

THE DRUG COURT (TREATMENT AND REHABILITATION OF OFFENDERS) ACT

REGULATIONS (under section 18)

THE DRUG COURT (TREATMENT AND REHABILITATION OF OFFENDERS) REGULATIONS, 2001

(Made by the Minister on the 28th day of December, 2000)

L.N. 28/2001

- 1. These Regulations may be cited as the Drug Court (Treatment and Rehabilitation of Offenders) Regulations, 2001. Citation.
- 2. The Minister may in writing, designate any individual or organization as an approved treatment provider if he is satisfied as to the kind of care, treatment or rehabilitation which is to be provided by that individual or organization. Approval of treatment providers.
- 3. A person is an eligible person for the purposes of section 5(c) of the Act if that person— Criteria for eligibility.
 - (a) is at least seventeen years of age; and
 - (b) is not suffering from any mental condition that could prevent or restrict the person’s active participation in a prescribed treatment programme.
- 4.—(1) For the purposes of section 6 of the Act (procedure after arrest) the person arrested shall be brought before the court on the first sitting of the court following the date of arrest. Procedure for referring persons to Drug Court.
 - (2) Where, pursuant to section 6 (2) of the Act, a recommendation is made to the court that a person be referred to the Drug Court, the Resident Magistrate shall—
 - (a) ascertain whether the person is an eligible person;
 - (b) explain to the person the reasons why he is being referred to the Drug Court and the consequences of such referral; and
 - (c) require the person to signify in writing, his consent to being so referred.
- 5.—(1) The Drug Court shall, in relation to a person referred to it under section 6 of the Act or brought directly before it under section 7 of the Act— Procedure in Drug Court.

- (a) explain to the person that he will be assessed by an approved treatment provider in order to determine his suitability for participation in a prescribed treatment programme;
- (b) if the person agrees to undergo such assessment, adjourn the case for a period of two weeks to facilitate the carrying out of the assessment during that period.

(2) Where the approved treatment provider recommends to the Drug Court that a drug offender is suitable to participate in a prescribed treatment programme and furnishes to that Court, a plan of that programme, the Drug Court shall, if satisfied as to the matters specified in section 9(1) of the Act—

- (a) require the drug offender to signify in writing his consent to such participation;
- (b) require a probation officer to carry out a means test in relation to the drug offender in order to determine the amount of contribution, if any, to be made by that offender in relation to such participation; and
- (c) make an order in relation to that offender in accordance with section 9(2) of the Act.

(3) Where an assessment is not completed at the end of the period referred to in paragraph (1) (b), the Drug Court shall adjourn the case for such further period as it thinks fit to facilitate the completion of the assessment.

(4) An assessment shall include the following in relation to a drug offender—

- (a) social, economic and family background;
- (b) health profile;
- (c) history of drug use and previous treatment, if any;
- (d) level of education;
- (e) vocational achievements;
- (f) previous convictions, if any.

(5) The provisions of paragraphs (1) (a) and (2) shall apply in relation to a person who is convicted of a relevant offence before a regular sitting.

Conditions.

6.—(1) The conditions which may be imposed by the Drug Court pursuant to section 9 (1) (c) of the Act in relation to a drug offender's

participation in a prescribed treatment programme may include the advantages specified in paragraph (2) and the sanctions specified in paragraph (3).

(2) The following advantages may be specified by the Drug Court on the recommendation of the approved treatment provider in relation to a drug offender who maintains a satisfactory level of compliance with the programme—

- (a) specified privileges;
- (b) a change in the frequency of counselling or other treatment;
- (c) a decrease in the degree of supervision to which the drug offender is subject;
- (d) a decrease in the frequency with which the drug offender is required to undergo drug tests;
- (e) a change in the nature of the vocational and social services attended by the drug offender or the frequency with which he is required to attend those services.

