



Criminal Justice and Courts Services Act 2000

2000 CHAPTER 43

PART III

DEALING WITH OFFENDERS

CHAPTER I

COMMUNITY SENTENCES

Renaming certain community orders

43 Probation orders renamed community rehabilitation orders

- (1) An order under subsection (1) of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders), whenever made, is to be referred to as a community rehabilitation order.
- (2) References in any enactment, instrument or document to a community rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.
- (3) Accordingly—
 - (a) in subsection (2) of that section, for ““probation order”” there is substituted ““community rehabilitation order””, but
 - (b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.
- (4) References in any enactment, instrument or document to a probation order—
 - (a) are to an order under any provision corresponding to section 41(1) of that Act which is repealed by that Act, and

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(b) include (where the context allows) an order under that subsection.

(5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—

““community rehabilitation order” has the meaning given by section 43 of the Criminal Justice and Court Services Act 2000”.

44 Community service orders renamed community punishment orders

(1) An order under subsection (1) of section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders), whenever made, is to be referred to as a community punishment order.

(2) References in any enactment, instrument or document to a community punishment order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.

(3) Accordingly—

(a) in subsection (2) of that section, for ““community service order”” there is substituted ““community punishment order””, but

(b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.

(4) References in any enactment, instrument or document to a community service order—

(a) are to an order under any provision corresponding to section 46(1) of that Act which is repealed by that Act, and

(b) include (where the context allows) an order under that subsection.

(5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), in the definition of “community service order”—

(a) for “service” there is substituted “punishment”,

(b) for the words from “means” to the first mention of “above” there is substituted “has the meaning given by section 44 of the Criminal Justice and Court Services Act 2000”,

and that definition is moved to follow the definition of “community order”.

45 Combination orders renamed community punishment and rehabilitation orders

(1) An order under subsection (1) of section 51 of the Powers of Criminal Courts (Sentencing) Act 2000 (combination orders), whenever made, is to be referred to as a community punishment and rehabilitation order.

(2) References in any enactment, instrument or document to a community punishment and rehabilitation order include (where the context allows) an order under any provision corresponding to that subsection which is repealed by that Act.

(3) Accordingly—

(a) in subsection (2) of that section, for ““combination order”” there is substituted ““community punishment and rehabilitation order””, but

(b) paragraph 1(3) of Schedule 11 to that Act (general transitional provisions) does not apply to that subsection as amended by this.

(4) References in any enactment, instrument or document to a combination order—

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- (a) are to an order under any provision corresponding to section 51(1) of that Act which is repealed by that Act, and
 - (b) include (where the context allows) an order under that subsection.
- (5) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate place there is inserted—
- ““community punishment and rehabilitation order” has the meaning given by section 45 of the Criminal Justice and Court Services Act 2000”.

New community orders

46 Exclusion orders

After section 40 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

“Exclusion orders

40A Exclusion 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 prohibiting him from entering a place specified in the order for a period so specified of not more than two years.
- (2) An order under subsection (1) above is in this Act referred to as an “exclusion order”.
- (3) An exclusion order—
 - (a) may provide for the prohibition to operate only during the periods specified in the order;
 - (b) may specify different places for different periods or days.
- (4) In relation to an offender aged under 16 on conviction, subsection (1) above shall have effect as if the reference to two years were a reference to three months.
- (5) The requirements in an exclusion 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) An exclusion order shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (7) An exclusion order shall specify the petty sessions area in which the offender resides or will reside.

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- (8) A court shall not make an exclusion 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.
- (9) Before making an exclusion 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 an exclusion 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 36B above (electronic monitoring));
 - (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 of the offender, the responsible officer or any affected person.
- (11) The court by which an exclusion order is made shall—
- (a) give a copy of the order to the offender and the responsible officer; and
 - (b) give to any affected person any information relating to the order which the court considers it appropriate for him to have.
- (12) In this section, “place” includes an area.
- (13) For the purposes of this Act, a person is an affected person in relation to an exclusion order if—
- (a) a requirement under section 36B(1) above is included in the order by virtue of his consent; or
 - (b) a prohibition is included in the order for the purpose (or partly for the purpose) of protecting him from being approached by the offender.
- (14) In this Act, “responsible officer”, in relation to an offender subject to an exclusion order, means the person who is responsible for monitoring the offender's whereabouts during the periods when the prohibition operates.

40B Breach, revocation and amendment of exclusion 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 exclusion orders.

