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## SCHEDULES

### SCHEDULE 3

Sections 39, 43, 48, 51, 56.

#### BREACH, REVOCATION AND AMENDMENT OF CURFEW, PROBATION, COMMUNITY SERVICE, COMBINATION AND DRUG TREATMENT AND TESTING ORDERS

#### PART I

#### PRELIMINARY

#### *Definitions*

- 1 (1) In this Schedule “relevant order” means any of the following orders—
- (a) a curfew order;
  - (b) a probation order;
  - (c) a community service order;
  - (d) a combination order;
  - (e) a drug treatment and testing order.
- (2) In this Schedule “the petty sessions area concerned” means—
- (a) in relation to a curfew order, the petty sessions area in which the place for the time being specified in the order is situated; and
  - (b) in relation to a probation, community service, combination or drug treatment and testing order, the petty sessions area for the time being specified in the order.
- (3) In this Schedule, references to the court responsible for a drug treatment and testing order shall be construed in accordance with section 54(7) of this Act.
- (4) In this Schedule—
- (a) references to the probation element of a combination order are references to the order in so far as it imposes such a requirement as is mentioned in section 51(1)(a) of this Act (and in so far as it imposes any additional requirements included in the order by virtue of section 42); and
  - (b) references to the community service element of such an order are references to the order in so far as it imposes such a requirement as is mentioned in section 51(1)(b).

#### *Orders made on appeal*

- 2 (1) Where a curfew, probation, community service or combination order has been made on appeal, for the purposes of this Schedule it shall be deemed—

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- (a) if it was made on an appeal brought from a magistrates’ court, to have been made by a magistrates’ court;
  - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.
- (2) Where a drug treatment and testing order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, for the purposes of this Schedule it shall be deemed to have been made by the Crown Court.

PROSPECTIVE	
<i>Functions of responsible officer</i>	
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**PART II**

BREACH OF REQUIREMENT OF ORDER

*Issue of summons or warrant*

- 3 (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—
- (a) in the case of a drug treatment and testing order, before the court responsible for the order;
  - (b) in the case of any other relevant order which was made by the Crown Court and included a direction that any failure to comply with any of the requirements of the order be dealt with by the Crown Court, before the Crown Court; and
  - (c) in the case of a relevant order which is neither a drug treatment and testing order nor an order to which paragraph (b) above applies, before a magistrates’ court acting for the petty sessions area concerned.

*Powers of magistrates’ court*

- 4 (1) If it is proved to the satisfaction of a magistrates’ court before which an offender appears or is brought under paragraph 3 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—

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- (a) it may impose on him a fine not exceeding £1,000;
  - (b) where the offender is aged 16 or over it may, subject to paragraph 7 below, make a community service order in respect of him;
  - (c) where—
    - (i) the relevant order is a curfew order and the offender is aged under 16, or
    - (ii) the relevant order is a probation order or combination order and the offender is aged under 21,it may, subject to paragraph 8 below, make an attendance centre order in respect of him; or
  - (d) where the relevant order was made by a magistrates' court, it may deal with him, for the offence in respect of which the order was made, in any way 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) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence (where the relevant order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.
- (3) Where a magistrates' court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.
- (4) 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.
- (5) A magistrates' court which deals with an offender's case under sub-paragraph (4) 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.
- (6) A person sentenced under sub-paragraph (1)(d) above for an offence may appeal to the Crown Court against the sentence.

#### *Powers of Crown Court*

- 5 (1) Where under paragraph 3 or by virtue of paragraph 4(4) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the Crown Court may deal with him in respect of the failure in any one of the following ways—
- (a) it may impose on him a fine not exceeding £1,000;

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- (b) where the offender is aged 16 or over it may, subject to paragraph 7 below, make a community service order in respect of him;
  - (c) where—
    - (i) the relevant order is a curfew order and the offender is aged under 16, or
    - (ii) the relevant order is a probation order or combination order and the offender is aged under 21,
 it may, subject to paragraph 8 below, make an attendance centre order in respect of him; or
  - (d) it may deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted before the Crown 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) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence (where the relevant order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.
- (3) Where the Crown Court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.
- (4) 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.

*Exclusions from paragraphs 4 and 5*

- 6 (1) Without prejudice to paragraphs 10 and 11 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 4 or 5 above in respect of a failure to comply with any requirement of the order.
- (2) An offender who—
- (a) is required by a probation order or combination order to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol, or
  - (b) is required by a drug treatment and testing order to submit to treatment for his dependency on or propensity to misuse drugs,
- shall not be treated for the purposes of paragraph 4 or 5 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.

