



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

VALID FROM 25/08/2000

### PART IV

#### COMMUNITY ORDERS AND REPARATION ORDERS

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

- C1 Pt. IV applied (with modifications) (25.8.2000) by 1997 c. 43, s. 35(4)(b)(5) (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 184(3))

### CHAPTER I

#### COMMUNITY ORDERS: GENERAL PROVISIONS

#### 33 Meaning of “community order” and “community sentence”.

- (1) In this Act, “community order” means any of the following orders—
- (a) a curfew order;
  - (b) a probation order;
  - (c) a community service order;
  - (d) a combination order;
  - (e) a drug treatment and testing order;
  - (f) an attendance centre order;
  - (g) a supervision order;
  - (h) an action plan order.

**Status:** Point in time view as at 25/05/2000. This version of this part contains provisions that are not valid for this point in time.

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- (2) In this Act, “community sentence” means a sentence which consists of or includes one or more community orders.

**34 Community orders not available where sentence fixed by law etc.**

None of the powers to make community orders which are conferred by this Part is exercisable in respect of an offence for which the sentence—

- (a) is fixed by law; or
- (b) falls to be imposed under section 109(2), 110(2) or 111(2) below (requirement to impose custodial sentences for certain repeated offences committed by offenders aged 18 or over).

**35 Restrictions on imposing community sentences.**

- (1) A court shall not pass a community sentence on an offender unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence.
- (2) In consequence of the provision made by section 51 below with respect to combination orders, a community sentence shall not consist of or include both a probation order and a community service order.
- (3) Subject to subsection (2) above and to section 69(5) below (which limits the community orders that may be combined with an action plan order), where a court passes a community sentence—
  - (a) the particular order or orders comprising or forming part of the sentence shall be such as in the opinion of the court is, or taken together are, the most suitable for the offender; and
  - (b) the restrictions on liberty imposed by the order or orders shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (4) Subsections (1) and (3)(b) above have effect subject to section 59 below (curfew orders and community service orders for persistent petty offenders).

**36 Procedural requirements for community sentences: pre-sentence reports etc.**

- (1) In forming any such opinion as is mentioned in subsection (1) or (3)(b) of section 35 above, a court shall take into account all such information as is available to it about the circumstances of the offence or (as the case may be) of the offence and the offence or offences associated with it, including any aggravating or mitigating factors.
- (2) In forming any such opinion as is mentioned in subsection (3)(a) of that section, a court may take into account any information about the offender which is before it.
- (3) The following provisions of this section apply in relation to—
  - (a) a probation order which includes additional requirements authorised by Schedule 2 to this Act;
  - (b) a community service order;
  - (c) a combination order;
  - (d) a drug treatment and testing order;

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- (e) a supervision order which includes requirements authorised by Schedule 6 to this Act.
- (4) Subject to subsection (5) below, a court shall obtain and consider a pre-sentence report before forming an opinion as to the suitability for the offender of one or more of the orders mentioned in subsection (3) above.
- (5) Subsection (4) above does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.
- (6) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (5) above unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender; and
  - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- (7) No community sentence which consists of or includes such an order as is mentioned in subsection (3) above shall be invalidated by the failure of a court to obtain and consider a pre-sentence report before forming an opinion as to the suitability of the order for the offender, but any court on an appeal against such a sentence—
- (a) shall, subject to subsection (8) below, obtain a pre-sentence report if none was obtained by the court below; and
  - (b) shall consider any such report obtained by it or by that court.
- (8) Subsection (7)(a) above does not apply if the court is of the opinion—
- (a) that the court below was justified in forming an opinion that it was unnecessary to obtain a pre-sentence report; or
  - (b) that, although the court below was not justified in forming that opinion, in the circumstances of the case at the time it is before the court, it is unnecessary to obtain a pre-sentence report.
- (9) In a case where the offender is aged under 18 and the offence is not triable only on indictment and there is no other offence associated with it that is triable only on indictment, the court shall not form such an opinion as is mentioned in subsection (8) above unless—
- (a) there exists a previous pre-sentence report obtained in respect of the offender; and
  - (b) the court has had regard to the information contained in that report, or, if there is more than one such report, the most recent report.
- (10) Section 156 below (disclosure of pre-sentence report to offender etc.) applies to any pre-sentence report obtained in pursuance of this section.

VALID FROM 20/06/2001

**[<sup>F1</sup>36A Pre-sentence drug testing.**

- (1) Where a person aged 18 or over is convicted of an offence and the court is considering passing a community sentence, it may make an order under

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subsection (2) below for the purpose of ascertaining whether the offender has any specified Class A drug in his body.

- (2) The order shall require the offender to provide, in accordance with the order, samples of any description specified in the order.
- (3) If it is proved to the satisfaction of the court that the offender has, without reasonable excuse, failed to comply with the order it may impose on him a fine of an amount not exceeding level 4.

In this subsection, “level 4” means the amount which, in relation to a fine for a summary offence, is level 4 on the standard scale.

- (4) The court shall not make an order under subsection (2) above unless it has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.]

#### Textual Amendments

- F1** S. 36A inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by [2000 c. 43, s. 48](#); [S.I. 2001/2232, art. 2\(b\)](#)

VALID FROM 20/06/2001

#### **[<sup>F2</sup>36B Electronic monitoring of requirements in community orders.**

- (1) Subject to subsections (2) to (4) below, a community order may include requirements for securing the electronic monitoring of the offender’s compliance with any other requirements imposed by the order.
- (2) A court shall not include in a community order a requirement under subsection (1) above unless the court—
  - (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the relevant areas specified in subsections (7) to (10) below; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Where—
  - (a) it is proposed to include in an exclusion order a requirement for securing electronic monitoring in accordance with this section; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,
 the requirement shall not be included in the order without that person’s consent.
- (4) Where—
  - (a) it is proposed to include in a community rehabilitation order or a community punishment and rehabilitation order a requirement for securing the electronic monitoring of the offender’s compliance with a requirement such as is mentioned in paragraph 8(1) of Schedule 2 to this Act; but
  - (b) there is a person (other than the offender) without whose co-operation it will not be practicable to secure the monitoring,

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the requirement shall not be included in the order without that person's consent.