40C Exclusion orders: supplementary

- (1) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of persons who are subject to exclusion orders; and

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(b) without prejudice to the generality of paragraph (a) above, the functions of persons who are responsible officers in relation to offenders subject to exclusion orders.

(2) The Secretary of State may by order direct that section 40A(5) above shall have effect with such additional restrictions as may be specified in the order.”

47 Drug abstinence orders

After section 58 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

“Drug abstinence orders

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
 - (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

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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.

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 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.”

Miscellaneous

48 Pre-sentence drug testing

In Chapter I of Part IV of the Powers of Criminal Courts (Sentencing) Act 2000, after section 36 there is inserted—

“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 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.”

49 Community sentences: drug abstinence requirements

(1) In section 42 of the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), in subsection (2)—

(a) after “above” there is inserted—

“a),

(b) at the end there is inserted—

“(b) subject to subsections (2D) and (2F) below, the order shall, if the first set of conditions is satisfied, include a drug abstinence requirement and may include such a requirement if the second set of conditions is satisfied.

(2A) For the purposes of this Part of this Act, a drug abstinence requirement is a requirement for the offender—

(a) to abstain from misusing specified Class A drugs; and

(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.

(2B) The first set of conditions is—

(a) that the offender was aged 18 or over on the date of his conviction for the offence;

(b) that, in the opinion of the court, the offender is dependent on or has a propensity to misuse specified Class A drugs; and

(c) that the offence is a trigger offence.

(2C) The second set of conditions is—

(a) that the offender was aged 18 or over on the date of his conviction for the offence; and

(b) that, in the opinion of the court—

(i) the offender is dependent on or has a propensity to misuse specified Class A drugs; and

(ii) the misuse by the offender of any specified Class A drug caused or contributed to the offence.

(2D) The order may not include a drug abstinence requirement if—

(a) the community rehabilitation order includes any requirement in respect of drugs under paragraph 6 of Schedule 2 to this Act; or

(b) the community sentence includes a drug treatment and testing order or a drug abstinence order.

(2E) The function of giving instructions for the purposes of subsection (2A)(b) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules for regulating the provision of samples in pursuance of such instructions.

(2F) The court shall not include a drug abstinence requirement in the order unless the court has been notified by the Secretary of State that arrangements for implementing such requirements are available in the

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area proposed to be specified under section 41(3) above and the notice has not been withdrawn.”

- (2) In section 47 of that Act (obligations of person subject to community punishment order), after subsection (3) there is inserted—

“(3A) Subject to subsection (3B) below, the community punishment order shall, if the set of conditions in section 42(2B) above is satisfied, include a drug abstinence requirement and may include such a requirement if the set of conditions in section 42(2C) above is satisfied.

(3B) The order may not include a drug abstinence requirement if the community sentence includes a drug treatment and testing order or a drug abstinence order.

(3C) Subsections (2E) and (2F) of section 42 above apply for the purposes of this section as they apply for the purposes of that.”

50 Community sentences: curfew requirements

In Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), after paragraph 6 there is inserted—

“Curfew requirements

- 7 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement that the offender remain, for periods specified in the requirement, at a place so specified.
- (2) A requirement under sub-paragraph (1) above 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 the order is made; or
 - (b) periods which amount to less than two hours or more than twelve hours in any one day.
- (3) A requirement under sub-paragraph (1) above 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.
- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the requirement; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above 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

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proposed to be specified in the requirement is situated and the notice has not been withdrawn.

- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes a curfew order.
- (7) Before including in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above, the court shall obtain and consider information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).
- (8) The Secretary of State may make rules for regulating—
 - (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
 - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the requirement.
- (9) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.”

51 Community sentences: exclusion requirements

In Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (additional requirements which may be included in community rehabilitation orders), after paragraph 7 there is inserted—

“Exclusion requirements

- 8 (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement prohibiting the offender from entering a place specified in the requirement for a period so specified of not more than two years.
- (2) A requirement under sub-paragraph (1) above—
 - (a) may provide for the prohibition to operate only during the periods specified in the order;
 - (b) may specify different places for different periods or days.
- (3) A requirement under sub-paragraph (1) above 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.
- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender’s whereabouts during the periods when the prohibition operates;

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and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.

- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above 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.
- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes an exclusion order.
- (7) The Secretary of State may make rules for regulating—
 - (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
 - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender's whereabouts during the periods when the prohibition operates.
- (8) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.
- (9) In this paragraph, “place” includes an area.”