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*Community service orders imposed for breach of relevant order*

- 7 (1) Section 46(1) of this Act (community service orders) shall apply for the purposes of paragraphs 4(1)(b) and 5(1)(b) above as if for the words from the beginning to “make” there were substituted “ Where a court has power to deal with an offender aged 16 or over under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may make in respect of the offender ”.
- (2) In this paragraph a “secondary order” means a community service order made by virtue of paragraph 4(1)(b) or 5(1)(b) above.
- (3) The number of hours which an offender may be required to work under a secondary order shall be specified in the order and shall not exceed 60 in the aggregate; and—
- (a) where the relevant order is a community service order, the number of hours which the offender may be required to work under the secondary order shall not be such that the total number of hours under both orders exceeds the maximum specified in section 46(3) of this Act; and
  - (b) where the relevant order is a combination order, the number of hours which the offender may be required to work under the secondary order shall not be such that the total number of hours under—
    - (i) the secondary order, and
    - (ii) the community service element of the combination order,exceeds the maximum specified in section 51(1)(b) of this Act.
- (4) Section 46(4) of this Act and, so far as applicable—
- (a) section 46(5) to (7) and (9) to (13), and
  - (b) section 47 and the provisions of this Schedule so far as relating to community service orders,
- have effect in relation to a secondary order as they have effect in relation to any other community service order, subject to sub-paragraph (6) below.
- (5) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a secondary order.
- (6) Where the provisions of this Schedule have effect as mentioned in sub-paragraph (4) above in relation to a secondary order—
- (a) the power conferred on the court by each of paragraphs 4(1)(d) and 5(1)(d) above and paragraph 10(3)(b) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any way in which the court could deal with him if that failure had just been proved to the satisfaction of the court;
  - (b) the references in paragraphs 10(1)(b) and 11(1)(a) below to the offence in respect of which the order was made shall be construed as references to the failure to comply in respect of which the order was made; and
  - (c) the power conferred on the Crown Court by paragraph 11(2)(b) below to deal with the offender for the offence in respect of which the order was made shall be construed as a power to deal with the offender, for his failure to comply with the original order, in any way in which a magistrates’ court (if the original order was made by a magistrates’ court) or the Crown Court (if

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the original order was made by the Crown Court) could deal with him if that failure had just been proved to its satisfaction;  
and in this sub-paragraph “the original order” means the relevant order the failure to comply with which led to the making of the secondary order.

*Attendance centre orders imposed for breach of relevant order*

- 8 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraphs 4(1)(c) and 5(1)(c) above as if for the words from the beginning to “the court may,” there were substituted “Where a court—
- (a) has power to deal with an offender aged under 16 under Part II of Schedule 3 to this Act for failure to comply with any of the requirements of a curfew order, or
  - (b) has power to deal with an offender aged under 21 under that Part of that Schedule for failure to comply with any of the requirements of a probation or combination order,

the court may, ”.

- (2) The following provisions of this Act, namely—

- (a) subsections (3) to (11) of section 60, and
- (b) so far as applicable, Schedule 5,

have effect in relation to an attendance centre order made by virtue of paragraph 4(1)(c) or 5(1)(c) above as they have effect in relation to any other attendance centre order, but as if there were omitted from each of paragraphs 2(1)(b), 3(1) and 4(3) of Schedule 5 the words “, for the offence in respect of which the order was made,” and “for that offence”.

- (3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(1)(c) or 5(1)(c) above.

*Supplementary*

- 9 (1) Any exercise by a court of its powers under paragraph 4(1)(a), (b) or (c) or 5(1)(a), (b) or (c) above shall be without prejudice to the continuance of the relevant order.
- (2) A fine imposed under paragraph 4(1)(a) or 5(1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (3) 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 4(1)(d) above in respect of the offender after he attains the age of 18 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.

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### PART III

#### REVOCATION OF ORDER

##### *Revocation of order with or without re-sentencing: powers of magistrates' court*

- 10 (1) This paragraph applies where a relevant order made by a magistrates' court is in force in respect of any offender and on the application of the offender or the responsible officer it appears to the appropriate magistrates' court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the order to be revoked; or
  - (b) for the offender to be dealt with in some other way for the offence in respect of which the order was made.
- (2) In this paragraph “the appropriate magistrates court” means—
- (a) in the case of a drug treatment and testing order, the magistrates' court responsible for the order;
  - (b) in the case of any other relevant order, a magistrates' court acting for the petty sessions area concerned.
- (3) The appropriate magistrates' court may—
- (a) revoke the order; or
  - (b) both—
    - (i) revoke the order; and
    - (ii) deal with the offender, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by the court of the offence.
- (4) The circumstances in which a probation, combination or drug treatment and testing order may be revoked under sub-paragraph (3)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision or, as the case may be, treatment.
- (5) In dealing with an offender under sub-paragraph (3)(b) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.
- (6) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.
- (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 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.

