

Status: Point in time view as at 01/12/2020.

Changes to legislation: Sentencing Act 2020, PART 10 is up to date with all changes known to be in force on or before 04 July 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 9 **E+W**

COMMUNITY ORDERS AND SUSPENDED SENTENCE ORDERS: REQUIREMENTS

Modifications etc. (not altering text)

- C1** Sch. 9 applied (with modifications) by 2003 c. 44, s. 300(6), Sch. 31 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 paras. 241\(5\)](#), **249** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)
- C1** Sch. 9 applied (in part) (with modifications) by 2006 c. 52, s. 182(3)-(5) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 7(5)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)
- C1** Sch. 9 applied (in part) (with modifications) by 2006 c. 52, s. 183 (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 8** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)
- C1** Sch. 9 applied (in part) (with modifications) by 2006 c. 52, s. 178(2)-(4) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 25 para. 3(3)** (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)

PART 10 **E+W**

DRUG REHABILITATION REQUIREMENT

Requirement

- 19 (1) In this Code “drug rehabilitation requirement”, in relation to a relevant order, means a requirement that during a period specified in the order (“the treatment and testing period”) the offender—
- (a) must submit to drug rehabilitation treatment, which may be resident treatment or non-resident treatment, and
 - (b) for the purpose of ascertaining whether there is any drug in the offender's body during that period, must provide samples in accordance with directions given by—
 - (i) the responsible officer, or
 - (ii) the treatment director.
- (2) In this paragraph—
- “drug rehabilitation treatment”, in relation to an offender, means treatment which is—
- (a) by or under the direction of a person who has the necessary qualifications or experience, and
 - (b) with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs;

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- “resident treatment” means treatment as a resident in an institution or place;
- “non-resident treatment” means treatment as a non-resident at an institution or place;
- “the treatment director” means the person by or under whose direction the treatment is to be provided.
- (3) Sub-paragraphs (4) to (7) apply to a relevant order which imposes a drug rehabilitation requirement.
- (4) The order may specify separate periods which together comprise the drug treatment and testing period.
- (5) The order must specify, for each treatment period—
- (a) the treatment director;
 - (b) if the treatment is to be resident treatment, the institution or place where it is to be provided;
 - (c) if it is to be non-resident treatment—
 - (i) the institution or place where it is to be provided, and
 - (ii) the intervals at which it is to be provided;
 but must not otherwise specify the nature of the treatment.
- (6) In sub-paragraph (5), “treatment period” means—
- (a) if the order specifies separate periods under sub-paragraph (4), any of those periods;
 - (b) otherwise, the drug treatment and testing period.
- (7) The order—
- (a) must provide that if, by virtue of sub-paragraph (1)(b), the offender provides samples to a person other than the responsible officer, the results of tests carried out on the samples are to be communicated to the responsible officer;
 - (b) may make further provision about the provision of samples by virtue of sub-paragraph (1)(b) (which may include provision that directions, or directions of particular kinds, are to be given only by the responsible officer or only by the treatment director).
- (8) The power for the responsible officer or treatment director to give directions by virtue of sub-paragraph (1)(b) about the provision of samples—
- (a) is a power to give directions as to—
 - (i) the type of samples to be provided, and
 - (ii) the times at which, or circumstances in which, they are to be provided,
 - (b) is subject to any provision made by the order, and
 - (c) is to be exercised in accordance with guidance issued by the Secretary of State.
- (9) The Secretary of State may revise any guidance issued under sub-paragraph (8)(c).
- (10) In this paragraph and paragraph 20 “drug” means a controlled drug as defined by section 2 of the Misuse of Drugs Act 1971.

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Modifications etc. (not altering text)

- C1** Sch. 9 paras. 1-20 modified by 2006 c. 52, s. 200(1)(c)(iv) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 19](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)
- C2** Sch. 9 para. 19(1) modified by 2006 c. 52, Sch. 6 para. 5(1) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 11\(7\)\(a\)\(b\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)

Commencement Information

- I1** Sch. 9 para. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), reg. 2

Restriction on imposing drug rehabilitation requirement

- 20 (1) A court may not impose a drug rehabilitation requirement unless the following conditions are met—
- (a) the need for treatment condition,
 - (b) the arrangements condition,
 - (c) the suitability condition, and
 - (d) the consent condition.
- (2) The need for treatment condition is that the court is satisfied—
- (a) that the offender—
 - (i) is dependent on drugs, or
 - (ii) has a propensity to misuse drugs, and
 - (b) that the offender's dependency or propensity—
 - (i) requires treatment, and
 - (ii) may be susceptible to treatment.
- (3) The arrangements condition is that the court is satisfied that arrangements—
- (a) have been made, or
 - (b) can be made,
- for the treatment intended to be specified in the order.
- Those arrangements include arrangements for the reception of the offender, where the offender is to be required to submit to resident treatment (within the meaning given in paragraph 19(2)).
- (4) The suitability condition is that the requirement has been recommended to the court as being suitable for the offender by an officer of a provider of probation services.
- (5) The consent condition is that the offender expresses willingness to comply with the requirement.