52 Community sentences: electronic monitoring of requirements

After section 36A of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

“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—

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- (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,

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.”

53 Breach of community orders: warning and punishment

- (1) Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of requirements of community orders) is amended as follows.

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(2) After paragraph 1(1) there is inserted—

“(1A) The orders mentioned in paragraphs (a) to (d) and (f) of sub-paragraph (1) above and, if an order made by the Secretary of State so provides, any other order mentioned in that sub-paragraph are referred to in this Schedule as orders to which the warning provisions apply.”

(3) In Part II, before paragraph 3 (and the cross-heading preceding it) there is inserted—

“Functions of responsible officer

2A (1) Sub-paragraphs (2) and (3) below apply if the responsible officer is of the opinion that a person aged 18 or over (“the offender”) has failed without reasonable excuse to comply with any of the requirements of an order to which the warning provisions apply other than a requirement to abstain from misusing specified Class A drugs.

(2) The officer shall give him a warning under this paragraph if—

- (a) the offender has not within the specified period been given a warning under this paragraph in respect of a failure to comply with any of the requirements of the order; and
- (b) the officer does not cause an information to be laid before a justice of the peace in respect of the failure in question.

(3) If the offender has within the specified period been given such a warning, the officer shall cause an information to be laid before a justice of the peace in respect of the failure in question.

(4) In sub-paragraphs (2) and (3) above, “specified period” means—

- (a) in the case of a curfew order, the period of six months;
- (b) in any other case, the period of twelve months;

ending with the failure in question.

(5) A warning under this paragraph must—

- (a) describe the circumstances of the failure;
- (b) state that the failure is unacceptable;
- (c) inform the offender that if within the next six or (as the case may be) twelve months he again fails to comply with any requirement of the order, he will be liable to be brought before a court;

and the officer shall, as soon as is practicable after the warning has been given, record that fact.

(6) If a community sentence consists of or includes two or more orders to which the warning provisions apply, being orders in respect of the same offence—

- (a) the preceding provisions of this paragraph shall have effect as if those orders were a single order to which the warning provisions apply; and
- (b) where one of those orders is a curfew order that fact shall be disregarded for the purposes of sub-paragraph (4) above.”

(4) In paragraph 4, for sub-paragraph (1) there is substituted—

- “(1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.
- (1A) In a case where the offender is aged 18 or over and the order is one to which the warning provisions apply, the magistrates' court shall impose a sentence of imprisonment for the offence in respect of which the order was made unless it is of the opinion—
- (a) that the offender is likely to comply with the requirements of the order during the period for which it remains in force; or
 - (b) that the exceptional circumstances of the case justify not imposing a sentence of imprisonment.
- (1B) The sentence of imprisonment—
- (a) where the offence was an offence punishable by imprisonment, shall be for the term which, if—
 - (i) he had just been convicted of the offence by the court, and
 - (ii) section 79(2) of this Act did not apply,the court would impose on him for that offence; and
 - (b) in any other case, shall be for a term not exceeding three months; taking account of the extent to which he has complied with the requirements of the order.
- (1C) If in a case within sub-paragraph (1A) above the court does not impose a sentence of imprisonment or if the case is not within that sub-paragraph, the magistrates' court may deal with him in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 6A below);
 - (b) where the offender is aged 16 or over, by making a community punishment order in respect of him (subject to paragraph 7 below);
 - (c) where the offender is aged under 21, by making an attendance centre order in respect of him (subject to paragraph 8 below); or
 - (d) where the relevant order was made by a magistrates' court, by dealing with him, for the offence in respect of which the order was made, in any way in which the court could deal with him if he had just been convicted by it of the offence.”

(5) In paragraph 5, for sub-paragraph (1) there is substituted—

“(1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(4) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.

(1A) In a case where the offender is aged 18 or over and the order is one to which the warning provisions apply, the Crown Court shall impose a sentence of imprisonment for the offence in respect of which the order was made unless it is of the opinion—

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- (a) that the offender is likely to comply with the requirements of the order during the period for which it remains in force; or
- (b) that the exceptional circumstances of the case justify not imposing a sentence of imprisonment.

(1B) The sentence of imprisonment—

- (a) where the offence was an offence punishable by imprisonment, shall be for the term which, if—
 - (i) he had just been convicted of the offence by the court, and
 - (ii) section 79(2) of this Act did not apply,
 the court would impose on him for that offence; and
- (b) in any other case, shall be for a term not exceeding three months; taking account of the extent to which he has complied with the requirements of the order.