(3) The following sanctions may be specified by the Court on the recommendation of the approved treatment provider in relation to a drug offender who fails to comply with the programme—

- (a) withdrawal of privileges referred to in paragraph (2)(a);
- (b) an appropriate change in the frequency of counselling or other treatment;
- (c) an increase in the degree of supervision to which the drug offender is subject;
- (d) an increase in the frequency with which the drug offender is required to undergo drug tests;
- (e) a change in the nature of the vocational and social services attended by the drug offender or the frequency with which he is required to attend those services.

7. In carrying out a means test pursuant to regulation 5(2)(b), the probation officer shall take into account such factors as he considers relevant, including—

Means
test.

- (a) the nature of the offence committed by the drug offender;
- (b) the drug offender's income and expenses;
- (c) the drug offender's property, if any;

- (d) the ability and willingness of the offender's relatives, friends or employers to make the contribution referred to in regulation 5(2)(b).

Duration of
programme

8.—(1) A prescribed treatment programme shall commence on the date specified by the Court in the order under section 9(2) of the Act and shall, unless it is sooner terminated pursuant to section 12(1)(b) or (c) of the Act, be for such period as the Court shall specify in the order.

(2) Before the commencement of the prescribed treatment programme, the approved treatment provider shall conduct an intake interview with the drug offender, in the form of a discussion of the following—

- (a) the goals and objectives for participation, including abstinence from the use of drugs during the period of the programme;
- (b) counselling and education requirements;
- (c) attendance requirements;
- (d) drug testing requirements;
- (e) payment of contribution, if any;
- (f) the place and times for participation;
- (g) reasons for termination of the programme;
- (h) rules which will relate to the drug offender.

(3) The drug offender shall sign the rules referred to in paragraph (2)(h) in duplicate and one copy shall be given to the offender and the other shall be kept in the record of the offender's participation in the programme.

(4) The following documents shall be used for enrolment of a drug offender in the prescribed treatment programme—

- (a) registration form containing the information referred to in paragraph (2);
- (b) a form permitting the release of confidential information concerning the drug offender to the Drug Court;
- (c) an agreement to be signed by the drug offender and the approved treatment provider, listing the services to be provided under the programme, the amount of contribution, if any, payable by the offender, attendance requirements and the reasons for termination of the programme.

(5) One copy of the signed agreement shall be given to the drug offender and a copy shall be kept in the record of his participation in the programme.

9. The progress report required under section 11 of the Act shall be submitted to the Drug Court by an approved treatment provider at such intervals as the Court may direct. Reports.

10.—(1) Where an approved treatment provider intends to report to the Drug Court that there is no useful purpose to be served by a drug offender's continued participation in a prescribed treatment programme, the treatment provider shall inform the drug offender of that intention. Termination of programme.

(2) On receipt of a report referred to in paragraph (1), the Drug Court shall permit the drug offender to show cause why the approved treatment programme should not be terminated in accordance with section 12 (1)(c) of the Act.

(3) A conditional discharge of a drug offender by the Drug Court upon his successful completion of a prescribed treatment programme shall have effect for such period, not exceeding twelve months, as the Court may specify.

11. The register required by section 14 of the Act shall contain the particulars specified in the First Schedule. Register. First Schedule.

12. A plan of a prescribed treatment programme shall include the matters specified in the Second Schedule. Plan of prescribed treatment programme. Second Schedule.

FIRST SCHEDULE

(Regulation 11)

Particulars to be entered in register kept pursuant to section 14 of the Act:

1. Name and address of each drug offender.
2. Nature of relevant offence and date and place of arrest.
3. Date of first appearance in regular sitting and date of reference to the Drug Court.
4. Date of appearance in Drug Court and whether the prosecution of the offence is deferred or sentence is deferred after a guilty plea.
5. Name of approved treatment provider making an assessment and recommendation under section 8(1) of the Act.
6. Date of adjournment for assessment and date of completion of assessment.
7. Whether the drug offender is—
 - (a) considered suitable or unsuitable for participation in an approved treatment programme; or
 - (b) not willing to be dealt with by the Drug Court.
8. Date of trial by the Drug Court of offence specified in section 7(3) of the Act.
9. Date of order made under section 9(2) of the Act.
10. Date of commencement and period of prescribed treatment programme.