- (5) An order which includes requirements under subsection (1) above shall include provision for making a person responsible for the monitoring; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) The Secretary of State may make rules for regulating—
- (a) the electronic monitoring of compliance with requirements included in a community order; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of persons made responsible for securing the electronic monitoring of compliance with requirements included in the order.
- (7) In the case of a curfew order or an exclusion order, the relevant area is the area in which the place proposed to be specified in the order is situated.
- In this subsection, “place”, in relation to an exclusion order, has the same meaning as in section 40A below.
- (8) In the case of a community rehabilitation order or a community punishment and rehabilitation order, the relevant areas are each of the following—
- (a) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 7 of Schedule 2 to this Act, the area mentioned in sub-paragraph (5) of that paragraph;
  - (b) where it is proposed to include in the order a requirement for securing compliance with a requirement such as is mentioned in sub-paragraph (1) of paragraph 8 of that Schedule, the area mentioned in sub-paragraph (5) of that paragraph;
  - (c) where it is proposed to include in the order a requirement for securing compliance with any other requirement, the area proposed to be specified under section 41(3) below.
- (9) In the case of a community punishment order, a drug treatment and testing order, a drug abstinence order, a supervision order or an action plan order, the relevant area is the petty sessions area proposed to be specified in the order.
- (10) In the case of an attendance centre order, the relevant area is the petty sessions area in which the attendance centre proposed to be specified in the order is situated.]

#### Textual Amendments

- F2** S. 36B inserted (20.6.2001 for specified purposes and 2.7.2001 for further specified purposes otherwise *prosp.*) by 2000 c. 43, ss. 52, 80(1); S.I. 2001/2232, art. 2(e)

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## CHAPTER II

### COMMUNITY ORDERS AVAILABLE FOR OFFENDERS OF ANY AGE

#### *Curfew orders*

#### **37 Curfew orders.**

- (1) Where a person is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order requiring him to remain, for periods specified in the order, at a place so specified.
- (2) An order under subsection (1) above is in this Act referred to as a “curfew order”.
- (3) A curfew order may specify different places or different periods for different days, but shall not specify—
  - (a) periods which fall outside the period of six months beginning with the day on which it is made; or
  - (b) periods which amount to less than two hours or more than twelve hours in any one day.
- (4) In relation to an offender aged under 16 on conviction, subsection (3)(a) above shall have effect as if the reference to six months were a reference to three months.
- (5) The requirements in a curfew order 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.
- (6) A curfew order shall include provision for making a person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the order; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) A court shall not make a curfew order unless the court has been notified by the Secretary of State that arrangements for monitoring the offender’s whereabouts are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.
- (8) Before making a curfew order, the court shall obtain and consider information about the place proposed to be specified in the order (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).
- (9) Before making a curfew order in respect of an offender who on conviction is under 16, the court shall obtain and consider information about his family circumstances and the likely effect of such an order on those circumstances.
- (10) Before making a curfew order, the court shall explain to the offender in ordinary language—
  - (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 38 below (electronic monitoring));

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- (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; 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 curfew order is made shall give a copy of the order to the offender and to the responsible officer.
- (12) In this Act, “responsible officer”, in relation to an offender subject to a curfew order, means the person who is responsible for monitoring the offender’s whereabouts during the curfew periods specified in the order.

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

- C2 S. 37(1)(3)(5)-(8)(10)-(12) applied (with modifications) (25.8.2000) by 1997 c. 43, s. 35(7)(8) (as substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9 para. 184(4))

**38 Electronic monitoring of curfew orders.**

- (1) Subject to subsection (2) below, a curfew order may in addition include requirements for securing the electronic monitoring of the offender’s whereabouts during the curfew periods specified in the order.
- (2) A court shall not make a curfew order which includes such requirements unless the court—
- (a) has been notified by the Secretary of State that electronic monitoring arrangements are available in the area in which the place proposed to be specified in the order is situated; and
  - (b) is satisfied that the necessary provision can be made under those arrangements.
- (3) Electronic monitoring arrangements made by the Secretary of State under this section may include entering into contracts with other persons for the electronic monitoring by them of offenders’ whereabouts.

**39 Breach, revocation and amendment of curfew 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 curfew orders.

**40 Curfew orders: supplementary.**

- (1) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of persons who are subject to curfew orders (including electronic monitoring in cases where arrangements for such monitoring are available); and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of the responsible officers of persons who are subject to curfew orders.

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- (2) The Secretary of State may by order direct—
- (a) that subsection (3) of section 37 above shall have effect with the substitution, for any period there specified, of such period as may be specified in the order; or
  - (b) that subsection (5) of that section shall have effect with such additional restrictions as may be so specified.

