

*Status: Point in time view as at 30/09/2004.*

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## SCHEDULES

### SCHEDULE 1

Section 28.

#### YOUTH OFFENDER PANELS: FURTHER COURT PROCEEDINGS

#### PART I

##### REFERRAL BACK TO APPROPRIATE COURT

###### *Introductory*

- 1 (1) This Part of this Schedule applies where a youth offender panel refers an offender back to the appropriate court under section 22(2), 25(2) or (3), 26(5), (8) or (10) or 27(4) of this Act.
- (2) For the purposes of this Part of this Schedule and the provisions mentioned in sub-paragraph (1) above the appropriate court is—
- (a) in the case of an offender aged under 18 at the time when (in pursuance of the referral back) he first appears before the court, a youth court acting for the petty sessions area in which it appears to the youth offender panel that the offender resides or will reside; and
  - (b) otherwise, a magistrates' court (other than a youth court) acting for that area.

###### *Mode of referral back to court*

- 2 The panel shall make the referral by sending a report to the appropriate court explaining why the offender is being referred back to it.

###### *Bringing the offender before the court*

- 3 (1) Where the appropriate court receives such a report, the court shall cause the offender to appear before it.
- (2) For the purpose of securing the attendance of the offender before the court, a justice acting for the petty sessions area for which the court acts may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
  - (b) if the report is substantiated on oath, issue a warrant for the offender's arrest.
- (3) Any summons or warrant issued under sub-paragraph (2) above shall direct the offender to appear or be brought before the appropriate court.

###### *Detention and remand of arrested offender*

- 4 (1) Where the offender is arrested in pursuance of a warrant under paragraph 3(2) above and cannot be brought immediately before the appropriate court—

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- (a) the person in whose custody he is may make arrangements for his detention in a place of safety (within the meaning given by section 107(1) of the <sup>M1</sup>Children and Young Persons Act 1933) for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
  - (b) that person shall within that period bring him before a court which—
    - (i) if he is under the age of 18 when he is brought before the court, shall be a youth court; and
    - (ii) if he has then attained that age, shall be a magistrates' court other than a youth court.
- (2) Sub-paragraphs (3) to (5) below apply where the court before which the offender is brought under sub-paragraph (1)(b) above (“the alternative court”) is not the appropriate court.
- (3) The alternative court may direct that he is to be released forthwith or remand him.
- (4) Section 128 of the <sup>M2</sup>Magistrates' Courts Act 1980 (remand in custody or on bail) shall have effect where the alternative court has power under sub-paragraph (3) above to remand the offender as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the appropriate court.
- (5) That section shall have effect where the alternative court has power so to remand him, or the appropriate court has (by virtue of sub-paragraph (4) above) power to further remand him, as if in subsection (1) there were inserted after paragraph (c) “or
- (d) if he is aged under 18, remand him to accommodation provided by or on behalf of a local authority (within the meaning of the <sup>M3</sup>Children Act 1989) and, if it does so, shall designate as the authority who are to receive him the local authority for the area in which it appears to the court that he resides or will reside;”.

#### **Marginal Citations**

- M1** 1933 c. 12.
- M2** 1980 c. 43.
- M3** 1989 c. 41.

#### *Power of court where it upholds panel's decision*

- 5 (1) If it is proved to the satisfaction of the appropriate court as regards any decision of the panel which resulted in the offender being referred back to the court—
- (a) that, so far as the decision relied on any finding of fact by the panel, the panel was entitled to make that finding in the circumstances, and
  - (b) that, so far as the decision involved any exercise of discretion by the panel, the panel reasonably exercised that discretion in the circumstances,
- the court may exercise the power conferred by sub-paragraph (2) below.
- (2) That power is a power to revoke the referral order (or each of the referral orders).
- (3) The revocation under sub-paragraph (2) above of a referral order has the effect of revoking any related order under paragraph 11 or 12 below.

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- (4) Where any order is revoked under sub-paragraph (2) above or by virtue of sub-paragraph (3) above, the appropriate court may deal with the offender in accordance with sub-paragraph (5) below for the offence in respect of which the revoked order was made.
- (5) In so dealing with the offender for such an offence, the appropriate court—
- (a) may deal with him in any way in which (assuming section 16 of this Act had not applied) he could have been dealt with for that offence by the court which made the order; and
  - (b) shall have regard to—
    - (i) the circumstances of his referral back to the court; and
    - (ii) where a contract has taken effect under section 23 of this Act between the offender and the panel, the extent of his compliance with the terms of the contract.
- (6) The appropriate court may not exercise the powers conferred by sub-paragraph (2) or (4) above unless the offender is present before it; but those powers are exercisable even if, in a case where a contract has taken effect under section 23, the period for which the contract has effect has expired (whether before or after the referral of the offender back to the court).

#### *Appeal*

- 6 Where the court in exercise of the power conferred by paragraph 5(4) above deals with the offender for an offence, the offender may appeal to the Crown Court against the sentence.

#### *Court not revoking referral order or orders*

- 7 (1) This paragraph applies—
- (a) where the appropriate court decides that the matters mentioned in paragraphs (a) and (b) of paragraph 5(1) above have not been proved to its satisfaction; or
  - (b) where, although by virtue of paragraph 5(1) above the appropriate court—
    - (i) is able to exercise the power conferred by paragraph 5(2) above, or
    - (ii) would be able to do so if the offender were present before it,the court (for any reason) decides not to exercise that power.
- (2) If either—
- (a) no contract has taken effect under section 23 of this Act between the offender and the panel, or
  - (b) a contract has taken effect under that section but the period for which it has effect has not expired,
- the offender shall continue to remain subject to the referral order (or orders) in all respects as if he had not been referred back to the court.
- (3) If—
- (a) a contract had taken effect under section 23 of this Act, but
  - (b) the period for which it has effect has expired (otherwise than by virtue of section 24(6)),

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the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

*Exception where court satisfied as to completion of contract*

- 8 If, in a case where the offender is referred back to the court under section 27(4) of this Act, the court decides (contrary to the decision of the panel) that the offender’s compliance with the terms of the contract has, or will have, been such as to justify the conclusion that he has satisfactorily completed the contract, the court shall make an order declaring that the referral order (or each of the referral orders) is discharged.

*Discharge of extension orders*

- 9 The discharge under paragraph 7(3) or 8 above of a referral order has the effect of discharging any related order under paragraph 11 or 12 below.

**[<sup>F1</sup>PART 1A**

REFERRAL OF PARENT OR GUARDIAN FOR BREACH OF SECTION 20 ORDER

**Textual Amendments**

- F1** Sch. 1 Pt. 1A inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), s. 336(3)(4), Sch. 34 para. 6; S.I. 2004/81, art. 5(1)(2)(d)

*Introductory*

- 9A (1) This Part of this Schedule applies where, under section 22(2A) of this Act, a youth offender panel refers an offender’s parent or guardian to a youth court.
- (2) In this Part of this Schedule—
- (a) “the offender” means the offender whose parent or guardian is referred under section 22(2A);
  - (b) “the parent” means the parent or guardian so referred; and
  - (c) “the youth court” means a youth court as mentioned in section 22(2A).

*Mode of referral to court*

- 9B The panel shall make the referral by sending a report to the youth court explaining why the parent is being referred to it.

*Bringing the parent before the court*

- 9C (1) Where the youth court receives such a report it shall cause the parent to appear before it.
- (2) For the purpose of securing the attendance of the parent before the court, a justice acting for the petty sessions area for which the court acts may—
- (a) issue a summons requiring the parent to appear at the place and time specified in it; or

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- (b) if the report is substantiated on oath, issue a warrant for the parent's arrest.
- (3) Any summons or warrant issued under sub-paragraph (2) above shall direct the parent to appear or be brought before the youth court.

*Power of court to make parenting order: application of supplemental provisions*

- 9D (1) Where the parent appears or is brought before the youth court under paragraph 9C above, the court may make a parenting order in respect of the parent if—
- (a) it is proved to the satisfaction of the court that the parent has failed without reasonable excuse to comply with the order under section 20 of this Act; and
  - (b) the court is satisfied that the parenting order would be desirable in the interests of preventing the commission of any further offence by the offender.
- (2) A parenting order is an order which requires the parent—
- (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
  - (b) subject to sub-paragraph (4) below, to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (3) The requirements that may be specified under sub-paragraph (2)(a) above are those which the court considers desirable in the interests of preventing the commission of any further offence by the offender.
- (4) A parenting order under this paragraph may, but need not, include a requirement mentioned in subsection (2)(b) above in any case where a parenting order under this paragraph or any other enactment has been made in respect of the parent on a previous occasion.
- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (2)(b) above may be or include a residential course but only if the court is satisfied—
- (a) that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the commission of any further offence by the offender, and
  - (b) that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- (6) Before making a parenting order under this paragraph where the offender is aged under 16, the court shall obtain and consider information about his family circumstances and the likely effect of the order on those circumstances.
- (7) Sections 8(3) and (8), 9(3) to (7) and 18(3) and (4) of the Crime and Disorder Act 1998 apply in relation to a parenting order made under this paragraph as they apply in relation to any other parenting order.

*Appeal*

- 9E (1) An appeal shall lie to the Crown Court against the making of a parenting order under paragraph 9D above.

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- (2) Subsections (2) and (3) of section 10 of the Crime and Disorder Act 1998 (appeals against parenting orders) apply in relation to an appeal under this paragraph as they apply in relation to an appeal under subsection (1)(b) of that section.

*Effect on section 20 order*

- 9F (1) The making of a parenting order under paragraph 9D above is without prejudice to the continuance of the order under section 20 of this Act.
- (2) Section 63(1) to (4) of the Magistrates' Courts Act 1980 (power of magistrates' court to deal with person for breach of order, etc) apply (as well as section 22(2A) of this Act and this Part of this Schedule) in relation to an order under section 20 of this Act.]

## PART II

### FURTHER CONVICTIONS DURING REFERRAL

*Extension of referral for further offences*

- 10 (1) Paragraphs 11 and 12 below apply where, at a time when an offender aged under 18 is subject to referral, a youth court or other magistrates' court ("the relevant court") is dealing with him for an offence in relation to which paragraphs (a) to (c) of section 16(1) of this Act are applicable.
- (2) But paragraphs 11 and 12 do not apply unless the offender's compliance period is less than twelve months. Extension where further offences committed pre-referral
- 11 If—
- (a) the occasion on which the offender was referred to the panel is the only other occasion on which it has fallen to a court in the United Kingdom to deal with the offender for any offence or offences, and
- (b) the offender committed the offence mentioned in paragraph 10 above, and any connected offence, before he was referred to the panel,
- the relevant court may sentence the offender for the offence by making an order extending his compliance period.

*Extension where further offence committed after referral*

- 12 (1) If—
- (a) paragraph 11(a) above applies, but
- (b) the offender committed the offence mentioned in paragraph 10 above, or any connected offence, after he was referred to the panel,
- the relevant court may sentence the offender for the offence by making an order extending his compliance period, but only if the requirements of sub-paragraph (2) below are complied with.
- (2) Those requirements are that the court must—
- (a) be satisfied, on the basis of a report made to it by the relevant body, that there are exceptional circumstances which indicate that, even though the offender has re-offended since being referred to the panel, extending his compliance period is likely to help prevent further re-offending by him; and

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(b) state in open court that it is so satisfied and why it is.

- (3) In sub-paragraph (2) above “the relevant body” means the panel to which the offender has been referred or, if no contract has yet taken effect between the offender and the panel under section 23 of this Act, the specified team.

*Provisions supplementary to paragraphs 11 and 12*

- 13 (1) An order under paragraph 11 or 12 above, or two or more orders under one or other of those paragraphs made in respect of connected offences, must not so extend the offender’s compliance period as to cause it to exceed twelve months.
- (2) Sub-paragraphs (3) to (5) below apply where the relevant court makes an order under paragraph 11 or 12 above in respect of the offence mentioned in paragraph 10 above; but sub-paragraphs (3) to (5) do not affect the exercise of any power to deal with the offender conferred by paragraph 5 or 14 of this Schedule.
- (3) The relevant court may not deal with the offender for that offence in any of the prohibited ways specified in section 19(4) of this Act.
- (4) The relevant court—
- (a) shall, in respect of any connected offence, either—
- (i) sentence the offender by making an order under the same paragraph; or
- (ii) make an order discharging him absolutely; and
- (b) may not deal with the offender for any connected offence in any of those prohibited ways.
- (5) The relevant court may not, in connection with the conviction of the offender for the offence or any connected offence, make any such order as is mentioned in section 19(5) of this Act.
- (6) For the purposes of paragraphs 11 and 12 above any occasion on which the offender was discharged absolutely in respect of the offence, or each of the offences, for which he was being dealt with shall be disregarded.
- (7) Any occasion on which, in criminal proceedings in England and Wales or Northern Ireland, the offender was bound over to keep the peace or to be of good behaviour shall be regarded for those purposes as an occasion on which it fell to a court in the United Kingdom to deal with the offender for an offence.
- (8) The Secretary of State may by regulations make such amendments of paragraphs 10 to 12 above and this paragraph as he considers appropriate for altering in any way the descriptions of offenders in the case of which an order extending the compliance period may be made; and subsection (4) of section 17 of this Act shall apply in relation to regulations under this sub-paragraph as it applies in relation to regulations under subsection (3) of that section.

*Further convictions which lead to revocation of referral*

- 14 (1) This paragraph applies where, at a time when an offender is subject to referral, a court in England and Wales deals with him for an offence (whether committed before or after he was referred to the panel) by making an order other than—
- (a) an order under paragraph 11 or 12 above; or

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- (b) an order discharging him absolutely.
- (2) In such a case the order of the court shall have the effect of revoking—
  - (a) the referral order (or orders); and
  - (b) any related order or orders under paragraph 11 or 12 above.
- (3) Where any order is revoked by virtue of sub-paragraph (2) above, the court may, if appears to the court that it would be in the interests of justice to do so, deal with the offender for the offence in respect of which the revoked order was made in any way in which (assuming section 16 of this Act had not applied) he could have been dealt with for that offence by the court which made the order.
- (4) When dealing with the offender under sub-paragraph (3) above the court shall, where a contract has taken effect between the offender and the panel under section 23 of this Act, have regard to the extent of his compliance with the terms of the contract.

#### *Interpretation*

- 15 (1) For the purposes of this Part of this Schedule an offender is for the time being subject to referral if—
  - (a) a referral order has been made in respect of him and that order has not, or
  - (b) two or more referral orders have been made in respect of him and any of those orders has not,
 been discharged (whether by virtue of section 27(3) of this Act or under paragraph 7(3) or 8 above) or revoked (whether under paragraph 5(2) above or by virtue of paragraph 14(2) above).
- (2) In this Part of this Schedule “compliance period”, in relation to an offender who is for the time being subject to referral, means the period for which (in accordance with section 24 of this Act) any youth offender contract taking effect in his case under section 23 of this Act has (or would have) effect.

## SCHEDULE 2

Section 42.

### [<sup>F2</sup>ADDITIONAL REQUIREMENTS WHICH MAY BE INCLUDED IN COMMUNITY REHABILITATION ORDERS]

#### **Textual Amendments**

- F2** Heading to Sch. 2 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(5)**; S.I. 2001/919, **art. 2(f)(ii)**

#### *Requirements as to residence*

- 1 (1) Subject to sub-paragraphs (2) and (3) below, a [<sup>F3</sup>community rehabilitation order] may include requirements as to the residence of the offender.
- (2) Before making a [<sup>F3</sup>community rehabilitation order] containing any such requirement, the court shall consider the home surroundings of the offender.



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- (3) Where a [<sup>F3</sup>community rehabilitation order] requires the offender to reside in an approved hostel or any other institution, the period for which he is required to reside there shall be specified in the order.

#### Textual Amendments

**F3** Words in Sch. 2 para. 1 substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)

#### *Requirements as to activities etc.*

- 2 (1) Subject to the provisions of this paragraph, a [<sup>F4</sup>community rehabilitation order] may require the offender—
- (a) to present himself to a person or persons specified in the order at a place or places so specified;
  - (b) to participate or refrain from participating in activities specified in the order—
    - (i) on a day or days so specified; or
    - (ii) during the [<sup>F5</sup>community rehabilitation period] or such portion of it as may be so specified.
- (2) A court shall not include in a [<sup>F4</sup>community rehabilitation order] a requirement such as is mentioned in sub-paragraph (1) above unless—
- (a) it has consulted—
    - (i) in the case of an offender aged 18 or over, [<sup>F6</sup>an officer of a local probation board]; or
    - (ii) in the case of an offender aged under 18, either [<sup>F6</sup>an officer of a local probation board] or a member of a youth offending team; and
  - (b) it is satisfied that it is feasible to secure compliance with the requirement.
- (3) A court shall not include a requirement such as is mentioned in sub-paragraph (1)(a) above or a requirement to participate in activities if it would involve the co-operation of a person other than the offender and the offender's responsible officer, unless that other person consents to its inclusion.
- (4) A requirement such as is mentioned in sub-paragraph (1)(a) above shall operate to require the offender—
- (a) in accordance with instructions given by his responsible officer, to present himself at a place or places for not more than 60 days in the aggregate; and
  - (b) while at any place, to comply with instructions given by, or under the authority of, the person in charge of that place.
- (5) A place specified in an order shall have been approved by the [<sup>F7</sup>local probation board] for the area in which the premises are situated as providing facilities suitable for persons subject to [<sup>F4</sup>community rehabilitation orders].
- (6) A requirement to participate in activities shall operate to require the offender—
- (a) in accordance with instructions given by his responsible officer, to participate in activities for not more than 60 days in the aggregate; and

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- (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.
- (7) Instructions given by the offender’s responsible officer under sub-paragraph (4) or (6) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

#### Textual Amendments

- F4** Words in Sch. 2 para. 2(1)(2)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, 80(1), **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F5** Words in Sch. 2 para. 2(1)(b)(ii) substituted (1.4.2001) by 2000 c. 43, s. 74, 80(1), **Sch. 7 Pt. II para. 198(2)**; S.I. 2001/919, **art. 2(f)(ii)**
- F6** Words in Sch. 2 para. 2(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F7** Words in Sch. 2 para. 2(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(3)**; S.I. 2001/919, **art. 2(f)(ii)**

#### *[<sup>F8</sup>Requirements as to attendance at community rehabilitation centres]*

#### Textual Amendments

- F8** Sch. 2 para. 3: cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 198(4)(c)**; S.I. 2001/919, **art. 2(f)(ii)**

- 3 (1) Subject to the provisions of this paragraph, a [<sup>F9</sup>community rehabilitation order] may require the offender during the [<sup>F10</sup>community rehabilitation period] to attend at a [<sup>F11</sup>community rehabilitation centre] specified in the order.
- (2) A court shall not include in a [<sup>F9</sup>community rehabilitation order] such a requirement as is mentioned in sub-paragraph (1) above unless it has consulted—
- (a) in the case of an offender aged 18 or over, [<sup>F12</sup>an officer of a local probation board]; or
  - (b) in the case of an offender aged under 18, either [<sup>F12</sup>an officer of a local probation board] or a member of a youth offending team.
- (3) A court shall not include such a requirement in a [<sup>F9</sup>community rehabilitation order] unless it is satisfied—
- (a) that arrangements can be made for the offender’s attendance at a centre; and
  - (b) that the person in charge of the centre consents to the inclusion of the requirement.
- (4) A requirement under sub-paragraph (1) above shall operate to require the offender—
- (a) in accordance with instructions given by his responsible officer, to attend on not more than 60 days at the centre specified in the order; and
  - (b) while attending there to comply with instructions given by, or under the authority of, the person in charge of the centre.

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- (5) Instructions given by the offender’s responsible officer under sub-paragraph (4) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (6) References in this paragraph to attendance at a [F11community rehabilitation centre] include references to attendance elsewhere than at the centre for the purpose of participating in activities in accordance with instructions given by, or under the authority of, the person in charge of the centre.
- (7) The Secretary of State may make rules for regulating the provision and carrying on of [F13community rehabilitation centres] and the attendance at such centres of persons subject to [F9community rehabilitation orders]; and such rules may in particular include provision with respect to hours of attendance, the reckoning of days of attendance and the keeping of attendance records.
- (8) In this paragraph “[F11community rehabilitation centre]” means premises—
- (a) at which non-residential facilities are provided for use in connection with the rehabilitation of offenders; and
  - (b) which are for the time being approved by the Secretary of State as providing facilities suitable for persons subject to [F9community rehabilitation orders].

#### Textual Amendments

- F9** Words in Sch. 2 para. 3(1)–(3)(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(2); S.I. 2001/919, art. 2(f)(i)
- F10** Words in Sch. 2 para. 3(1) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 198(2); S.I. 2001/919, art. 2(f)(ii)
- F11** Words in Sch. 2 para. 3(1)(6)(8) substituted (1.4.2001) by 2000 c. 43, s. 74, 80(1), Sch. 7 Pt. II para. 198(4)(a); S.I. 2001/919, art. 2(f)(ii)
- F12** Words in Sch. 2 para. 3(2)(a)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 4(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F13** Words in Sch. 2 para. 3(7) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 198(4)(b); S.I. 2001/919, art. 2(f)(ii)

#### *Extension of requirements for sexual offenders*

- 4 If the court so directs in the case of an offender who has been convicted of a sexual offence—
- (a) sub-paragraphs (4) and (6) of paragraph 2 above, and
  - (b) sub-paragraph (4) of paragraph 3 above,
- shall each have effect as if for the reference to 60 days there were substituted a reference to such greater number of days as may be specified in the direction.

#### *Requirements as to treatment for mental condition etc.*

- 5 (1) This paragraph applies where a court proposing to make a [F14community rehabilitation order] is satisfied, on the evidence of a registered medical practitioner

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approved for the purposes of section 12 of the <sup>M4</sup>Mental Health Act 1983, that the mental condition of the offender—

- (a) is such as requires and may be susceptible to treatment; but
- (b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.

(2) Subject to sub-paragraph (4) below, the [<sup>F14</sup>community rehabilitation order] may include a requirement that the offender shall submit, during the whole of the [<sup>F15</sup>community rehabilitation period] or during such part or parts of that period as may be specified in the order, to treatment by or under the direction of a registered medical practitioner or a chartered psychologist (or both, for different parts) with a view to the improvement of the offender's mental condition.

(3) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—

- (a) treatment as a resident patient in [<sup>F16</sup>an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital] within the meaning of the <sup>M5</sup>Mental Health Act 1983, but not hospital premises at which high security psychiatric services within the meaning of that Act are provided;
- (b) treatment as a non-resident patient at such institution or place as may be specified in the order;
- (c) treatment by or under the direction of such registered medical practitioner or chartered psychologist (or both) as may be so specified;

but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.