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FIRST SCHEDULE, *contd.*

11. Date of termination of prescribed treatment programme and basis of termination.
12. Where the drug offender failed to complete the prescribed treatment programme—
 - (a) if the prosecution was deferred under section 7(2)(a) of the Act—
 - (i) the date of the order for trial of the relevant offence and the outcome; or
 - (ii) the date of any order requiring the offender to undergo a new treatment programme and the date of commencement and period of that programme;
 - (b) where sentence was deferred under section 7(2) (b) of the Act, the nature of the sentence imposed;
 - (c) date of confirmation of any sentence, the execution of which was deferred pursuant to section 9(4) of the Act;
 - (d) where trial was deferred by a regular sitting, the date of reference back to that sitting.
13. Date of warrant of arrest in respect of a person who has failed to comply with specified conditions.
14. Date of notification under section 17 of the Act of a drug offender's failure to comply with the prescribed treatment programme.

SECOND SCHEDULE

(Regulation 12)

Plan of Prescribed Treatment Programme

The following matters shall be included in a plan of a prescribed treatment programme:

Educational Sessions—

- (1) A minimum of eight weekly educational sessions of at least sixty minutes (excluding time allowed for breaks) for each drug offender.
- (2) Information on—
 - (a) the effects of drug use on the individual, the foetus, the family and society;
 - (b) the physiological and psychological facets of drug use;
 - (c) the nature of addiction;
 - (d) HIV/AIDS, intravenous drug use and sex and sexuality;
 - (e) Alternatives to drug use;
 - (f) Relapse prevention;

SECOND SCHEDULE, *contd.*

- (g) Stress management;
- (h) Conflict resolution.

Group Counselling Sessions—

- (1) A minimum of twelve weekly group sessions, at times convenient to the programme structure following the initial educational sessions;
- (2) at ninety minutes in length, excluding time allowed for breaks;
- (3) conducted in such a manner as to—
 - (a) encourage participants to talk and share ideas and information in order to identify and resolve drug related problems;
 - (b) provide an opportunity for participants to examine their own personal attitudes and behaviour;
 - (c) provide support for positive changes in life style to facilitate reduction or elimination of drug use.

One-to-One Sessions—

- (1) A minimum of four separate session with each participant.
- (2) Conducted for the purpose of—
 - (a) reviewing the participant's progress related to the treatment and recovery plan;
 - (b) identifying problems which may be barriers to accomplishing the goals of that plan;
 - (c) developing action plans to address the matters specified in (a) and (b);
 - (d) evaluating the participant's need for voluntary referral to ancillary services, such as residential or additional non-residential services.
- (3) The frequency of one-to-one sessions shall be increased whenever the approved treatment provider or the participant determines that additional time is required.

Drug Testing—

- (1) Minimum monthly random urinalyses.
- (2) The frequency of testing shall increase whenever the approved treatment provider determines that additional drug tests are necessary.
- (3) Positive results will not necessarily exclude a participant from the programme but will be used to arrive at a decision based on evaluation of the participant's progress in the programme and evaluate the participant's level of treatment intensity.

Treatment/Recovery Plan

- (1) Each participant shall have an individual written treatment/recovery plan based on the information obtained in the process of intake and assessment.
- (2) The treatment/recovery plan shall be developed within thirty days of the date of

SECOND SCHEDULE, *contd.*

commencement of the programme.

- (3) The treatment/recovery plan shall be reviewed and updated at least every sixty days.
- (4) The treatment/recovery plan shall include the following—
 - (a) statement of problems to be addressed;
 - (b) time-limited goals to be achieved which address the problem;
 - (c) steps to be taken by the treatment provider and the participant to achieve the goals;
 - (d) target date for achievement of steps and goals, and where possible, dates of resolution;
 - (e) a description of the type and frequency of counselling services to be provided.