

## SCHEDULES

### SCHEDULE 2

Section 42.

#### ADDITIONAL REQUIREMENTS WHICH MAY BE INCLUDED IN PROBATION ORDERS

##### *Requirements as to residence*

- 1 (1) Subject to sub-paragraphs (2) and (3) below, a probation order may include requirements as to the residence of the offender.
- (2) Before making a probation order containing any such requirement, the court shall consider the home surroundings of the offender.
- (3) Where a probation order requires the offender to reside in an approved hostel or any other institution, the period for which he is required to reside there shall be specified in the order.

##### *Requirements as to activities etc.*

- 2 (1) Subject to the provisions of this paragraph, a probation order may require the offender—
- (a) to present himself to a person or persons specified in the order at a place or places so specified;
  - (b) to participate or refrain from participating in activities specified in the order—
    - (i) on a day or days so specified; or
    - (ii) during the probation period or such portion of it as may be so specified.
- (2) A court shall not include in a probation order a requirement such as is mentioned in sub-paragraph (1) above unless—
- (a) it has consulted—
    - (i) in the case of an offender aged 18 or over, a probation officer; or
    - (ii) in the case of an offender aged under 18, either a probation officer or a member of a youth offending team; and
  - (b) it is satisfied that it is feasible to secure compliance with the requirement.
- (3) A court shall not include a requirement such as is mentioned in sub-paragraph (1)(a) above or a requirement to participate in activities if it would involve the co-operation of a person other than the offender and the offender's responsible officer, unless that other person consents to its inclusion.
- (4) A requirement such as is mentioned in sub-paragraph (1)(a) above shall operate to require the offender—
- (a) in accordance with instructions given by his responsible officer, to present himself at a place or places for not more than 60 days in the aggregate; and

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- (b) while at any place, to comply with instructions given by, or under the authority of, the person in charge of that place.
- (5) A place specified in an order shall have been approved by the probation committee for the area in which the premises are situated as providing facilities suitable for persons subject to probation orders.
- (6) A requirement to participate in activities shall operate to require the offender—
  - (a) in accordance with instructions given by his responsible officer, to participate in activities for not more than 60 days in the aggregate; and
  - (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (7) Instructions given by the offender’s responsible officer under sub-paragraph (4) or (6) 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.

*Requirements as to attendance at probation centre*

- 3 (1) Subject to the provisions of this paragraph, a probation order may require the offender during the probation period to attend at a probation centre specified in the order.
- (2) A court shall not include in a probation order such a requirement as is mentioned in sub-paragraph (1) above unless it has consulted—
  - (a) in the case of an offender aged 18 or over, a probation officer; or
  - (b) in the case of an offender aged under 18, either a probation officer or a member of a youth offending team.
- (3) A court shall not include such a requirement in a probation order unless it is satisfied—
  - (a) that arrangements can be made for the offender’s attendance at a centre; and
  - (b) that the person in charge of the centre consents to the inclusion of the requirement.
- (4) A requirement under sub-paragraph (1) above shall operate to require the offender—
  - (a) in accordance with instructions given by his responsible officer, to attend on not more than 60 days at the centre specified in the order; and
  - (b) while attending there to comply with instructions given by, or under the authority of, the person in charge of the centre.
- (5) Instructions given by the offender’s responsible officer under sub-paragraph (4) 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.
- (6) References in this paragraph to attendance at a probation centre include references to attendance elsewhere than at the centre for the purpose of participating in activities

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in accordance with instructions given by, or under the authority of, the person in charge of the centre.

- (7) The Secretary of State may make rules for regulating the provision and carrying on of probation centres and the attendance at such centres of persons subject to probation orders; and such rules may in particular include provision with respect to hours of attendance, the reckoning of days of attendance and the keeping of attendance records.
- (8) In this paragraph “probation centre” means premises—
- (a) at which non-residential facilities are provided for use in connection with the rehabilitation of offenders; and
  - (b) which are for the time being approved by the Secretary of State as providing facilities suitable for persons subject to probation orders.

*Extension of requirements for sexual offenders*

- 4 If the court so directs in the case of an offender who has been convicted of a sexual offence—
- (a) sub-paragraphs (4) and (6) of paragraph 2 above, and
  - (b) sub-paragraph (4) of paragraph 3 above,
- shall each have effect as if for the reference to 60 days there were substituted a reference to such greater number of days as may be specified in the direction.

