

Regulations relating to a trial scheme for court-controlled drug programmes

Laid down by Royal Decree xxxxx pursuant to the General Civil Penal Code (the Penal Code) no 10 of 22 May 1902 section 53 subsection 6, cf. Act no 92 of 17 June 2005 relating to amendments to the Penal Code sections 53 and 54 (trial scheme for court-controlled drug programmes). Proposed by the Ministry of Justice and the Police.

Section 1 Establishment and objective

A three-year trial scheme for court-controlled drug programmes (drug courts) in the municipalities of Oslo and Bergen will be established with effect from 1 January 2006, cf. section 14.

The objective of the trial scheme is to prevent new crime and to promote the rehabilitation of convicted persons. It is also intended to help improve the practical support and treatment offered to problem drug users covered by the scheme. Completion of the drug programme will require a combined effort from and binding cooperation between different sectors and administrative levels.

Section 2 Scope of the trial scheme

The trial scheme applies to problem drug users convicted of drug-related crimes, where the court has stipulated a condition that the convicted person complete a court-controlled drug programme. The drug user must reside in one of the trial municipalities and illicit drugs must be the main substance abused. Only courts with jurisdiction in the trial municipalities are authorised to stipulate completion of a drug programme as a condition.

Section 3 Definitions

By drug-related crime is meant violations of the Penal Code section 162 and the Act relating to medicines etc. section 31 second paragraph, crimes committed under the influence of illicit drugs, and crimes committed in order to finance personal drug abuse.

By trial municipalities is meant the municipalities in which a trial scheme for drug courts is established, cf. the Regulations section 1.

Section 4 Consent

The court may only stipulate completion of a drug programme as a condition with the consent of the convicted person. Consent shall be given in a declaration of consent that shall also contain necessary exemptions from the duty of confidentiality. For consent to participate to be valid the person charged must have been given and have understood sufficient information on the implications of giving his/her consent.

The declaration of consent shall be signed by the person charged in connection with the social inquiry, cf. section 5. The person charged can withdraw his/her consent at any time. If the person charged is under the age of 18, the provisions conferring rights of a party on guardians in the Criminal Procedure Act sections 83-84 shall apply.

Section 5 Social inquiry

Pursuant to the provisions of the Criminal Procedure Act chapter 13, the prosecuting authority or the court may decide to carry out a social inquiry of a person charged. In its decision, the prosecuting authority or the court shall state that it wishes the person charged to be assessed with a view to completion of a drug programme. A social inquiry shall always be carried out prior to a conviction in which it may be an option to stipulate completion of a drug programme as a condition of sentence. The correctional service is responsible for carrying out the social inquiry. The social inquiry is carried out by the correctional service's representative on the team in cooperation with the other team members. The person charged shall be given detailed information about the drug programme in connection with the social inquiry, including the consequences of violating the conditions stipulated for the programme and of the withdrawal of his/her consent to participate in the programme.

Section 6 Conditions

Pursuant to the Penal Code section 53 subsection 3, a court can stipulate special conditions for suspended sentences, including completion of a court-controlled drug programme. Before the case is brought to court, the team must prepare a plan for the drug programme including proposed conditions for the completion of the programme. The correctional service is responsible for monitoring that the conditions are complied with. The provisions relating to investigations in the Execution of Sentences Act section 56 apply correspondingly.

Section 7 Contents and completion of the drug programme

A drug programme is an individually adapted rehabilitation programme and a condition for a suspended criminal sentence. The programme can contain individually adapted treatment plans, referral to interdisciplinary specialist treatment for problem drug users, treatment by the municipal health service, educational and employment measures, residential follow-up, recreational plans, follow-up by social services and other measures of importance to the individual's rehabilitation and integration into society.

The contents of the drug programme shall be based on the individual's need for measures that reduce the risk of new crimes being committed and further the convicted person's rehabilitation. The contents of each individual programme shall be the result of the team's professional evaluations arrived at in cooperation with the convicted person and of the conditions stipulated by the court, for example that during completion of the programme the convicted person shall comply with the provisions laid down by the correctional service with respect to place of domicile, place of residence, work, training or treatment. The team shall prepare an intensive programme of regular and frequent appointments, continuity and work with a view to integrating the individual concerned into society.

The drug programme shall be described in an implementation plan. The plan shall contain compulsory measures, including a requirement for the submission of regular urine samples, which is compulsory for all convicted persons, and individual measures planned in cooperation with the individual. The implementation plan shall be formulated in a manner that makes the conditions for participating in the programme predictable and clear to the convicted person. If an individual plan already exists for the convicted person pursuant to the Act relating to the municipal health services section 6-2a, the Act relating to specialist health service section 2-5, the Mental Health Act Section 4-1 or the Act relating to social services

section 4-3, the team shall attempt to coordinate the implementation plan with such existing plan.