Modifications etc. (not altering text)

- C1** Sch. 9 paras. 1-20 modified by 2006 c. 52, s. 200(1)(c)(iv) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 19](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)
- C3** Sch. 9 para. 20(1)(d) excluded by 2006 c. 52, Sch. 6 para. 5(3) (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 11\(7\)\(c\)](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2)

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Commencement Information

12 Sch. 9 para. 20 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Drug rehabilitation requirement: provision for review by court

- 21 (1) A relevant order imposing a drug rehabilitation requirement—
- (a) must include provision for review if the treatment and testing period is more than 12 months, and
 - (b) may do so in any other case.
- (2) For this purpose, “provision for review” means provision—
- (a) for the requirement to be reviewed periodically at intervals of not less than one month,
 - (b) for each review of the requirement to be made at a hearing held for the purpose by the responsible court (a “review hearing”),
 - (c) requiring the offender to attend each review hearing,
 - (d) requiring a written report on the offender's progress under the requirement to be made by an officer of a provider of probation services to the responsible court before each review hearing, and
 - (e) requiring each such report to include—
 - (i) the test results communicated to the responsible officer under paragraph 19(7) or otherwise, and
 - (ii) the views of the treatment provider as to the treatment and testing of the offender.
- (3) Paragraphs (b) and (c) of sub-paragraph (2) are subject to paragraph 22(6) (hearing not necessary for review).
- (4) In this paragraph, “the responsible court”, in relation to a relevant order imposing a drug rehabilitation requirement, means—
- (a) if a court is specified as the responsible court under sub-paragraph (5), that court;
 - (b) otherwise, the court which made the order.
- (5) Where—
- (a) a magistrates' court makes a relevant order imposing a drug rehabilitation requirement, and
 - (b) the area for which the court acts is not the offender's home local justice area, the court may specify in the order a magistrates' court which acts in the offender's home local justice area as the responsible court.
- (6) For the purposes of sub-paragraph (4)(b), a relevant order imposing a drug rehabilitation requirement which is made on an appeal—
- (a) from the Crown Court, or
 - (b) from the Court of Appeal,
- is to be treated as having been made by the Crown Court.

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Modifications etc. (not altering text)

- C4** Sch. 9 para. 21 modified by 2006 c. 52, s. 179 (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 4](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

Commencement Information

- I3** Sch. 9 para. 21 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Periodic review of drug rehabilitation requirement

- 22 (1) This paragraph applies in relation to a relevant order which imposes a drug rehabilitation requirement that is subject to review.
- (2) At a review hearing the court may, after considering the officer's report referred to in paragraph 21(2)(d) (“the review officer's report”), amend the relevant order, so far as it relates to the drug rehabilitation requirement.
- (3) The court—
- (a) may not amend the drug rehabilitation requirement unless the offender expresses willingness to comply with the requirement as amended, and
 - (b) except with the consent of the offender, may not amend any requirement or provision of the order while an appeal against the order is pending.
- (4) If the offender fails to express willingness to comply with the drug rehabilitation requirement as proposed to be amended by the court, the court may—
- (a) revoke the community order, or the suspended sentence order and the suspended sentence to which it relates, and
 - (b) re-sentence the offender.
- (5) In dealing with the offender under sub-paragraph (4)(b), the court—
- (a) must take into account the extent to which the offender has complied with the requirements of the order, and
 - (b) may impose a custodial sentence even if it is not of the opinion mentioned in section 230(2) (general restrictions on imposing discretionary custodial sentences).
- (6) Where at a review hearing the court—
- (a) has considered the review officer's report, and
 - (b) is of the opinion that the offender's progress under the requirement is satisfactory,
- the court may amend the order so that it provides for each subsequent review to be made by the court without a hearing.
- (7) Where at a review without a hearing the court—
- (a) has considered the review officer's report, and
 - (b) is of the opinion that the offender's progress under the requirement 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—

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- (a) exercise the powers conferred by this paragraph as if the hearing were a review hearing, and
 - (b) amend the order so that it provides for each subsequent review to be made at a review hearing.
- (9) In this paragraph—
- “responsible court” has the same meaning as in paragraph 21;
 - “review hearing” has the meaning given by paragraph 21(2)(b).
- (10) In relation to a review without a hearing, a reference in this paragraph to the court is to be read—
- (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.
- (11) If an officer of a provider of probation services is of the opinion that the order should be amended so as to provide for each subsequent review to be made—
- (a) without a hearing instead of at a review hearing, or
 - (b) at a review hearing instead of without a hearing,
- the officer must apply under paragraph 18 of Schedule 10 (amendment of requirements of community order) or paragraph 25 of Schedule 16 (amendment of community requirements of suspended sentence order) to the responsible court for the order to be amended.

Modifications etc. (not altering text)

- C5** Sch. 9 para. 22 modified by 2006 c. 52, s. 179 (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 4](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

Commencement Information

- I4** Sch. 9 para. 22 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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