(4) A court shall not by virtue of this paragraph include in a [<sup>F14</sup>community rehabilitation order] a requirement that the offender shall submit to treatment for his mental condition unless—

- (a) it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident patient); and
- (b) the offender has expressed his willingness to comply with such a requirement.

(5) While the offender is under treatment as a resident patient in pursuance of a requirement of the [<sup>F14</sup>community rehabilitation order], his responsible officer shall carry out the supervision of the offender to such extent only as may be necessary for the purpose of the revocation or amendment of the order.

(6) Where the medical practitioner or chartered psychologist by whom or under whose direction an offender is being treated for his mental condition in pursuance of a [<sup>F14</sup>community rehabilitation order] is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—

- (a) is not specified in the order, and
- (b) is one in or at which the treatment of the offender will be given by or under the direction of a registered medical practitioner or chartered psychologist,

he may, with the consent of the offender, make arrangements for him to be treated accordingly.

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- (7) Such arrangements as are mentioned in sub-paragraph (6) above may provide for the offender to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified for that purpose in the [<sup>F14</sup>community rehabilitation order].
- (8) Where any such arrangements as are mentioned in sub-paragraph (6) above are made for the treatment of an offender—
- (a) the medical practitioner or chartered psychologist by whom the arrangements are made shall give notice in writing to the offender's responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and
  - (b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the [<sup>F14</sup>community rehabilitation order].
- (9) Subsections (2) and (3) of section 54 of the <sup>M6</sup>Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender's mental condition as they have effect with respect to proof of an offender's mental condition for the purposes of section 37(2)(a) of that Act.
- (10) In this paragraph, "chartered psychologist" means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists.

#### Textual Amendments

- F14** Words in Sch. 2 para. 5(1)(2)(4)-(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F15** Words in Sch. 2 para. 5(2) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 198(2); S.I. 2001/919, art. 2(f)(ii)
- F16** Words in Sch. 2 para. 5(3)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, Sch. 4 para. 28(2); S.I. 2001/4150, art. 3(2)(3)(a) (subject to transitional provisions in art. 4 and S.I. 2002/1493, arts. 4,6); S.I. 2002/920, art. 3(3)(d) (subject to transitional provisions in art. 2, Schs. 1-3)

#### Marginal Citations

- M4** 1983 c. 20.  
**M5** 1983 c. 20.  
**M6** 1983 c. 20.

#### *Requirements as to treatment for drug or alcohol dependency*

- 6 (1) Subject to sub-paragraph (2) below, this paragraph applies where a court proposing to make a [<sup>F17</sup>community rehabilitation order] is satisfied—
- (a) that the offender is dependent on drugs or alcohol;
  - (b) that his dependency caused or contributed to the offence in respect of which the order is proposed to be made; and
  - (c) that his dependency is such as requires and may be susceptible to treatment.
- (2) If the court has been notified by the Secretary of State that arrangements for implementing drug treatment and testing orders are available in the area proposed to be specified in the [<sup>F17</sup>community rehabilitation order], and the notice has not been

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withdrawn, this paragraph shall have effect as if the words “drugs or”, in each place where they occur, were omitted.

- (3) Subject to sub-paragraph (5) below, the [<sup>F17</sup>community rehabilitation order] may include a requirement that the offender shall submit, during the whole of the [<sup>F18</sup>community rehabilitation period] or during such part of that period as may be specified in the order, to treatment by or under the direction of a person having the necessary qualifications or experience with a view to the reduction or elimination of the offender’s dependency on drugs or alcohol.
- (4) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
- (a) treatment as a resident in such institution or place as may be specified in the order;
  - (b) treatment as a non-resident in or at such institution or place as may be so specified;
  - (c) treatment by or under the direction of such person having the necessary qualifications or experience as may be so specified;
- but the nature of the treatment shall not be specified in the order except as mentioned in paragraph (a), (b) or (c) above.
- (5) A court shall not by virtue of this paragraph include in a [<sup>F17</sup>community rehabilitation order] a requirement that the offender shall submit to treatment for his dependency on drugs or alcohol unless—
- (a) it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order (including arrangements for the reception of the offender where he is to be required to submit to treatment as a resident); and
  - (b) the offender has expressed his willingness to comply with such a requirement.
- (6) While the offender is under treatment as a resident in pursuance of a requirement of the [<sup>F17</sup>community rehabilitation order], his responsible officer shall carry out the offender’s supervision to such extent only as may be necessary for the purpose of the revocation or amendment of the order.
- (7) Where the person by whom or under whose direction an offender is being treated for dependency on drugs or alcohol in pursuance of a [<sup>F17</sup>community rehabilitation order] is of the opinion that part of the treatment can be better or more conveniently given in or at an institution or place which—
- (a) is not specified in the order, and
  - (b) is one in or at which the treatment of the offender will be given by or under the direction of a person having the necessary qualifications or experience,
- he may, with the consent of the offender, make arrangements for him to be treated accordingly.
- (8) Where any such arrangements as are mentioned in sub-paragraph (7) above are made for the treatment of an offender—
- (a) the person by whom the arrangements are made shall give notice in writing to the offender’s responsible officer, specifying the institution or place in or at which the treatment is to be carried out; and

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(b) the treatment provided for by the arrangements shall be deemed to be treatment to which he is required to submit in pursuance of the [<sup>F17</sup>community rehabilitation order].

(9) In this paragraph, the reference to the offender being dependent on drugs or alcohol includes a reference to his having a propensity towards the misuse of drugs or alcohol; and references to his dependency on drugs or alcohol shall be construed accordingly.

#### Textual Amendments

- F17** Words in Sch. 2 para. 6(1)-(3)(5)-(7)(8)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F18** Words in Sch. 2 para. 6(3) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 198(2); S.I. 2001/919, art. 2(f)(ii)

*[<sup>F19</sup> Curfew requirements]*

#### Textual Amendments

- F19** Sch. 2 para. 7 and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 50; S.I. 2001/2232, art. 2(d)

- [<sup>F207</sup> (1) Subject to the provisions of this paragraph, a community rehabilitation order may include a requirement that the offender remain, for periods specified in the requirement, at a place so specified.
- (2) A requirement under sub-paragraph (1) above may specify different places or different periods for different days, but shall not specify—
- (a) periods which fall outside the period of six months beginning with the day on which the order is made; or
  - (b) periods which amount to less than two hours or more than twelve hours in any one day.
- (3) A requirement under sub-paragraph (1) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender's religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.
- (4) An order which includes a requirement under sub-paragraph (1) above shall include provision for making a person responsible for monitoring the offender's whereabouts during the curfew periods specified in the requirement; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above unless the court has been notified by the Secretary of State that arrangements for monitoring the offender's whereabouts are available in the area in which the place proposed to be specified in the requirement is situated and the notice has not been withdrawn.



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- (6) A court shall not include in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above if the community sentence includes a curfew order.
- (7) Before including in a community rehabilitation order such a requirement as is mentioned in sub-paragraph (1) above, the court shall obtain and consider information about the place proposed to be specified in the requirement (including information as to the attitude of persons likely to be affected by the enforced presence there of the offender).
- (8) The Secretary of State may make rules for regulating—
- (a) the monitoring of the whereabouts of an offender who is subject to a requirement under sub-paragraph (1) above; and
  - (b) without prejudice to the generality of paragraph (a) above, the functions of any person responsible for monitoring the offender’s whereabouts during the curfew periods specified in the requirement.
- (9) The Secretary of State may by order direct that sub-paragraph (3) above shall have effect with such additional restrictions as may be specified in the order.]

**Textual Amendments**

**F20** Sch. 2 para. 7 and cross-heading inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 50; S.I. 2001/2232, art. 2(d)

SCHEDULE 3

Sections 39, 43, 48, 51, 56.

[<sup>F21</sup>BREACH, REVOCATION AND AMENDMENT OF CERTAIN COMMUNITY ORDERS]

**Textual Amendments**

**F21** Heading to Sch. 3 substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(27); S.I. 2001/919, art. 2(f)(iv)

**PART I**

PRELIMINARY

*Definitions*

- 1 (1) In this Schedule “relevant order” means any of the following orders—
- (a) a curfew order;
  - [<sup>F22</sup>(aa) an exclusion order;]
  - (b) a [<sup>F23</sup>community rehabilitation order];
  - (c) a [<sup>F24</sup>community punishment order];
  - (d) a [<sup>F25</sup>community punishment and rehabilitation order];



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- (e) a drug treatment and testing order.
  - [<sup>F26</sup>(f) a drug abstinence 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 [<sup>F27</sup>an exclusion, community rehabilitation, community punishment, community punishment and rehabilitation, drug treatment and testing or drug abstinence] 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 [<sup>F28</sup>or drug abstinence order] shall be construed in accordance with section 54(7) of this Act [<sup>F29</sup>(or that subsection as applied by section 58B(2) of this Act)].
- (4) In this Schedule—
- (a) references to the [<sup>F30</sup>community rehabilitation element] of a [<sup>F25</sup>community punishment and rehabilitation 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 [<sup>F31</sup>community punishment 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).

#### Textual Amendments

- F22** Sch. 3 para. 1(1)(aa) inserted (2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by **Criminal Justice and Courts Services Act 2000 (c. 43), s. 80(1), Sch. 7 para. 199(2)(a)(i); S.I. 2004/2171, art. 2**
- F23** Words in Sch. 3 para. 1(1)(b) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)**
- F24** Words in Sch. 3 para. 1(1)(c) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 2(1)(a)(2); S.I. 2001/919, art. 2(f)(i)**
- F25** Words in Sch. 3 para. 1(1)(d)(4)(a) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 3(1)(a)(2); S.I. 2001/919, art. 2(f)(i)**
- F26** Sch. 3 para. 1(1)(f) inserted (20.6.2001 and 2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(2)(a)(ii); S.I. 2001/2232, art. 2(m)(viii); S.I. 2004/2171, art. 2**
- F27** Words in Sch. 3 para. 1(2)(b) substituted (1.4.2001, 20.6.2001, 2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by **2000 c. 43, ss. 74, 80(1), Sch. 7 Pt. II para. 199(2)(b); S.I. 2001/2232, art. 2(m)(viii); S.I. 2004/2171, art. 2**
- F28** Words in Sch. 3 para. 1(3) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(2)(c)(i); S.I. 2001/2232, art. 2(m)(viii)**
- F29** Words in Sch. 3 para. 1(3) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(2)(c)(ii); S.I. 2001/2232, art. 2(m)(viii)**
- F30** Words in Sch. 3 para. 1(4)(a) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(3); S.I. 2001/919, art. 2(f)(iv)**
- F31** Words in Sch. 3 para. 1(4)(b) substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(4); S.I. 2001/919, art. 2(f)(iv)**

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*Orders made on appeal*

- 2 (1) Where a curfew, [<sup>F32</sup>exclusion, community rehabilitation, community punishment, community punishment and rehabilitation or drug abstinence] order has been made on appeal, for the purposes of this Schedule it shall be deemed—
- (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.

**Textual Amendments**

**F32** Words in Sch. 3 para. 2(1) substituted (1.4.2001, 20.6.2001, 2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by 2000 c. 43, ss. 74, 80(1), **Sch. 7 Pt. II para. 199(5)**; S.I. 2001/919, **art. 2(f)(iv)**; S.I. 2001/2232, **art. 2(m)(viii)**; S.I. 2004/2171, art. 2

PROSPECTIVE

*Functions of responsible officer*

2A .....

**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 [<sup>F33</sup>or a drug abstinence 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

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- (c) in the case of a relevant order which is neither a drug treatment and testing order [<sup>F34</sup>a drug abstinence order] nor an order to which paragraph (b) above applies, before a magistrates' court acting for the petty sessions area concerned.
- [<sup>F35</sup>(3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.
- (4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.]

#### Textual Amendments

- F33** Words in Sch. 3 para. 3(2)(a) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(6)(a); S.I. 2001/2232, art. 2(m)(viii)
- F34** Words in Sch. 3 para. 3(2)(c) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, ss. 74, 80(1), Sch. 7 Pt. II para. 199(6)(b)
- F35** Sch. 3 para. 3(3)(4) inserted (1.4.2001) by 2000 c. 43, s. 54; S.I. 2001/919, art. 2(d)

#### *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—
- (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.

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- (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;
  - (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.

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- (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 [<sup>F36</sup>community rehabilitation order] or [<sup>F37</sup>community punishment and rehabilitation 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.

**Textual Amendments**

- F36** Words in Sch. 3 para. 6(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F37** Words in Sch. 3 para. 6(2)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 3(1)(a)(2); S.I. 2001/919, art. 2(f)(i)

*[<sup>F38</sup> Community punishment orders imposed for breach of relevant order]*

**Textual Amendments**

- F38** Sch. 3 cross-heading preceding para. 7 substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(10); S.I. 2001/919, art. 2(f)(iv)

- 7 (1) Section 46(1) of this Act ([<sup>F39</sup>community punishment 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 [<sup>F39</sup>community punishment 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 [<sup>F39</sup>community punishment order], the number of hours which the offender may be required to work under the secondary

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- 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 [<sup>F40</sup>community punishment 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 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.

#### Textual Amendments

**F39** Words in Sch. 3 para. 7(1)(2)(3)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

**F40** Words in Sch. 3 para. 7(3)(b)(ii) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(4)**; S.I. 2001/919, **art. 2(f)(iv)**

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

**C1** Sch. 3 para. 7(4) modified (*temp.*) by S.I. 2001/919, **art. 4**

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*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 [<sup>F41</sup>section 36B and], 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.

**Textual Amendments**

**F41** Words in *Sch. 3 para. 8(2)(b)* inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, *Sch. 7 Pt. II para. 199(11)(b)(i)*; S.I. 2001/2232, *art. 2(m)(viii)*

*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 [<sup>F42</sup>or a drug abstinence 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 [<sup>F43</sup>community rehabilitation, community punishment and rehabilitation] 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.

#### Textual Amendments

**F42** Words in *Sch. 3 para. 10(2)(a)* substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, *Sch. 7 Pt. II para. 199(13)*; S.I. 2001/2232, *art. 2(m)(viii)*



*Status: Point in time view as at 30/09/2004.*

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**F43** Words in Sch. 3 para. 10(4) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(14); S.I. 2001/919, art. 2(f)(iv)

*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 [F44community rehabilitation, community punishment and rehabilitation] 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.

#### Textual Amendments

**F44** Words in Sch. 3 para. 11(3) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(14); S.I. 2001/919, art. 2(f)(iv)

*[F45Substitution of conditional discharge for community rehabilitation or community punishment and rehabilitation order]*

#### Textual Amendments

**F45** Cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(18); S.I. 2001/919, art. 2(f)(iv)

- 12 (1) This paragraph applies where a [F46community rehabilitation order or community punishment and rehabilitation] order is in force in respect of any offender and on

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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 [F47community rehabilitation or community punishment and rehabilitation] order was made.

(2) In this paragraph “the appropriate court” means—

- (a) where the [F47community rehabilitation or community punishment and rehabilitation] order was made by a magistrates’ court, a magistrates’ court acting for the petty sessions area concerned;
- (b) where the [F47community rehabilitation or community punishment and rehabilitation] order was made by the Crown Court, the Crown Court.

(3) No application may be made under paragraph 10 or 11 above for a [F48community rehabilitation 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 [F47community rehabilitation or community punishment and rehabilitation] order and make an order under section 12(1)(b) of this Act discharging the offender in respect of the offence for which the [F47community rehabilitation or community punishment and rehabilitation] 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 [F49community rehabilitation period] specified in the [F47community rehabilitation or community punishment and rehabilitation] 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 [F47community rehabilitation or community punishment and rehabilitation] order is pending.

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- (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>M7</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.

#### Textual Amendments

- F46** Words in Sch. 3 para. 12(1) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(15); S.I. 2001/919, art. 2(f)(iv)
- F47** Words in Sch. 3 para. 12(1)(b)(2)(a)(b)(4)(a)(b)(7) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(16); S.I. 2001/919, art. 2(f)(iv)
- F48** Words in Sch. 3 para. 12(3) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F49** Words in Sch. 3 para. 12(4)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(17); S.I. 2001/919, art. 2(f)(iv)

#### Marginal Citations

- M7** 1998 c. 37.

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

- 13 (1) This paragraph applies where—
- 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;
  - the court imposes a custodial sentence on the offender; and
  - 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—
- in the case of a drug treatment and testing order [<sup>F50</sup>or a drug abstinence order], a magistrates' court which is not responsible for the order;
  - in the case of any other relevant order, a magistrates' court not acting for the petty sessions area concerned.
- (3) The court may—
- if the order was made by a magistrates' court, revoke it;
  - 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.

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### Textual Amendments

**F50** Words in *Sch. 3 para. 13(2)(a)* inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, *Sch. 7 Pt. II para. 199(13)*; S.I. 2001/2232, *art. 2(m)(viii)*

- 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—
- (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.

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- (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 [<sup>F51</sup>community rehabilitation] 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 [<sup>F52</sup>community punishment and rehabilitation order] whose [<sup>F53</sup>community rehabilitation element] contains requirements such as are mentioned in that sub-paragraph.
- (5) The court shall not amend a [<sup>F54</sup>community punishment order] or [<sup>F52</sup>community punishment and rehabilitation 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 [<sup>F55</sup>community rehabilitation, community punishment or community punishment and rehabilitation] 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,
- 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>M8</sup>Crime and Disorder Act 1998, and references to the area of a local authority shall be construed in accordance with that section.

#### Textual Amendments

- F51** Words in Sch. 3 para. 18(3) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(20)(a)**; S.I. 2001/919, **art. 2(f)(iv)**
- F52** Words in Sch. 3 para. 18(4)(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F53** Words in Sch. 3 para. 18(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(3)**; S.I. 2001/919, **art. 2(f)(iv)**
- F54** Words in Sch. 3 para. 18(5) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F55** Words in Sch. 3 para. 18(6)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 199(20)(b)**; S.I. 2001/919, **art. 2(f)(iv)**

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### Marginal Citations

**M8** 1998 c. 37.

*[<sup>F56</sup>Amendment of requirements of community rehabilitation,  
community punishment and rehabilitation, curfew or exclusion order.]*

### Textual Amendments

**F56** Sch. 3 para. 19 cross-heading substituted (1.4.2001 for specified purposes and 2.9.2004 in so far as not already in force) by 2000 c. 43, ss. 74, 80, **Sch. 7 para. 199(21)(e)**; S.I. 2001/919, art. 2(f)(iv); S.I. 2004/2171, art. 2

- 19 (1) Without prejudice to the provisions of paragraph 18 above but subject to [<sup>F57</sup>the following provisions of this paragraph] , a magistrates' court acting for the petty sessions area concerned may, on the application of [<sup>F58</sup>an eligible person,] , by order amend a [<sup>F59</sup>community rehabilitation, curfew or exclusion] order or the [<sup>F60</sup>community rehabilitation element] of a [<sup>F61</sup>community punishment and rehabilitation order]—
- (a) by cancelling any of the requirements of the [<sup>F59</sup>community rehabilitation, curfew or exclusion] order or of the [<sup>F60</sup>community rehabilitation element] of the [<sup>F61</sup>community punishment and rehabilitation order]; or
  - (b) by inserting in the [<sup>F59</sup>community rehabilitation, curfew or exclusion] 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 [<sup>F62</sup>community rehabilitation order] or the [<sup>F60</sup>community rehabilitation element] of a [<sup>F61</sup>community punishment and rehabilitation order]—
- (a) by reducing the [<sup>F63</sup>community rehabilitation period], or by extending that period beyond the end of three years from the date of the original order; or
  - [<sup>F64</sup>(aa) by extending any curfew periods specified in a requirement under the order beyond the end of six months from the date of the original order;
  - (ab) by extending the period during which the offender is prohibited from entering a place specified in a requirement under the order beyond the end of two years from the date of the original order;]
  - (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 [<sup>F65</sup>(or, for an offender aged under 16 on conviction, three months)] from the date of the original order.

*Status: Point in time view as at 30/09/2004.*

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[<sup>F66</sup>(4) A magistrates' court shall not under sub-paragraph (1) above amend an exclusion order by extending the period for which the offender is prohibited from entering the place in question beyond the end of two years (or, for an offender aged under 16 on conviction, three months) from the date of the original order.

- (5) For the purposes of this paragraph the eligible persons are—
- (a) the offender;
  - (b) the responsible officer; and
  - (c) in relation to an exclusion order, a community rehabilitation order or a community punishment and rehabilitation order, any affected person.

But an application under sub-paragraph (1) above by a person such as is mentioned in paragraph (c) above must be for the cancellation of a requirement which was included in the order by virtue of his consent or for the purpose (or partly for the purpose) of protecting him from being approached by the offender, or for the insertion of a requirement which will, if inserted, be such a requirement.

- (6) Without prejudice to the provisions of paragraph 18 above, 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 drug abstinence order by extending the period for which the order has effect (but not beyond the end of three years from the date of the original order).]

#### Textual Amendments

- F57** Words in Sch. 3 para. 19(1) substituted (1.4.2001 for specified purposes and 2.9.2004 in so far as not already in force) by [Criminal Justice and Courts Services Act 2000 \(c. 43\), s. 80\(1\), Sch. 7 para. 199\(21\)\(a\)\(i\)](#); S.I. 2004/2171, art. 2
- F58** Words in Sch. 3 para. 19(1) substituted (1.4.2001 for specified purposes and 2.9.2004 in so far as not already in force) by [Criminal Justice and Courts Services Act 2000 \(c. 43\), s. 80\(1\), Sch. 7 para. 199\(21\)\(a\)\(ii\)](#); S.I. 2004/2171, art. 2
- F59** Words in Sch. 3 para. 19(1) substituted (1.4.2001 for specified purposes and 2.9.2004 in so far as not already in force) by [2000 c. 43, ss. 74, 80\(1\), Sch. 7 Pt. II para. 199\(21\)\(a\)\(iii\)](#); S.I. 2001/919, art. 2(f)(iv); S.I. 2004/2171, art. 2
- F60** Words in Sch. 3 para. 19(1)(2) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 199\(3\)](#); S.I. 2001/919, art. 2(f)(iv)
- F61** Words in Sch. 3 para. 19(1)(2) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. I para. 3\(1\)\(a\)\(2\)](#); S.I. 2001/919, art. 2(f)(i)
- F62** Words in Sch. 3 para. 19(2) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. I para. 1\(1\)\(a\)\(2\)](#); S.I. 2001/919, art. 2(f)(i)
- F63** Words in Sch. 3 para. 19(2)(a) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 199\(17\)](#); S.I. 2001/919, art. 2(f)(iv)
- F64** Sch. 3 para. 19(2)(aa)(ab) inserted (20.6.2001 and 2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by [2000 c. 43, ss. 74, 80\(1\), Sch. 7 Pt. II para. 199\(21\)\(b\)](#); S.I. 2001/2232, art. 2(m)(viii); S.I. 2004/2171, art. 2
- F65** Words in Sch. 3 para. 19(3) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 199\(21\)\(c\)](#); S.I. 2001/2232, art. 2(m)(viii)
- F66** Sch. 3 para. 19(4)-(6) inserted (20.6.2001 and 2.7.2001 for specified purposes and 2.9.2004 in so far as not already in force) by [2000 c. 43, ss. 74, 80\(1\), Sch. 7 Pt. II para. 199\(21\)\(d\)](#); S.I. 2001/2232, art. 2(m)(viii); S.I. 2004/2171, art. 2



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*[<sup>F67</sup>Amendment of treatment requirements of community rehabilitation or community punishment and rehabilitation order on report of practitioner]*

**Textual Amendments**

**F67** Sch. 3 para. 20 cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(22); S.I. 2001/919, art. 2(f)(iv)

- 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 [<sup>F68</sup>community rehabilitation or community punishment and rehabilitation] 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
  - (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.