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*Revocation of order with or without re-sentencing: powers of Crown Court on conviction etc.*

- 11 (1) This paragraph applies where—
- (a) a relevant order made by the Crown Court is in force in respect of an offender and the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other way for the offence in respect of which the order was made; or
  - (b) an offender in respect of whom a relevant order is in force is convicted of an offence before the Crown Court or, having been committed by a magistrates' court to the Crown Court for sentence, 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) both—
    - (i) revoke the order; and
    - (ii) deal with the offender, for the offence in respect of which the order was made, in any way in which the court which made the order could deal with him if he had just been convicted of that offence by or before the court which made the order.
- (3) The circumstances in which a probation, combination or drug treatment and testing order may be revoked under sub-paragraph (2)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision or, as the case may be, treatment.
- (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.

*Substitution of conditional discharge for probation or combination order*

- 12 (1) This paragraph applies where a probation order or combination order is in force in respect of any offender and on the application of the offender or the responsible officer to the appropriate court it appears to the court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the order to be revoked; and
  - (b) for an order to be made under section 12(1)(b) of this Act discharging the offender conditionally for the offence for which the probation or combination order was made.
- (2) In this paragraph “the appropriate court” means—
- (a) where the probation or combination order was made by a magistrates' court, a magistrates' court acting for the petty sessions area concerned;
  - (b) where the probation or combination order was made by the Crown Court, the Crown Court.



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- (3) No application may be made under paragraph 10 or 11 above for a probation order or combination order to be revoked and replaced with an order for conditional discharge under section 12(1)(b); but otherwise nothing in this paragraph shall affect the operation of paragraphs 10 and 11 above.
- (4) Where this paragraph applies—
- (a) the appropriate court may revoke the probation or combination order and make an order under section 12(1)(b) of this Act discharging the offender in respect of the offence for which the probation or combination order was made, subject to the condition that he commits no offence during the period specified in the order under section 12(1)(b); and
  - (b) the period specified in the order under section 12(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 or combination order would have ended.
- (5) For the purposes of sub-paragraph (4) above, subsection (1) of section 12 of this 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 12 of Schedule 3 to this Act applies, the appropriate court may (subject to the provisions of sub-paragraph (4) of that paragraph) make an order in respect of the offender”; and
  - (b) paragraph (a) of that subsection were omitted.
- (6) 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 12(4) of this Act shall not apply.
- (7) No application may be made under this paragraph while an appeal against the probation or combination order is pending.
- (8) Without prejudice to paragraph 15 below, on the making of an order under section 12(1)(b) of this 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.
- (9) Each of sections 1(11), 2(9) and 66(4) of the <sup>M1</sup>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.

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*Revocation following custodial sentence by magistrates' court unconnected with order*

- 13 (1) This paragraph applies where—
- (a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;
  - (b) the court imposes a custodial sentence on the offender; and
  - (c) 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 exercise its powers under this paragraph, having regard to circumstances which have arisen since the order was made.
- (2) In sub-paragraph (1) above “a magistrates' court unconnected with the order” means—
- (a) in the case of a drug treatment and testing order, a magistrates' court which is not responsible for the order;
  - (b) in the case of any other relevant order, a magistrates' court not acting for the petty sessions area concerned.
- (3) The court may—
- (a) if the order was made by a magistrates' court, revoke it;
  - (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.
- (4) Where the court deals with an offender's case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.
- 14 Where by virtue of paragraph 13(3)(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.

*Supplementary*

- 15 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the proper officer of the court shall forthwith give copies of the revoking order to the responsible officer.
- (2) In sub-paragraph (1) above “proper officer” means—
- (a) in relation to a magistrates' court, the justices' chief executive for the court; and
  - (b) in relation to the Crown Court, the appropriate officer.
- (3) 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.
- 16 Paragraph 9(3) above shall apply for the purposes of paragraphs 10 and 11 above as it applies for the purposes of paragraph 4 above, but as if for the words “paragraph 4(1)(d) above” there were substituted “ paragraph 10(3)(b)(ii) or 11(2)(b)(ii) below ”.
- 17 Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 12(1)(b) of this Act and—

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- (a) the order for conditional discharge is not made in the circumstances mentioned in section 13(9) of this Act (order made by magistrates' court in the case of an offender under 18 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 13(9) shall have effect as if the order for conditional discharge had been made in those circumstances.