### CHAPTER III

#### COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED 16 OR OVER

#### *Probation orders*

#### **41 Probation orders.**

- (1) Where a person aged 16 or over is convicted of an offence and the court by or before which he is convicted is of the opinion that his supervision is desirable in the interests of—
  - (a) securing his rehabilitation, or
  - (b) protecting the public from harm from him or preventing the commission by him of further offences,
 the court may (subject to sections 34 to 36 above) make an order requiring him to be under supervision for a period specified in the order of not less than six months nor more than three years.
- (2) An order under subsection (1) above is in this Act referred to as a “probation order”.
- (3) A probation order shall specify the petty sessions area in which the offender resides or will reside.
- (4) If the offender is aged 18 or over at the time when the probation order is made, he shall, subject to paragraph 18 of Schedule 3 to this Act (offender’s change of area), be required to be under the supervision of a probation officer appointed for or assigned to the petty sessions area specified in the order.
- (5) If the offender is aged under 18 at that time, he shall, subject to paragraph 18 of Schedule 3, be required to be under the supervision of—
  - (a) a probation officer appointed for or assigned to the petty sessions area specified in the order; or
  - (b) a member of a youth offending team established by a local authority specified in the order;
 and if an order specifies a local authority for the purposes of paragraph (b) above, the authority specified must be the local authority within whose area it appears to the court that the offender resides or will reside.
- (6) In this Act, “responsible officer”, in relation to an offender who is subject to a probation order, means the probation officer or member of a youth offending team responsible for his supervision.
- (7) Before making a probation order, the court shall explain to the offender in ordinary language—



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- (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 42 below);
  - (b) the consequences which may follow (under Part II of Schedule 3 to this Act) if he fails to comply with any of the requirements of the order; 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.
- (8) On making a probation order, the court may, if it thinks it expedient for the purpose of the offender's reformation, allow any person who consents to do so to give security for the good behaviour of the offender.
- (9) The court by which a probation order is made shall forthwith give copies of the order to—
- (a) if the offender is aged 18 or over, a probation officer assigned to the court, or
  - (b) if the offender is aged under 18, a probation officer or member of a youth offending team so assigned,
- and he shall give a copy to the offender, to the responsible officer and to the person in charge of any institution in which the offender is required by the order to reside.
- (10) 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 clerk to the justices 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.
- (11) An offender in respect of whom a probation order is made shall 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 shall notify him of any change of address.

#### **42 Additional requirements which may be included in probation orders.**

- (1) Subject to subsection (3) below, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers desirable in the interests of—
- (a) securing the rehabilitation of the offender; or
  - (b) protecting the public from harm from him or preventing the commission by him of further offences.
- (2) Without prejudice to the generality of subsection (1) above, the additional requirements which may be included in a probation order shall include the requirements which are authorised by Schedule 2 to this Act.
- (3) Without prejudice to the power of the court under section 130 below to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the additional requirements of a probation order.

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**43 Breach, revocation and amendment of probation 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 probation orders.

**44 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 probation orders.

**45 Probation orders: supplementary.**

- (1) The Secretary of State may by order direct that subsection (1) of section 41 above shall be amended by substituting, for the minimum or maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.
- (2) An order under subsection (1) above may make in paragraph 19(2)(a) of Schedule 3 to this Act any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.

*Community service orders*

**46 Community service 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 “community service order”.
- (3) The number of hours which a person may be required to work under a community service order shall be specified in the order and shall be in the aggregate—
  - (a) not less than 40; and
  - (b) not more than 240.
- (4) A court shall not make a community service 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, a probation officer or social worker of a local authority social services department; and
  - (b) in the case of an offender aged under 18, a probation officer, a social worker of a local authority social services department or a member of a youth offending team.

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- (6) A court shall not make a community service 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 community service 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 community service 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 community service 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 community service order is made shall forthwith give copies of the order to—
  - (a) if the offender is aged 18 or over, a probation officer assigned to the court, or
  - (b) if the offender is aged under 18, a probation officer or member of a youth offending team so assigned,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 clerk to the justices 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 community service order, means the person mentioned in

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subsection (4)(a) or (b) or (5)(b) of section 47 below who, as respects the order, is responsible for discharging the functions conferred by that section.

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

**C3** 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))

**47 Obligations of person subject to community service order.**

- (1) An offender in respect of whom a community service 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 community service 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.
- (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—
  - (a) a probation officer appointed for or assigned to the petty sessions area specified in the order; or
  - (b) a person appointed for the purposes of this section by the probation committee for that area.
- (5) If the offender is aged under 18 at that time, those functions shall be discharged by—
  - (a) a person mentioned in subsection (4)(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).

**48 Breach, revocation and amendment of community service 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

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or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to community service orders.

#### **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 community service orders.

#### **50 Community service 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.

#### *Combination orders*

#### **51 Combination orders.**

- (1) Where a person aged 16 or over is convicted of an offence punishable with imprisonment and the court by or before which he is convicted is of the opinion mentioned in subsection (3) below, the court may (subject to sections 34 to 36 above) make an order requiring him both—
  - (a) to be under supervision for a period specified in the order, being not less than twelve months nor more than three years; and
  - (b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than 40 nor more than 100.
- (2) An order under subsection (1) above is in this Act referred to as a “combination order”.
- (3) The opinion referred to in subsection (1) above is that the making of a combination order is desirable in the interests of—
  - (a) securing the rehabilitation of the offender; or
  - (b) protecting the public from harm from him or preventing the commission by him of further offences.
- (4) Subject to subsection (1) above, sections 41, 42, 46 and 47 above and Schedule 2 to this Act shall apply in relation to combination orders—
  - (a) in so far as those orders impose such a requirement as is mentioned in paragraph (a) of subsection (1) above, as if they were probation orders; and
  - (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.
- (5) 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 combination orders.

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- (6) 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 combination orders.