**Textual Amendments**

**F68** Words in Sch. 3 para. 20(1) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(16); S.I. 2001/919, art. 2(f)(iv)

*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,



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- (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
- (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 ”.

*[<sup>F69</sup>Extension of community punishment or community punishment and rehabilitation order]*

#### Textual Amendments

**F69** Cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(23); S.I. 2001/919, art. 2(f)(iv)

22

Where—

- (a) a [<sup>F70</sup>community punishment order] or [<sup>F71</sup>community punishment and rehabilitation 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.

*Status: Point in time view as at 30/09/2004.*

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#### Textual Amendments

- F70** Words in Sch. 3 para. 22(a) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 2(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F71** Words in Sch. 3 para. 22(a) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 3(1)(a)(2); S.I. 2001/919, art. 2(f)(i)

#### *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 [<sup>F72</sup>to an order under paragraph 18 above] substituting a new petty sessions area or a new place for the one specified in a relevant order.

#### Textual Amendments

- F72** Words in Sch. 3 para. 24(2) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(24); S.I. 2001/2232, art. 2(m)(viii)

- 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—
- (a) if the order amends the relevant order otherwise than by substituting [<sup>F73</sup>, by virtue of paragraph 18 above,] 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.

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- (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.

#### Textual Amendments

**F73** Words in Sch. 3 para. 25(1)(a) inserted (20.6.2001 for specified purposes otherwise 2.7.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 199(25)(a); S.I. 2001/2232, art. 2(m)(viii)

## SCHEDULE 4

Sections 44, 49, 51.

### TRANSFER OF CERTAIN COMMUNITY ORDERS TO SCOTLAND OR NORTHERN IRELAND

*[<sup>F74</sup>community rehabilitation]: Scotland*

#### Textual Amendments

**F74** Sch. 4 para. 1: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(b)(2); S.I. 2001/919, art. 2(f)(i)

- 1 (1) Where a court considering the making of a probation order is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 41 of this Act (<sup>F75</sup>community rehabilitation orders) shall have effect as if subsections (3) to (7) and (9) to (11) were omitted and as if after subsection (2) there were inserted the following subsection—
  - “(2A) A court shall not make a <sup>F75</sup>community rehabilitation order] in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the council constituted under section 2 of the <sup>M9</sup>Local Government etc. (Scotland) Act 1994 in whose area he resides, or will be residing when the order comes into force.”
- (2) Where a <sup>F75</sup>community rehabilitation order] has been made and—
  - (a) a magistrates' court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Scotland, and
  - (b) it appears to the court that suitable arrangements for his supervision can be made by the council constituted under section 2 of the <sup>M10</sup>Local Government etc. (Scotland) Act 1994 in whose area he proposes to reside or is residing,the power of the court to amend the order under Part IV of Schedule 3 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.

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- (3) Where a court is considering the making or amendment of a [<sup>F75</sup>community rehabilitation order] in accordance with this paragraph, Schedule 2 to this Act (additional requirements in [<sup>F75</sup>community rehabilitation orders]) shall have effect as if—
- (a) for sub-paragraphs (i) and (ii) of paragraph 2(2)(a) there were substituted a reference to an officer of the council constituted under section 2 of the <sup>M11</sup>Local Government etc. (Scotland) Act 1994 in whose area the offender resides or will be residing when the order or amendment comes into force;
  - (b) any reference to the offender’s responsible officer were a reference to the officer of the council mentioned in paragraph (a) above responsible for the offender’s supervision;
  - (c) the reference in paragraph 2(5) to the [<sup>F76</sup>local probation board] for the area in which the premises are situated were a reference to the council constituted under section 2 of the <sup>M12</sup>Local Government etc. (Scotland) Act 1994 for that area;
  - (d) paragraph 3 (requirements as to attendance at [<sup>F77</sup>community rehabilitation centre]) were omitted; and
  - (e) for paragraph 5(3)(a) there were substituted—
    - “(a) treatment as a resident patient in a hospital within the meaning of the <sup>M13</sup>Mental Health (Scotland) Act 1984, not being a State hospital within the meaning of that Act;”.
- (4) A [<sup>F75</sup>community rehabilitation order] made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
  - (b) specify as the appropriate court for the purposes of subsection (4) of section 228 of the <sup>M14</sup>Criminal Procedure (Scotland) Act 1995 a court of summary jurisdiction (which, in the case of an offender convicted on indictment, shall be the sheriff court) having jurisdiction in the locality specified under paragraph (a) above.

#### Textual Amendments

**F75** Words in Sch. 4 para. 1(1)–(4) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(2)**; S.I. 2001/919, **art. 2(f)(i)**

**F76** Words in Sch. 4 para. 1(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

**F77** Words in Sch. 4 para. 1(3)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(2)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

#### Marginal Citations

**M9** 1994 c. 39.

**M10** 1994 c. 39.

**M11** 1994 c. 39.

**M12** 1994 c. 39.

**M13** 1984 c. 36.

**M14** 1995 c. 46.

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*[<sup>F78</sup>community rehabilitation orders]: Northern Ireland*

**Textual Amendments**

**F78** Sch. 4 para. 2: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(b)(2); S.I. 2001/919, art. 2(f)(i)

- 2 (1) Where a court considering the making of a [<sup>F79</sup>community rehabilitation order] is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 41 of this Act shall have effect as if subsections (3) to (7) and (9) to (11) were omitted and as if after subsection (2) there were inserted the following subsection—
- “(2A) A court shall not make a [<sup>F79</sup>community rehabilitation order] in respect of any offender unless it is satisfied that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland.”
- (2) Where a [<sup>F79</sup>community rehabilitation order] has been made and—
- (a) a magistrates’ court acting for the petty sessions area specified in the order is satisfied that the offender proposes to reside or is residing in Northern Ireland, and
- (b) it appears to the court that suitable arrangements for his supervision can be made by the Probation Board for Northern Ireland,
- the power of the court to amend the order under Part IV of Schedule 3 to this Act shall include power to amend it by requiring him to be supervised in accordance with arrangements so made.
- (3) Where a court is considering the making or amendment of a [<sup>F79</sup>community rehabilitation order] in accordance with this paragraph, Schedule 2 to this Act shall have effect as if—
- (a) for sub-paragraphs (i) and (ii) of paragraph 2(2)(a) there were substituted a reference to a probation officer assigned to the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force;
- (b) any reference to the offender’s responsible officer were a reference to the probation officer assigned as mentioned in paragraph (a) above responsible for the offender’s supervision;
- (c) the reference in paragraph 2(5) to the [<sup>F80</sup>local probation board] for the area in which the premises are situated were a reference to the Probation Board for Northern Ireland;
- (d) references in paragraph 3 to a [<sup>F81</sup>community rehabilitation centre] were references to a day centre within the meaning of paragraph 3 of Schedule 1 to the <sup>M15</sup>Criminal Justice (Northern Ireland) Order 1996;
- (e) for paragraphs (a) and (b) of paragraph 3(2) there were substituted a reference to a probation officer assigned as mentioned in paragraph (a) above; and
- (f) for paragraph 5(3)(a) there were substituted—
- “(a) treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the <sup>M16</sup>Health and Personal

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Social Services (Northern Ireland) Order 1972, approved by the Department of Health and Social Services for Northern Ireland for the purposes of paragraph 4(3) of Schedule 1 to the<sup>M17</sup>Criminal Justice (Northern Ireland) Order 1996;”.

- (4) A [<sup>F79</sup>community rehabilitation order] made or amended in accordance with this paragraph shall specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force.

#### Textual Amendments

- F79** Words in Sch. 4 para. 2(1)-(4) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(a)(2); S.I. 2001/919, art. 2(f)(i)
- F80** Words in Sch. 4 para. 2(3)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 200(2)(a); S.I. 2001/919, art. 2(f)(ii)
- F81** Words in Sch. 4 para. 2(3)(d) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 200(2)(b); S.I. 2001/919, art. 2(f)(ii)

#### Marginal Citations

- M15** S.I. 1996/3160 (N.I. 24).  
**M16** S.I. 1972/1265 (N.I. 14).  
**M17** S.I. 1996/3160 (N.I. 24).

*[<sup>F82</sup>community punishment orders]: Scotland*

#### Textual Amendments

- F82** Sch. 4 para. 3: words in cross-heading substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. I para. 2(1)(b)(2); S.I. 2001/919, art. 2(f)(i)

- 3 (1) Where a court considering the making of a [<sup>F83</sup>community punishment order] is satisfied that the offender resides in Scotland, or will be residing there when the order comes into force, section 46 of this Act ([<sup>F83</sup>community punishment orders]) shall have effect as if subsections (6), (7) and (9) to (13) were omitted and as if after subsection (5) there were inserted the following subsection—

“(5A) A court shall not make a [<sup>F83</sup>community punishment order] in respect of any offender unless—

- (a) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender resides, or will be residing when the order comes into force, to perform work under community service orders made under section 238 of the<sup>M18</sup>Criminal Procedure (Scotland) Act 1995; and
- (b) it appears to the court that provision can be made for him to perform work under those arrangements.”,

and, accordingly, section 47 and the reference to it in section 46(1) shall not apply.

- (2) Where a [<sup>F83</sup>community punishment order] has been made and—

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- (a) a magistrates' court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Scotland,
  - (b) the court has been notified by the Secretary of State that arrangements exist for persons who reside in the locality in Scotland in which the offender proposes to reside or is residing to perform work under community service orders made under section 238 of the <sup>M19</sup>Criminal Procedure (Scotland) Act 1995, and
  - (c) it appears to the court that provision can be made for him to perform work under the [<sup>F83</sup>community punishment order] under those arrangements,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A [<sup>F83</sup>community punishment order] made or amended in accordance with this paragraph shall—
- (a) specify the locality in Scotland in which the offender resides or will be residing when the order or amendment comes into force; and
  - (b) require the council constituted under section 2 of the <sup>M20</sup>Local Government etc. (Scotland) Act 1994 in whose area the locality specified under paragraph (a) above is situated to appoint or assign an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the local authority officer by sections 239 to 245 of the <sup>M21</sup>Criminal Procedure (Scotland) Act 1995.

#### Textual Amendments

**F83** Words in Sch. 4 para. 3(1)-(3) substituted (1.4.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. 1 para. 2(1)(a)(2); S.I. 2001/919, art. 2(f)(i)

#### Marginal Citations

**M18** 1995 c. 46.

**M19** 1995 c. 46.

**M20** 1994 c. 39.

**M21** 1995 c. 46.

*[<sup>F84</sup>community punishment]: Northern Ireland*

#### Textual Amendments

**F84** Sch. 4 para. 4: words in cross-heading substituted (1.4.2001) by virtue of 2000 c. 43, s. 74, Sch. 7 Pt. 1 para. 2(1)(b)(2); S.I. 2001/919, art. 2(f)(i)

- 4 (1) Where a court considering the making of a [<sup>F85</sup>community punishment order] is satisfied that the offender resides in Northern Ireland, or will be residing there when the order comes into force, section 46 of this Act shall have effect as if subsections (6), (7) and (9) to (13) were omitted and as if after subsection (5) there were inserted the following subsection—



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“(5A) A court shall not make a [<sup>F85</sup>community punishment order] in respect of any offender unless it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order.”,

and, accordingly, section 47 and the reference to it in section 46(1) shall not apply.

- (2) Where a [<sup>F85</sup>community punishment order] has been made and—
- (a) a magistrates’ court acting for a petty sessions area for the time being specified in it is satisfied that the offender proposes to reside or is residing in Northern Ireland, and
  - (b) it appears to the court that provision can be made by the Probation Board for Northern Ireland for him to perform work under the order,
- it may amend the order by specifying that the unpaid work required to be performed by the order be so performed.
- (3) A [<sup>F85</sup>community punishment order] made or amended in accordance with this paragraph shall—
- (a) specify the petty sessions district in Northern Ireland in which the offender resides or will be residing when the order or amendment comes into force; and
  - (b) require the Probation Board for Northern Ireland to select an officer who will discharge in respect of the order the functions in respect of community service orders conferred on the relevant officer by Part II of the <sup>M22</sup>Criminal Justice (Northern Ireland) Order 1996.

#### Textual Amendments

**F85** Words in [Sch. 4 para. 4\(1\)-\(3\)](#) substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. I para. 2\(1\)\(a\)\(2\)](#); [S.I. 2001/919, art. 2\(f\)\(i\)](#)

#### Marginal Citations

**M22** [S.I. 1996/3160 \(N.I. 24\)](#).

*[<sup>F86</sup>community punishment and rehabilitaion: Scotland]*

#### Textual Amendments

**F86** [Sch. 4 para. 5](#): words in cross-heading substituted (1.4.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. I para. 3\(1\)\(b\)\(2\)](#); [S.I. 2001/919, art. 2\(f\)\(i\)](#)

- 5 Paragraphs 1 and 3 above shall apply in relation to [<sup>F87</sup>community punishment and rehabilitation orders]—
- (a) in so far as those orders impose such a requirement as is mentioned in section 51(1)(a) of this Act, as if they were [<sup>F88</sup>community rehabilitation orders]; and
  - (b) in so far as they impose such a requirement as is mentioned in section 51(1)(b) of this Act, as if they were [<sup>F89</sup>community punishment orders].



*Status: Point in time view as at 30/09/2004.*

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#### Textual Amendments

- F87** Words in **Sch. 4 para. 5** substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 3(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F88** Words in **Sch. 4 para. 5(a)** substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 1(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F89** Words in **Sch. 4 para. 5(b)** substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. I para. 2(1)(b)(2)**; S.I. 2001/919, **art. 2(f)(i)**

#### *[<sup>F90</sup>Community rehabilitation, community punishment and community punishment and rehabilitation orders: general provisions]*

#### Textual Amendments

- F90** Cross-heading substituted (1.4.2001) by **2000 c. 43, s. 74, Sch. 7 Pt. II para. 200(3)(b)**; S.I. 2001/919, **art. 2(f)(ii)**

- 6 (1) Where a community order is made or amended in any of the circumstances specified in this Schedule, the court which makes or amends the order shall send three copies of it as made or amended to the home court, together with such documents and information relating to the case as it considers likely to be of assistance to that court.
- (2) Where a community order is made or amended in any of the circumstances specified in this Schedule, then, subject to the following provisions of this paragraph—
- (a) the order shall be treated as if it were a corresponding order made in the part of the United Kingdom in which the offender resides, or will be residing at the relevant time; and
- (b) the legislation relating to such orders which has effect in that part of the United Kingdom shall apply accordingly.
- (3) Before making or amending a community order in those circumstances the court shall explain to the offender in ordinary language—
- (a) the requirements of the legislation relating to corresponding orders which has effect in the part of the United Kingdom in which he resides or will be residing at the relevant time;
- (b) the powers of the home court under that legislation, as modified by this paragraph; and
- (c) its own powers under this paragraph.
- (4) The home court may exercise in relation to the community order any power which it could exercise in relation to a corresponding order made by a court in the part of the United Kingdom in which the home court exercises jurisdiction, by virtue of the legislation relating to such orders which has effect in that part, except the following, namely—
- (a) in the case of a [<sup>F91</sup>community rehabilitation order] or a [<sup>F92</sup>community punishment and rehabilitation order], a power conferred by section 232(2) (b) or 233 of, or paragraph 1 of Schedule 6 to, the <sup>M23</sup>Criminal Procedure (Scotland) Act 1995;

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- (b) in the case of a [<sup>F91</sup>community rehabilitation order], a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the <sup>M24</sup>Criminal Justice (Northern Ireland) Order 1996; and
  - (c) in the case of a [<sup>F93</sup>community punishment order]—
    - (i) a power conferred by section 239(5)(b) or 240(1)(c) or (d) of the <sup>M25</sup>Criminal Procedure (Scotland) Act 1995;
    - (ii) a power conferred by paragraph 3(1)(d), 4(1)(d), 7(2) or 8(2) of Schedule 2 to the <sup>M26</sup>Criminal Justice (Northern Ireland) Order 1996; or
    - (iii) a power to vary the order by substituting for the number of hours of work specified in it any greater number than the court which made the order could have specified.
- (5) If at any time while legislation relating to corresponding orders which has effect in Scotland or Northern Ireland applies by virtue of sub-paragraph (2) above to a community order made in England and Wales—
- (a) it appears to the home court—
    - (i) if that court is in Scotland, on information from the local authority officer concerned, or
    - (ii) if it is in Northern Ireland, upon a complaint being made to a justice of the peace acting for the petty sessions district for the time being specified in the order,
 that the offender has failed to comply with any of the requirements of the legislation applicable to the order, or
  - (b) it appears to the home court—
    - (i) if that court is in Scotland, on the application of the offender or of the local authority officer concerned, or
    - (ii) if it is in Northern Ireland, on the application of the offender or of the probation officer concerned,
 that it would be in the interests of justice for a power conferred by paragraph 10 or 11 of Schedule 3 to this Act to be exercised,
- the home court may require the offender to appear before the court which made the order.
- (6) Where an offender is required by virtue of sub-paragraph (5) above to appear before the court which made the community order, that court—
- (a) may issue a warrant for his arrest; and
  - (b) may exercise any power which it could exercise in respect of the community order if the offender resided in England and Wales;
- and any enactment relating to the exercise of such powers shall have effect accordingly, and with any reference to the responsible officer being construed as a reference to the local authority officer or probation officer concerned.
- (7) Where an offender is required by virtue of paragraph (a) of sub-paragraph (5) above to appear before the court which made the community order—
- (a) the home court shall send to that court a certificate certifying that the offender has failed to comply with such of the requirements of the order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and

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- (b) a certificate purporting to be signed by the clerk of the home court shall be admissible as evidence of the failure before the court which made the order.

(8) In this paragraph—

[<sup>F94</sup>“corresponding order”—

- (a) in relation to a community rehabilitation order, means a probation order;
- (b) in relation to a community punishment order, means a community service order; and
- (c) in relation to a community punishment and rehabilitation order—
- (i) if the offender resides in Scotland, or will be residing there at the relevant time, means a probation order including such a requirement as is mentioned in section 229(4) of the <sup>M27</sup>Criminal Procedure (Scotland) Act 1995; and
- (ii) if he resides in Northern Ireland, or will be residing there at the relevant time, means a combination order;]

“home court” means—

- (a) if the offender resides in Scotland, or will be residing there at the relevant time, the sheriff court having jurisdiction in the locality in which he resides or proposes to reside; and
- (b) if he resides in Northern Ireland, or will be residing there at the relevant time, the court of summary jurisdiction acting for the petty sessions district in which he resides or proposes to reside;

“the local authority officer concerned”, in relation to an offender, means the officer of a council constituted under section 2 of the <sup>M28</sup>Local Government etc. (Scotland) Act 1994 responsible for his supervision or, as the case may be, discharging in relation to him the functions in respect of community service orders assigned by sections 239 to 245 of the <sup>M29</sup>Criminal Procedure (Scotland) Act 1995;

“the probation officer concerned”, in relation to an offender, means the probation officer responsible for his supervision or, as the case may be, discharging in relation to him the functions conferred by Part II of the <sup>M30</sup>Criminal Justice (Northern Ireland) Order 1996;

“the relevant time” means the time when the order or the amendment to it comes into force.

#### Textual Amendments

- F91** Words in Sch. 4 para. 6(4)(a)(b) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 1(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F92** Words in Sch. 4 para. 6(4)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 3(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F93** Words in Sch. 4 para. 6(4)(c) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 2(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**
- F94** Definition of “corresponding order” in Sch. 4 para. 6(8) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 200(3)(a)**; S.I. 2001/919, **art. 2(f)(ii)**

#### Marginal Citations

- M23** 1995 c. 46.
- M24** S.I. 1996/3160 (N.I. 24).

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- M25** 1995 c. 46.  
**M26** S.I. 1996/3160 (N.I. 24).  
**M27** 1995 c. 46.  
**M28** 1994 c. 39.  
**M29** 1995 c. 46.  
**M30** S.I. 1996/3160 (N.I. 24).

## SCHEDULE 5

Section 61.

### BREACH, REVOCATION AND AMENDMENT OF ATTENDANCE CENTRE ORDERS

#### *Breach of order or attendance centre rules*

- 1 (1) Where an attendance centre order is in force and it appears on information to a justice acting for a relevant petty sessions area that the offender—
  - (a) has failed to attend in accordance with the order, or
  - (b) while attending has committed a breach of rules made under section 62(3) of this Act which cannot be adequately dealt with under those rules,
 the justice may issue a summons requiring the offender to appear at the place and time specified in the summons before a magistrates' court acting for the area or, if the information is in writing and on oath, may issue a warrant for the offender's arrest requiring him to be brought before such a court.
- (2) For the purposes of this paragraph a petty sessions area is a relevant petty sessions area in relation to an attendance centre order—
  - (a) if the attendance centre which the offender is required to attend by the order or by virtue of an order under paragraph 5(1)(b) below is situated in it; or
  - (b) if the order was made by a magistrates' court acting for it.
- 2 (1) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under paragraph 1 above that he has failed without reasonable excuse to attend as mentioned in sub-paragraph (1)(a) of that paragraph or has committed such a breach of rules as is mentioned in sub-paragraph (1)(b) of that paragraph, that court may deal with him in any one of the following ways—
  - (a) it may impose on him a fine not exceeding £1,000;
  - (b) where the attendance centre 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 he could have been dealt with for that offence by the court which made the order if the order had not been made; or
  - (c) where the order was made by the Crown Court, it may commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (2) Any exercise by the court of its power under sub-paragraph (1)(a) above shall be without prejudice to the continuation of the order.
- (3) A fine imposed under sub-paragraph (1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (4) Where a magistrates' court deals with an offender under sub-paragraph (1)(b) above, it shall revoke the attendance centre order if it is still in force.