(1C) If in a case within sub-paragraph (1A) above the court does not impose a sentence of imprisonment or if the case is not within that sub-paragraph, the Crown Court may deal with him in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—

- (a) by making a curfew order in respect of him (subject to paragraph 6A below);
- (b) where the offender is aged 16 or over, by making a community punishment order in respect of him (subject to paragraph 7 below);
- (c) where the offender is aged under 21, by making an attendance centre order in respect of him (subject to paragraph 8 below); or
- (d) by dealing with him, for the offence in respect of which the order was made, in any way in which the Crown Court could deal with him if he had just been convicted before it of the offence.”

(6) In paragraph 6, at the end there is inserted—

“(3) Paragraphs 4(1A) and 5(1A) above do not apply in respect of a failure to comply with a requirement to abstain from misusing specified Class A drugs.”

54 Breach of community orders: failure to answer summons

After paragraph 3(2) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach, revocation and amendment of certain community orders) there is inserted—

- “(3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.
- (4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.”

55 Regulation of community orders

- (1) Regulations made by the Secretary of State may provide for—
- (a) the supervision of persons subject to community rehabilitation orders or community punishment and rehabilitation orders,
 - (b) the arrangements to be made by local probation boards for persons subject to community punishment orders, or community punishment and rehabilitation orders, to perform work and the performance of such work.
- (2) In particular, they may regulate the functions of—
- (a) officers of local probation boards and members of youth offending teams who are responsible for the supervision of offenders subject to community rehabilitation orders, and
 - (b) officers of local probation boards or other persons who are, in relation to persons subject to community punishment orders, responsible officers (within the meaning of section 46(13) of the Powers of Criminal Courts (Sentencing) Act 2000).
- (3) Regulations made by virtue of subsection (1)(b) may, in particular, make provision—
- (a) limiting the number of hours of work to be done by a person on any one day,
 - (b) as to the reckoning of hours worked and the keeping of work records, and
 - (c) for the payment of travelling and other expenses in connection with the performance of work.

CHAPTER II

MISCELLANEOUS

*Young offenders: reprimands and warnings***56 Reprimands and warnings**

- (1) In section 65 of the Crime and Disorder Act 1998 (reprimands and warnings)—
- (a) for subsection (5)(a) there is substituted—
 - “(a) where the offender is under the age of 17, give any reprimand or warning in the presence of an appropriate adult; and”
 - (b) in subsection (6), after paragraph (a) there is inserted—
 - “(aa) the places where reprimands and warnings may be given”.
- (2) In section 34 of the Police and Criminal Evidence Act 1984 (limitations on police detention), for subsection (5)(b) there is substituted—
- “(b) that, in respect of any such matter, proceedings may be taken against him or he may be reprimanded or warned under section 65 of the Crime and Disorder Act 1998”.

Police powers: drugs

57 Testing persons in police detention

- (1) The Police and Criminal Evidence Act 1984 is amended in accordance with subsections (2) to (4).
- (2) After section 63A there is inserted—

“63B Testing for presence of Class A drugs

- (1) A sample of urine or a non-intimate sample may be taken from a person in police detention for the purpose of ascertaining whether he has any specified Class A drug in his body if the following conditions are met.
- (2) The first condition is—
 - (a) that the person concerned has been charged with a trigger offence; or
 - (b) that the person concerned has been charged with an offence and a police officer of at least the rank of inspector, who has reasonable grounds for suspecting that the misuse by that person of any specified Class A drug caused or contributed to the offence, has authorised the sample to be taken.
- (3) The second condition is that the person concerned has attained the age of 18.
- (4) The third condition is that a police officer has requested the person concerned to give the sample.
- (5) Before requesting the person concerned to give a sample, an officer must—
 - (a) warn him that if, when so requested, he fails without good cause to do so he may be liable to prosecution, and
 - (b) in a case within subsection (2)(b) above, inform him of the giving of the authorisation and of the grounds in question.
- (6) A sample may be taken under this section only by a person prescribed by regulations made by the Secretary of State by statutory instrument.