### *Drug treatment and testing orders*

## **52 Drug treatment and testing orders.**

- (1) Where a person aged 16 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which—
- (a) has effect for a period specified in the order of not less than six months nor more than three years (“the treatment and testing period”); and
  - (b) includes the requirements and provisions mentioned in sections 53 and 54 below;
- but this section does not apply in relation to an offence committed before 30th September 1998.
- (2) An order under subsection (1) above is in this Act referred to as a “drug treatment and testing order”.
- (3) A court shall not make a drug treatment and testing order in respect of an offender unless it is satisfied—
- (a) that he is dependent on or has a propensity to misuse drugs; and
  - (b) that his dependency or propensity is such as requires and may be susceptible to treatment.
- (4) For the purpose of ascertaining for the purposes of subsection (3) above whether the offender has any drug in his body, the court may by order require him to provide samples of such description as it may specify; but the court shall not make such an order unless the offender expresses his willingness to comply with its requirements.
- (5) A court shall not make a drug treatment and testing 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 specified in the order under section 54(1) below and the notice has not been withdrawn.
- (6) Before making a drug treatment and testing order, the 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 Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements;
  - (c) that the order will be periodically reviewed at intervals as provided for in the order (by virtue of section 54(6) below); and
  - (d) that the order may be reviewed (under Parts III and IV of Schedule 3) on the application either of the offender or of the responsible officer;
- and “responsible officer” here has the meaning given by section 54(3) below.
- (7) A court shall not make a drug treatment and testing order unless the offender expresses his willingness to comply with its requirements.

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### **53 The treatment and testing requirements.**

- (1) A drug treatment and testing order shall include a requirement (“the treatment requirement”) that the offender shall submit, during the whole of the treatment and testing period, to treatment by or under the direction of a specified person having the necessary qualifications or experience (“the treatment provider”) with a view to the reduction or elimination of the offender’s dependency on or propensity to misuse drugs.
- (2) The required treatment for any particular period shall be—
  - (a) treatment as a resident in such institution or place as may be specified in the order; or
  - (b) treatment as a non-resident in or at such institution or place, and at such intervals, as may be so specified;but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a) or (b) above.
- (3) A court shall not make a drug treatment and testing order unless it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident).
- (4) A drug treatment and testing order shall include a requirement (“the testing requirement”) that, for the purpose of ascertaining whether he has any drug in his body during the treatment and testing period, the offender shall during that period, at such times or in such circumstances as may (subject to the provisions of the order) be determined by the treatment provider, provide samples of such description as may be so determined.
- (5) The testing requirement shall specify for each month the minimum number of occasions on which samples are to be provided.

### **54 Provisions of order as to supervision and periodic review.**

- (1) A drug treatment and testing order shall include a provision specifying the petty sessions area in which it appears to the court making the order that the offender resides or will reside.
- (2) A drug treatment and testing order shall provide that, for the treatment and testing period, the offender shall be under the supervision of a probation officer appointed for or assigned to the petty sessions area specified in the order.
- (3) In this Act “responsible officer”, in relation to an offender who is subject to a drug treatment and testing order, means the probation officer responsible for his supervision.
- (4) A drug treatment and testing order shall—
  - (a) require the offender to 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 to notify him of any change of address; and
  - (b) provide that the results of the tests carried out on the samples provided by the offender in pursuance of the testing requirement shall be communicated to the responsible officer.

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- (5) Supervision by the responsible officer shall be carried out to such extent only as may be necessary for the purpose of enabling him—
- (a) to report on the offender’s progress to the court responsible for the order;
  - (b) to report to that court any failure by the offender to comply with the requirements of the order; and
  - (c) to determine whether the circumstances are such that he should apply to that court for the revocation or amendment of the order.
- (6) A drug treatment and testing order shall—
- (a) provide for the order to be reviewed periodically at intervals of not less than one month;
  - (b) provide for each review of the order to be made, subject to section 55(6) below, at a hearing held for the purpose by the court responsible for the order (a “review hearing”);
  - (c) require the offender to attend each review hearing;
  - (d) provide for the responsible officer to make to the court responsible for the order, before each review, a report in writing on the offender’s progress under the order; and
  - (e) provide for each such report to include the test results communicated to the responsible officer under subsection (4)(b) above and the views of the treatment provider as to the treatment and testing of the offender.
- (7) In this section references to the court responsible for a drug treatment and testing order are references to—
- (a) where a court is specified in the order in accordance with subsection (8) below, that court;
  - (b) in any other case, the court by which the order is made.
- (8) Where the area specified in a drug treatment and testing order made by a magistrates’ court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purposes of subsection (7) above a magistrates’ court which acts for the area specified in the order.
- (9) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of subsection (7)(b) above it shall be deemed to have been made by the Crown Court.

## **55 Periodic reviews.**

- (1) At a review hearing (within the meaning given by subsection (6) of section 54 above) the court may, after considering the responsible officer’s report referred to in that subsection, amend any requirement or provision of the drug treatment and testing order.
- (2) The court—
  - (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended;
  - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 52(1) above, or to increase it above the maximum so specified; and



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- (c) except with the consent of the offender, shall not amend any requirement or provision of the order while an appeal against the order is pending.
- (3) 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
  - (b) deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by the court of the offence.
- (4) In dealing with the offender under subsection (3)(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 (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) below.
- (5) Where the order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (3)(b) above in respect of the offender after he attains the age of 18 shall be powers to do either or both of the following—
  - (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
  - (b) to deal with the offender for that offence in any way in which the court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (6) If at a review hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is satisfactory, the court may so amend the order as to provide for each subsequent review to be made by the court without a hearing.
- (7) If at a review without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.
- (8) At that hearing the court, after considering that report, may—
  - (a) exercise the powers conferred by this section as if the hearing were a review hearing; and
  - (b) so amend the order as to provide for each subsequent review to be made at a review hearing.
- (9) In this section any reference to the court, in relation to a review without a hearing, shall be construed—
  - (a) in the case of the Crown Court, as a reference to a judge of the court;
  - (b) in the case of a magistrates' court, as a reference to a justice of the peace acting for the commission area for which the court acts.

## **56 Breach, revocation and amendment of drug treatment and testing 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

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or without the substitution of other sentences and for amending such orders) shall have effect so far as relating to drug treatment and testing orders.