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- (5) In dealing with an offender under sub-paragraph (1)(b) above, a magistrates' court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre 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 notwithstanding anything in section 79(2) of this Act.
- (6) A person sentenced under sub-paragraph (1)(b) above for an offence may appeal to the Crown Court against the sentence.
- (7) A magistrates' court which deals with an offender's case under sub-paragraph (1)(c) above shall send to the Crown Court—
- (a) a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed; 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 or the breach before the Crown Court.
- 3 (1) Where by virtue of paragraph 2(1)(c) above the offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court—
- (a) that he has failed without reasonable excuse to attend as mentioned in paragraph 1(1)(a) above, or
  - (b) that he has committed such a breach of rules as is mentioned in paragraph 1(1)(b) above,
- that court may deal with him, for the offence in respect of which the order was made, in any way in which it could have dealt with him for that offence if it had not made the order.
- (2) Where the Crown Court deals with an offender under sub-paragraph (1) above, it shall revoke the attendance centre order if it is still in force.
- (3) In dealing with an offender under sub-paragraph (1) above, the Crown Court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre 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 notwithstanding anything in section 79(2) of this Act.
- (4) In proceedings before the Crown Court under this paragraph any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.

*Revocation of order with or without re-sentencing*

- 4 (1) Where an attendance centre order is in force in respect of an offender, an appropriate court may, on an application made by the offender or by the officer in charge of the relevant attendance centre, revoke the order.
- (2) In sub-paragraph (1) above "an appropriate court" means—
- (a) where the court which made the order was the Crown Court and there is included in the order a direction that the power to revoke the order is reserved to that court, the Crown Court;

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- (b) in any other case, either of the following—
  - (i) a magistrates’ court acting for the petty sessions area in which the relevant attendance centre is situated;
  - (ii) the court which made the order.
- (3) Any power conferred by this paragraph—
  - (a) on a magistrates’ court to revoke an attendance centre order made by such a court, or
  - (b) on the Crown Court to revoke an attendance centre order made by the Crown Court,

includes power to deal with the offender, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (4) A person sentenced by a magistrates’ court under sub-paragraph (3) above for an offence may appeal to the Crown Court against the sentence.
- (5) The proper officer of a court which makes an order under this paragraph revoking an attendance centre order shall—
  - (a) deliver a copy of the revoking order to the offender or send a copy by registered post or the recorded delivery service addressed to the offender’s last or usual place of abode; and
  - (b) deliver or send a copy to the officer in charge of the relevant attendance centre.
- (6) In this paragraph “the relevant attendance centre”, in relation to an attendance centre order, means the attendance centre specified in the order or substituted for the attendance centre so specified by an order made by virtue of paragraph 5(1)(b) below.
- (7) In this paragraph “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.

#### *Amendment of order*

- 5 (1) Where an attendance centre order is in force in respect of an offender, an appropriate magistrates’ court may, on an application made by the offender or by the officer in charge of the relevant attendance centre, by order—
  - (a) vary the day or hour specified in the order for the offender’s first attendance at the relevant attendance centre; or
  - (b) substitute for the relevant attendance centre an attendance centre which the court is satisfied is reasonably accessible to the offender, having regard to his age, the means of access available to him and any other circumstances.
- (2) In sub-paragraph (1) above “an appropriate magistrates’ court” means—
  - (a) a magistrates’ court acting for the petty sessions area in which the relevant attendance centre is situated; or
  - (b) (except where the attendance centre order was made by the Crown Court) the magistrates’ court which made the order.
- (3) The justices’ chief executive for a court which makes an order under this paragraph shall—

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- (a) deliver a copy to the offender or send a copy by registered post or the recorded delivery service addressed to the offender's last or usual place of abode; and
  - (b) deliver or send a copy—
    - (i) if the order is made by virtue of sub-paragraph (1)(a) above, to the officer in charge of the relevant attendance centre; and
    - (ii) if it is made by virtue of sub-paragraph (1)(b) above, to the officer in charge of the attendance centre which the order as amended will require the offender to attend.
- (4) In this paragraph “the relevant attendance centre” has the meaning given by paragraph 4(6) above.

#### *Orders made on appeal*

- 6 (1) Where an attendance centre order has been made on appeal, for the purposes of this Schedule it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that 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) In relation to an attendance centre order made on appeal, paragraphs 2(1)(b) and 4(3) above shall each have effect as if the words “if the order had not been made” were omitted and paragraph 3(1) above shall have effect as if the words “if it had not made the order” were omitted.

#### *Orders for defaulters*

- 7 (1) References in this Schedule to an “offender” include a person who has been ordered to attend at an attendance centre for such a default or failure as is mentioned in section 60(1)(b) or (c) of this Act.
- (2) Where a person has been ordered to attend at an attendance centre for such a default or failure—
- (a) paragraphs 2(1)(b), 3(1) and 4(3) above shall each have effect in relation to the order as if the words “, for the offence in respect of which the order was made,” and “for that offence” were omitted; and
  - (b) paragraphs 2(5)(b) and 3(3)(b) above (which relate to custodial sentences for offences) do not apply.

## SCHEDULE 6

Section 63.

### REQUIREMENTS WHICH MAY BE INCLUDED IN SUPERVISION ORDERS

#### *Requirement to reside with named individual*

- 1 A supervision order may require the offender to reside with an individual named in the order who agrees to the requirement, but a requirement imposed by a supervision

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order in pursuance of this paragraph shall be subject to any such requirement of the order as is authorised by paragraph 2, 3, 6 or 7 below.

*Requirement to comply with directions of supervisor*

- 2 (1) Subject to sub-paragraph (2) below, a supervision order may require the offender to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—
- (a) to live at a place or places specified in the directions for a period or periods so specified;
  - (b) to present himself to a person or persons specified in the directions at a place or places and on a day or days so specified;
  - (c) to participate in activities specified in the directions on a day or days so specified.
- (2) A supervision order shall not require compliance with directions given by virtue of sub-paragraph (1) above unless the court making it is satisfied that a scheme under section 66 of this Act (local authority schemes) is in force for the area where the offender resides or will reside; and no such directions may involve the use of facilities which are not for the time being specified in a scheme in force under that section for that area.
- (3) A requirement imposed by a supervision order in pursuance of sub-paragraph (1) above shall be subject to any such requirement of the order as is authorised by paragraph 6 below (treatment for offender’s mental condition).
- (4) It shall be for the supervisor to decide—
- (a) whether and to what extent he exercises any power to give directions conferred on him by virtue of sub-paragraph (1) above; and
  - (b) the form of any directions.
- (5) The total number of days in respect of which an offender may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of sub-paragraph (1) above shall not exceed [<sup>F95</sup>180] or such lesser number, if any, as the order may specify for the purposes of this sub-paragraph.
- (6) For the purpose of calculating the total number of days in respect of which such directions may be given, the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.
- (7) Directions given by the supervisor by virtue of sub-paragraph (1)(b) or (c) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment.

**Textual Amendments**

**F95** Word in Sch. 6 para. 2(5) substituted (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), s. 93, Sch. 2 para. 4\(2\)](#); S.I. 2004/2168, art. 2(a)(iii)



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*Requirements as to activities, reparation, night restrictions etc.*

- 3 (1) This paragraph applies to a supervision order unless the order requires the offender to comply with directions given by the supervisor under paragraph 2(1) above.
- (2) Subject to the following provisions of this paragraph <sup>F96</sup> ..., a supervision order to which this paragraph applies may require the offender—
- (a) to live at a place or places specified in the order for a period or periods so specified;
  - (b) to present himself to a person or persons specified in the order at a place or places and on a day or days so specified;
  - (c) to participate in activities specified in the order on a day or days so specified;
  - (d) to make reparation specified in the order to a person or persons so specified or to the community at large;
  - <sup>F97</sup>(e) .....
  - (f) to refrain from participating in activities specified in the order—
    - (i) on a specified day or days during the period for which the supervision order is in force; or
    - (ii) during the whole of that period or a specified portion of it;and in this paragraph “make reparation” means make reparation for the offence otherwise than by the payment of compensation.
- (3) The total number of days in respect of which an offender may be subject to requirements imposed by virtue of paragraph (a), (b), (c) [<sup>F98</sup>or (d)] of sub-paragraph (2) above shall not exceed [<sup>F99</sup>180] .
- (4) The court may not include requirements under sub-paragraph (2) above in a supervision order unless—
- (a) it has first consulted the supervisor as to—
    - (i) the offender’s circumstances, and
    - (ii) the feasibility of securing compliance with the requirements,and is satisfied, having regard to the supervisor’s report, that it is feasible to secure compliance with them;
  - (b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences; and
  - (c) if the offender is aged under 16, it has obtained and considered information about his family circumstances and the likely effect of the requirements on those circumstances.
- (5) The court shall not by virtue of sub-paragraph (2) above include in a supervision order—
- (a) any requirement that would involve the co-operation of a person other than the supervisor and the offender, unless that other person consents to its inclusion;
  - (b) any requirement to make reparation to any person unless that person—
    - (i) is identified by the court as a victim of the offence or a person otherwise affected by it; and
    - (ii) consents to the inclusion of the requirement;

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- (c) any requirement requiring the offender to reside with a specified individual;  
or
  - (d) any such requirement as is mentioned in paragraph 6(2) below (treatment for offender’s mental condition).
- (6) Requirements included in a supervision order by virtue of sub-paragraph (2)(b) or (c) above shall, as far as practicable, be such as to avoid—
- (a) any conflict with the offender’s religious beliefs or with the requirements of any other community order to which he may be subject; and
  - (b) any interference with the times, if any, at which he normally works or attends school or any other educational establishment;
- and sub-paragraphs (7) and (8) below are without prejudice to this sub-paragraph.
- (7) Subject to sub-paragraph (8) below, a supervision order may not by virtue of sub-paragraph (2) above include—
- (a) any requirement that would involve the offender in absence from home—
    - (i) for more than two consecutive nights, or
    - (ii) for more than two nights in any one week, or
  - (b) if the offender is of compulsory school age, any requirement to participate in activities during normal school hours,
- unless the court making the order is satisfied that the facilities whose use would be involved are for the time being specified in a scheme in force under section 66 of this Act for the area in which the offender resides or will reside.
- (8) Sub-paragraph (7)(b) above does not apply to activities carried out in accordance with arrangements made or approved by the local education authority in whose area the offender resides or will reside.
- (9) Expressions used in sub-paragraphs (7) and (8) above and in the <sup>M31</sup>Education Act 1996 have the same meaning in those sub-paragraphs as in that Act.

#### Textual Amendments

- F96** Words in Sch. 6 para. 3(2) repealed (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), s. 93, [Sch. 3](#); S.I. 2004/2168, art. 2(b)(ii)
- F97** Sch. 6 para. 3(2)(e) repealed (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), s. 93, Sch. 2 para. 4(3)(a), [Sch. 3](#); S.I. 2004/2168, art. 2(a)(b)(ii)(iii)
- F98** Words in Sch. 6 para. 3(3) substituted (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), s. 93, [Sch. 2 para. 4\(3\)\(b\)](#); S.I. 2004/2168, art. 2(a)(iii)
- F99** Word in Sch. 6 para. 3(3) substituted (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), s. 93, [Sch. 2 para. 4\(3\)\(b\)](#); S.I. 2004/2168, art. 2(a)(iii)

#### Marginal Citations

- M31** 1996 c. 56.

F100<sup>4</sup> .....

#### Textual Amendments

- F100** Sch. 6 para. 4 repealed (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\)](#), s. 93, Sch. 2 para. 4(4), [Sch. 3](#); S.I. 2004/2168, art. 2(a)(b)(ii)(iii)

*Status: Point in time view as at 30/09/2004.*

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*Requirement to live for specified period in local authority accommodation*

- 5 (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, a supervision order may impose a requirement (“a local authority residence requirement”) that the offender shall live for a specified period in local authority accommodation (as defined by section 163 of this Act).
- (2) The conditions are that—
- (a) a supervision order has previously been made in respect of the offender;
  - (b) that order imposed—
    - (i) a requirement under paragraph 1, 2, 3 or 7 of this Schedule; or
    - (ii) a local authority residence requirement;
  - (c) the offender fails to comply with that requirement, or is convicted of an offence committed while that order was in force; and
  - (d) the court is satisfied that—
    - (i) the failure to comply with the requirement, or the behaviour which constituted the offence, was due to a significant extent to the circumstances in which the offender was living; and
    - (ii) the imposition of a local authority residence requirement will assist in his rehabilitation;except that sub-paragraph (i) of paragraph (d) above does not apply where the condition in paragraph (b)(ii) above is satisfied.
- (3) A local authority residence requirement shall designate the local authority who are to receive the offender, and that authority shall be the authority in whose area the offender resides.
- (4) The court shall not impose a local authority residence requirement without first consulting the designated authority.
- (5) A local authority residence requirement may stipulate that the offender shall not live with a named person.
- (6) The maximum period which may be specified in a local authority residence requirement is six months.
- (7) A court shall not impose a local authority residence requirement in respect of an offender who is not legally represented at the relevant time in that court unless—
- (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of the proceedings but the right was withdrawn because of his conduct; or
  - (b) he has been informed of his right to apply for such representation for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.
- (8) In sub-paragraph (7) above—
- (a) “the relevant time” means the time when the court is considering whether or not to impose the requirement; and
  - (b) “the proceedings” means—
    - (i) the whole proceedings; or
    - (ii) the part of the proceedings relating to the imposition of the requirement.

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- (9) A supervision order imposing a local authority residence requirement may also impose any of the requirements mentioned in paragraphs 2, 3, 6 and 7 of this Schedule.

*[<sup>F101</sup>Requirement to live for specified period with local authority foster parent*

#### **Textual Amendments**

**F101** Sch. 6 para. 5A and cross-heading inserted (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), s. 93, Sch. 2 para. 4\(5\)](#); [S.I. 2004/2168, art. 2\(a\)\(iii\)](#)

- 5A (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, a supervision order may impose a requirement (“a foster parent residence requirement”) that the offender shall live for a specified period with a local authority foster parent.
- (2) The conditions are that—
- (a) the offence is punishable with imprisonment in the case of an offender aged 18 or over;
  - (b) the offence, or the combination of the offence and one or more offences associated with it, was so serious that a custodial sentence would normally be appropriate (or, where the offender is aged 10 or 11, would normally be appropriate if the offender were aged 12 or over); and
  - (c) the court is satisfied that—
    - (i) the behaviour which constituted the offence was due to a significant extent to the circumstances in which the offender was living, and
    - (ii) the imposition of a foster parent residence requirement will assist in his rehabilitation.
- (3) A foster parent residence requirement shall designate the local authority who are to place the offender with a local authority foster parent under section 23(2)(a) of the Children Act 1989, and that authority shall be the authority in whose area the offender resides.
- (4) A court shall not impose a foster parent residence requirement unless—
- (a) the court has been notified by the Secretary of State that arrangements for implementing such a requirement are available in the area of the designated authority;
  - (b) the notice has not been withdrawn; and
  - (c) the court has consulted the designated authority.
- (5) Subject to paragraph 5(2A) of Schedule 7 to this Act, the maximum period which may be specified in a foster parent residence requirement is twelve months.
- (6) A court shall not impose a foster parent residence requirement in respect of an offender who is not legally represented at the relevant time in that court unless—
- (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of the proceedings but the right was withdrawn because of his conduct; or

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- (b) he has been informed of his right to apply for such representation for the purposes of the proceedings and has had opportunity to do so, but nevertheless refused or failed to apply.
- (7) In sub-paragraph (6) above—
- (a) “the relevant time” means the time when the court is considering whether or not to impose the requirement, and
  - (b) “the proceedings” means—
    - (i) the whole proceedings, or
    - (ii) the part of the proceedings relating to the imposition of the requirement.
- (8) A supervision order imposing a foster parent residence requirement may also impose any of the requirements mentioned in paragraphs 2, 3, 6 and 7 of this Schedule.
- (9) If at any time while a supervision order imposing a foster parent residence requirement is in force, the supervisor notifies the offender—
- (a) that no suitable local authority foster parent is available, and
  - (b) that the supervisor has applied or proposes to apply under paragraph 5 of Schedule 7 for the variation or revocation of the order,
- the foster parent residence requirement shall, until the determination of the application, be taken to require the offender to live in local authority accommodation (as defined by section 163 of this Act).
- (10) This paragraph does not affect the power of a local authority to place with a local authority foster parent an offender to whom a local authority residence requirement under paragraph 5 above relates.
- (11) In this paragraph “local authority foster parent” has the same meaning as in the Children Act 1989.]

*Requirements as to treatment for mental condition*

- 6 (1) This paragraph applies where a court which proposes to make a supervision order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the <sup>M32</sup>Mental Health Act 1983, that the mental condition of the offender—
- (a) is such as requires and may be susceptible to treatment; but
  - (b) is not such as to warrant the making of a hospital order or guardianship order within the meaning of that Act.
- (2) Where this paragraph applies, the court may include in the supervision order a requirement that the offender shall, for a period specified in the order, submit to treatment of one of the following descriptions so specified, that is to say—
- (a) treatment as a resident patient in [F102an independent hospital or care home within the meaning of the Care Standards Act 2000 or a hospital] within the meaning of the <sup>M33</sup>Mental Health Act 1983, but not a hospital at which high security psychiatric services within the meaning of that Act are provided;
  - (b) treatment as a non-resident patient at an institution or place specified in the order;
  - (c) treatment by or under the direction of a registered medical practitioner specified in the order; or

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- (d) treatment by or under the direction of a chartered psychologist specified in the order.
- (3) A requirement shall not be included in a supervision order by virtue of sub-paragraph (2) above—
- (a) in any case, unless the court is satisfied that arrangements have been or can be made for the treatment in question and, in the case of treatment as a resident patient, for the reception of the patient;
  - (b) in the case of an order made or to be made in respect of a person aged 14 or over, unless he consents to its inclusion;
- and a requirement so included shall not in any case continue in force after the offender attains the age of 18.
- (4) Subsections (2) and (3) of section 54 of the <sup>M34</sup>Mental Health Act 1983 shall have effect with respect to proof for the purposes of sub-paragraph (1) above of an offender’s mental condition as they have effect with respect to proof of an offender’s mental condition for the purposes of section 37(2)(a) of that Act.
- (5) In sub-paragraph (2) above “chartered psychologist” means a person for the time being listed in the British Psychological Society’s Register of Chartered Psychologists.

#### **Textual Amendments**

**F102** Words in Sch. 6 para. 6(2)(a) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 28(3)**; S.I. 2001/4150, **art. 3(2)(3)(a)** (subject to transitional provisions in **art. 4** and S.I. 2002/1493, **arts. 4, 6**); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in **art. 2, Sch. 1-3**)

#### **Marginal Citations**

**M32** 1983 c. 20.

**M33** 1983 c. 20.

**M34** 1983 c. 20.

#### *Requirements as to education*

- 7 (1) This paragraph applies to a supervision order unless the order requires the offender to comply with directions given by the supervisor under paragraph 2(1) above.
- (2) Subject to the following provisions of this paragraph, a supervision order to which this paragraph applies may require the offender, if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.
- (3) The court shall not include such a requirement in a supervision order unless—
- (a) it has consulted the local education authority with regard to its proposal to include the requirement; and
  - (b) it is satisfied that in the view of the local education authority arrangements exist for the offender to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have.
- (4) Expressions used in sub-paragraphs (2) and (3) above and in the <sup>M35</sup>Education Act 1996 have the same meaning in those sub-paragraphs as in that Act.

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- (5) The court may not include a requirement under sub-paragraph (2) above unless it has first consulted the supervisor as to the offender’s circumstances and, having regard to the circumstances of the case, it considers the requirement necessary for securing the good conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences.

**Marginal Citations**

M35 1996 c. 56.

*Exercise of powers under paragraphs 3, 6 and 7*

- 8 (1) Any power to include a requirement in a supervision order which is exercisable in relation to a person by virtue of paragraph 3, 6 or 7 above may be exercised in relation to him whether or not any other such power is exercised.
- (2) Sub-paragraph (1) above is without prejudice to the power to include in a supervision order any other combination of requirements under different paragraphs of this Schedule that is authorised by this Schedule.

SCHEDULE 7

Section 65.

BREACH, REVOCATION AND AMENDMENT OF SUPERVISION ORDERS

*Meaning of “relevant court”, etc.*

- 1 (1) In this Schedule, “relevant court”, in relation to a supervision order, means—
- (a) where the offender is under the age of 18, a youth court acting for the petty sessions area for the time being named in the order in pursuance of section 63(6) of this Act;
  - (b) where the offender has attained that age, a magistrates’ court other than a youth court, being a magistrates’ court acting for the petty sessions area for the time being so named.
- (2) If an application to a youth court is made in pursuance of this Schedule and while it is pending the offender to whom it relates attains the age of 18, the youth court shall deal with the application as if he had not attained that age.

*Breach of requirement of supervision order*

- 2 (1) This paragraph applies if while a supervision order is in force in respect of an offender it is proved to the satisfaction of a relevant court, on the application of the supervisor, that the offender has failed to comply with any requirement included in the supervision order in pursuance of paragraph 1, 2, 3, 5 [F103, 5A] or 7 of Schedule 6 to this Act or section 63(6)(b) of this Act.
- (2) Where this paragraph applies, the court—
- (a) whether or not it also makes an order under paragraph 5(1) below (revocation or amendment of supervision order)—

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- (i) may order the offender to pay a fine of an amount not exceeding £1,000; or
- (ii) subject to [<sup>F104</sup>sub-paragraph (2A) below and] paragraph 3 below, may make a curfew order in respect of him; or
- (iii) subject to paragraph 4 below, may make an attendance centre order in respect of him; or
- (b) if the supervision order was made by a magistrates' court, may revoke the supervision order and deal with the offender, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made; or
- (c) if the supervision order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.

[<sup>F105</sup>(2A) The court may not make a curfew order under sub-paragraph (2)(a)(ii) above in respect of an offender who is already subject to a curfew order.]

