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*Changes to legislation: Criminal Justice Act 1991, SCHEDULE 2 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 14(1).

#### ENFORCEMENT ETC. OF COMMUNITY ORDERS

##### Modifications etc. (not altering text)

- C1** Sch. 2 applied (with modifications) (1.4.1996) by 1995 c. 46, ss. 234(5)(6), 309(2) (with ss. 24(2), 307(2))  
Sch. 2 applied (with modifications) (30.9.1998) by 1998 c. 37, ss. 68(3), 70(5), Sch. 5 para. 5(4)(5);  
S.I. 1998/2327, arts.2(1)(o)  
Sch. 2 applied (with modifications) (30.9.1998) by 1969 c. 54, s. 16B (as inserted by 1998 c. 37, s. 119,  
Sch. 8 para.21; S.I. 1998/2327, arts.2(1)(y)(2)(i))

##### Commencement Information

- I1** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### PART I

#### PRELIMINARY

##### Commencement Information

- I2** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2

- 1 (1) In this Schedule “relevant order” means any of the following orders, namely, a probation order, a community service order and a curfew order; and “the petty sessions area concerned” means—
- in relation to a probation or community service order, the petty sessions area for the time being specified in the order; and
  - in relation to a curfew order, the petty sessions area in which the place for the time being specified in the order is situated.
- (2) Subject to sub-paragraph (3) below, this Schedule shall apply in relation to combination orders—
- in so far as they impose such a requirement as is mentioned in paragraph (a) of subsection (1) of section 11 of this Act, as if they were probation orders; and
  - in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.
- (3) In its application to combination orders, paragraph 6(3) below shall have effect as if the reference to section 14(1A) of the 1973 Act were a reference to section 11(1) of this Act.

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**Commencement Information**

**I3** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

**PART II**

**BREACH OF REQUIREMENT OF ORDER**

**Commencement Information**

**I4** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Issue of summons or warrant*

- 2 (1) If at any time while a relevant order is in force in respect of an offender it appears on information to a justice of the peace acting for the petty sessions area concerned that the offender has failed to comply with any of the requirements of the order, the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
  - (b) if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought before a magistrates' court acting for the petty sessions area concerned.

**Commencement Information**

**I5** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

*Powers of magistrates' court*

- 3 (1) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under paragraph 2 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the court may deal with him in respect of the failure in any one of the following ways, namely—
- (a) it may impose on him a fine not exceeding £1,000;
  - (b) subject to paragraph 6(3) to (5) below, it may make a community service order in respect of him;
  - (c) where the relevant order is a probation order and the case is one to which section 17 of the 1982 Act applies, it may make an order under that section requiring him to attend at an attendance centre; or
  - (d) where the relevant order was made by a magistrates' court, it may revoke the order and deal with him, for the offence in respect of which the order

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was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.

- (2) In dealing with an offender under sub-paragraph (1)(d) above, a magistrates' court—
  - (a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and
  - (b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.
- (3) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (1)(a), (b) or (c) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) A magistrates' court which deals with an offender's case under sub-paragraph (3) above shall send to the Crown Court—
  - (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of the relevant order in the respect specified in the certificate; and
  - (b) such other particulars of the case as may be desirable;and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (5) A person sentenced under sub-paragraph (1)(d) above for an offence may appeal to the Crown Court against the sentence.

#### Modifications etc. (not altering text)

- C2** Sch. 2 para. 3(1): power to amend conferred (1.10.1992) by [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch.6A](#) (as substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 17(3), [Sch. 4 Pt. IV](#)) (with s. 28); [S.I. 1992/333](#), art. 2(2), [Sch.2](#)

#### Commencement Information

- I6** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

### *Powers of Crown Court*

- 4 (1) Where by virtue of paragraph 3(3) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court that he has failed to comply with any of the requirements of the relevant order, that court may deal with him in respect of the failure in any one of the following ways, namely—
  - (a) it may impose on him a fine not exceeding £1,000;
  - (b) subject to paragraph 6(3) to (5) below, it may make a community service order in respect of him;
  - (c) where the relevant order is a probation order and the case is one to which section 17 of the 1982 Act applies, it may make an order under that section requiring him to attend at an attendance centre; or

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- (d) it may revoke the order and deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by or before the court of the offence.
- (2) In dealing with an offender under sub-paragraph (1)(d) above, the Crown Court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and
- (b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.
- (3) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the requirements of the relevant order shall be determined by the court and not by the verdict of a jury.

