



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 1

SENTENCING

Requirements under community orders and suspended sentence orders

76 Alcohol abstinence and monitoring requirement

(1) After section 212 of the Criminal Justice Act 2003 insert—

“212A Alcohol abstinence and monitoring requirement

- (1) In this Part “alcohol abstinence and monitoring requirement”, in relation to a relevant order, means a requirement—
- (a) that, subject to such exceptions (if any) as are specified—
 - (i) the offender must abstain from consuming alcohol throughout a specified period, or
 - (ii) the offender must not consume alcohol so that at any time during a specified period there is more than a specified level of alcohol in the offender’s body, and
 - (b) that the offender must, for the purpose of ascertaining whether the offender is complying with provision under paragraph (a), submit during the specified period to monitoring in accordance with specified arrangements.

Status: This is the original version (as it was originally enacted).

- (2) A period specified under subsection (1)(a) must not exceed 120 days.
- (3) If the Secretary of State by order prescribes a minimum period for the purposes of subsection (1)(a), a period specified under that provision must be at least as long as the period prescribed.
- (4) The level of alcohol specified under subsection (1)(a)(ii) must be that prescribed by the Secretary of State by order for the purposes of that provision (and a requirement under that provision may not be imposed unless such an order is in force).
- (5) An order under subsection (4) may prescribe a level—
 - (a) by reference to the proportion of alcohol in any one or more of an offender’s breath, blood, urine or sweat, or
 - (b) by some other means.
- (6) The arrangements for monitoring specified under subsection (1)(b) must be consistent with those prescribed by the Secretary of State by order (and an alcohol abstinence and monitoring requirement may not be imposed unless such an order is in force).
- (7) An order under subsection (6) may in particular prescribe—
 - (a) arrangements for monitoring by electronic means;
 - (b) arrangements for monitoring by other means of testing.
- (8) A court may not include an alcohol abstinence and monitoring requirement in a relevant order unless the following conditions are met.
- (9) The first condition is that—
 - (a) the consumption of alcohol by the offender is an element of the offence for which the order is to be imposed or an associated offence, or
 - (b) the court is satisfied that the consumption of alcohol by the offender was a factor that contributed to the commission of that offence or an associated offence.
- (10) The second condition is that the court is satisfied that the offender is not dependent on alcohol.
- (11) The third condition is that the court does not include an alcohol treatment requirement in the order.
- (12) The fourth condition is that the court has been notified by the Secretary of State that arrangements for monitoring of the kind to be specified are available in the local justice area to be specified.
- (13) In this section—
 - “alcohol” includes anything containing alcohol;
 - “specified”, in relation to a relevant order, means specified in the order.”
- (2) In section 177 of that Act (community orders), in subsection (1), after paragraph (j) insert—
 - “(ja) an alcohol abstinence and monitoring requirement (as defined by section 212A),”.

- (3) In subsection (2) of that section (limitations on power to impose community order)—
- (a) omit the “and” at the end of paragraph (f), and
 - (b) at the end of paragraph (g) insert “, and
 - (h) section 212A(8) to (12) (alcohol abstinence and monitoring requirement).”
- (4) In section 190 of that Act (imposition of requirements by suspended sentence order), in subsection (1), after paragraph (j) insert—
- “(ja) an alcohol abstinence and monitoring requirement (as defined by section 212A).”
- (5) In subsection (2) of that section (limitations on power to impose requirements by suspended sentence order)—
- (a) omit the “and” at the end of paragraph (f), and
 - (b) at the end of paragraph (g) insert “, and
 - (h) section 212A(8) to (12) (alcohol abstinence and monitoring requirement).”
- (6) In section 215 of that Act (electronic monitoring requirement), after subsection (4) insert—
- “(5) An electronic monitoring requirement may not be included in a relevant order for the purposes of securing the electronic monitoring of the offender’s compliance with an alcohol abstinence and monitoring requirement.
- (6) Subsection (5) does not prevent the inclusion of an electronic monitoring requirement in a relevant order which includes an alcohol abstinence and monitoring requirement where this is for the purpose of securing the electronic monitoring of an offender’s compliance with a requirement other than the alcohol abstinence and monitoring requirement.”
- (7) In section 223(3) of that Act (provisions to which powers to amend periods of time apply), after paragraph (b) insert—
- “(ba) section 212A(2) (alcohol abstinence and monitoring requirement).”
- (8) In section 305(1) of that Act (interpretation of Part 12), at the appropriate place insert—
- ““alcohol abstinence and monitoring requirement”, in relation to a community order or suspended sentence order, has the meaning given by section 212A.”
- (9) In Schedule 9 to that Act (transfer of community orders to Scotland or Northern Ireland)—
- (a) in paragraph 1(5), after “require” insert “an alcohol abstinence and monitoring requirement or”, and
 - (b) in paragraph 3, after sub-paragraph (4) insert—
- “(4A) The court may not by virtue of sub-paragraph (1) or (3) require an alcohol abstinence and monitoring requirement to be complied with in Northern Ireland.”
- (10) In Schedule 13 to that Act (transfer of suspended sentence orders to Scotland or Northern Ireland)—

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

- (a) in paragraph 1(5), after “require” insert “an alcohol abstinence and monitoring requirement or”, and
- (b) in paragraph 6, after sub-paragraph (4) insert—
 - “(4A) The court may not by virtue of sub-paragraph (1) or (3) require an alcohol abstinence and monitoring requirement to be complied with in Northern Ireland.”

(11) In the Armed Forces Act 2006—

- (a) in section 180 (transfer of service community order to Scotland or Northern Ireland), in subsection (2), after “3(1)” insert “and (4A)”, and
- (b) in section 204 (transfer of suspended sentence order to Scotland or Northern Ireland), in subsection (2), for “6(5)” substitute “6(4A) and (5)”.