

SCHEDULES

SCHEDULE 9

COMMUNITY ORDERS AND SUSPENDED SENTENCE ORDERS: REQUIREMENTS

PART 12

ALCOHOL ABSTINENCE AND MONITORING REQUIREMENT

Requirement

- 25 (1) In this Code “alcohol abstinence and monitoring requirement”, in relation to a relevant order, means a requirement that, during a particular period (“the abstinence and monitoring period”), the offender—
- (a) must—
 - (i) abstain from consuming alcohol, or
 - (ii) not consume alcohol so that at any time during the abstinence and monitoring period there is more than a particular level of alcohol in the offender’s body, and
 - (b) must submit to monitoring in accordance with particular arrangements for the purpose of ascertaining whether the offender is complying with provision under paragraph (a).

Paragraph (a) is subject to sub-paragraph (3).

- (2) A relevant order that includes an alcohol abstinence and monitoring requirement must specify—
 - (a) the abstinence and monitoring period;
 - (b) if the order imposes a requirement falling within sub-paragraph (1)(a)(ii), the level of alcohol;
 - (c) the arrangements for monitoring.
- (3) A relevant order that includes an alcohol abstinence and monitoring requirement may specify exceptions from any requirement imposed under sub-paragraph (1)(a); if it does so the requirement has effect subject to those exceptions.
- (4) The abstinence and monitoring period must be—
 - (a) if a minimum period is prescribed under sub-paragraph (7)(a), not less than that minimum period, and
 - (b) not more than 120 days.
- (5) The level of alcohol specified under sub-paragraph (2)(b) must be the level prescribed under sub-paragraph (7)(b).
- (6) The arrangements for monitoring specified under sub-paragraph (2)(c) must be consistent with those prescribed by regulations under sub-paragraph (7)(c).

Status: This is the original version (as it was originally enacted).

- (7) The Secretary of State may by regulations prescribe—
 - (a) a minimum period as the abstinence and monitoring period;
 - (b) a level of alcohol for the purposes of sub-paragraph (1)(a)(ii);
 - (c) arrangements for monitoring for the purposes of sub-paragraph (1)(b).
- (8) Regulations under sub-paragraph (7)(b) may prescribe a level—
 - (a) by reference to the proportion of alcohol in any one or more of an offender’s breath, blood, urine or sweat, or
 - (b) by some other means.
- (9) Regulations under sub-paragraph (7)(c) may in particular prescribe—
 - (a) arrangement for monitoring by electronic means;
 - (b) arrangements for monitoring by other means of testing.
- (10) Regulations under sub-paragraph (7) are subject to the negative resolution procedure.
- (11) In this paragraph and paragraph 26, “alcohol” includes anything containing alcohol.

Restriction on imposing alcohol abstinence and monitoring requirement

- 26 (1) A relevant order may not include both—
 - (a) an alcohol treatment requirement, and
 - (b) an alcohol abstinence and monitoring requirement.
- (2) A court may not include an alcohol abstinence and monitoring requirement in a relevant order unless the following conditions are met—
 - (a) the relevance of alcohol condition,
 - (b) the non-dependency condition, and
 - (c) the availability of arrangements condition.
- (3) The relevance of alcohol condition is that—
 - (a) the offender’s consumption of alcohol is an element of the offence for which the order is to be imposed or of an associated offence, or
 - (b) the court is satisfied that the offender’s consumption of alcohol was a factor that contributed to the commission of that offence or to an associated offence.
- (4) The non-dependency condition is that the court is satisfied that the offender is not dependent on alcohol.
- (5) The availability of arrangements condition is that the court has been notified by the Secretary of State that arrangements for monitoring of the kind to be specified in the relevant order are available in the offender’s home local justice area (and the notice has not been withdrawn).