*Requirements as to treatment for mental condition etc.*

- 5 (1) This paragraph applies where a court proposing to make a probation order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983, that the mental condition of the offender—
- (a) is such as requires and may be susceptible to treatment; but
  - (b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.
- (2) Subject to sub-paragraph (4) below, the probation order may include a requirement that the offender shall submit, during the whole of the probation period or during such part or parts of that period as may be specified in the order, to treatment by or under the direction of a registered medical practitioner or a chartered psychologist (or both, for different parts) with a view to the improvement of the offender’s mental condition.
- (3) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a resident patient in a hospital or mental nursing home within the meaning of the Mental Health Act 1983, but not hospital premises at which high security psychiatric services within the meaning of that Act are provided;
  - (b) treatment as a non-resident patient at such institution or place as may be specified in the order;
  - (c) treatment by or under the direction of such registered medical practitioner or chartered psychologist (or both) as may be so specified;
- but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

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- (4) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his mental condition unless—
- (a) 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 patient); and
  - (b) the offender has expressed his willingness to comply with such a requirement.
- (5) While the offender is under treatment as a resident patient in pursuance of a requirement of the probation order, his responsible officer shall carry out the supervision of the offender to such extent only as may be necessary for the purpose of the revocation or amendment of the order.
- (6) Where the medical practitioner or chartered psychologist by whom or under whose direction an offender is being treated for his mental condition in pursuance of a probation order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
- (a) is not specified in the order, and
  - (b) is one in or at which the treatment of the offender will be given by or under the direction of a registered medical practitioner or chartered psychologist,
- he may, with the consent of the offender, make arrangements for him to be treated accordingly.
- (7) Such arrangements as are mentioned in sub-paragraph (6) above may provide for the offender to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the probation order.
- (8) Where any such arrangements as are mentioned in sub-paragraph (6) above are made for the treatment of an offender—
- (a) the medical practitioner or chartered psychologist by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and
  - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the probation order.
- (9) Subsections (2) and (3) of section 54 of the Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender's mental condition as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.
- (10) In this paragraph, "chartered psychologist" means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists.

*Requirements as to treatment for drug or alcohol dependency*

- 6 (1) Subject to sub-paragraph (2) below, this paragraph applies where a court proposing to make a probation order is satisfied—
- (a) that the offender is dependent on drugs or alcohol;

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- (b) that his dependency caused or contributed to the offence in respect of which the order is proposed to be made; and
  - (c) that his dependency is such as requires and may be susceptible to treatment.
- (2) If the court has been notified by the Secretary of State that arrangements for implementing drug treatment and testing orders are available in the area proposed to be specified in the probation order, and the notice has not been withdrawn, this paragraph shall have effect as if the words “drugs or”, in each place where they occur, were omitted.
- (3) Subject to sub-paragraph (5) below, the probation order may include a requirement that the offender shall submit, during the whole of the probation period or during such part of that period as may be specified in the order, to treatment by or under the direction of a person having the necessary qualifications or experience with a view to the reduction or elimination of the offender’s dependency on drugs or alcohol.
- (4) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
  - (a) treatment as a resident in such institution or place as may be specified in the order;
  - (b) treatment as a non-resident in or at such institution or place as may be so specified;
  - (c) treatment by or under the direction of such person having the necessary qualifications or experience as may be so specified;but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.
- (5) A court shall not by virtue of this paragraph include in a probation order a requirement that the offender shall submit to treatment for his dependency on drugs or alcohol unless—
  - (a) 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); and
  - (b) the offender has expressed his willingness to comply with such a requirement.
- (6) While the offender is under treatment as a resident in pursuance of a requirement of the probation order, his responsible officer shall carry out the offender’s supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.
- (7) Where the person by whom or under whose direction an offender is being treated for dependency on drugs or alcohol in pursuance of a probation order is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
  - (a) is not specified in the order, and
  - (b) is one in or at which the treatment of the offender will be given by or under the direction of a person having the necessary qualifications or experience,he may, with the consent of the offender, make arrangements for him to be treated accordingly.

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- (8) Where any such arrangements as are mentioned in sub-paragraph (7) above are made for the treatment of an offender—
- (a) the person by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and
  - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the probation order.
- (9) In this paragraph, the reference to the offender being dependent on drugs or alcohol includes a reference to his having a propensity towards the misuse of drugs or alcohol; and references to his dependency on drugs or alcohol shall be construed accordingly.