**Modifications etc. (not altering text)**

- C3** Sch. 2 para. 4(1): power to amend conferred (1.10.1992) by [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch.6A](#) (as substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53\)](#), ss. 17(3), 102(2), [Sch. 4 Pt. IV](#)) (with s. 28); [S.I. 1992/333](#), art. 2(2), [Sch.2](#)

**Commencement Information**

- I7** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

*Exclusions*

- 5 (1) Without prejudice to paragraphs 7 and 8 below, an offender who is convicted of a further offence while a relevant order is in force in respect of him shall not on that account be liable to be dealt with under paragraph 3 or 4 above in respect of a failure to comply with any requirement of the order.
- (2) An offender who is required by a probation order to submit to treatment for his mental condition, or his dependency on drugs or alcohol, shall not be treated for the purposes of paragraph 3 or 4 above as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.

**Commencement Information**

- I8** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

*Supplemental*

- 6 (1) Any exercise by a court of its powers under paragraph 3(1)(a), (b) or (c) or 4(1)(a) or (b) above shall be without prejudice to the continuance of the relevant order.

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- (2) Section 18 of this Act shall apply for the purposes of paragraph 3(1)(a) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 3 on the standard scale; and a fine imposed under that paragraph or paragraph 4(1)(a) above shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.
- (3) The number of hours which an offender may be required to work under a community service order made under paragraph 3(1)(b) or 4(1)(b) above—
  - (a) shall be specified in the order and shall not exceed 60 in the aggregate; and
  - (b) where the relevant order is a community service order, shall not be such that the total number of hours under both orders exceeds the maximum specified in section 14(1A) of the 1973 Act.
- (4) Section 14(2) of the 1973 Act and, so far as applicable—
  - (a) the following provisions of that Act relating to community service orders; and
  - (b) the provisions of this Schedule so far as so relating,shall have effect in relation to a community service order under paragraph 3(1)(b) or 4(1)(b) above as they have effect in relation to a community service order in respect of an offender.
- (5) Where the provisions of this Schedule have effect as mentioned in sub-paragraph (4) above, the powers conferred by those provisions to deal with the offender for the offence in respect of which the community service order was made shall be construed as powers to deal with the offender for the failure to comply with the requirements of the relevant order in respect of which the community service order was made.

#### Commencement Information

**19** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- [<sup>F16A</sup> (1) Where a relevant order was made by a magistrates' court in the case of an offender under 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under paragraph 3(1)(d) above by that or any other court in respect of the offender after he has attained the age of 18 years shall be powers to do either or both of the following—
- (a) to impose a fine not exceeding £5,000 for the offence in respect of which the order was made;
  - (b) to deal with the offender for that offence in any way in which a magistrates' court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.
- (2) In sub-paragraph (1)(b) above any reference to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.]

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### Textual Amendments

- F1** Sch. 2 para. 6A inserted (30.9.1998, subject to S.I. 1998/2327, **art. 6(4)(b)**) by 1998 c. 37, s. 106, **Sch. 7 para. 46(8)**; S.I. 1998/2327, **arts2(1)(w)**, 6(4)(b)

## PART III

### REVOCATION OF ORDER

### Commencement Information

- I10** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**

#### *Revocation of order with or without re-sentencing*

- 7 (1) This paragraph applies where a relevant order is in force in respect of any offender and, on the application of the offender or the responsible officer, it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) that the order should be revoked; or
  - (b) that the offender should be dealt with in some other manner for the offence in respect of which the order was made.
- (2) The court may—
- (a) if the order was made by a magistrates' court—
    - (i) revoke the order; or
    - (ii) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence; or
  - (b) if the order was made by the Crown Court, commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a)(i) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(a)(ii) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.
- (5) An offender sentenced under sub-paragraph (2)(a)(ii) above may appeal to the Crown Court against the sentence.
- (6) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.
- (7) Where a magistrates' court proposes to exercise its powers under this paragraph otherwise than on the application of the offender it shall summon him to appear