No regulations shall be made under this subsection unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (7) Information obtained from a sample taken under this section may be disclosed—
 - (a) for the purpose of informing any decision about granting bail in criminal proceedings (within the meaning of the Bail Act 1976) to the person concerned;
 - (b) where the person concerned is in police detention or is remanded in or committed to custody by an order of a court or has been granted such bail, for the purpose of informing any decision about his supervision;
 - (c) where the person concerned is convicted of an offence, for the purpose of informing any decision about the appropriate sentence to be passed by a court and any decision about his supervision or release;
 - (d) for the purpose of ensuring that appropriate advice and treatment is made available to the person concerned.

- (8) A person who fails without good cause to give any sample which may be taken from him under this section shall be guilty of an offence.

63C Testing for presence of Class A drugs: supplementary

- (1) A person guilty of an offence under section 63B above shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding level 4 on the standard scale, or to both.
- (2) A police officer may give an authorisation under section 63B above orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.
- (3) If a sample is taken under section 63B above by virtue of an authorisation, the authorisation and the grounds for the suspicion shall be recorded as soon as is practicable after the sample is taken.
- (4) If the sample is taken from a person detained at a police station, the matters required to be recorded by subsection (3) above shall be recorded in his custody record.
- (5) Subsections (11) and (12) of section 62 above apply for the purposes of section 63B above as they do for the purposes of that section; and section 63B above does not prejudice the generality of sections 62 and 63 above.
- (6) In section 63B above—
 “Class A drug” and “misuse” have the same meanings as in the Misuse of Drugs Act 1971;
 “specified” (in relation to a Class A drug) and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”
- (3) In section 38 (duties of custody officer after charge)—
 (a) in subsection (1)(a), after sub-paragraph (iii) there is inserted—
 “(iiia) in the case of a person who has attained the age of 18, the custody officer has reasonable grounds for believing that the detention of the person is necessary to enable a sample to be taken from him under section 63B below”,
 (b) at the end of subsection (2) there is inserted “but may not authorise a person to be kept in police detention by virtue of subsection (1)(a)(iiia) after the end of the period of six hours beginning when he was charged with the offence”.
- (4) At the end of section 66 (codes of practice) there is inserted—
 “(2) Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B above.”
- (5) The Secretary of State may by order amend section 63B(2) of that Act so as to extend it to persons who have been arrested for (but not charged with) the offences in question.

*Bail***58 Right to bail: relevance of drug misuse**

In section 4 of the Bail Act 1976 (general right to bail), after subsection (8) there is inserted—

“(9) In taking any decisions required by Part I or II of Schedule 1 to this Act, the considerations to which the court is to have regard include, so far as relevant, any misuse of controlled drugs by the defendant (“controlled drugs” and “misuse” having the same meanings as in the Misuse of Drugs Act 1971).”

*Detention***59 Remand centres**

In section 43(1) of the Prison Act 1952 (places of detention provided by Secretary of State), paragraph (a) (remand centres) is to cease to have effect.

60 Life sentences: tariffs

(1) After section 82 of the Powers of Criminal Courts (Sentencing) Act 2000 there is inserted—

*“Life sentences***82A Determination of tariffs**

- (1) This section applies if a court passes a life sentence in circumstances where—
 - (a) the sentence is not fixed by law; or
 - (b) the offender was aged under 18 when he committed the offence.
- (2) The court shall, unless it makes an order under subsection (4) below, order that the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (referred to in this section as the “early release provisions”) shall apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence shall be such as the court considers appropriate taking into account—
 - (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it;
 - (b) the effect of any direction which it would have given under section 87 below (crediting periods of remand in custody) if it had sentenced him to a term of imprisonment; and
 - (c) the early release provisions as compared with sections 33(2) and 35(1) of the Criminal Justice Act 1991.
- (4) If the court is of the opinion that, because of the seriousness of the offence or of the combination of the offence and one or more offences associated with it, no order should be made under subsection (2) above, the court shall order that,

subject to subsection (5) below, the early release provisions shall not apply to the offender.

(5) If, in a case where an order under subsection (4) above is in force, the offender was aged under 18 when he committed the offence, the Secretary of State shall at the appropriate stage direct that the early release provisions shall apply to the offender as soon as he has served the part of his sentence which is specified in the direction.

(6) The appropriate stage, for the purposes of subsection (5) above, is when the Secretary of State has formed the opinion, having regard to any factors determined by him to be relevant for the purpose, that it is appropriate for him to give the direction.

(7) In this section—

“court” includes a court-martial;

“life sentence” has the same meaning as in Chapter II of Part II of the Crime (Sentences) Act 1997.