- (3) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—
  - (a) particulars of the offender's failure to comply with the requirement in question; 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.
- (4) Where—
  - (a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court, and
  - (b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,
 that court may deal with him, for the offence in respect of which the supervision order was made, in any way in which it could have dealt with him for that offence if it had not made the order.
- (5) Where the Crown Court deals with an offender under sub-paragraph (4) above, it shall revoke the supervision order if it is still in force.
- (6) A fine imposed under this paragraph shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (7) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the supervision order.
- (8) Where a supervision order has been made on appeal, for the purposes of this paragraph it shall be deemed—
  - (a) if it was made on an appeal brought from a magistrates' court, to have been made by that 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;



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and, in relation to a supervision order made on appeal, sub-paragraph (2)(b) above shall have effect as if the words “if the order had not been made” were omitted and sub-paragraph (4) above shall have effect as if the words “if it had not made the order” were omitted.

(9) This paragraph has effect subject to paragraph 7 below.

#### Textual Amendments

- F103** Word in Sch. 7 para. 2(1) inserted (30.9.2004) by Anti-social Behaviour Act 2003 (c. 38), s. 93, Sch. 2 para. 6(2)(a); S.I. 2004/2168, art. 2(a)(iii)
- F104** Words in Sch. 7 para. 2(2)(a)(ii) inserted (30.9.2004) by Anti-social Behaviour Act 2003 (c. 38), s. 93, Sch. 2 para. 6(2)(b); S.I. 2004/2168, art. 2(a)(iii)
- F105** Sch. 7 para. 2(2A) inserted (30.9.2004) by Anti-social Behaviour Act 2003 (c. 38), s. 93, Sch. 2 para. 6(2)(c); S.I. 2004/2168, art. 2(a)(iii)

#### *Curfew orders imposed for breach of supervision order*

- 3 (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraph 2(2)(a)(ii) above as if for the words from the beginning to “make” there were substituted “Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(ii) of Schedule 7 to this Act, it may make”.
- (2) The following provisions of this Act, namely—
- (a) section 37(3) to (12), and
  - (b) so far as applicable, [F106 sections 36B] and 40 and Schedule 3 so far as relating to curfew orders,
- have effect in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above as they have effect in relation to any other curfew order, subject to sub-paragraphs (4) and (5) below.
- (3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above.
- (4) Subsections (4) and (9) of section 37 of this Act shall each have effect in relation to such a curfew order as if for the words “on conviction” there were substituted “on the date when his failure to comply with the supervision order is proved to the court”.
- (5) Schedule 3 to this Act (breach, revocation and amendment of orders) shall have effect in relation to such a curfew order as if—
- (a) the power conferred on the court by each of paragraphs 4(1)(d) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision order, in any way in which a relevant court could deal with him for that failure if it had just been proved to the satisfaction of that court;
  - (b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
  - (c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision

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order, in any way in which a relevant court (if the supervision order was made by a magistrates' court) or the Crown Court (if the supervision order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfaction.

- (6) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (5) above, as applied by that sub-paragraph, if the supervision order is no longer in force the relevant court's powers shall be determined on the assumption that it is still in force.

#### Textual Amendments

**F106** Words in [Sch. 7 para. 3\(2\)\(b\)](#) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 201\(2\)\(a\)](#); [S.I. 2001/2232, art. 2\(m\)\(ix\)](#)

#### *Attendance centre orders imposed for breach of supervision order*

- 4 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraph 2(2)(a)(iii) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(iii) of Schedule 7 to this Act, 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 2(2)(a)(iii) above as they have effect in relation to any other attendance centre order, subject to sub-paragraph (4) below.
- (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 2(2)(a)(iii) above.
- (4) Schedule 5 to this Act (breach, revocation and amendment of attendance centre orders) shall have effect in relation to such an attendance centre order as if there were omitted—
- (a) from each of paragraphs 2(1)(b) and 4(3) the words “, for the offence in respect of which the order was made,” and “for that offence”; and
  - (b) from paragraphs 2(6) and 4(4) the words “for an offence”.

#### *Revocation and amendment of supervision order*

- 5 (1) If while a supervision order is in force in respect of an offender it appears to a relevant court, on the application of the supervisor or the offender, that it is appropriate to make an order under this sub-paragraph, the court may—
- (a) make an order revoking the supervision order; or
  - (b) make an order amending it—
    - (i) by cancelling any requirement included in it in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act; or
    - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the

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order if the court had then had power to make it and were exercising the power.

(2) Sub-paragraph (1) above has effect subject to paragraphs 7 to 9 below.

[<sup>F107</sup>(2A) In relation to a supervision order imposing a foster parent residence requirement under paragraph 5A of Schedule 6 to this Act, the power conferred by sub-paragraph (1)(b)(ii) above includes power to extend the period specified in the requirement to a period of not more than 18 months beginning with the day on which the requirement first had effect.]

(3) The powers of amendment conferred by sub-paragraph (1) above do not include power—

(a) to insert in the supervision order, after the end of three months beginning with the date when the order was originally made, a requirement in pursuance of paragraph 6 of Schedule 6 to this Act (treatment for mental condition), unless it is in substitution for such a requirement already included in the order; <sup>F108</sup> ...

<sup>F108</sup>(b) .....

(4) Where an application under sub-paragraph (1) above for the revocation of a supervision order is dismissed, no further application for its revocation shall be made under that sub-paragraph by any person during the period of three months beginning with the date of the dismissal except with the consent of a court having jurisdiction to entertain such an application.

#### Textual Amendments

**F107** Sch. 7 para. 5(2A) inserted (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), s. 93, Sch. 2 para. 6\(3\)\(a\)](#); S.I. 2004/2168, art. 2(a)(iii)

**F108** Sch. 7 para. 5(3)(b) and word repealed (30.9.2004) by [Anti-social Behaviour Act 2003 \(c. 38\), s. 93, Sch. 2 para. 6\(3\)\(b\), Sch. 3](#); S.I. 2004/2168, art. 2(a)(b)(ii)(iii)

#### *Amendment of order on report of medical practitioner*

6 (1) If a medical practitioner by whom or under whose direction an offender is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of paragraph 6 of Schedule 6 to this Act—

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

the practitioner shall make a report in writing to that effect to the supervisor.

(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.

(3) On receiving a report under sub-paragraph (1) above the supervisor shall refer it to a relevant court; and on such a reference the court may make an order cancelling or varying the requirement.

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- (4) Sub-paragraph (3) above has effect subject to paragraphs 7 to 9 below.

*Presence of offender in court, remands etc.*

- 7 (1) Where the supervisor makes an application or reference under paragraph 2(1), 5(1) or 6(3) above to a court he may bring the offender before the court; and, subject to sub-paragraph (9) below, a court shall not make an order under paragraph 2, 5(1) or 6(3) above unless the offender is present before the court.
- (2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, a justice may issue a summons or warrant for the purpose of securing the attendance of an offender before the court to which any application or reference in respect of him is made under paragraph 2(1), 5(1) or 6(3) above.
- (3) Subsections (3) and (4) of section 55 of the <sup>M36</sup>Magistrates' Courts Act 1980 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section, but as if in subsection (3) after the word "summons" there were inserted the words "cannot be served or".
- (4) Where the offender is arrested in pursuance of a warrant issued by virtue of sub-paragraph (2) above and cannot be brought immediately before the court referred to in that sub-paragraph, the person in whose custody he is—
- (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
  - (b) shall within that period, unless within it the offender is brought before the court referred to in sub-paragraph (2) above, bring him before a justice;
- and in paragraph (a) above "place of safety" has the same meaning as in the <sup>M37</sup>Children and Young Persons Act 1933.
- (5) Where an offender is brought before a justice under sub-paragraph (4)(b) above, the justice may—
- (a) direct that he be released forthwith; or
  - (b) subject to sub-paragraph (7) below, remand him to local authority accommodation.
- (6) Subject to sub-paragraph (7) below, where an application is made to a youth court under paragraph 5(1) above, the court may remand (or further remand) the offender to local authority accommodation if—
- (a) a warrant has been issued under sub-paragraph (2) above for the purpose of securing the attendance of the offender before the court; or
  - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 5(1) above.
- (7) Where the offender is aged 18 or over at the time when he is brought before a justice under sub-paragraph (4)(b) above, or is aged 18 or over at a time when (apart from this sub-paragraph) a youth court could exercise its powers under sub-paragraph (6) above in respect of him, he shall not be remanded to local authority accommodation but may instead be remanded—

*Status: Point in time view as at 30/09/2004.*

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- (a) to a remand centre, if the justice or youth court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or
  - (b) to a prison, if the justice or youth court has not been so notified.
- (8) A justice or court remanding a person to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the authority named in the supervision order.
- (9) A court may make an order under paragraph 5(1) or 6(3) above in the absence of the offender if the effect of the order is confined to one or more of the following, that is to say—
- (a) revoking the supervision order;
  - (b) cancelling a provision included in the supervision order in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act;
  - (c) reducing the duration of the supervision order or any provision included in it in pursuance of that Schedule;
  - (d) altering in the supervision order the name of any area;
  - (e) changing the supervisor.

#### Marginal Citations

**M36** 1980 c. 43.

**M37** 1933 c. 12.

#### *Restrictions on court's powers to revoke or amend order*

- 8 (1) A youth court shall not—
- (a) exercise its powers under paragraph 5(1) above to make an order—
    - (i) revoking a supervision order, or
    - (ii) inserting in it a requirement authorised by Schedule 6 to this Act, or
    - (iii) varying or cancelling such a requirement,except in a case where the court is satisfied that the offender either is unlikely to receive the care or control he needs unless the court makes the order or is likely to receive it notwithstanding the order;
  - (b) exercise its powers to make an order under paragraph 6(3) above except in such a case as is mentioned in paragraph (a) above;
  - (c) exercise its powers under paragraph 5(1) above to make an order inserting a requirement authorised by paragraph 6 of Schedule 6 to this Act in a supervision order which does not already contain such a requirement, unless the court is satisfied as mentioned in paragraph 6(1) of that Schedule on such evidence as is there mentioned.
- (2) For the purposes of this paragraph “care” includes protection and guidance and “control” includes discipline.
- 9 Where the offender has attained the age of 14, then except with his consent a court shall not make an order under paragraph 5(1) or 6(3) above containing provisions—
- (a) which insert in the supervision order a requirement authorised by paragraph 6 of Schedule 6 to this Act; or
  - (b) which alter such a requirement already included in the supervision order otherwise than by removing it or reducing its duration.

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*Copies of revoking or amending orders*

- 10 A court which makes an order amending or revoking a supervision order shall forthwith send a copy of its order—
- (a) to the offender and, if the offender is aged under 14, to his parent or guardian;
  - (b) to the supervisor and any person who has ceased to be the supervisor by virtue of the order;
  - (c) to any local authority who are not entitled by virtue of paragraph (b) above to such a copy and whose area is named in the supervision order in pursuance of section 63(6) of this Act or has ceased to be so named by virtue of the court's order;
  - (d) where the offender is required by the order, or was required by the supervision order before it was amended or revoked, to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and
  - (e) where a petty sessions area named in the order or revoked order in pursuance of section 63(6) of this Act is not that for which the court acts, to the justices' chief executive for the petty sessions area so named;
- and, in a case falling within paragraph (e) above, shall also send to the justices' chief executive in question such documents and information relating to the case as the court considers likely to be of assistance to them.

*Appeals*

- 11 The offender may appeal to the Crown Court against—
- (a) any order made under paragraph 2(2), 5(1) or 6(3) above by a relevant court, except—
    - (i) an order made or which could have been made in the absence of the offender (by virtue of paragraph 7(9) above); and
    - (ii) an order containing only provisions to which the offender consented in pursuance of paragraph 9 above;
  - (b) the dismissal of an application under paragraph 5(1) above to revoke a supervision order.

*Power of parent or guardian to make application on behalf of young person*

- 12 (1) Without prejudice to any power apart from this sub-paragraph to bring proceedings on behalf of another person, any power to make an application which is exercisable by a child or young person by virtue of paragraph 5(1) above shall also be exercisable on his behalf by his parent or guardian.
- (2) In this paragraph "guardian" includes any person who was a guardian of the child or young person in question at the time when any supervision order to which the application relates was originally made.

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## SCHEDULE 8

Sections 72 and 75.

### BREACH, REVOCATION AND AMENDMENT OF ACTION PLAN ORDERS AND REPARATION ORDERS

#### *Meaning of “the appropriate court”*

- 1 In this Schedule, “the appropriate court”, in relation to an action plan order or reparation order, means a youth court acting for the petty sessions area for the time being named in the order in pursuance of section 69(8) or, as the case may be, 74(4) of this Act.

#### *Breach of requirement of action plan order or reparation order*

- 2 (1) This paragraph applies if while an action plan order or reparation order is in force in respect of an offender it is proved to the satisfaction of the appropriate court, on the application of the responsible officer, that the offender has failed to comply with any requirement included in the order.
- (2) Where this paragraph applies, the court—
- (a) whether or not it also makes an order under paragraph 5(1) below (revocation or amendment of order)—
    - (i) may order the offender to pay a fine of an amount not exceeding £1,000; or
    - (ii) subject to paragraph 3 below, may make a curfew order in respect of him; or
    - (iii) subject to paragraph 4 below, may make an attendance centre order in respect of him; or
  - (b) if the action plan order or reparation order was made by a magistrates’ court, may revoke the order and deal with the offender, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made; or
  - (c) if the action plan order or reparation order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—
- (a) particulars of the offender’s failure to comply with the requirement in question; 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.
- (4) Where—
- (a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court, and
  - (b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,



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that court may deal with him, for the offence in respect of which the order was made, in any way in which it could have dealt with him for that offence if it had not made the order.

- (5) Where the Crown Court deals with an offender under sub-paragraph (4) above, it shall revoke the action plan order or reparation order if it is still in force.
- (6) A fine imposed under this paragraph shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (7) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the action plan order or reparation order.
- (8) Where a reparation order or action plan order has been made on appeal, for the purposes of this paragraph it shall be deemed—
  - (a) if it was made on an appeal brought from a magistrates' court, to have been made by that 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;

and, in relation to a reparation order or action plan order made on appeal, sub-paragraph (2)(b) above shall have effect as if the words “if the order had not been made” were omitted and sub-paragraph (4) above shall have effect as if the words “if it had not made the order” were omitted.

- (9) This paragraph has effect subject to paragraph 6 below.

*Curfew orders imposed for breach of action plan order or reparation order*

- 3 (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraph 2(2)(a)(ii) above as if for the words from the beginning to “make” there were substituted “Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(ii) of Schedule 8 to this Act, it may make”.
- (2) The following provisions of this Act, namely—
  - (a) section 37(3) to (12), and
  - (b) so far as applicable, [F109 sections 36B] and 40 and Schedule 3 so far as relating to curfew orders,
 have effect in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above as they have effect in relation to any other curfew order, subject to sub-paragraphs (4) and (5) below.
- (3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above.
- (4) Subsections (4) and (9) of section 37 of this Act shall each have effect in relation to such a curfew order as if for the words “on conviction” there were substituted “on the date when his failure to comply with the action plan order or reparation order is proved to the court”.
- (5) Schedule 3 to this Act (breach, revocation and amendment of orders) shall have effect in relation to such a curfew order as if—

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- (a) the power conferred on the court by each of paragraphs 4(1)(d) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the action plan order or reparation order, in any way in which the appropriate court could deal with him for that failure if it had just been proved to the satisfaction of that court;
  - (b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
  - (c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the action plan order or reparation order, in any way in which the appropriate court (if the action plan order or reparation order was made by a magistrates' court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfaction
- (6) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (5) above, as applied by that sub-paragraph, if the action plan order or reparation order is no longer in force the appropriate court's powers shall be determined on the assumption that it is still in force.

#### Textual Amendments

**F109** Words in [Sch. 8 para. 3\(2\)\(b\)](#) substituted (20.6.2001 for specified purposes otherwise 2.7.2001) by [2000 c. 43, s. 74, Sch. 7 Pt. II para. 202\(2\)\(a\)](#); [S.I. 2001/2232, art. 2\(m\)\(x\)](#)

#### *Attendance centre orders imposed for breach of action plan or reparation order*

- 4 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraph 2(2)(a)(iii) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(iii) of Schedule 8 to this Act, 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 2(2)(a)(iii) above as they have effect in relation to any other attendance centre order, subject to sub-paragraph (4) below.
- (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 2(2)(a)(iii) above.
- (4) Schedule 5 to this Act (breach, revocation and amendment of attendance centre orders) shall have effect in relation to such an attendance centre order as if there were omitted—
- (a) from each of paragraphs 2(1)(b) and 4(3) the words “, for the offence in respect of which the order was made,” and “for that offence”; and
  - (b) from paragraphs 2(6) and 4(4) the words “for an offence”.

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*Revocation and amendment of action plan order or reparation order*

- 5 (1) If while an action plan order or reparation order is in force in respect of an offender it appears to the appropriate court, on the application of the responsible officer or the offender, that it is appropriate to make an order under this sub-paragraph, the court may—
- (a) make an order revoking the action plan order or reparation order; or
  - (b) make an order amending it—
    - (i) by cancelling any provision included in it; or
    - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power.
- (2) Sub-paragraph (1) above has effect subject to paragraph 6 below.
- (3) Where an application under sub-paragraph (1) above for the revocation of an action plan order or reparation order is dismissed, no further application for its revocation shall be made under that sub-paragraph by any person except with the consent of the appropriate court.

*Presence of offender in court, remands etc.*

- 6 (1) Where the responsible officer makes an application under paragraph 2(1) or 5(1) above to the appropriate court he may bring the offender before the court; and, subject to sub-paragraph (9) below, a court shall not make an order under paragraph 2 or 5(1) above unless the offender is present before the court.
- (2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, the court to which an application under paragraph 2(1) or 5(1) above is made may issue a summons or warrant for the purpose of securing the attendance of the offender before it.
- (3) Subsections (3) and (4) of section 55 of the <sup>M38</sup>Magistrates' Courts Act 1980 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section, but as if in subsection (3) after the word "summons" there were inserted the words "cannot be served or".
- (4) Where the offender is arrested in pursuance of a warrant issued by virtue of sub-paragraph (2) above and cannot be brought immediately before the appropriate court, the person in whose custody he is—
- (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
  - (b) shall within that period bring him before a youth court;
- and in paragraph (a) above "place of safety" has the same meaning as in the <sup>M39</sup>Children and Young Persons Act 1933.
- (5) Where an offender is under sub-paragraph (4)(b) above brought before a youth court other than the appropriate court, the youth court may—
- (a) direct that he be released forthwith; or

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- (b) subject to sub-paragraph (7) below, remand him to local authority accommodation.
- (6) Subject to sub-paragraph (7) below, where an application is made to a court under paragraph 5(1) above, the court may remand (or further remand) the offender to local authority accommodation if—
  - (a) a warrant has been issued under sub-paragraph (2) above for the purpose of securing the attendance of the offender before the court; or
  - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 5(1) above.
- (7) Where the offender is aged 18 or over at the time when he is brought before a youth court other than the appropriate court under sub-paragraph (4)(b) above, or is aged 18 or over at a time when (apart from this sub-paragraph) the appropriate court could exercise its powers under sub-paragraph (6) above in respect of him, he shall not be remanded to local authority accommodation but may instead be remanded—
  - (a) to a remand centre, if the court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or
  - (b) to a prison, if it has not been so notified.
- (8) A court remanding an offender to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the local authority for the area in which the offender resides or, where it appears to the court that he does not reside in the area of a local authority, the local authority—
  - (a) specified by the court; and
  - (b) in whose area the offence or an offence associated with it was committed.
- (9) A court may make an order under paragraph 5(1) above in the absence of the offender if the effect of the order is confined to one or more of the following, that is to say—
  - (a) revoking the action plan order or reparation order;
  - (b) cancelling a requirement included in the action plan order or reparation order;
  - (c) altering in the action plan order or reparation order the name of any area;
  - (d) changing the responsible officer.

#### **Marginal Citations**

**M38** 1980 c. 43.

**M39** 1933 c. 12.

### *Appeals*

- 7 The offender may appeal to the Crown Court against—
- (a) any order made under paragraph 2(2) or 5(1) above except an order made or which could have been made in his absence (by virtue of paragraph 6(9) above);
  - (b) the dismissal of an application under paragraph 5(1) above to revoke an action plan order or reparation order.

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## SCHEDULE 9

Section 165.

## CONSEQUENTIAL AMENDMENTS

*Children and Young Persons Act 1933 (c. 12)*

- 1 In section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence etc.), in subsection (7), for “section 11 of the Children and Young Persons Act 1969” there shall be substituted “section 163 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- 2 (1) Section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children or young persons are concerned) shall be amended as follows.
- (2) In subsection (2)—
- (a) for “section 15 or 16 of the Children and Young Persons Act 1969” there shall be substituted “Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000”; and
- (b) for “section 15 or 16 of that Act” there shall be substituted “Schedule 7 to that Act”.
- (3) In subsection (4A)—
- (a) for “section 16(3) of the Criminal Justice Act 1982” there shall be substituted “section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000”; and
- (b) for “section 76(6)(b) of the Crime and Disorder Act 1998” there shall be substituted “section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000”.
- (4) In subsection (10), for “section 15 or 16 of the Children and Young Persons Act 1969” there shall be substituted “Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000”.
- (5) In subsection (11), in each of the definitions of “sexual offence” and “violent offence”, for “section 31(1) of the Criminal Justice Act 1991” there shall be substituted “the Powers of Criminal Courts (Sentencing) Act 2000”.
- 3 (1) Section 58 of the Children and Young Persons Act 1933 (power of Secretary of State to send certain young offenders to approved schools) shall be amended as follows.
- (2) In the first paragraph (b), for the words “with respect to whom he is authorised to give directions under subsection (3) of section fifty-three of this Act” there shall be substituted “sentenced to be detained under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 with respect to whom he is authorised to give directions under section 92 of that Act”.
- (3) In the second paragraph (a), for “subsection (3)” there shall be substituted “section 91”.

*Prison Act 1952 (c. 52)*

- 4 In section 13(2) of the Prison Act 1952 (legal custody of prisoner), for “or the Criminal Justice Act 1982” there shall be substituted “or section 95, 98, 99 or 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000”.