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before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

- (8) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

#### Commencement Information

**I11** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 8 (1) This paragraph applies where an offender in respect of whom a relevant order is in force—
- (a) is convicted of an offence before the Crown Court; or
  - (b) is committed by a magistrates' court to the Crown Court for sentence and is brought or appears before the Crown Court; or
  - (c) by virtue of paragraph 7(2)(b) above is brought or appears before the Crown Court.
- (2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—
- (a) revoke the order; or
  - (b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by or before the court of the offence.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(b) above, the Crown Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

#### Commencement Information

**I12** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- <sup>F28A</sup> (1) This paragraph applies where a probation order is in force in respect of any offender and on the application of the offender or the responsible officer it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the probation order to be revoked; and

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- (b) for an order to be made under section 1A(1)(b) of the 1973 Act discharging the offender conditionally for the offence for which the probation order was made.
- (2) No application may be made under paragraph 7 above for a probation order to be revoked and replaced with an order for conditional discharge under section 1A(1)(b) of the 1973 Act; but otherwise nothing in this paragraph shall affect the operation of paragraphs 7 and 8 above.
- (3) Where this paragraph applies and the probation order was made by a magistrates' court—
- (a) the magistrates' court dealing with the application may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
- (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (4) Where this paragraph applies and the probation order was made by the Crown Court, the magistrates' court may send the application to the Crown Court to be heard by that court, and if it does so shall also send to the Crown Court such particulars of the case as may be desirable.
- (5) Where an application under this paragraph is heard by the Crown Court by virtue of sub-paragraph (4) above—
- (a) the Crown Court may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
- (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (6) For the purposes of sub-paragraphs (3) and (5) above, subsection (1) of section 1A of the 1973 Act shall apply as if—
- (a) for the words from the beginning to “may make an order either” there were substituted the words “Where paragraph 8A of Schedule 2 to the<sup>M1</sup>Criminal Justice Act 1991 applies, the court which under sub-paragraph (3) or (5) of that paragraph has power to dispose of the application may (subject to the provisions of that sub-paragraph) make an order in respect of the offender”; and
- (b) paragraph (a) of that subsection were omitted.
- (7) An application under this paragraph may be heard in the offender's absence if—
- (a) the application is made by the responsible officer; and
- (b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;
- and where the application is so heard section 1A(3) of the 1973 Act shall not apply.



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- (8) No application may be made under this paragraph while an appeal against the probation order is pending.
- (9) Without prejudice to paragraph 11 below, on the making of an order under section 1A(1)(b) of the 1973 Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.
- (10) Each of sections 1(11), 2(9) and 66(4) of the Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.]

#### Textual Amendments

**F2** Sch. 2 para. 8A inserted (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(11); S.I. 1998/2327, art.2(1)(w)

#### Marginal Citations

**M1** 1991 c.53.

### *Revocation of order following custodial sentence*

- 9 (1) This paragraph applies where—
  - (a) an offender in respect of whom a relevant order is in force is convicted of an offence before a magistrates' court other than a magistrates' court acting for the petty sessions area concerned; and
  - (b) the court imposes a custodial sentence on the offender.
- (2) If it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may—
  - (a) if the order was made by a magistrates' court, revoke it; and
  - (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

#### Commencement Information

**I13** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 10 Where by virtue of paragraph 9(2)(b) above an offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the relevant order was made, the Crown Court may revoke the order.

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#### Commencement Information

**I14** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

### *Supplemental*

- 11 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the clerk to the court shall forthwith give copies of the revoking order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

#### Commencement Information

**I15** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

[<sup>F3</sup>11A Paragraph 6A above shall apply for the purposes of paragraphs 7 and 8 above as it applies for the purposes of paragraph 3 above, but as if in paragraph 6A(1) for the words “powers exercisable under paragraph 3(1)(d) above” there were substituted the words “powers to deal with the offender which are exercisable under paragraph 7(2)(a)(ii) or 8(2)(b) below”.]