(8) So far as this section relates to sentences passed by a court-martial, section 167(1) below does not apply.”

(2) In section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders who commit murder when under 18: duty to detain at Her Majesty’s pleasure), after “murder” there is inserted “or any other offence the sentence for which is fixed by law as life imprisonment”; and, in the sidenote, after “murder” there is inserted “etc.”.

(3) This section has effect in relation to sentences passed after the coming into force of this section.

(4) In relation to any time before the coming into force of section 87 of the Powers of Criminal Courts (Sentencing) Act 2000, section 82A of that Act shall have effect as if, in paragraph (b) of subsection (3), for “of any direction which it would have given under section 87 below (crediting periods of remand in custody)” there were substituted “which section 67 of the Criminal Justice Act 1967 would have had”.

61 Abolition of sentences of detention in a young offender institution, custody for life, etc

(1) No court is to pass a sentence of detention in a young offender institution or a sentence of custody for life, and no court is to make a custodial order except in relation to a person who is aged at least 17 but under 18.

(2) No court is to commit a person to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention of persons aged at least 18 but under 21 for default or contempt) or make an order fixing a term of detention under that section.

(3) A person who—

(a) has been sentenced (before the coming into force of this section) to a term of detention in a young offender institution, to custody for life or to a custodial order, and

(b) is aged at least 18 but under 21,

may be detained in a young offender institution, or in a prison, determined by the Secretary of State.

- (4) A person—
- (a) who has been committed (before the coming into force of this section) to be detained under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 or in respect of whom an order fixing a term of detention under that section has been made (before the coming into force of this section), and
 - (b) who is aged under 21,
- may be detained in a young offender institution, or in a prison, determined by the Secretary of State.
- (5) A person who has been sentenced to imprisonment and is aged under 21 may be detained—
- (a) in a prison, or
 - (b) in a young offender institution in which one or more persons mentioned in subsection (3) or (4) are detained,
- determined by the Secretary of State.
- (6) A determination of the Secretary of State under this section may be made in respect of an individual or any description of individuals.
- (7) The repeal by this Act of section 106(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (interaction of sentences of detention in a young offender institution) does not affect the validity of any order made, or having effect as if made, under paragraph (b) of that subsection.
- (8) In this section—
- “court” includes a court-martial and a Standing Civilian Court,
- “custodial order” means an order under—
- (a) section 71AA of, or paragraph 10 of Schedule 5A to, the Army Act 1955,
 - (b) section 71AA of, or paragraph 10 of Schedule 5A to, the Air Force Act 1955,
 - (c) section 43AA of, or paragraph 10 of Schedule 4A to, the Naval Discipline Act 1957.
- (9) On the coming into force of this section—
- (a) paragraph (b) of the definition of “qualifying sentence” in section 30(1), and
 - (b) paragraph (b) of the definition of “relevant sentence” in section 69(7),
- are omitted.

Release of prisoners on licence etc.

62 Release on licence etc: conditions as to monitoring

- (1) This section applies where a sentence of imprisonment has been imposed on a person and, by virtue of any enactment—
- (a) the Secretary of State is required to, or may, release the person from prison, and
 - (b) the release is required to be, or may be, subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) The conditions may include—

- (a) conditions for securing the electronic monitoring of his compliance with any other conditions of his release,
 - (b) conditions for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with other conditions of his release).
- (3) In relation to a prisoner released under section 34A(3) of the Criminal Justice Act 1991 (power to release short-term prisoners on licence) the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 37A of that Act (curfew conditions).
- (4) The Secretary of State may make rules about the conditions that may be imposed by virtue of this section.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
 - (b) a sentence of detention in a young offender institution,
 - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
 - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
 - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

63 Supervision of young offenders after release

- (1) Section 65 of the Criminal Justice Act 1991 is amended as follows.
- (2) After subsection (5) there is inserted—
- “(5A) The requirements that may be specified in a notice under subsection (5) above include—
- (a) requirements for securing the electronic monitoring of the person’s compliance with any other requirements specified in the notice;
 - (b) requirements for securing the electronic monitoring of his whereabouts (otherwise than for the purpose of securing his compliance with requirements specified in the notice);
 - (c) in the circumstances mentioned in subsection (5B) below, requirements to provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the person has any specified Class A drug in his body.
- (5B) The circumstances referred to in subsection (5A)(c) above are that—
- (a) the person has attained the age of 18 years;
 - (b) his term of detention was imposed for a trigger offence; and
 - (c) the requirements to provide samples are being imposed for the purpose of determining whether he is complying with any other requirements specified in the notice.