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- 5 (1) Section 43 of the Prison Act 1952 (institutions for young offenders) shall be amended as follows.
- (2) In subsection (1)(d), for “section 73 of the Crime and Disorder Act 1998” there shall be substituted “ section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In subsection (7), for “section 12 of the Criminal Justice Act 1982” there shall be substituted “ section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 6 In section 49(5) of the Prison Act 1952 (meaning of “secure accommodation” for purposes of section 49), for “section 75(7) of the Crime and Disorder Act 1998” there shall be substituted “ section 107(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 7 In section 53(1) of the Prison Act 1952 (interpretation), in the definition of “attendance centre”, for “section 16 of the Criminal Justice Act 1982” there shall be substituted “ section 62 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Army Act 1955 (c. 18)*

- 8 In section 70(3A) of the Army Act 1955 (civil offences), for “section 2, 3 or 4 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 9 In section 71A(1A) of the Army Act 1955 (juveniles), for “section 2 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 10 In section 71AA(6)(a) of the Army Act 1955 (young service offenders: custodial orders) for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 11 In section 71B(2) of the Army Act 1955 (maximum periods of imprisonment or detention for default in payment of fines), for “section 31(3A) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 12 In Schedule 5A to the Army Act 1955 (powers of court on trial of civilian), in paragraph 10(6)(a), for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Air Force Act 1955 (c. 19)*

- 13 In section 70(3A) of the Air Force Act 1955 (civil offences), for “section 2, 3 or 4 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 14 In section 71A(1A) of the Air Force Act 1955 (juveniles), for “section 2 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 15 In section 71AA(6)(a) of the Air Force Act 1955 (young service offenders: custodial orders) for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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16 In section 71B(2) of the Air Force Act 1955 (maximum periods of imprisonment or detention for default in payment of fines), for “section 31(3A) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

17 In Schedule 5A to the Air Force Act 1955 (powers of court on trial of civilian), in paragraph 10(6)(a), for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Naval Discipline Act 1957 (c. 53)*

18 In section 42(1A) of the Naval Discipline Act 1957 (civil offences), for “section 2, 3 or 4 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109, 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

19 In section 43A(1A) of the Naval Discipline Act 1957 (juveniles), for “section 2 of the Crime (Sentences) Act 1997” there shall be substituted “ section 109 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

20 In section 43AA(6)(a) of the Naval Discipline Act 1957 (young service offenders: custodial orders) for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

21 In section 43B(2) of the Naval Discipline Act 1957 (maximum periods of imprisonment or detention for default in payment of fines), for “section 31(3A) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

22 In Schedule 4A to the Naval Discipline Act 1957 (powers of court on trial of civilian), in paragraph 10(6)(a), for “section 1C of the Criminal Justice Act 1982” there shall be substituted “ section 98 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Children and Young Persons Act 1963 (c. 37)*

23 In section 16(3) of the Children and Young Persons Act 1963 (offences committed by children), for “Part I of the Crime (Sentences) Act 1997” there shall be substituted “ Chapter III of Part V of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Justice Act 1967 (c. 80)*

24 In section 32(3) of the Criminal Justice Act 1967 (costs in criminal cases)—

- (a) in paragraph (a), for “section 3 of the Powers of Criminal Courts Act 1973” there shall be substituted “ paragraph 5 of Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (b) in paragraph (b), for “section 30 of the Magistrates’ Courts Act 1980” there shall be substituted “ section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

25 (1) Section 67 of the Criminal Justice Act 1967 (computation of sentences of imprisonment or detention passed in England and Wales) shall be amended as follows.



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- (2) In subsection (2), for “section 23 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In subsection (5), for “section 53(3) of the Children and Young Persons Act 1933” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 26 (1) In section 104 of the Criminal Justice Act 1967 (interpretation), subsection (1) shall continue to have effect with the amendment made by paragraph 26(a) of Schedule 5 to the Powers of Criminal Courts Act 1973, that is to say, with the substitution for the definition of “extended sentence certificate” of the following definition—
- ““extended sentence certificate” means a certificate issued under section 28 of the Powers of Criminal Courts Act 1973 stating that an extended term of imprisonment was imposed on an offender under that section;”.
- (2) In that subsection, for the definition of “suspended sentence” there shall be substituted the following definition—
- ““suspended sentence” means a sentence to which an order under section 118(1) of the Powers of Criminal Courts (Sentencing) Act 2000 relates.”
- 27 In section 106(2) of the Criminal Justice Act 1967 (extent to Scotland), in paragraph (b), for the words from the beginning to “102” there shall be substituted “ section 102 ”.

*Criminal Appeal Act 1968 (c. 19)*

- 28 (1) Section 10 of the Criminal Appeal Act 1968 (appeal against sentence in cases dealt with by Crown Court otherwise than on conviction on indictment) shall be amended as follows.
- (2) In subsection (2)(b), for “Part I of the Criminal Justice Act 1991” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In subsection (3)—
- (a) in paragraph (c)(iii), for “section 23 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (b) in paragraph (cc), for “section 40(2) or (3A) of the Criminal Justice Act 1991” there shall be substituted “ section 116(2) or (4) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 29 In section 11(4) of the Criminal Appeal Act 1968 (supplementary provision as to appeal against sentence), for the words from “section 23(1)” to “partly” there shall be substituted “ section 119(1) of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of a ”.
- 30 In section 50(1A) of the Criminal Appeal Act 1968 (right of appeal where offender discharged), for “Section 1C of the Powers of Criminal Courts Act 1973” there shall be substituted “ Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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*Firearms Act 1968 (c. 27)*

- 31 In section 21 of the Firearms Act 1968 (possession of firearms by persons previously convicted of crime), in subsection (2A)(c), for “section 77 of the Crime and Disorder Act 1998” there shall be substituted “ section 104 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Health Services and Public Health Act 1968 (c. 46)*

- 32 In section 64 of the Health Services and Public Health Act 1968 (financial assistance by Secretary of State to certain voluntary organisations), at the end of subsection (3)(a) there shall be inserted the following sub-paragraph—

“(xxi) sections 63 to 66 and 92 of, and Schedules 6 and 7 to, the Powers of Criminal Courts (Sentencing) Act 2000;”.

- 33 In section 65 of the Health Services and Public Health Act 1968 (financial and other assistance by local authorities to certain voluntary organisations), at the end of subsection (3)(b) there shall be inserted the following sub-paragraph—

“(xxii) sections 63 to 66 of, and Schedules 6 and 7 to, the Powers of Criminal Courts (Sentencing) Act 2000;”.

*Social Work (Scotland) Act 1968 (c. 49)*

- 34 In section 94(1) of the Social Work (Scotland) Act 1968 (interpretation)—

<sup>F110</sup>(a) .....

(b) in the definition of “supervision order”, for “the Children and Young Persons Act 1969” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Textual Amendments**

**F110** Sch. 9 para. 34(a) repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), Sch. 8; S.I. 2001/919, art. 2(f)(vi)(g)

*Theft Act 1968 (c. 60)*

- 35 In section 35(2) of the Theft Act 1968 (application of sections 27 and 28 to proceedings for offences committed before commencement of that Act), for “Sections 27 and 28 of this Act” there shall be substituted “ Section 27 of this Act and section 148 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Civil Evidence Act 1968 (c. 64)*

- 36 In section 11(5)(a) of the Civil Evidence Act 1968 (convictions as evidence in civil proceedings), for “section 1C of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70)*

- 37 In section 10(5)(a) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (convictions as evidence in civil proceedings), for “section 13 of the Powers

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of Criminal Courts Act 1973” there shall be substituted “ section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Children and Young Persons Act 1969 (c. 54)*

38 In section 23 of the Children and Young Persons Act 1969 (remands and committals to local authority accommodation), in subsection (12), in the definition of “sexual offence” and “violent offence”, for “Part I of the Criminal Justice Act 1991” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

39 In each of the following provisions of the Children and Young Persons Act 1969, namely—

- (a) subsections (1) and (2) of section 25 (transfers between England or Wales and Northern Ireland), and
- (b) subsections (1) and (2) of section 26 (transfers between England or Wales and the Channel Islands or Isle of Man),

for “residence requirement as mentioned in section 12AA of this Act” there shall be substituted “ local authority residence requirement as mentioned in paragraph 5 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.

40 In section 30(1) of the Children and Young Persons Act 1969 (detention of young offenders in community homes), for “section 53 of the Act of 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

41 (1) Section 32 of the Children and Young Persons Act 1969 (detention of absentees) shall be amended as follows.

(2) In subsection (1A)—

- (a) for “section 16(3) of this Act” there shall be substituted “ paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ”;
- (b) for “section 12AA of this Act” there shall be substituted “ paragraph 5 of Schedule 6 to that Act ”; and
- (c) for “section 16(3A) of this Act” there shall be substituted “ paragraph 7(5) of Schedule 7 to that Act ”.

(3) In subsection (1C)—

- (a) for “section 16(3) of this Act” there shall be substituted “ paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (b) for “section 12AA, 16(3B) or” there shall be substituted “ paragraph 5 of Schedule 6 to that Act, paragraph 7(8) of Schedule 7 to that Act or section ”.

42 In section 70(1) of the Children and Young Persons Act 1969 (interpretation), for the definitions of “supervision order”, “supervised person” and “supervisor” there shall be substituted the following definition—

““supervision order” has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000;”.

*Administration of Justice Act 1970 (c. 31)*

43 (1) Part I of Schedule 9 to the Administration of Justice Act 1970 (orders for costs, compensation etc. enforceable as on a summary conviction) shall be amended as follows.

(2) For paragraph 10 there shall be substituted the following paragraph—

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“10 Where under section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 a court orders the payment of compensation.”

- (3) In paragraph 12, for “section 55 of the Children and Young Persons Act 1933” there shall be substituted “ section 137 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Attachment of Earnings Act 1971 (c. 32)*

- 44 In section 3(3C) of the Attachment of Earnings Act 1971 (court’s power to make order), for “section 35 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Consumer Credit Act 1974 (c. 39)*

- 45 In section 119(2) of the Consumer Credit Act 1974 (unreasonable refusal to deliver pawn), for the words from “section 28” to “that section,” there shall be substituted “ section 148 of the Powers of Criminal Courts (Sentencing) Act 2000 (restitution orders) ”.

*Solicitors Act 1974 (c. 47)*

- 46 In section 43 of the Solicitors Act 1974 (control of employment of certain persons), in subsection (7), for the words from “under Part I” to “that Act,” there shall be substituted “ discharging a person absolutely or conditionally in respect of an offence shall, notwithstanding anything in section 14 of the Powers of Criminal Courts (Sentencing) Act 2000, ”.

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 47 In section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions), in subsection (4), for “section 1C of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 48 (1) Section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular sentences) shall be amended as follows.
- (2) In subsection (1)(d)—
- (a) after “life” there shall be inserted “ under section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (b) for “or for a term exceeding thirty months, passed under section 53 of the Children and Young Persons Act 1933” there shall be substituted “ or a sentence of detention for a term exceeding thirty months passed under section 91 of the said Act of 2000 ”.
- (3) In subsection (2), in Table B, for “section 53 of the said Act of 1933” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (4) In subsection (4B), as inserted by paragraph 6(3) of Schedule 4 to the <sup>M40</sup>Youth Justice and Criminal Evidence Act 1999—
- (a) for “Part I of the Youth Justice and Criminal Evidence Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”;

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- (b) for “section 8” there shall be substituted “ section 23 ”; and
  - (c) for “section 9” there shall be substituted “ section 24 ”.
- (5) In subsection (4C) as so inserted—
- (a) for “the Youth Justice and Criminal Evidence Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”;
  - (b) for “section 8” there shall be substituted “ section 23 ”; and
  - (c) for “section 9” there shall be substituted “ section 24 ”.
- (6) In subsection (5)(e), for “any provision of the Children and Young Persons Act 1969” there shall be substituted “ section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (7) In subsection (6)(c), for “section 19 of the Criminal Justice Act 1948” there shall be substituted “ section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (8) In subsection (6A), for “section 73 of the Crime and Disorder Act 1998” there shall be substituted “ section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (9) In subsection (9)(b), for “section 53 of the said Act of 1933” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (10) In subsection (10)—
- (a) for “the Children and Young Persons Act 1969” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
  - (b) for “the said Act of 1969” there shall be substituted “ the Children and Young Persons Act 1969 ”.

#### Marginal Citations

M40 1999 c. 23.

- 49 In section 7(2) of the Rehabilitation of Offenders Act 1974 (limitations on rehabilitation under that Act), in paragraph (d), for “the Children and Young Persons Act 1969” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

#### *Bail Act 1976 (c. 63)*

- 50 (1) Section 2 of the Bail Act 1976 (definitions) shall be amended as follows.
- (2) In subsection (1)(c), for “section 30(1) of the Magistrates’ Courts Act 1980” there shall be substituted “ section 11(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In subsection (2)—
- (a) for the definition of “bail hostel” and “probation hostel” there shall be substituted the following definition—
    - ““bail hostel” means premises for the accommodation of persons remanded on bail,”;
- and

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(b) after the definition of “offence” there shall be inserted the following definition—

““probation hostel” means premises for the accommodation of persons who may be required to reside there by a probation order.”.

51 In section 3 of the Bail Act 1976 (general provisions), in subsection (9), for “subsection (2) of section 30 of the Magistrates’ Courts Act 1980” there shall be substituted “ subsection (3) of section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

52 In section 4 of the Bail Act 1976 (general right to bail of accused person and others), in subsection (3), for “Part II of Schedule 2 to the Criminal Justice Act 1991 (breach of requirement of probation, community service, combination or curfew order)” there shall be substituted “ Part II of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of certain community orders) ”.

53 In section 5 of the Bail Act 1976 (supplementary provisions about decisions on bail), in subsection (6A)(a)—

(a) after the words “in custody under” there shall be inserted “ section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or ”;

(b) at the end of sub-paragraph (ii) there shall be inserted “ or ”; and

(c) for sub-paragraphs (iii) and (iv) there shall be substituted the following sub-paragraph—

“(iii) section 18 (initial procedure on information against adult for offence triable either way).”.

54 (1) Schedule 1 to the Bail Act 1976 (persons entitled to bail: supplementary provisions) shall be amended as follows.

(2) In Part I, in paragraph 8(3)—

(a) for “section 30(2) of the Magistrates’ Courts Act 1980” there shall be substituted “ section 11(3) of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and

(b) for “the said section 30(2)” there shall be substituted “ the said section 11(3) ”.

(3) In Part III, in paragraph 4, in the definition of “default”, for “section 6 or 16 of the Powers of Criminal Courts Act 1973” there shall be substituted “ Part II of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Law Act 1977 (c. 45)*

55 In section 3(1) of the Criminal Law Act 1977 (penalties for conspiracy), for “section 30(1) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 127 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

56 In section 38A of the Criminal Law Act 1977 (execution in different parts of United Kingdom of warrants for imprisonment for non-payment of fine), in subsection (5), in the definition of “prison”, for “section 12(10) of the Criminal Justice Act 1982” there shall be substituted “ section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

57 In section 38B of the Criminal Law Act 1977 (further provision for execution of certain warrants of commitment), in subsection (5), in the definition of “prison”,

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for “section 12(10) of the Criminal Justice Act 1982” there shall be substituted “section 108(5) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Ancient Monuments and Archaeological Areas Act 1979 (c. 46)*

58 In section 5(2) of the Ancient Monuments and Archaeological Areas Act 1979 (execution of works for preservation of a scheduled monument by Secretary of State), for “section 35 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

59 In section 29 of the Ancient Monuments and Archaeological Areas Act 1979 (compensation orders for damage to monuments under guardianship in England and Wales), for “section 35 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Licensed Premises (Exclusion of Certain Persons) Act 1980 (c. 32)*

60 In section 1(2) of the Licensed Premises (Exclusion of Certain Persons) Act 1980 (exclusion orders), for “sections 1A and 1C of the Powers of Criminal Courts Act 1973” there shall be substituted “ sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Magistrates’ Courts Act 1980 (c. 43)*

61 In section 11(3) of the Magistrates’ Courts Act 1980 (non-appearance of accused), for “section 23 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 119 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

62 In section 17A(4) of the Magistrates’ Courts Act 1980 (initial procedure: accused to indicate intention as to plea), for “section 38 below” there shall be substituted “ section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

63 In section 20(2) of the Magistrates’ Courts Act 1980 (procedure where summary trial appears more suitable), for “section 38 below” there shall be substituted “ section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

64 (1) Section 24 of the Magistrates’ Courts Act 1980 (summary trial of information against child or young person for indictable offence) shall be amended as follows.

(2) In subsection (1)(a), for “subsection (2) of section 53 of the Children and Young Persons Act 1933” there shall be substituted “ subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

(3) In subsection (3), for “section 1(1) of the Criminal Justice Act 1982” there shall be substituted “ section 89(1) of the said Act of 2000 ”.

65 In section 33 of the Magistrates’ Courts Act 1980 (maximum penalties on summary conviction in pursuance of section 22), in subsection (1)(b), for “section 38 below” there shall be substituted “ section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 (committal to Crown Court for sentence) ”.

66 In section 77(2) of the Magistrates’ Courts Act 1980 (postponement of issue of warrant of commitment)—

(a) for “section 9 of the Criminal Justice Act 1982” there shall be substituted “ section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and

(b) for “17” there shall be substituted “ 18 ”.

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- 67 (1) Section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders) shall be amended as follows.
- (2) In subsection (1), for "section 1 of the Criminal Justice Act 1982" there shall be substituted "section 89 of the Powers of Criminal Courts (Sentencing) Act 2000".
- (3) In subsection (3), for "section 17(1) of the Criminal Justice Act 1982" there shall be substituted "section 60(1) of the said Act of 2000".
- (4) in subsection (8), for "section 35 of the Powers of Criminal Courts Act 1973" there shall be substituted "section 130 of the said Act of 2000".
- 68 In section 88(4) of the Magistrates' Courts Act 1980 (supervision pending payment), for "section 9 of the Criminal Justice Act 1982" there shall be substituted "section 108 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 69 In section 91(3) of the Magistrates' Courts Act 1980 (transfer of fines from Scotland or Northern Ireland), for "section 32(1) of the Powers of Criminal Courts Act 1973" there shall be substituted "section 140(1) of the Powers of Criminal Courts (Sentencing) Act 2000".
- 70 In section 96A of the Magistrates' Courts Act 1980 (application of Part III to persons aged 18 to 20), for "section 9 of the Criminal Justice Act 1982" there shall be substituted "section 108 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 71 In section 108(1A) of the Magistrates' Courts Act 1980 (right of appeal where offender absolutely or conditionally discharged), for "Section 1C of the Powers of Criminal Courts Act 1973" there shall be substituted "Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 72 In section 113 of the Magistrates' Courts Act 1980 (bail on appeal or case stated), in subsection (3), for "or 38 above" there shall be substituted "above or section 3 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 73 In section 125(4)(c) of the Magistrates' Courts Act 1980 (warrants which constable may execute when not in his possession), as amended by paragraph 8 of Schedule 4 to the <sup>M41</sup>Youth Justice and Criminal Evidence Act 1999, in sub-paragraph (v), for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted "the Powers of Criminal Courts (Sentencing) Act 2000".

**Marginal Citations**

**M41** 1999 c. 23.

- 74 In section 126 of the Magistrates' Courts Act 1980 (execution of certain warrants in Channel Islands and Isle of Man), as amended by paragraph 9 of Schedule 4 to the <sup>M42</sup>Youth Justice and Criminal Evidence Act 1999, in paragraph (f), for "the Youth Justice and Criminal Evidence Act 1999" there shall be substituted "the Powers of Criminal Courts (Sentencing) Act 2000".

**Marginal Citations**

**M42** 1999 c. 23.



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- 75 In section 128(6) of the Magistrates' Courts Act 1980 (remand in custody or on bail), for "or 30 above" there shall be substituted "above or section 11 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 76 In section 133(1) of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment and detention), for "Subject to section 102 of the Crime and Disorder Act 1998," there shall be substituted "Subject to section 84 of the Powers of Criminal Courts (Sentencing) Act 2000,".
- 77 In section 135(3) of the Magistrates' Courts Act 1980 (detention of offender for one day in court-house or police station), for "section 9 of the Criminal Justice Act 1982" there shall be substituted "section 108 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 78 In section 136(4) of the Magistrates' Courts Act 1980 (committal to custody overnight at police station), for "section 9 of the Criminal Justice Act 1982" there shall be substituted "section 108 of the Powers of Criminal Courts (Sentencing) Act 2000".
- 79 In section 143(2) of the Magistrates' Courts Act 1980 (power to alter sums specified in certain provisions)—
- (a) for paragraphs (cb) and (d) there shall be substituted the following paragraphs—
    - "(cb) section 131(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on compensation order of magistrates' court);
    - (d) section 135 of that Act; (limit on fine imposed on young offender by magistrates' court);";
  - (b) in paragraph (j), for "section 31(3A) of the Powers of Criminal Courts Act 1973" there shall be substituted "section 139(4) of the Powers of Criminal Courts (Sentencing) Act 2000"; and
  - (c) in paragraph (p), for "section 58(2) and (3) of the Criminal Justice Act 1991" there shall be substituted "section 150(2) and (3) of the Powers of Criminal Courts (Sentencing) Act 2000".
- 80 (1) In Schedule 6A to the Magistrates' Courts Act 1980 (fines that may be altered under section 143), the entries relating to—
- (a) the Children and Young Persons Act 1969,
  - (b) the Powers of Criminal Courts Act 1973,
  - (c) the Criminal Justice Act 1982, and
  - (d) the Criminal Justice Act 1991,
- shall be omitted.
- (2) At the end of that Schedule there shall be inserted the following entry—

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**"POWERS OF CRIMINAL COURTS (SENTENCING) ACT 2000**

Section 123(3) (failure to comply with suspended sentence supervision order)	£1,000
In Schedule 3, paragraphs 4(1) and 5(1) (failure to comply with certain community orders)	£1,000

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In Schedule 5, paragraph 2(1) (failure to comply with attendance centre order or attendance centre rules)	£1,000
In Schedule 7, paragraph 2(2) (failure to comply with supervision order)	£1,000”

*Public Passenger Vehicles Act 1981 (c. 14)*

- 81 In Schedule 3 to the Public Passenger Vehicles Act 1981 (supplementary provisions as to qualifications for public service vehicle operator’s licence), in paragraph 1(6), for “section 14 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Attempts Act 1981 (c. 47)*

- 82 In section 4(5)(b) of the Criminal Attempts Act 1981 (penalties)—
- (a) for “section 31(1) and (2)” there shall be substituted “ section 78(1) and (2) ”; and
  - (b) for “the Magistrates’ Courts Act 1980” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Contempt of Court Act 1981 (c. 49)*

- 83 In section 12(5) of the Contempt of Court Act 1981 (application of certain provisions in case of contempt of magistrates’ court)—
- (a) at the beginning there shall be inserted “ Section 135 of the Powers of Criminal Courts (Sentencing) Act 2000 (limit on fines in respect of young persons) and ”; and
  - (b) for the words “, namely: section 36 (restriction on fines in respect of young persons);” there shall be substituted “ ; and those provisions of the Magistrates’ Courts Act 1980 are ”.
- 84 In section 14 of the Contempt of Court Act 1981 (proceedings in England and Wales), in the subsection (2A) inserted by the <sup>M43</sup>Criminal Justice Act 1982, for “section 17 of the Criminal Justice Act 1982” there shall be substituted “ section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

**M43** 1982 c. 48.

- 85 In section 16(3) of the Contempt of Court Act 1981 (enforcement of fines imposed by certain superior courts), for “sections 31 and 32 of the Powers of Criminal Courts Act 1973” there shall be substituted “ sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 86 In Schedule 1 to the Contempt of Court Act 1981 (times when proceedings are active for purposes of section 2), in paragraph 6, for “section 1 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 1 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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*Supreme Court Act 1981 (c. 54)*

- 87 In section 81(1) of the Supreme Court Act 1981 (bail), in paragraph (g)—
- (a) after the word “under” there shall be inserted “ section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 (remand for medical examination) or ”;
  - (b) at the end of sub-paragraph (ii) there shall be inserted “ or ”; and
  - (c) sub-paragraph (iv) and the word “or” immediately preceding it shall be omitted.
- 88 In section 140 of the Supreme Court Act 1981 (enforcement of fines and forfeited recognizances), in each of subsections (3) and (5), for “sections 31 and 32 of the Powers of Criminal Courts Act 1973” there shall be substituted “ sections 139 and 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Justice Act 1982 (c. 48)*

- 89 (1) Part III of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements (Northern Ireland): persons residing in England and Wales or Scotland) shall be amended as follows.
- (2) In paragraph 7(3), for “relevant officers by the Powers of Criminal Courts Act 1973” there shall be substituted “ responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000 ”.
  - (3) In paragraph 9(6)(b), for “relevant officer under the Powers of Criminal Courts Act 1973” there shall be substituted “ responsible officer under the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Mental Health Act 1983 (c. 20)*

- 90 (1) Section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) shall be amended as follows.
- (2) In subsection (1), for “section 2(2) of the Crime (Sentences) Act 1997” there shall be substituted “ section 109(2) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
  - (3) In subsection (1A), for “section 3 or 4 of the Crime (Sentences) Act 1997” there shall be substituted “ section 110 or 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
  - (4) After subsection (1A) there shall be inserted the following subsection—
    - “(1B) For the purposes of subsections (1) and (1A) above, a sentence falls to be imposed under section 109(2), 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 if it is required by that provision and the court is not of the opinion there mentioned.”
  - (5) In subsection (8) as amended by paragraph 54 of Schedule 8 to the <sup>M44</sup>Crime and Disorder Act 1998—
    - (a) for “Part I of the Criminal Justice Act 1991” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
    - (b) for “section 58” there shall be substituted “ section 150 ”.