#### **57 Copies of orders.**

- (1) Where a drug treatment and testing order is made, the court making the order shall (subject to subsection (3) below) forthwith give copies of the order to a probation officer assigned to the court.
- (2) Where such an order is amended under section 55(1) above, the court amending the order shall forthwith give copies of the order as amended to a probation officer so assigned.
- (3) Where a drug treatment and testing order is made by a magistrates' court and another magistrates' court is responsible for the order (within the meaning given by section 54(7) above) by virtue of being specified in the order in accordance with section 54(8)—
  - (a) the court making the order shall not give copies of it as mentioned in subsection (1) above but shall forthwith send copies of it to the court responsible for the order; and
  - (b) that court shall, as soon as reasonably practicable after the order is made, give copies of it to a probation officer assigned to that court.
- (4) A probation officer to whom copies of an order are given under this section shall give a copy to—
  - (a) the offender;
  - (b) the treatment provider; and
  - (c) the responsible officer.

#### **58 Drug treatment and testing orders: supplementary.**

The Secretary of State may by order amend subsection (1) of section 52 above by substituting a different period for the minimum or maximum period for the time being specified in that subsection.

VALID FROM 20/06/2001

*[<sup>F3</sup> Drug abstinence orders]*

#### **Textual Amendments**

**F3** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, art. 2(a)

#### **<sup>F4</sup>58A [ Drug abstinence orders.]**

- (1) Where a person aged 18 or over is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order which requires the offender—
  - (a) to abstain from misusing specified Class A drugs; and

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- (b) to provide, when instructed to do so by the responsible officer, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (2) An order under subsection (1) above is in this Act referred to as a “drug abstinence order”.
- (3) The court shall not make a drug abstinence order in respect of an offender unless—
  - (a) in the opinion of the court, the offender is dependent on, or has a propensity to misuse, specified Class A drugs; and
  - (b) the offence in question is a trigger offence or, in the opinion of the court, the misuse by the offender of any specified Class A drug caused or contributed to the offence in question.
- (4) A drug abstinence order shall provide that, for the period for which the order has effect, the offender shall be under the supervision of a person, being a person of a description specified in an order made by the Secretary of State.
- (5) In this Act, “responsible officer”, in relation to an offender who is subject to a drug abstinence order, means the person who is responsible for his supervision.
- (6) The function of giving instructions for the purposes of subsection (1)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State.
- (7) A drug abstinence order shall have effect for a period specified in the order of not less than six months nor more than three years.
- (8) The Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.
- (9) A court shall not make a drug abstinence order unless the court has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the order under section 54(1) above (as applied by section 58B(2) below) and the notice has not been withdrawn.

#### Textual Amendments

**F4** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, art. 2(a)

#### [<sup>F5</sup>58B Drug abstinence orders: supplementary.

- (1) Before making a drug abstinence order, the 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 Part II of Schedule 3 to this Act) if he fails to comply with any of those requirements; and
  - (c) that the order may be reviewed (under Parts III and IV of that Schedule) on the application either of the offender or of the responsible officer.
- (2) Section 54 above (except subsections (2), (3) and (6)) and section 57 above (except subsections (2), (3A) and (4)(b)) shall apply for the purposes of section 58A above

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and this section as if references to drug treatment and testing orders were references to drug abstinence orders.

- (3) 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 drug abstinence orders.]

#### **Textual Amendments**

**F5** Ss. 58A, 58B and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 47; S.I. 2001/2232, art. 2(a)

### *Orders for persistent petty offenders*

#### **59 Curfew orders and community service orders for persistent petty offenders.**

- (1) This section applies where—
- (a) a person aged 16 or over is convicted of an offence;
  - (b) the court by or before which he is convicted is satisfied that each of the conditions mentioned in subsection (2) below is fulfilled; and
  - (c) if it were not so satisfied, the court would be minded to impose a fine in respect of the offence.
- (2) The conditions are that—
- (a) one or more fines imposed on the offender in respect of one or more previous offences have not been paid; and
  - (b) if a fine were imposed in an amount which was commensurate with the seriousness of the offence, the offender would not have sufficient means to pay it.
- (3) The court may—
- (a) subject to subsections (5) and (7) below, make a curfew order under section 37(1) above, or
  - (b) subject to subsections (6) and (7) below, make a community service order under section 46(1) above,
- in respect of the offender instead of imposing a fine.
- (4) Subsection (3) above applies notwithstanding anything in subsections (1) and (3)(b) of section 35 above (restrictions on imposing community sentences).
- (5) Section 37(1) above (curfew orders) shall apply for the purposes of subsection (3) above as if for the words from the beginning to “make” there were substituted “Where section 59 below applies, the court may make in respect of the offender”; and—
- (a) section 37(3), (5) to (8) and (10) to (12), and
  - (b) so far as applicable, the other provisions of this Part relating to curfew orders,
- have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any other curfew order.

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- (6) Section 46(1) above (community service orders) shall apply for the purposes of subsection (3)(b) above as if for the words from the beginning to “make” there were substituted “ Where section 59 below applies, the court may make in respect of the offender ”; and—
- (a) section 46(3) and (4), and
  - (b) so far as applicable, the following provisions of section 46 and the other provisions of this Part relating to community service orders,
- have effect in relation to a community service order made by virtue of this section as they have effect in relation to any other community service order.
- (7) A court shall not make an order by virtue of subsection (3)(a) or (b) above unless the court has been notified by the Secretary of State that arrangements for implementing orders so made are available in the relevant area and the notice has not been withdrawn.
- (8) In subsection (7) above “the relevant area” means—
- (a) in relation to a curfew order, the area in which the place proposed to be specified in the order is situated;
  - (b) in relation to a community service order, the area proposed to be specified in the order.