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

- (5C) Requirements imposed by virtue of subsection (5A) above shall not have effect on or after the day on which the person would (but for his release) have served his term in full.
- (5D) The function of giving such an instruction as is mentioned in subsection (5A) (c) above shall be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (5A) above and the provision of samples in pursuance of such an instruction.”
- (3) After subsection (8) there is inserted—
- “(9) The power to make rules under this section—
- (a) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament;
 - (b) shall include power to make different provision for different cases or classes of case.
- (10) In this section, “specified Class A drug” and “trigger offence” have the same meanings as in Part III of the Criminal Justice and Court Services Act 2000.”

64 Release on licence etc: drug testing requirements

- (1) This section applies where—
- (a) the Secretary of State releases from prison a person aged 18 or over on whom a sentence of imprisonment has been imposed for a trigger offence, and
 - (b) the release is subject to conditions (whether conditions of a licence or any other conditions, however expressed).
- (2) For the purpose of determining whether the person is complying with any of the conditions, they may include the following requirement.
- (3) The requirement is that the person must provide, when instructed to do so by an officer of a local probation board or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether he has any specified Class A drug in his body.
- (4) The function of giving such an instruction is to be exercised in accordance with guidance given from time to time by the Secretary of State; and regulations made by the Secretary of State may regulate the provision of samples in pursuance of such an instruction.
- (5) In this section, “sentence of imprisonment” includes—
- (a) a detention and training order,
 - (b) a sentence of detention in a young offender institution,
 - (c) a sentence of detention under section 90 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty’s pleasure),
 - (d) a sentence of detention under section 91 of that Act (detention of offenders under 18 convicted of certain serious offences),
 - (e) a sentence of custody for life under section 93 or 94 of that Act,
- and “prison” shall be construed accordingly.

65 Short-term prisoners: release subject to curfew conditions

In section 34A of the Criminal Justice Act 1991 (power to release short-term prisoners on licence), after subsection (2)(d) there is inserted—

“(da) the prisoner is subject to the notification requirements of Part I of the Sex Offenders Act 1997;”.

Sexual or violent offenders

66 Amendments of the Sex Offenders Act 1997

Schedule 5 (which amends the Sex Offenders Act 1997 in respect of persons who are subject to the notification requirements of that Act to make provision, in particular, for—

- (a) altering the requirements,
- (b) increasing penalties,
- (c) enabling courts to make restraining orders, and
- (d) improving the information held about such persons),

is to have effect.

67 Arrangements for assessing etc. risks posed by certain offenders

(1) In this section—

“relevant sexual or violent offender” has the meaning given by section 68, and

“responsible authority”, in relation to any area, means the chief officer of police and the local probation board for that area acting jointly.

(2) The responsible authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by—

- (a) relevant sexual or violent offenders, and
- (b) other persons who, by reason of offences committed by them (wherever committed), are considered by the responsible authority to be persons who may cause serious harm to the public.

(3) The responsible authority for each area must keep the arrangements established by it under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.

(4) As soon as practicable after the end of the period of 12 months beginning with the coming into force of this section and each subsequent period of 12 months, the responsible authority for each area must—

- (a) prepare a report on the discharge by it during that period of the functions conferred by this section, and
- (b) publish the report in that area.

(5) The report must include—

- (a) details of the arrangements established by the responsible authority, and
- (b) information of such descriptions as the Secretary of State has notified to the responsible authority that he wishes to be included in the report.

- (6) The Secretary of State may issue guidance to responsible authorities on the discharge of the functions conferred by this section.