## PART IV

### AMENDMENT OF ORDER

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

- 18 (1) This paragraph applies where, at any time while a relevant order (other than a drug treatment and testing 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) to (5) 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 19 below, it either—
- (a) cancels those requirements; or
  - (b) substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.
- (4) Sub-paragraph (3) above applies also in relation to a combination order whose probation element contains requirements such as are mentioned in that sub-paragraph.
- (5) The court shall not amend a community service order or combination 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.
- (6) Where—
- (a) the court amends a probation, community service or combination order under this paragraph,
  - (b) a local authority is specified in the order in accordance with section 41(5) or 46(9) of this Act, and
  - (c) the change, or proposed change, of residence also is or would be a change of residence from the area of that authority to the area of another such authority,

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the court shall further amend the order by substituting the other authority for the authority specified in the order.

- (7) In sub-paragraph (6) above “local authority” has the meaning given by section 42 of the <sup>M2</sup>Crime and Disorder Act 1998, and references to the area of a local authority shall be construed in accordance with that section.

#### **Marginal Citations**

**M2** 1998 c. 37.

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

- 19 (1) Without prejudice to the provisions of paragraph 18 above but subject to sub-paragraphs (2) and (3) below, a magistrates’ court acting for the petty sessions area concerned may, on the application of the offender or the responsible officer, by order amend a probation or curfew order or the probation element of a combination order—
- (a) by cancelling any of the requirements of the probation or curfew order or of the probation element of the combination order; or
  - (b) by inserting in the probation or curfew order or probation element of the combination order (either in addition to or in substitution for any of its requirements) any requirement which the court could include if it were then making the order.
- (2) A magistrates’ court shall not under sub-paragraph (1) above amend a probation order or the probation element of a combination order—
- (a) by reducing the probation period, or by extending that period beyond the end of three years from the date of the original order; or
  - (b) by inserting in it a requirement that the offender shall submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol, unless—
    - (i) the offender has expressed his willingness to comply with such a requirement; and
    - (ii) the amending order is made within three months after the date of the original order.
- (3) A magistrates’ court shall not under sub-paragraph (1) above amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.

#### *Amendment of treatment requirements of probation or combination order on report of practitioner*

- 20 (1) Where the medical practitioner or other person by whom or under whose direction an offender is, in pursuance of any requirement of a probation or combination order, being treated for his mental condition or his dependency on or propensity to misuse drugs or alcohol—
- (a) is of the opinion mentioned in sub-paragraph (2) below, or

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(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 19 above to a magistrates' court acting 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;
  - (c) that the offender is not susceptible to treatment; or
  - (d) that the offender does not require further treatment.

#### *Amendment of drug treatment and testing order*

- 21 (1) Without prejudice to the provisions of section 55(1), (6) and (8) of this Act, 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 periodic review (required by section 54(6)(a) of this Act) 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 52(1) of this Act, 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—
- (a) revoke the order; and

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- (b) deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted by or before 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 (where the order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.
- (7) Paragraph 9(3) above shall apply for the purposes of this paragraph as it applies for the purposes of paragraph 4 above, but as if for the words “paragraph 4(1)(d) above” there were substituted “ paragraph 21(5)(b) below ”.

*Extension of community service or combination order*

- 22           Where—
- (a) a community service order or combination 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 47(3) of this Act.

*Supplementary*

- 23           No order may be made under paragraph 18 above, and no application may be made under paragraph 19 or 22 above or, except with the consent of the offender, under paragraph 21 above, while an appeal against the relevant order is pending.
- 24           (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.
- (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.
- 25           (1) On the making under this Part of this Schedule of an order amending a relevant order (other than a drug treatment and testing order), the justices’ chief executive for the court shall forthwith—

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- (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 chief executive 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 the exercise of its functions in relation to the order;and in a case falling within paragraph (b) above the chief executive to the justices for that area shall give copies of the amending order to the responsible officer.
- (2) On the making under this Part of this Schedule of an order amending a drug treatment and testing order, the justices' chief executive for the court shall forthwith give copies of the amending order to the responsible officer.
  - (3) A responsible officer to whom in accordance with sub-paragraph (1) or (2) 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.

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