## CHAPTER IV

### ATTENDANCE CENTRE ORDERS: OFFENDERS UNDER 21 AND DEFAULTERS

#### **60 Attendance centre orders.**

- (1) Where—
- (a) (subject to sections 34 to 36 above) a person aged under 21 is convicted by or before a court of an offence punishable with imprisonment, or
  - (b) a court would have power, but for section 89 below (restrictions on imprisonment of young offenders and defaulters), to commit a person aged under 21 to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone, or
  - (c) a court has power to commit a person aged at least 21 but under 25 to prison in default of payment of any sum of money,
- the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception of persons of his description, order him to attend at such a centre, to be specified in the order, for such number of hours as may be so specified.
- (2) An order under subsection (1) above is in this Act referred to as an “attendance centre order”.
- (3) The aggregate number of hours for which an attendance centre order may require a person to attend at an attendance centre shall not be less than 12 except where—
- (a) he is aged under 14; and
  - (b) the court is of the opinion that 12 hours would be excessive, having regard to his age or any other circumstances.

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- (4) The aggregate number of hours shall not exceed 12 except where the court is of the opinion, having regard to all the circumstances, that 12 hours would be inadequate, and in that case—
  - (a) shall not exceed 24 where the person is aged under 16; and
  - (b) shall not exceed 36 where the person is aged 16 or over but under 21 or (where subsection (1)(c) above applies) under 25.
- (5) A court may make an attendance centre order in respect of a person before a previous attendance centre order made in respect of him has ceased to have effect, and may determine the number of hours to be specified in the order without regard—
  - (a) to the number specified in the previous order; or
  - (b) to the fact that that order is still in effect.
- (6) An attendance centre order shall not be made unless the court is satisfied that the attendance centre to be specified in it is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.
- (7) The times at which a person is required to attend at an attendance centre shall, as far as practicable, be such as to avoid—
  - (a) any conflict with his 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.
- (8) The first time at which the person is required to attend at an attendance centre shall be a time at which the centre is available for his attendance in accordance with the notification of the Secretary of State, and shall be specified in the order.
- (9) The subsequent times shall be fixed by the officer in charge of the centre, having regard to the person's circumstances.
- (10) A person shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.
- (11) Where a court makes an attendance centre order, the clerk of the court shall—
  - (a) deliver or send a copy of the order to the officer in charge of the attendance centre specified in it; and
  - (b) deliver a copy of the order to the person in respect of whom it is made or send a copy by registered post or the recorded delivery service addressed to his last or usual place of abode.
- (12) Where a person ("the defaulter") has been ordered to attend at an attendance centre in default of the payment of any sum of money—
  - (a) on payment of the whole sum to any person authorised to receive it, the attendance centre order shall cease to have effect;
  - (b) on payment of a part of the sum to any such person, the total number of hours for which the defaulter is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the total number the proportion most nearly approximating to, without exceeding, the proportion which the part bears to the whole sum.

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## **61 Breach, revocation and amendment of attendance centre orders.**

Schedule 5 to this Act (which makes provision for dealing with failures to comply with attendance centre orders, for revoking such orders with or without the substitution of other sentences and for amending such orders) shall have effect.

## **62 Provision, regulation and management of attendance centres.**

- (1) The Secretary of State may continue to provide attendance centres.
- (2) In this Act “attendance centre” means a place at which offenders aged under 21 may be required to attend and be given under supervision appropriate occupation or instruction in pursuance of attendance centre orders.
- (3) The Secretary of State may make rules for the regulation and management of attendance centres.
- (4) For the purpose of providing attendance centres, the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority.

## **CHAPTER V**

### **COMMUNITY ORDERS AVAILABLE ONLY WHERE OFFENDER AGED UNDER 18**

#### *Supervision orders*

## **63 Supervision orders.**

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence, the court by or before which he is convicted may (subject to sections 34 to 36 above) make an order placing him under the supervision of—
  - (a) a local authority designated by the order;
  - (b) a probation officer; or
  - (c) a member of a youth offending team.
- (2) An order under subsection (1) above is in this Act referred to as a “supervision order”.
- (3) In this Act “supervisor”, in relation to a supervision order, means the person under whose supervision the offender is placed or to be placed by the order.
- (4) Schedule 6 to this Act (which specifies requirements that may be included in supervision orders) shall have effect.
- (5) A court shall not make a supervision order unless it is satisfied that the offender resides or will reside in the area of a local authority; and a court shall be entitled to be satisfied that the offender will so reside if he is to be required so to reside by a provision to be included in the order in pursuance of paragraph 1 of Schedule 6 to this Act.
- (6) A supervision order—
  - (a) shall name the area of the local authority and the petty sessions area in which it appears to the court making the order (or to the court amending under

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Schedule 7 to this Act any provision included in the order in pursuance of this paragraph) that the offender resides or will reside; and

- (b) may contain such prescribed provisions as the court making the order (or amending it under that Schedule) considers appropriate for facilitating the performance by the supervisor of his functions under section 64(4) below, including any prescribed provisions for requiring visits to be made by the offender to the supervisor;

and in paragraph (b) above “prescribed” means prescribed by rules under section 144 of the <sup>M1</sup>Magistrates’ Courts Act 1980.

- (7) A supervision order shall, unless it has previously been revoked, cease to have effect at the end of the period of three years, or such shorter period as may be specified in the order, beginning with the date on which the order was originally made.