*Status: Point in time view as at 30/09/2004.*

*Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 24 November 2023. 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)*

- (6) In subsection (8) as amended by paragraph 11 of Schedule 4 to the <sup>M45</sup>Youth Justice and Criminal Evidence Act 1999—
- (a) for “Part I of the Youth Justice and Criminal Evidence Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
  - (b) for “any such order as is mentioned in section 7(7)(b) of the Children and Young Persons Act 1969 or section 58 of the Criminal Justice Act 1991” there shall be substituted “ a supervision order (within the meaning of that Act) or an order under section 150 of that Act (binding over of parent or guardian) ”.

#### Marginal Citations

**M44** 1998 c. 37.

**M45** 1999 c. 23.

- 91 In section 43 of the Mental Health Act 1983 (power of magistrates’ court to commit for restriction order), in subsection (4), for “section 38 of the Magistrates’ Courts Act 1980” there shall be substituted “ section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

#### *Telecommunications Act 1984 (c. 12)*

- 92 In Schedule 3 to the Telecommunications Act 1984 (penalties and mode of trial under the Wireless Telegraphy Act 1949), in paragraph 3—
- (a) for paragraph (a) there shall be substituted the following paragraph—
    - “(a) section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (which gives the convicting court in England and Wales power to deprive a person convicted of an offence of property used etc. for purposes of crime); and”;

and
  - (b) in paragraph (b), for “section 43 of the Powers of Criminal Courts Act 1973” there shall be substituted “ that section ”.

#### *Child Abduction Act 1984 (c. 37)*

- 93 In the Schedule to the Child Abduction Act 1984 (modifications of section 1 for children in certain cases), in paragraph 2(1)—
- (a) for “section 16(3) of the Children and Young Persons Act 1969” there shall be substituted “ paragraph 7(4) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
  - (b) for “that Act” there shall be substituted “ the Children and Young Persons Act 1969 ”.

#### *Repatriation of Prisoners Act 1984 (c. 47)*

- 94 (1) In the Schedule to the Repatriation of Prisoners Act 1984 (operation of certain enactments in relation to transferred prisoner), paragraph 2, both—
- (a) as that paragraph has effect, and is deemed always to have had effect, by virtue of paragraph 2 of Schedule 2 to the <sup>M46</sup>Crime (Sentences) Act 1997, and

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(b) as that paragraph has effect by virtue of paragraph 3 of Schedule 2 to the 1997 Act,  
shall be amended as follows.

(2) In sub-paragraph (3), at the end of paragraph (b) there shall be inserted “ and ”, and after that paragraph there shall be inserted the following paragraph—

“(c) when he began serving his sentence for the purposes of section 116(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000.”.

**Marginal Citations**

M46 1997 c. 43.

*Police and Criminal Evidence Act 1984 (c. 60)*

95 In section 17(1) of the Police and Criminal Evidence Act 1984 (entry for purpose of arrest etc.), in paragraph (cb), for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

96 In section 38 of the Police and Criminal Evidence Act 1984 (duties of custody officer after charge), in subsection (6A), in the definition of “sexual offence” and “violent offence”, for “Part I of the Criminal Justice Act 1991” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

97 In section 63A(3B) of the Police and Criminal Evidence Act 1984 (supplementary provision as to samples), for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

98 In section 75(3) of the Police and Criminal Evidence Act 1984 (provisions supplementary to section 74), in paragraph (a), for “section 13 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Prosecution of Offences Act 1985 (c. 23)*

99 In section 19(3)(c) of the Prosecution of Offences Act 1985 (provision for payment of certain costs of medical practitioner), for “section 30 of the Magistrates’ Courts Act 1980” there shall be substituted “ section 11 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Protection of Military Remains Act 1986 (c. 35)*

100 In section 7(1) of the Protection of Military Remains Act 1986 (supplementary provision with respect to offences), for “Section 43 of the Powers of Criminal Courts Act 1973” there shall be substituted “ Section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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*Public Order Act 1986 (c. 64)*

101 In section 30(5) of the Public Order Act 1986 (domestic football banning orders), for “sections 1A and 1C of the Powers of Criminal Courts Act 1973” there shall be substituted “ sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Justice Act 1988 (c. 33)*

102 In section 36(2) of the Criminal Justice Act 1988 (review of sentencing), for “section 2(2), 3(2) or 4(2) of the Crime (Sentences) Act 1997” there shall be substituted “ section 109(2), 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

103 In section 50 of the Criminal Justice Act 1988 (suspended sentences on certain civilians in military courts), in subsection (3)(b), for “the Powers of Criminal Courts Act 1973” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

104 In section 60(1) of the Criminal Justice Act 1988 (periods of imprisonment for default), for “Tables in section 31(3A) of the Powers of Criminal Courts Act 1973 and” there shall be substituted “ Table in ”.

F111105 .....

**Textual Amendments**  
F111 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F111106 .....

**Textual Amendments**  
F111 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F111107 .....

**Textual Amendments**  
F111 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F111108 .....

**Textual Amendments**  
F111 Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F111109 .....

*Status: Point in time view as at 30/09/2004.*

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**Textual Amendments**

**F111** Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F111** 110 . . . . .

**Textual Amendments**

**F111** Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F111** 111 . . . . .

**Textual Amendments**

**F111** Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F111** 112 . . . . .

**Textual Amendments**

**F111** Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F111** 113 . . . . .

**Textual Amendments**

**F111** Sch. 9 paras. 105-113 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

114 In Schedule 15 to the Criminal Justice Act 1988 (minor and consequential amendments), in paragraph 80, for “that Act” there shall be substituted “ the Supreme Court Act 1981 ”.

*Copyright, Designs and Patents Act 1988 (c. 48)*

115 In section 108(6) of the Copyright, Designs and Patents Act 1988 (articles infringing copyright: order for delivery up in criminal proceedings), for “section 43 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

116 In section 199(6) of the Copyright, Designs and Patents Act 1988 (illicit recordings: order for delivery up in criminal proceedings), for “section 43 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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*Road Traffic Act 1988 (c. 52)*

- 117 In section 164(5) of the Road Traffic Act 1988 (power of constables to require production of driving licence), for “or section 44 of the Powers of Criminal Courts Act 1973” there shall be substituted “ , section 40 of the Crime (Sentences) Act 1997, section 146 or 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Road Traffic Offenders Act 1988 (c. 53)*

- 118 In section 25(4) of the Road Traffic Offenders Act 1988 (duty to request information as to date of birth or sex), for “section 56(5) of the Criminal Justice Act 1967” there shall be substituted “ section 7 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 119 (1) Section 26 of the Road Traffic Offenders Act 1988 (interim disqualification) shall be amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for the words from “subsection (1)” to “applies” there shall be substituted “ section 6 of the Powers of Criminal Courts (Sentencing) Act 2000 or any enactment mentioned in subsection (4) of that section ”; and
- (b) in paragraph (b), for “section 39 of the Magistrates’ Courts Act 1980” there shall be substituted “ section 10 of that Act ”.
- (3) In subsection (2), for “section 1 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 1 of that Act ”.
- 120 In section 27(3) of the Road Traffic Offenders Act 1988 (production of licence), for “section 44 of the Powers of Criminal Courts Act 1973,” there shall be substituted “ section 40 of the Crime (Sentences) Act 1997, section 146 or 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 121 In section 34(4A) of the Road Traffic Offenders Act 1988 (disqualification for certain offences), for “section 44 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 122 In section 35(5) of the Road Traffic Offenders Act 1988 (disqualification for repeated offences), for “section 44 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 147 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 123 (1) Section 46 of the Road Traffic Offenders Act 1988 (combination of disqualification and endorsement with certain other orders) shall be amended as follows.
- (2) In subsection (1), for “section 1C(3) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 14(3) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In subsection (2), for “section 1C(1) of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 14(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Extradition Act 1989 (c. 33)*



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**Textual Amendments**

**F112** Sch. 9 para. 124 repealed (1.1.2004) by Extradition Act 2003 (c. 41), s. 221, Sch. 4; S.I. 2003/3103, art. 2 (with arts. 3-5) (as amended (11.12.2003) by S.I. 2003/3258, art. 2 and (18.12.2003) by S.I. 2003/3312, art. 2)

*Football Spectators Act 1989 (c. 37)*

**F113** 125 .....

**Textual Amendments**

**F113** Sch. 9 para. 125 repealed (28.8.2000) by 2000 c. 25, s. 1(3), Sch. 3; S.I. 2000/2125, art. 2

*Children Act 1989 (c. 41)*

- 126 In section 21(2)(c) of the Children Act 1989 (provision of accommodation for children on remand etc.)—
- (a) for “section 16(3A) or” there shall be substituted “ paragraph 7(5) of Schedule 7 to the Powers of Criminal Courts (Sentencing) Act 2000 or section ”; and
  - (b) for “residence requirement under section 12AA of that Act” there shall be substituted “ local authority residence requirement under paragraph 5 of Schedule 6 to that Act of 2000 ”.
- 127 In section 31(7) of the Children Act 1989 (care and supervision orders under that Act), for “section 7(7)(b) of the Children and Young Persons Act 1969” there shall be substituted “ section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 128 In section 81(1) of the Children Act 1989 (inquiries), for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 129 In section 105(6) of the Children Act 1989 (meaning of “ordinary residence”), for “section 7(7)(b) of the Children and Young Persons Act 1969” there shall be substituted “ section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 130 In Part III of Schedule 2 to the Children Act 1989 (contributions towards maintenance of children looked after by local authorities), in paragraph 21(7), for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 131 (1) Part III of Schedule 3 to the Children Act 1989 (education supervision orders) shall be amended as follows.
- (2) In paragraph 13(2)(c), for “section 12C of the Children and Young Persons Act 1969” there shall be substituted “ paragraph 7 of Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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- (3) In paragraph 14(1), for “section 7(7)(b) of the Children and Young Persons Act 1969” there shall be substituted “ section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 132 In Schedule 8 to the Children Act 1989 (privately fostered children), in paragraph 3, for “section 7(7)(b) of the Children and Young Persons Act 1969” there shall be substituted “ section 63(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25)*
- 133 In section 5(4) of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (modifications for cases where accused is not guilty by reason of insanity etc.), for “Section 1A(1) of the Powers of Criminal Courts Act 1973” there shall be substituted “ Section 12(1) of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- Criminal Justice Act 1991 (c. 53)*
- 134 In section 16(b) of the Criminal Justice Act 1991 (reciprocal enforcement of certain orders), for “corresponding” there shall be substituted “ certain ”.
- 135 In section 23(1) of the Criminal Justice Act 1991 (default in certain cases), for “Tables in section 31(3A) of the 1973 Act and” there shall be substituted “ Table in ”.
- 136 In section 24(3) of the Criminal Justice Act 1991 (recovery of fines etc. by deductions from income support), for “section 32 of the 1973 Act” there shall be substituted “ section 140 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 137 In section 33(3A) of the Criminal Justice Act 1991 (duty to release prisoners) for “section 58 of the Crime and Disorder Act 1998” there shall be substituted “ section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 138 In section 34A of the Criminal Justice Act 1991 (power to release short-term prisoners on licence), in subsection (2)—
- (a) in paragraph (a), for “section 58 of the Crime and Disorder Act 1998” there shall be substituted “ section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ”;
  - (b) in paragraph (c), for “paragraph 3(1)(d) or 4(1)(d) of Schedule 2 to this Act” there shall be substituted “ paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
  - (c) in paragraph (h), for “section 40 below” there shall be substituted “ section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 139 In section 40A of the Criminal Justice Act 1991 (release on licence following return to prison), in subsection (1)(a), for “section 40 above” there shall be substituted “ section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 140 In section 43(1) of the Criminal Justice Act 1991 (young offenders), for “section 53 of the 1933 Act” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 141 (1) Section 44 of the Criminal Justice Act 1991 (extended sentences for sexual or violent offenders), as substituted by section 59 of the <sup>M47</sup>Crime and Disorder Act 1998, shall be amended as follows.

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(2) In each of subsections (1) and (8), for “section 58 of the Crime and Disorder Act 1998” there shall be substituted “ section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

(3) In subsection (2), for “sections 40 and” there shall be substituted “ section ”.

#### **Marginal Citations**

**M47** 1998 c. 37.

142 In section 44A of the Criminal Justice Act 1991 (re-release of prisoners serving extended sentences), in subsection (1), for “section 58 of the Crime and Disorder Act 1998” there shall be substituted “ section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

143 In section 45(1) of the Criminal Justice Act 1991 (fine defaulters and contemnors)

—

(a) for “, 35 and 40” there shall be substituted “ and 35 ”; and

(b) for “section 9 of the 1982 Act” there shall be substituted “ section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

144 (1) Section 51 of the Criminal Justice Act 1991 (interpretation of Part II) shall be amended as follows.

(2) In subsection (1), in the definition of “sexual offence” and “violent offence”, for “Part I of this Act” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

(3) In subsection (2D), for “section 58 of the Crime and Disorder Act 1998” there shall be substituted “ section 85 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

(4) For subsection (4) there shall be substituted the following subsection—

“(4) Section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (meaning of “protecting the public from serious harm”) shall apply for the purposes of this Part as it applies for the purposes of that Act.”

145 In section 65(1) of the Criminal Justice Act 1991 (supervision of young offenders after release), for “section 53 of the 1933 Act” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

146 In section 82(4) of the Criminal Justice Act 1991 (duties of prisoner custody officers acting in pursuance of prisoner escort arrangements), for “section 34A of the 1973 Act” there shall be substituted “ section 142 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

147 (1) Part III of Schedule 3 to the Criminal Justice Act 1991 (transfer of probation orders from Northern Ireland) shall be amended as follows.

(2) In paragraph 10(3)—

(a) in paragraph (b), for “mental hospital within the meaning of paragraph 5 of Schedule 1A to the 1973 Act” there shall be substituted “ hospital or mental nursing home within the meaning of the Mental Health Act 1983, not being hospital premises at which high security psychiatric services within the meaning of that Act are provided ”; and

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- (b) in paragraph (d), for “Schedule 1A to the 1973 Act” there shall be substituted “ Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In paragraph 11—
- (a) in sub-paragraph (2)(b), for the words from the beginning to “Schedule 2 to this Act” there shall be substituted “ the provisions of sections 41 and 42 of and Schedules 2 and 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (so far as relating to such orders) ”;
- (b) in sub-paragraph (3)(a), for “the 1973 Act” there shall be substituted “ section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 ”;
- (c) in sub-paragraph (3)(b), for “that Act and Schedule 2 to this Act” there shall be substituted “ Schedule 3 to that Act ”;
- (d) in sub-paragraph (4)—
- (i) for “the 1973 Act” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (ii) for the words from “paragraph 3(1)(d)” to the end there shall be substituted “ paragraph 4(1)(d), 5(1)(d), 10(3) or 11(2) of Schedule 3 to that Act ”; and
- (e) in sub-paragraph (5)—
- (i) for “the 1973 Act”, in the first place where it occurs, there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (ii) for “the 1973 Act”, in the second place where it occurs, there shall be substituted “ that Act ”.
- 148 In Schedule 4 to the Criminal Justice Act 1991 (increase of certain maxima), in Part I, in the first column of the entry relating to section 63(3)(a) of the Magistrates’ Courts Act 1980, for “that Act” there shall be substituted “ the 1980 Act ”.
- 149 In Schedule 12 to the Criminal Justice Act 1991 (transitional provisions and savings), after paragraph 6 (which is repealed by this Act) there shall be inserted the following paragraph—
- “6A Section 17 of this Act shall not apply in relation to offences committed before the commencement of that section.”

*Social Security Administration Act 1992 (c. 5)*

- 150 In section 121(2) of the Social Security Administration Act 1992 (unpaid contributions: supplementary), for the words from “Part I” to “probation or” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Aggravated Vehicle-Taking Act 1992 (c. 11)*

- 151 In section 1(2) of the Aggravated Vehicle-Taking Act 1992 (supplementary provisions about offence of aggravated vehicle-taking), for “section 30 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 127 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

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*Local Government Finance Act 1992 (c. 14)*

- 152 In Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount), in paragraph 1(4), for “section 9 of the Criminal Justice Act 1982” there shall be substituted “ section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Probation Service Act 1993 (c. 47)*

F114 153 .....

**Textual Amendments**

F114 Sch. 9 para. 153 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 pt. II para. 203(2), Sch. 8; S.I. 2001/919, art. 2(f)(vi)(g)

F115 154 .....

**Textual Amendments**

F115 Sch. 9 para. 154 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), Sch. 8; S.I. 2001/919, art. 2(f)(vi)(g)

F116 155 .....

**Textual Amendments**

F116 Sch. 9 para. 155 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), Sch. 8; S.I. 2001/919, art. 2(f)(vi)(g)

F117 156 .....

**Textual Amendments**

F117 Sch. 9 para. 156 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 203(2), Sch. 8; S.I. 2001/919, art. 2(f)(vi)(g)

*Pension Schemes Act 1993 (c. 48)*

- 157 In section 68(2) of the Pension Schemes Act 1993 (unpaid premiums: supplementary), for the words from “Part I” to “probation or” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Vehicle Excise and Registration Act 1994 (c. 22)*

- 158 In section 32(1) of the Vehicle Excise and Registration Act 1994 (offences: supplementary), in paragraph (a), for “section 1A of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Status: Point in time view as at 30/09/2004.*

*Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 24 November 2023. 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)*

159 In section 41(1) of the Vehicle Excise and Registration Act 1994 (provisions supplementary to sections 37 to 40), for “section 1A of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Justice and Public Order Act 1994 (c. 33)*

160 In section 25 of the Criminal Justice and Public Order Act 1994 (restrictions on bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), in subsection (5), in the definition of “the relevant enactments”, for “section 53(2) of the Children and Young Persons Act 1933” there shall be substituted “ section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

161 In section 136 of the Criminal Justice and Public Order Act 1994 (cross-border execution of warrants), in subsection (7A) as inserted by paragraph 23 of Schedule 4 to the <sup>M48</sup>Youth Justice and Criminal Evidence Act 1999, for “the Youth Justice and Criminal Evidence Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**  
M48 1999 c. 23.

162 In Schedule 1 to the Criminal Justice and Public Order Act 1994 (escort arrangements: England and Wales), in paragraph 4, in the definition of “offender”, for “or detention and training under section 73 of the Crime and Disorder Act 1998” there shall be substituted “ or detention and training under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Drug Trafficking Act 1994 (c. 37)*

F118 163 .....

**Textual Amendments**  
F118 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F118 164 .....

**Textual Amendments**  
F118 Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

F118 165 .....

*Status: Point in time view as at 30/09/2004.*

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**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**166 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**167 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**168 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**169 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**170 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**171 .....

**Textual Amendments**

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118**172 .....

*Status: Point in time view as at 30/09/2004.*

**Changes to legislation:** Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 24 November 2023. 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)

#### Textual Amendments

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**F118** 173 .....

#### Textual Amendments

**F118** Sch. 9 paras. 163-173 repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), Sch. 12; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

#### *Goods Vehicles (Licensing of Operators) Act 1995 (c. 23)*

- 174 In Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 (qualifications for standard licence), in paragraph 3(3), for “section 14 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

#### *Children (Scotland) Act 1995 (c. 36)*

- 175 In section 33 of the Children (Scotland) Act 1995 (effect of orders etc. made in different parts of the United Kingdom), in subsection (5)(b), after “the Children and Young Persons Act 1969” there shall be inserted “ or sections 63 to 67 of and Schedules 6 and 7 to the Powers of Criminal Courts (Sentencing) Act 2000 ”.