#### Textual Amendments

**F3** Sch. 2 para. 11A inserted (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(12); S.I. 1998/2327, art.2(1)(w)

VALID FROM 30/09/1998

[<sup>F4</sup>11B Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 1A(1)(b) of the 1973 Act and—

(a) the order for conditional discharge is not made in the circumstances mentioned in section 1B(9) of the 1973 Act (order made by magistrates’ court in the case of an offender under eighteen in respect of offence triable only on indictment in the case of an adult), but

(b) the relevant order was made in those circumstances,

section 1B(9) of the 1973 Act shall apply as if the order for conditional discharge had been made in those circumstances.]

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#### Textual Amendments

- F4** Sch. 2 para. 11B inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(12)**; S.I. 1998/2327, art. 2(1)(w)

## PART IV

### AMENDMENT OF ORDER

#### Commencement Information

- I16** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**

#### *Amendment by reason of change of residence*

- 12 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court acting for the petty sessions area concerned is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area.
- (2) Subject to sub-paragraphs (3) and (4) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other petty sessions area for the area specified in the order or, in the case of a curfew order, a place in that other area for the place so specified.
- (3) The court shall not amend under this paragraph a probation or curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the petty sessions area concerned unless, in accordance with paragraph 13 below, it either—
- cancel those requirements; or
  - substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.
- (4) The court shall not amend a community service order under this paragraph unless it appears to the court that provision can be made for the offender to perform work under the order under the arrangements which exist for persons who reside in the other petty sessions area to perform work under such orders.

#### Commencement Information

- I17** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**

#### *Amendment of requirements of probation or curfew order*

- 13 (1) Without prejudice to the provisions of paragraph 12 above, but subject to sub-paragraph (2) below, a magistrates' court for the petty sessions area concerned may,

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on the application of the offender or the responsible officer, by order amend a probation or curfew order—

- (a) by cancelling any of the requirements of the order; or
- (b) by inserting in the order (either in addition to or in substitution for any such requirement) any requirement which the court could include if it were then making the order.

(2) The power of a magistrates' court under sub-paragraph (1) above shall be subject to the following restrictions, namely—

- (a) the court shall not amend a probation order—
  - (i) by reducing the probation period, or by extending that period beyond the end of three years from the date of the original order; or
  - (ii) by inserting in it a requirement that the offender shall submit to treatment for his mental condition, or his dependency on drugs or alcohol, unless the amending order is made within three months after the date of the original order; and
- (b) the court shall not amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.

(3) In this paragraph and paragraph 14 below, references to the offender's dependency on drugs or alcohol include references to his propensity towards the misuse of drugs or alcohol.

#### **Commencement Information**

**I18** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### *Amendment of certain requirements of probation order*

14 (1) Where the medical practitioner or other person by whom or under whose direction an offender is being treated for his mental condition, or his dependency on drugs or alcohol, in pursuance of any requirement of a probation order—

- (a) is of the opinion mentioned in sub-paragraph (2) below; or
- (b) is for any reason unwilling to continue to treat or direct the treatment of the offender,

he shall make a report in writing to that effect to the responsible officer and that officer shall apply under paragraph 13 above to a magistrates' court for the petty sessions area concerned for the variation or cancellation of the requirement.

(2) The opinion referred to in sub-paragraph (1) above is—

- (a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order;
- (b) that the offender needs different treatment, being treatment of a kind to which he could be required to submit in pursuance of a probation order;
- (c) that the offender is not susceptible to treatment; or
- (d) that the offender does not require further treatment.