The drug programme shall be carried out in four phases. The phases are designated the instigation phase, the stabilisation phase, the responsibility phase and the continuation phase. The phases are decided on the basis of an individual assessment and of what constitutes realistic progress. The contents of the phases and the conditions for progressing from one to the next shall be stated in the implementation plan.

Section 8 The team

The correctional service shall set up local interdisciplinary teams that will be responsible for the professional implementation of the drug programme, and it shall help provide a comprehensive programme of treatment and rehabilitation for each convicted person. Teams shall consist of a team coordinator, who shall be an employee of the correctional service, and representatives from the correctional service, municipal social services, the educational sector and the specialist health service. Which other bodies shall be represented on the team shall be assessed locally. The team coordinator is the administrative manager of the centre and organises the team's work, chairs team meetings and facilitates cooperation within the team. The coordinator shall also ensure documentation of the project, contribute to marketing and follow up important principles. The coordinator shall also prepare more detailed descriptions of team roles and work processes. The public bodies involved are responsible for the sub-tasks within their respective areas of responsibility.

Section 9 Centre

The correctional service shall establish a day centre in each trial municipality. The purpose of the day centre is to meet the professional requirement that convicted persons participating in the scheme receive a comprehensive service. The centre shall be the base for the team's activities. Unless otherwise agreed, the centre shall also be the place attended regularly by the convicted person. At the centre, the team shall coordinate studies, planning and follow-up of convicted persons. It is a precondition that the ordinary treatment and intervention services are used as part of the programme, but follow-up at the centre will be important, during the start-up phase in particular, until the participants are gradually transferred to ordinary services outside the centre. Moreover, as a part of its role in crime prevention and the rehabilitation of convicted persons, the centre should offer evening and weekend activities.

Section 10 Changes in conditions etc.

When justified by the convicted person's situation, the court may, if petitioned by the correctional service during the probationary period, decide to revoke or change stipulated conditions, or stipulate new conditions. If the court finds it necessary, it can also prolong the probationary period, not, however, such that it totals more than five years. The correctional service's petition shall be based on the discussions and conclusions of the team. The regional director or person authorised to act on his/her behalf shall submit the petition to the court. The correctional service shall notify the prosecuting authority when it submits a petition for a court ruling.

If the court decides that it is justified by the convicted person's situation, it may, on petition from the correctional service, rule that the convicted person shall proceed to the next phase of the programme. The correctional service's petition shall be based on the discussions and conclusions of the team. The regional director or person authorised to act on his/her behalf shall submit the petition to the court. The correctional service shall notify the prosecuting authority when it submits a petition for a court ruling.

Section 11 Violation of conditions

If the convicted person seriously or repeatedly violates the conditions stipulated by the court or if he/she withdraws his/her consent to participate, the court may, on petition from the correctional service, rule that the sentence be fully or partially enforced. Instead of ordering that the sentence be served, the court may order a new probationary period and stipulate new conditions if it finds this more expedient. Moreover, on petition from the correctional service, the court may also rule that the convicted person be returned to a phase with stricter conditions. The correctional service's petition pursuant to the second and third sentences, shall be based on team discussions and conclusions. The regional director or person authorised to act on his/her behalf shall submit the petition to the court. The correctional service shall notify the prosecuting authority when it submits a petition for a court ruling. If the convicted person refuses to provide a urine sample aimed at detecting the use of illegal intoxicants or narcotic substances, this shall be regarded as a violation. This also applies to failure to attend treatment appointments and other appointments that have been made with the involved bodies.

The correctional service may, in the event of violations deemed to be less serious, give the convicted person a written warning about the consequences of repeated violations. The correctional service may also decide to enforce more rigorous testing of urine samples for a certain period of time or decide that the convicted person shall undergo intensive programmes aimed at improving drug control.

If the convicted person commits a criminal offence during the probationary period, the court may, pursuant to the Penal Code section 54 subsection 3, hand down a combined sentence for both criminal acts or a separate sentence for the new criminal act. The prosecuting authority is responsible for bringing the criminal case to court, and the correctional service is obliged to notify the police/prosecuting authority if it learns that the convicted person has committed any criminal acts during the probationary period.

Section 12 Evaluation

The trial scheme for drug programmes shall be evaluated during the trial period. By evaluation is meant a research-based process and assessment of results. The main objective of the evaluation is to arrive at a recommendation on whether the programme should be concluded after three years or whether it should be continued. Confidential information to be used during the evaluation shall as a rule be anonymised. If this is not the case, the convicted person must give his/her consent.

Section 13 Amendments and supplementary provisions to the regulations

The Ministry of Justice and the Police may make amendments to the regulations and issue additional provisions concerning the consent of convicted persons, the contents and

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completion of drug programmes, the team, the centre, the evaluation and the processing of personal information. Any proposed amendments or additional provisions must be clarified with the involved ministries before the proposal is adopted.

Section 14 *Entry into force*

These regulations enter into force on 1 January 2006.

True translation certified

Government Authorised Translator