- (8) A court which makes a supervision order shall forthwith send a copy of its order—
- (a) to the offender and, if the offender is aged under 14, to his parent or guardian;
  - (b) to the supervisor;
  - (c) to any local authority who are not entitled by virtue of paragraph (b) above to such a copy and whose area is named in the supervision order in pursuance of subsection (6) above;
  - (d) where the offender is required by the order to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and
  - (e) where a petty sessions area named in the order in pursuance of subsection (6) above is not that for which the court acts, to the justices’ chief executive for the petty sessions area so named;

and, in a case falling within paragraph (e) above, shall also send to the justices’ chief executive in question such documents and information relating to the case as the court considers likely to be of assistance to them.

- (9) If a court makes a supervision order while another such order made by any court is in force in respect of the offender, the court making the new order may revoke the earlier order (and paragraph 10 of Schedule 7 to this Act (supplementary provision) shall apply to the revocation).

#### **Marginal Citations**

**M1** 1980 c. 43.

#### **64 Selection and duty of supervisor and certain expenditure of his.**

- (1) A court shall not designate a local authority as the supervisor by a provision of a supervision order unless—
- (a) the authority agree; or
  - (b) it appears to the court that the offender resides or will reside in the area of the authority.
- (2) Where a provision of a supervision order places the offender under the supervision of a probation officer, the supervisor shall be a probation officer appointed for or assigned to the petty sessions area named in the order in pursuance of



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section 63(6) above and selected under arrangements made under section 4(1)(d) of the <sup>M2</sup>Probation Service Act 1993 (arrangements made by probation committee).

- (3) Where a provision of a supervision order places the offender under the supervision of a member of a youth offending team, the supervisor shall be a member of a team established by the local authority within whose area it appears to the court that the offender resides or will reside.
- (4) While a supervision order is in force, the supervisor shall advise, assist and befriend the offender.
- (5) Where a supervision order—
  - (a) requires compliance with directions given by virtue of paragraph 2(1) of Schedule 6 to this Act, or
  - (b) includes by virtue of paragraph 3(2) of that Schedule a requirement which involves the use of facilities for the time being specified in a scheme in force under section 66 below for an area in which the offender resides or will reside,

any expenditure incurred by the supervisor for the purposes of the directions or requirements shall be defrayed by the local authority whose area is named in the order in pursuance of section 63(6) above.

#### Marginal Citations

M2 1993 c. 47.

### 65 Breach, revocation and amendment of supervision orders.

Schedule 7 to this Act (which makes provision for dealing with failures to comply with supervision orders and for revoking and amending such orders) shall have effect.

### 66 Facilities for implementing supervision orders.

- (1) A local authority shall, acting either individually or in association with other local authorities, make arrangements with such persons as appear to them to be appropriate for the provision by those persons of facilities for enabling—
  - (a) directions given by virtue of paragraph 2(1) of Schedule 6 to this Act to persons resident in their area, and
  - (b) requirements that (because of paragraph 3(7) of that Schedule) may only be included in a supervision order by virtue of paragraph 3(2) of that Schedule if they are for the time being specified in a scheme, to be carried out effectively.
- (2) The authority or authorities making any arrangements in accordance with subsection (1) above shall consult each relevant probation committee as to the arrangements.
- (3) Any such arrangements shall be specified in a scheme made by the authority or authorities making them.
- (4) A scheme shall come into force on a date to be specified in it.

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- (5) The authority or authorities making a scheme shall send copies of it to the justices' chief executive for each petty sessions area of which any part is included in the area to which the scheme relates.
- (6) A copy of the scheme shall be kept available at the principal office of every authority who are a party to it for inspection by members of the public at all reasonable hours; and any such authority shall on demand by any person supply him with a copy of the scheme free of charge.
- (7) The authority or authorities who made a scheme may at any time make a further scheme altering the arrangements or specifying arrangements to be substituted for those previously specified.
- (8) A scheme which specifies arrangements to be substituted for those specified in a previous scheme shall revoke the previous scheme.
- (9) The powers conferred by subsection (7) above shall not be exercisable by an authority or authorities unless they have first consulted each relevant probation committee.
- (10) The authority or authorities who made a scheme shall send to the justices' chief executive for each petty sessions area of which any part is included in the area for which arrangements under this section have been specified in the scheme notice of any exercise of a power conferred by subsection (7) above, specifying the date for the coming into force, and giving details of the effect, of the new or altered arrangements; and the new or altered arrangements shall come into force on that date.
- (11) Arrangements shall not be made under this section for the provision of any facilities unless the facilities are approved or are of a kind approved by the Secretary of State for the purposes of this section.
- (12) In this section "relevant probation committee" means a probation committee for an area of which any part is included in the area to which a scheme under this section relates.

#### **67 Meaning of "local authority", "reside" and "parent".**

- (1) Unless the contrary intention appears, in sections 63 to 66 above and Schedules 6 and 7 to this Act—
  - "local authority" means the council of a county or of a county borough, metropolitan district or London borough or the Common Council of the City of London;
  - "reside" means habitually reside, and cognate expressions shall be construed accordingly except in paragraph 6(2) and (3) of Schedule 6.
- (2) In the case of a child or young person—
  - (a) whose father and mother were not married to each other at the time of his birth, and
  - (b) with respect to whom a residence order is in force in favour of the father, any reference in sections 63 to 66 and Schedules 6 and 7 to the parent of the child or young person includes a reference to the father.
- (3) In subsection (2) above "residence order" has the meaning given by section 8(1) of the <sup>M3</sup>Children Act 1989, and subsection (2) above is without prejudice to the operation of section 1(1) of the <sup>M4</sup>Family Law Reform Act 1987 (construction of

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references to relationships) in relation to the provisions of this Act other than those mentioned in subsection (2).