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### Commencement Information

**I19** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

### [<sup>F5</sup> Amendment of drug treatment and testing order]

#### Textual Amendments

**F5** Sch. 2 para. 14A (and the heading immediately preceding it) inserted (30.9.1998) by 1998 c. 37, s. 64(5), Sch. 4 para.10; S.I. 1998/2327, art.2(1)(n)

- <sup>F6</sup>14A (1) Without prejudice to the provisions of section 63(2), (7) and (9) of the Crime and Disorder Act 1998, the court responsible for a drug treatment and testing order may by order—
- (a) vary or cancel any of the requirements or provisions of the order on an application by the responsible officer under sub-paragraph (2) or (3)(a) or (b) below; or
  - (b) amend the order on an application by that officer under sub-paragraph (3) (c) below.
- (2) Where the treatment provider is of the opinion that the treatment or testing requirement of the order should be varied or cancelled—
- (a) he shall make a report in writing to that effect to the responsible officer; and
  - (b) that officer shall apply to the court for the variation or cancellation of the requirement.
- (3) Where the responsible officer is of the opinion—
- (a) that the treatment or testing requirement of the order should be so varied as to specify a different treatment provider;
  - (b) that any other requirement of the order, or a provision of the order, should be varied or cancelled; or
  - (c) that the order should be so amended as to provide for each subsequent review under section 63 of the Crime and Disorder Act 1998 to be made without a hearing instead of at a review hearing, or vice versa,
- he shall apply to the court for the variation or cancellation of the requirement or provision or the amendment of the order.
- (4) The court—
- (a) shall not amend the treatment or testing requirement unless the offender expresses his willingness to comply with the requirement as amended; and
  - (b) shall not amend any provision of the order so as to reduce the treatment and testing period below the minimum specified in section 61(2) of the Crime and Disorder Act 1998 or to increase it above the maximum so specified.
- (5) If the offender fails to express his willingness to comply with the treatment or testing requirement as proposed to be amended by the court, the court may—

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- (a) revoke the order; and
  - (b) deal with him, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence.
- (6) In dealing with the offender under sub-paragraph (5)(b) above, the court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the order; and
  - (b) may impose a custodial sentence notwithstanding anything in section 1(2) of this Act.
- (7) Paragraph 6A above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 3 above, but as if for the words “paragraph 3(1)(d) above” there were substituted the words “paragraph 14A(5)(b) below”.
- (8) In this paragraph—
- “review hearing” has the same meaning as in section 63 of the Crime and Disorder Act 1998;
  - “the treatment requirement” and “the testing requirement” have the same meanings as in Chapter I of Part IV of that Act.

#### **Textual Amendments**

- F6** Sch. 2 para. 14A (and the heading immediately preceding it) inserted (30.9.1998) by 1998 c. 37, s. 64(5), Sch. 4 para.10; S.I. 1998/2327, art.2(1)(n)

#### *Extension of community service order*

- 15 Where—
- (a) a community service order is in force in respect of any offender; and
  - (b) on the application of the offender or the responsible officer, it appears to a magistrates’ court acting for the petty sessions area concerned that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,
- the court may, in relation to the order, extend the period of twelve months specified in section 15(2) of the 1973 Act.

#### **Commencement Information**

- I20** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

#### *Supplemental*

- 16 No order may be made under paragraph 12 above, and no application may be made under paragraph 13 or 15 above, while an appeal against the relevant order is pending.

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#### Commencement Information

**I21** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 17 (1) Subject to sub-paragraph (2) below, where a court proposes to exercise its powers under this Part of this Schedule, otherwise than on the application of the offender, the court—
- (a) shall summon him to appear before the court; and
  - (b) if he does not appear in answer to the summons, may issue a warrant for his arrest;
- and the court shall not amend a relevant order under this Part of this Schedule unless the offender expresses his willingness to comply with the requirements of the order as amended.
- (2) This paragraph shall not apply to an order cancelling a requirement of a relevant order or reducing the period of any requirement, or substituting a new petty sessions area or a new place for the one specified in a relevant order.

#### Commencement Information

**I22** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 18 (1) On the making under this Part of this Schedule of an order amending a relevant order, the clerk to the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting a new petty sessions area or a new place for the one specified in the relevant order, give copies of the amending order to the responsible officer;
  - (b) if the order amends the relevant order in the manner excepted by paragraph (a) above, send to the clerk to the justices for the new petty sessions area or, as the case may be, for the petty sessions area in which the new place is situated—
    - (i) copies of the amending order; and
    - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in exercising its functions in relation to the order;
- and in a case falling within paragraph (b) above the clerk to the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.

#### Commencement Information

**I23** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

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