68 Section 67: interpretation

- (1) For the purposes of section 67, a person is a relevant sexual or violent offender if he falls within one or more of subsections (2) to (5).
- (2) A person falls within this subsection if he is subject to the notification requirements of Part I of the Sex Offenders Act 1997.
- (3) A person falls within this subsection if—
- (a) he is convicted by a court in England or Wales of a sexual or violent offence (within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000), and
 - (b) one of the following sentences is imposed on him in respect of the conviction—
 - (i) a sentence of imprisonment for a term of 12 months or more,
 - (ii) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (iii) a sentence of detention during Her Majesty’s pleasure,
 - (iv) a sentence of detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences),
 - (v) a detention and training order for a term of 12 months or more, or
 - (vi) a hospital or guardianship order within the meaning of the Mental Health Act 1983.
- (4) A person falls within this subsection if—
- (a) he is found not guilty by a court in England or Wales of a sexual or violent offence (within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000) by reason of insanity or to be under a disability and to have done the act charged against him in respect of such an offence, and
 - (b) one of the following orders is made in respect of the act charged against him as the offence—
 - (i) an order that he be admitted to hospital, or
 - (ii) a guardianship order within the meaning of the Mental Health Act 1983.
- (5) A person falls within this subsection if the first condition set out in section 28(2) or 29(2) or the second condition set out in section 28(3) or 29(3) is satisfied in his case.
- (6) In this section “court” does not include a court-martial or the Courts-Martial Appeal Court.

69 Duties of local probation boards in connection with victims of certain offences

- (1) This section applies in a case where a court—
- (a) convicts an offender of a sexual or violent offence, and
 - (b) imposes a relevant sentence on him in respect of that conviction.

- (2) In cases where this section applies, the local probation board for the area in which the offender is sentenced must take all reasonable steps to ascertain whether any appropriate person wishes to—
- (a) make representations about whether the offender should be subject to any conditions or requirements on his release and, if so, what conditions or requirements, or
 - (b) receive information about any conditions or requirements to which the offender is to be subject on his release.
- (3) In this section, “appropriate person”, in relation to an offence, means any person who appears to the local probation board in question to be, or to act for, the victim of the offence (“the victim”).
- (4) Where it is ascertained that an appropriate person wishes to make representations in accordance with paragraph (a) of subsection (2), the relevant local probation board must forward those representations to the person responsible for determining the matters mentioned in that paragraph.
- (5) Where it is ascertained that an appropriate person wishes to receive information in accordance with subsection (2)(b), the relevant local probation board must take all reasonable steps—
- (a) to inform that person whether or not the offender is to be subject to any conditions or requirements on his release,
 - (b) if the offender is to be subject to any such conditions or requirements, to provide that person with details of any conditions or requirements which relate to contact with the victim or his family, and
 - (c) to provide that person with such other information as is considered by that local probation board to be appropriate in all the circumstances of the case.
- (6) For the purposes of subsections (4) and (5), “relevant local probation board” means—
- (a) where the offender is to be supervised on release by an officer of a local probation board, that local probation board,
 - (b) in any other case, the local probation board for the area in which the prison or other place of detention from which the offender is to be released is situated.
- (7) In this section—
- “conditions” means conditions in a licence,
- “court” does not include a court-martial or the Courts-Martial Appeal Court,
- “relevant sentence” means—
- (a) a sentence of imprisonment for a term of 12 months or more,
 - (b) a sentence of detention in a young offender institution for a term of 12 months or more,
 - (c) a sentence of detention during Her Majesty’s pleasure,
 - (d) a sentence of detention for a period of 12 months or more under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences), or
 - (e) a detention and training order for a term of 12 months or more,
- “requirements” means requirements specified in a notice under section 65(5) of the Criminal Justice Act 1991 (requirements imposed in connection with supervision of young offenders after release).

- (8) An offence is a sexual or violent offence for the purposes of this section if it is—
- (a) a sexual or violent offence within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000,
 - (b) an offence in respect of which the offender is subject to the notification requirements of Part I of the Sex Offenders Act 1997, or
 - (c) an offence against a child within the meaning of Part II of this Act.
- (9) This section has effect in relation to cases where the relevant sentence is imposed after the section comes into force.

CHAPTER III

SUPPLEMENTARY

70 Interpretation, etc

- (1) In this Part—
- “Class A drug” has the same meaning as in the Misuse of Drugs Act 1971,
 - “specified”, in relation to a Class A drug, means specified by an order made by the Secretary of State,
 - “trigger offence” has the meaning given by Schedule 6.
- (2) The Secretary of State may by order amend Schedule 6 so as to add, modify or omit any description of offence.
- (3) In this Part (except in section 69), references to release include temporary release.
- (4) In section 163 of the Powers of Criminal Courts (Sentencing) Act 2000 (general definitions), at the appropriate places there are inserted—
- ““specified Class A drug” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”,
 - ““trigger offence” has the same meaning as in Part III of the Criminal Justice and Court Services Act 2000”.
- (5) Section 53 does not apply in relation to any community order made before that section comes into force.