, [F⁴an officer of a local probation board] or member of a youth offending team so assigned,

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and he shall give a copy to the offender and to the responsible officer.

(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 [^{F5}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 [^{F2}community punishment order], means the person mentioned in subsection (4) [^{F6}. . .] or (5)(b) of section 47 below who, as respects the order, is responsible for discharging the functions conferred by that section.

Textual Amendments

- F2** 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)**
- F3** Words in s. 46(2) substituted (1.4.2001) by 2000 c. 43, s. 44(3)(a); S.I. 2001/919, **art. 2(b)**
- F4** 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)**
- F5** Words in s. 46(12) substituted (1.4.2001) by S.I. 2001/618, **art. 5(3)**
- F6** 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)

- C1** 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 [^{F7}community punishment order].

- (1) An offender in respect of whom a [^{F7}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 [^{F7}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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- [^{F8}(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 [^{F9}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) [^{F10}(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

- F7** 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)**
- F8** 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)**
- F9** 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)**
- F10** 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 [^{F11}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 [^{F11}community punishment orders].

Textual Amendments

- F11** 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 [F12community punishment orders].

Textual Amendments

F12 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 [F13Community 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

F13 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)**

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