

Status: Point in time view as at 01/06/1999.

Changes to legislation: Crime and Disorder Act 1998, SCHEDULE 4 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

Section 64(5).

ENFORCEMENT ETC. OF DRUG TREATMENT AND TESTING ORDERS

Preliminary

- 1 Schedule 2 to the 1991 Act (enforcement etc. of community orders) shall be amended as follows.

Meaning of “relevant order” etc.

- 2 (1) In sub-paragraph (1) of paragraph 1 (preliminary)—
- (a) after the words “a probation order,” there shall be inserted the words “a drug treatment and testing order,”; and
 - (b) in paragraph (a), for the words “probation or community service order” there shall be substituted the words “probation, community service or drug treatment and testing order”.
- (2) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—
- “(4) In this Schedule, references to the court responsible for a drug treatment and testing order shall be construed in accordance with section 62(9) of the Crime and Disorder Act 1998.”

Breach of requirements of order

- 3 In sub-paragraph (2) of paragraph 2 (issue of summons or warrant), for the words “before a magistrates’ court acting for the petty sessions area concerned” there shall be substituted the following paragraphs—
- “(a) except where the relevant order is a drug treatment and testing order, before a magistrates’ court acting for the petty sessions area concerned;
 - (b) in the excepted case, before the court responsible for the order.”
- 4 In sub-paragraph (1) of paragraph 4 (powers of Crown Court), after the word “Where” there shall be inserted the words “under paragraph 2 or”.

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- 5 In sub-paragraph (2) of paragraph 5 (exclusions), for the words “is required by a probation order to submit to treatment for his mental condition, or his dependency on drugs or alcohol,” there shall be substituted the following paragraphs—
- “(a) is required by a probation order to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol; or
 - (b) is required by a drug treatment and testing order to submit to treatment for his dependency on or propensity to misuse drugs.”.

Revocation of order

- 6 (1) In sub-paragraph (1) of paragraph 7 (revocation of order by magistrates’ court), after the words “the petty sessions area concerned” there shall be inserted the words “ or, where the relevant order is a drug treatment and testing order for which a magistrates’ court is responsible, to that court ”.
- (2) In sub-paragraph (3) of that paragraph—
- (a) after the words “a probation order” there shall be inserted the words “ or drug treatment and testing order ”; and
 - (b) after the word “supervision” there shall be inserted the words “ or, as the case may be, treatment ”.
- 7 (1) After sub-paragraph (1) of paragraph 8 (revocation of order by Crown Court) there shall be inserted the following sub-paragraph—
- “(1A) This paragraph also applies where—
- (a) a drug treatment and testing order made by the Crown Court is in force in respect of an offender; and
 - (b) the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other manner for the offence in respect of which the order was made.”
- (2) In sub-paragraph (3) of that paragraph—
- (a) after the words “a probation order” there shall be inserted the words “ or drug treatment and testing order ”; and
 - (b) after the word “supervision” there shall be inserted the words “ or, as the case may be, treatment ”.
- 8 In sub-paragraph (1) of paragraph 9 (revocation of order following custodial sentence), for paragraph (a) there shall be substituted the following paragraph—
- “(a) an offender in respect of whom a relevant order is in force is convicted of an offence—
- (i) by a magistrates’ court other than a magistrates’ court acting for the petty sessions area concerned; or
 - (ii) where the relevant order is a drug treatment and testing order, by a magistrates’ court which is not responsible for the order; and”.

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Amendment of order

9 In sub-paragraph (1) of paragraph 12 (amendment by reason of change of residence), after the words “a relevant order” there shall be inserted the words “ (other than a drug treatment and testing order) ”.

10 After paragraph 14 there shall be inserted the following paragraph—

Amendment of drug treatment and testing order

“14A(1) Without prejudice to the provisions of section 63(2), (7) and (9) of the Crime and Disorder Act 1998, the court responsible for a drug treatment and testing order may by order—

- (a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b) below; or
- (b) amend the order on an application by that officer under sub-paragraph (3)(c) below.

(2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—

- (a) he shall make a report in writing to that effect to the responsible officer; and
- (b) that officer shall apply to the court for the variation or cancellation of the requirement.

(3) Where the responsible officer is of the opinion—

- (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider;
- (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled; or
- (c) that the order should be so amended as to provide for each subsequent review under section 63 of the Crime and Disorder Act 1998 to be made without a hearing instead of at a review hearing, or vice versa,

he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.

(4) The court—

- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
- (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 61(2) of the Crime and Disorder Act 1998 or to increase it above the maximum so specified.

(5) 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

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- (b) deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.
 - (6) In dealing with the offender under sub-paragraph (5)(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 notwithstanding anything in section 1(2) of this Act.
 - (7) Paragraph 6A above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 3 above, but as if for the words “paragraph 3(1)(d) above” there were substituted the words “paragraph 14A(5)(b) below”.
 - (8) In this paragraph—
 - “review hearing” has the same meaning as in section 63 of the Crime and Disorder Act 1998;
 - “the treatment requirement” and “the testing requirement” have the same meanings as in Chapter I of Part IV of that Act.”
- 11 In paragraph 16 (order not to be amended pending appeal), after the words “paragraph 13 or 15 above” there shall be inserted the words “ or, except with the consent of the offender, under paragraph 14A above ”.
- 12 (1) In sub-paragraph (1) of paragraph 18 (notification of amended order), after the words “a relevant order” there shall be inserted the words “ (other than a drug treatment and testing order) ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the clerk to the court shall forthwith give copies of the amending order to the responsible officer.”
- (3) In sub-paragraph (2) of that paragraph, after the words “sub-paragraph (1)” there shall be inserted the words “ or (1A) ”.

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