#### Marginal Citations

**M3** 1989 c. 41.

**M4** 1987 c. 42.

### 68 Isles of Scilly.

- (1) In their application to the Isles of Scilly, the following provisions of this Act, namely—
- (a) sections 63 to 67 and Schedules 6 and 7, and
  - (b) section 163 (definitions) in its application to those sections and Schedules,
- shall have effect with such modifications as the Secretary of State may by order specify.
- (2) An order under this section may—
- (a) make different provision for different circumstances;
  - (b) provide for exemptions from any provisions of the order; and
  - (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the order.

#### *Action plan orders*

### 69 Action plan orders.

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence and the court by or before which he is convicted is of the opinion mentioned in subsection (3) below, the court may (subject to sections 34 to 36 above) make an 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 for that period under the supervision of the responsible officer; and
  - (c) requires the offender to comply with any directions given by the responsible officer with a view to the implementation of that plan;
- and the requirements included in the order, and any directions given by the responsible officer, may include requirements authorised by section 70 below.
- (2) An order under subsection (1) above is in this Act referred to as an “action plan order”.
- (3) The opinion referred to in subsection (1) above is that the making of an action plan order is desirable in the interests of—
- (a) securing the rehabilitation of the offender; or
  - (b) preventing the commission by him of further offences.

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- (4) In this Act “responsible officer”, in relation to an offender subject 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;
  - (c) a member of a youth offending team.
- (5) 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 to make in respect of him a probation order, a community service order, a combination order, an attendance centre order, a supervision order or a referral order.
- (6) Before making an action plan order, the court shall obtain and consider—
- (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 aged under 16, information about the offender’s family circumstances and the likely effect of the order on those circumstances.
- (7) 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 under subsection (8) below and the notice has not been withdrawn.
- (8) An action plan order shall name the petty sessions area in which it appears to the court making the order (or to the court amending under Schedule 8 to this Act any provision included in the order in pursuance of this subsection) that the offender resides or will reside.
- (9) Where an action plan order specifies a probation officer under subsection (4) above, the officer specified must be an officer appointed for or assigned to the petty sessions area named in the order.
- (10) Where an action plan order specifies under that subsection—
- (a) a social worker of a local authority social services department, or
  - (b) a member of a youth offending team,
- the social worker or member specified must be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the offender resides or will reside.
- (11) Before making an action plan order, the 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 8 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.

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## **70 Requirements which may be included in action plan orders and directions.**

- (1) 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;
  - (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) subject to subsection (2) below, 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 71 below.
- (2) Subsection (1)(c) above applies only where the offence committed by the offender is an offence punishable with imprisonment.
- (3) In subsection (1)(f) above “make reparation”, in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation.
- (4) A person shall not be specified in requirements or directions under subsection (1)(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.
- (5) Requirements included in an action plan order and directions given by a responsible officer 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.

## **71 Action plan orders: power to fix further hearings.**

- (1) 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.
- (2) At a hearing fixed under subsection (1) above, the court—
  - (a) shall consider the responsible officer’s report; and
  - (b) may, on the application of the responsible officer or the offender, amend the order—
    - (i) by cancelling any provision included in it; or

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- (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.

## **72 Breach, revocation and amendment of action plan orders.**

Schedule 8 to this Act (which makes provision for dealing with failures to comply with action plan orders and reparation orders and for revoking and amending such orders) shall have effect so far as relating to action plan orders.

## **CHAPTER VI**

### **REPARATION ORDERS FOR YOUNG OFFENDERS**

## **73 Reparation orders.**

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence other than one for which the sentence is fixed by law, the court by or before which he is convicted may make an order requiring him 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.
- (2) An order under subsection (1) above is in this Act referred to as a “reparation order”.
- (3) In this section and section 74 below “make reparation”, in relation to an offender, means make reparation for the offence otherwise than by the payment of compensation; and the requirements that may be specified in a reparation order are subject to section 74(1) to (3).
- (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
  - (b) to make in respect of him a community service order, a combination order, a supervision order which includes requirements authorised by Schedule 6 to this Act, an action plan order or a referral order.
- (5) 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
  - (b) the attitude of the victim or victims to the requirements proposed to be included in the order.
- (6) 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 under section 74(4) below and the notice has not been withdrawn.
- (7) Before making a reparation order, the court shall explain to the offender in ordinary language—

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- (a) the effect of the order and of the requirements proposed to be included in it;
  - (b) the consequences which may follow (under Schedule 8 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;
- and “responsible officer” here has the meaning given by section 74(5) below.
- (8) The court shall give reasons if it does not make a reparation order in a case where it has power to do so.

#### **74 Requirements and provisions of reparation order, and obligations of person subject to it.**

- (1) 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.
- (2) Subject to subsection (1) above, requirements specified in a reparation order shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it.
- (3) 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 he normally works or attends school or any other educational establishment.
- (4) A reparation order shall name the petty sessions area in which it appears to the court making the order (or to the court amending under Schedule 8 to this Act any provision included in the order in pursuance of this subsection) that the offender resides or will reside.
- (5) In this Act “responsible officer”, in relation to an offender subject 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;
  - (c) a member of a youth offending team.
- (6) Where a reparation order specifies a probation officer under subsection (5) above, the officer specified must be an officer appointed for or assigned to the petty sessions area named in the order.
- (7) Where a reparation order specifies under that subsection—
- (a) a social worker of a local authority social services department, or
  - (b) a member of a youth offending team,
- the social worker or member specified must be a social worker of, or a member of a youth offending team established by, the local authority within whose area it appears to the court that the offender resides or will reside.
- (8) Any reparation required by a reparation order—
- (a) shall be made under the supervision of the responsible officer; and

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(b) shall be made within a period of three months from the date of the making of the order.

**75 Breach, revocation and amendment of reparation orders.**

Schedule 8 to this Act (which makes provision for dealing with failures to comply with action plan orders and reparation orders and for revoking and amending such orders) shall have effect so far as relating to reparation orders.



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