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 176 (1) Section 234 of the Criminal Procedure (Scotland) Act 1995 (probation orders: persons residing in England and Wales) shall be amended as follows.
- (2) In subsection (2)—
- (a) for “Schedule 1A to the 1973 Act” there shall be substituted “ Schedule 2 to the 2000 Act ”; and
  - (b) for “3(3)(a)” there shall be substituted “ 3(4)(a) ”.
- (3) In subsection (4)—
- (a) for “Schedule 1A to the 1973 Act” there shall be substituted “ Schedule 2 to the 2000 Act ”; and
  - (b) for “Schedule 1A”, in the second place where it occurs, there shall be substituted “ Schedule 2 ”.
- (4) In subsection (5)—
- (a) for “Schedule 2 to the 1991 Act” there shall be substituted “ Schedule 3 to the 2000 Act ”;
  - (b) for “section 2 of the 1973 Act” there shall be substituted “ section 41 of that Act ”; and
  - (c) for “section 11 of the 1991 Act” there shall be substituted “ section 51 of that Act ”.
- (5) In subsection (6)—



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- (a) for “Schedule 2 to the 1991 Act” there shall be substituted “ Schedule 3 to the 2000 Act ”;
  - (b) for “sub-paragraphs (3) and (4) of paragraph 3” there shall be substituted “ sub-paragraphs (4) and (5) of paragraph 4 ”; and
  - (c) for “sub-paragraph (3)” there shall be substituted “ sub-paragraph (4) ”.
- (6) In subsection (10)—
- (a) for “section 10 of the 1973 Act” there shall be substituted “ paragraph 6 of Schedule 4 to the 2000 Act ”;
  - (b) for “that section” there shall be substituted “ that Schedule ”; and
  - (c) for “section 2” there shall be substituted “ section 41 ”.
- (7) For subsection (11) there shall be substituted the following subsection—
- “(11) In this section “the 2000 Act” means the Powers of Criminal Courts (Sentencing) Act 2000.”
- 177 (1) Section 242 of the Criminal Procedure (Scotland) Act 1995 (community service orders: persons residing in England and Wales) shall be amended as follows.
- (2) In subsection (1), in the paragraph (d) treated as substituted in section 238(2) of that Act, for “section 14 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
  - (3) In subsection (2), for “section 14 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
  - (4) In subsection (3), for “relevant officers by the Powers of Criminal Courts Act 1973” there shall be substituted “ responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 178 In section 244 of the Criminal Procedure (Scotland) Act 1995 (community service orders: general provisions relating to persons living in England and Wales or Northern Ireland), in subsection (6)(b), for “relevant officer under the Powers of Criminal Courts Act 1973” there shall be substituted “ responsible officer under the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*London Local Authorities Act 1995 (c. x)*

- 179 In section 26(1) of the London Local Authorities Act 1995 (powers of seizure), for “section 43 of the Powers of Criminal Courts Act 1973” there shall be substituted “ section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Criminal Evidence (Amendment) Act 1997 (c. 17)*

- 180 In section 1(6) of the Criminal Evidence (Amendment) Act 1997 (meaning of references to person serving sentence of imprisonment), for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Social Security (Recovery of Benefits) Act 1997 (c. 27)*

- 181 In Part I of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 (exempted payments), in paragraph 2, for “section 35 of the Powers of Criminal

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Courts Act 1973” there shall be substituted “ section 130 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Crime (Sentences) Act 1997 (c. 43)*

F119 182 .....

**Textual Amendments**

**F119** Sch. 9 para. 182 repealed (30.11.2000 with effect as mentioned in 2000 c. 43, s. 75, Sch. 8 Note (b) of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(3), Sch. 7 Pt. II para. 203(3), Sch. 8

183 (1) Section 34 of the Crime (Sentences) Act 1997 (interpretation of Chapter II of Part II) shall be amended as follows.

(2) In subsection (2)—

- (a) for “section 53 of the 1933 Act” there shall be substituted “ section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (b) for “section 8 of the 1982 Act” there shall be substituted “ section 93 or 94 of that Act ”.

(3) In subsection (3)—

- (a) for “section 53 of the 1933 Act” there shall be substituted “ section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”;
- (b) for “section 8 of the 1982 Act” there shall be substituted “ section 93 or 94 of that Act of 2000 ”; and
- (c) for “those sections” there shall be substituted “ section 71A of the Army Act 1955 and the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957 ”.

184 (1) Section 35 of the Crime (Sentences) Act 1997 (community orders for fine defaulters) shall be amended as follows.

(2) In subsection (1)(b), for “section 1 of the 1982 Act” there shall be substituted “ section 89 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

(3) For subsections (4) and (5) there shall be substituted the following subsections—

“(4) Section 46(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (community service orders) shall apply for the purposes of subsection (2)(a) above as if for the words from the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—

- (a) section 46(3) and (4) of that Act, and
- (b) so far as applicable, the following provisions of section 46 of that Act and the other provisions of Part IV of that Act relating to community service orders,

have effect in relation to a community service order made by virtue of this section as they have effect in relation to any community service order made under that Act, subject to the exceptions in subsection (5) below.

(5) The following are the exceptions, namely—

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- (a) the reference in section 46(3)(a) of that Act to 40 hours shall be construed as a reference to 20 hours;
- (b) section 46(8) of that Act shall not apply;
- (c) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
- (d) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
- (e) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
- (f) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
- (g) paragraph 11(2)(b) of that Schedule shall not apply.”

(4) For subsections (7) and (8) there shall be substituted the following subsections—

“(7) Section 37(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (curfew orders) shall apply for the purposes of subsection (2)(b) above as if for the words from the beginning to “make” there were substituted “Where section 35(2) of the Crime (Sentences) Act 1997 applies, the court may make in respect of the offender”; and—

- (a) section 37(3), (5) to (8) and (10) to (12) of that Act, and
- (b) so far as applicable, the other provisions of Part IV of that Act relating to curfew orders,

have effect in relation to a curfew order made by virtue of this section as they have effect in relation to any curfew order made under that Act, subject to the exceptions in subsection (8) below.

(8) The following are the exceptions, namely—

- (a) the power conferred by paragraph 4(1)(d) of Schedule 3 to that Act shall be construed as a power to revoke the order or deal with the person in respect of whom the order was made for his default in paying the sum in question or do both of those things;
- (b) paragraph 4(2)(a) and (3) of that Schedule shall not apply;
- (c) the reference in paragraph 10(1)(b) of that Schedule to the offence in respect of which the order was made shall be construed as a reference to the default in respect of which the order was made;
- (d) the power conferred by paragraph 10(3)(b) of that Schedule to deal with an offender for the offence in respect of which the order was made shall be construed as a power to deal with the person in respect of whom the order was made for his default in paying the sum in question; and
- (e) paragraph 11(2)(b) of that Schedule shall not apply.”

(5) After subsection (12) there shall be inserted the following subsection—

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- “(12A) Sections 35 and 36 of the Powers of Criminal Courts (Sentencing) Act 2000 (restrictions and procedural requirements for community sentences) do not apply in relation to an order under subsection (2)(a) or (b) above.”
- 185 (1) Section 40 of the Crime (Sentences) Act 1997 (driving disqualifications for fine defaulters) shall be amended as follows.
- (2) In subsection (1)(b), for “section 1 of the 1982 Act” there shall be substituted “section 89 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- (3) For subsection (6) there shall be substituted the following subsections—
- “(6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce any such licence held by him together with its counterpart.
- (7) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1988;
- “counterpart”, in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act.”
- 186 (1) Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British islands) shall be amended as follows.
- (2) In paragraph 6(3)(aa), for “section 76(6)(b) of the Crime and Disorder Act 1998” there shall be substituted “section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000”.
- (3) In paragraph 8—
- (a) in sub-paragraph (2), for “sections 75 to 77 of the Crime and Disorder Act 1998” there shall be substituted “sections 86 and 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000”;
- (b) in sub-paragraph (4), for “sections 76 and 77 of the Crime and Disorder Act 1998” there shall be substituted “sections 86, 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000”; and
- (c) in sub-paragraph (6), for “section 9 of this Act” there shall be substituted “section 87 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- (4) In paragraph 9—
- (a) in sub-paragraph (2), for “sections 75 to 77 of the Crime and Disorder Act 1998” there shall be substituted “sections 86, 102 to 104, 116 and 117 of the Powers of Criminal Courts (Sentencing) Act 2000”;
- (b) in sub-paragraph (4), for “sections 76 and 77 of the Crime and Disorder Act 1998” there shall be substituted “sections 86, 103, 104, 116 and 117 of the Powers of Criminal Courts (Sentencing) Act 2000”; and
- (c) in sub-paragraph (7), for “section 9 of this Act” there shall be substituted “section 87 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- (5) In paragraph 20(1), in the definition of “sentence of imprisonment”, for “section 8 of the 1982 Act” there shall be substituted “section 93 or 94 of the Powers of Criminal Courts (Sentencing) Act 2000”.
- 187 (1) Schedule 4 to the Crime (Sentences) Act 1997 (minor and consequential amendments) shall be amended as follows.

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- (2) In paragraph 6(2), in the words to be substituted in paragraph 2(4) of Schedule 2 to the <sup>M49</sup>Criminal Appeal Act 1968, for “Section 9 of the Crime (Sentences) Act 1997” there shall be substituted “ Section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In paragraph 7, for the words to be substituted in section 7(4) of the <sup>M50</sup>Immigration Act 1971 (that is to say, the words “section 9 of the Crime (Sentences) Act 1997”) there shall be substituted “ section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (4) In paragraph 14, for the words to be substituted in paragraph 9(5) of Schedule 2 to the <sup>M51</sup>Prevention of Terrorism (Temporary Provisions) Act 1989, (that is to say, the words “section 9 of the Crime (Sentences) Act 1997”) there shall be substituted “ section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (5) In paragraph 15(10), for “that Act” there shall be substituted “ the 1991 Act ”.

**Marginal Citations**

**M49** 1968 c. 19.

**M50** 1971 c. 77.

**M51** 1989 c. 4.

<sup>F120</sup>188 . . . . .

**Textual Amendments**

**F120** [Sch. 9 para. 188](#) repealed (30.11.2000 with effect as mentioned in [2000 c. 43, s. 75](#), [Sch. 8](#) Note (b) of the repealing Act) by [2000 c. 43, ss. 74, 75, 80\(1\)](#), [Sch. 7 Pt. II para. 203\(3\)](#), [Sch. 8](#)

*Sex Offenders Act 1997 (c. 51)*

<sup>F121</sup>189 . . . . .

**Textual Amendments**

**F121** [Sch. 9 para. 189](#) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), s. 141, Sch. 6 para. 43\(5\), Sch. 7; S.I. 2004/874, art. 2](#)

<sup>F122</sup>190 . . . . .

**Textual Amendments**

**F122** [Sch. 9 para. 190](#) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), s. 141, Sch. 6 para. 43\(5\), Sch. 7; S.I. 2004/874, art. 2](#)

*Data Protection Act 1998 (c. 29)*

191 In section 56 of the Data Protection Act 1998 (prohibition of requirement as to production of certain records), in the Table in subsection (6), in the second column

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of the entry numbered 2, for “section 53 of the Children and Young Persons Act 1933” there shall be substituted “ section 92 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Crime and Disorder Act 1998 (c. 37)*

192 In section 1 of the Crime and Disorder Act 1998 (anti-social behaviour orders), in subsection (11), for the words from “section 1A” to “Act”)” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

F123 193 .....

**Textual Amendments**

**F123** Sch. 9 para. 193 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), s. 141, Sch. 6 para. 43(5), Sch. 7; S.I. 2004/874, art. 2

194 In section 8(2) of the Crime and Disorder Act 1998 (power to make parenting orders), as amended by paragraph 26 of Schedule 4 to the <sup>M52</sup>Youth Justice and Criminal Evidence Act 1999, for the words from “and to section 4(5) of” to “1999” there shall be substituted “ and to section 19(5) of, and paragraph 13(5) of Schedule 1 to, the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

**M52** 1999 c. 23.

195 In section 9(1A) of the Crime and Disorder Act 1998 (parenting orders: supplementary), as inserted by paragraph 27 of Schedule 4 to the <sup>M53</sup>Youth Justice and Criminal Evidence Act 1999, for the words from “section 4(5) of” onwards there shall be substituted “ section 19(5) of, and paragraph 13(5) of Schedule 1 to, the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

**M53** 1999 c. 23.

196 In section 18 of the Crime and Disorder Act 1998 (interpretation of Chapter I of Part I), for subsection (2) there shall be substituted the following subsection—

“(2) In this Chapter, “protecting the public from serious harm” shall be construed in accordance with section 161(4) of the Powers of Criminal Courts (Sentencing) Act 2000.”

197 In section 38(4) of the Crime and Disorder Act 1998 (meaning of “youth justice services”)—

- (a) in paragraph (j), for “section 75 below” there shall be substituted “ section 102 of the Powers of Criminal Courts (Sentencing) Act 2000 (period of detention and training under detention and training orders) ”; and
- (b) in paragraph (k), as inserted by paragraph 28 of Schedule 4 to the <sup>M54</sup>Youth Justice and Criminal Evidence Act 1999, for “Part I of the Youth Justice

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and Criminal Evidence Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

**M54** 1999 c. 23.

- 198 In section 66 of the Crime and Disorder Act 1998 (effect of reprimands and warnings), in subsection (4), for “section 1A of the 1973 Act” there shall be substituted “ section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 199 In section 114(3) of the Crime and Disorder Act 1998 (parliamentary procedure for certain orders), for the words from “38(5),” to “76(2)” there shall be substituted “ 38(5) or 41(6) ”.
- 200 In section 117(1) of the Crime and Disorder Act 1998 (general interpretation), in the definition of “custodial sentence”, for “Part I of the 1991 Act” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 201 (1) Schedule 3 to the Crime and Disorder Act 1998 (procedure where persons are sent for trial under section 51 of that Act) shall be amended as follows.
- (2) In paragraph 10(2), for “section 38 of the 1980 Act” there shall be substituted “ section 3 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In paragraph 13(2), for “subsection (2) of section 53 of the 1933 Act” there shall be substituted “ subsection (1) or (2) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- 202 (1) Schedule 8 to the Crime and Disorder Act 1998 (minor and consequential amendments) shall be amended as follows.
- (2) In paragraph 86(1), in the subsection (1) to be substituted in section 41 of the <sup>M55</sup>Criminal Justice Act 1991, for “section 9 of the Crime (Sentences) Act 1997” there shall be substituted “ section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.
- (3) In paragraph 90, in the subsection (2) to be substituted in section 47 of the <sup>M56</sup>Criminal Justice Act 1991, for “section 9 of the Crime (Sentences) Act 1997” there shall be substituted “ section 87 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

**M55** 1991 c. 53.

**M56** 1991 c. 53.

- 203 In Schedule 9 to the Crime and Disorder Act 1998 (transitional provisions and savings), in paragraph 14(2), for “section 40 of the 1991 Act” there shall be substituted “ section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 ”.

*Access to Justice Act 1999 (c. 22)*

- 204 In section 96 of the Access to Justice Act 1999 (execution by person not in possession of warrant), in the section 125D to be inserted in the <sup>M57</sup>Magistrates’ Courts Act 1980, in subsection (3)(f), for “the Youth Justice and Criminal Evidence

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Act 1999” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

M57 1980 c. 43.

*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

205 In paragraph 3(9) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 (reporting restrictions: miscellaneous amendments), in the subsection (13) to be inserted in section 49 of the <sup>M58</sup>Children and Young Persons Act 1933—

- (a) in paragraph (c)(i), for “section 16(3) of the Criminal Justice Act 1982” there shall be substituted “ section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000 ”;
- (b) in paragraph (c)(ii), for “section 76(6)(b) of the Crime and Disorder Act 1998” there shall be substituted “ section 103(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 ”; and
- (c) in paragraph (g), for “section 31(1) of the Criminal Justice Act 1991” there shall be substituted “ the Powers of Criminal Courts (Sentencing) Act 2000 ”.

**Marginal Citations**

M58 1933 c. 12.

SCHEDULE 10

Section 165.

TRANSITORY MODIFICATIONS

*Section 8*

- 1 (1) This paragraph applies if paragraph 11 of Schedule 13 to the <sup>M59</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 8(4) and (10) of this Act shall each have effect as if for the words “justices’ chief executive for” there were substituted “ clerk of”.

**Marginal Citations**

M59 1999 c. 22.

- 2 (1) This paragraph applies if paragraph 5 of Schedule 4 to the <sup>M60</sup>Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.



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- (2) If this paragraph applies, then until the appointed day section 8 of this Act shall have effect as if the words from “the case” in subsection (6) to “but” in subsection (8) were omitted.
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 5 of Schedule 4 to the <sup>M61</sup>Youth Justice and Criminal Evidence Act 1999, the day so appointed;
  - (b) otherwise, such day as the Secretary of State may by order appoint.

**Marginal Citations**

**M60** 1999 c. 23.

**M61** 1999 c. 23.

*Section 13*

- 3 (1) This paragraph applies if paragraph 84 of Schedule 13 to the <sup>M62</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 13(5) of this Act shall have effect as if for the words “justices’ chief executive” there were substituted “ clerk of the court ”.

**Marginal Citations**

**M62** 1999 c. 22.

*Sections 63 and 66 and Schedule 7*

- 4 (1) This paragraph applies if paragraph 63 of Schedule 13 to the <sup>M63</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date—
- (a) sections 63(8) and 66(5) and (10) of this Act, and
  - (b) paragraph 10 of Schedule 7 to this Act,
- shall each have effect as if for the words “justices’ chief executive” (wherever occurring) there were substituted “ clerk to the justices ”.

**Marginal Citations**

**M63** 1999 c. 22.

*Section 67*

- 5 (1) This paragraph applies if the repeal made by Part V(2) of Schedule 15 to the <sup>M64</sup>Access to Justice Act 1999 of the definition of “petty sessions area” in section 70(1) of the <sup>M65</sup>Children and Young Persons Act 1969 has not come into force before the commencement of this Act.

*Status: Point in time view as at 30/09/2004.*

*Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000 is up to date with all changes known to be in force on or before 24 November 2023. 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)*

- (2) If this paragraph applies, then until the relevant commencement date section 67(1) of this Act shall have effect as if after the definition of “local authority” there were inserted the following definition—

““petty sessions area”, in relation to a youth court constituted for the metropolitan area within the meaning of Part II of Schedule 2 to the <sup>M66</sup>Children and Young Persons Act 1963, means such a division of that area as is mentioned in paragraph 14 of that Schedule;”.

**Marginal Citations**

- M64** 1999 c. 22.  
**M65** 1969 c. 54.  
**M66** 1963 c. 37.

*Section 69*

- 6 (1) This paragraph applies if paragraph 30 of Schedule 4 to the <sup>M67</sup>Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 69(5) of this Act shall have effect as if for the words “, a supervision order or a referral order” there were substituted “ or a supervision order ”.
- (3) In this paragraph “the appointed day” means—
- if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 30 of Schedule 4 to the <sup>M68</sup>Youth Justice and Criminal Evidence Act 1999, the day so appointed;
  - otherwise, such day as the Secretary of State may by order appoint.

**Marginal Citations**

- M67** 1999 c. 23.  
**M68** 1999 c. 23.

*Section 73*

- 7 (1) This paragraph applies if paragraph 29 of Schedule 4 to the <sup>M69</sup>Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 73(4) of this Act shall have effect as if for the words “, an action plan order or a referral order” there were substituted “ or an action plan order ”.
- (3) In this paragraph “the appointed day” means—
- if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 29 of Schedule 4 to the <sup>M70</sup>Youth Justice and Criminal Evidence Act 1999, the day so appointed;
  - otherwise, such day as the Secretary of State may by order appoint.

*Status: Point in time view as at 30/09/2004.*

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**Marginal Citations**

**M69** 1999 c. 23.

**M70** 1999 c. 23.

*Section 83*

- 8 (1) This paragraph applies if—
- (a) paragraphs 9 and 25 of Schedule 4 to the <sup>M71</sup>Access to Justice Act 1999, and
  - (b) the repeals made by Part I of Schedule 15 to that Act in section 21 of the <sup>M72</sup>Powers of Criminal Courts Act 1973 and section 3 of the <sup>M73</sup>Criminal Justice Act 1982,
- have not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall have effect as if—
- (a) for paragraph (a) of subsection (3) there were substituted the following paragraph—
    - “(a) he applied for legal aid and had his application refused on the ground that it did not appear his resources were such that he required assistance; or”;
  - and
  - (b) in paragraph (b) of that subsection, for the words “such representation” there were substituted “ legal aid ”.
- (3) If this paragraph applies, then until the relevant commencement date section 83 of this Act shall also have effect as if after subsection (4) there were inserted the following subsection—
- “(4A) In this section “legal aid” means legal aid for the purposes of proceedings in that court, whether the whole proceedings or the proceedings on or in relation to sentence; but in the case of a person committed to the Crown Court for sentence or trial or sent to that court for trial under section 51 of the <sup>M74</sup>Crime and Disorder Act 1998 it is immaterial whether he applied for legal aid in the Crown Court to, or was informed of his right to apply by, that court or the court which committed or set him.”

**Marginal Citations**

**M71** 1999 c. 22.

**M72** 1973 c. 62.

**M73** 1982 c. 48.

**M74** 1998 c. 37.

*Sections 122 and 124*

- 9 (1) This paragraph applies if paragraph 85 of Schedule 13 to the <sup>M75</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.

*Status: Point in time view as at 30/09/2004.*

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- (2) If this paragraph applies, then until the relevant commencement date sections 122(6) and 124(4) of this Act shall each have effect as if for the words “justices’ chief executive” there were substituted “ clerk to the justices ”.

**Marginal Citations**

**M75** 1999 c. 22.

*Section 150*

- 10 (1) This paragraph applies if paragraph 20 of Schedule 4 to the <sup>M76</sup>Youth Justice and Criminal Evidence Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day section 150(1) of this Act shall have effect as if the words from “but this subsection” onwards were omitted.
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of paragraph 20 of Schedule 4 to the <sup>M77</sup>Youth Justice and Criminal Evidence Act 1999, the day so appointed;
  - (b) otherwise, such day as the Secretary of State may by order appoint.

**Marginal Citations**

**M76** 1999 c. 23.

**M77** 1999 c. 23.

*Section 155*

- 11 (1) This paragraph applies if paragraph 24 of Schedule 4 to the <sup>M78</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date section 155(8) of this Act shall have effect as if for the words “an order under section 17(2) of the Access to Justice Act 1999” there were substituted “ a contribution order made under section 23 of the <sup>M79</sup>Legal Aid Act 1988 ”.

**Marginal Citations**

**M78** 1999 c. 22.

**M79** 1988 c. 34.

*Schedule 3*

- 12 (1) This paragraph applies if paragraph 166 of Schedule 13 to the <sup>M80</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date Schedule 3 to this Act shall have effect as if—

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- (a) in paragraph 15(1), for the words “proper officer of” there were substituted “clerk to”;
- (b) paragraph 15(2) were omitted;
- (c) in each of sub-paragraphs (1) and (2) of paragraph 25, for the words “justices’ chief executive for the court” there were substituted “clerk to the court”; and
- (d) in sub-paragraph (1) of that paragraph, for the words “chief executive to the justices” (in both places where they occur) there were substituted “clerk to the justices”.

**Marginal Citations**

**M80** 1999 c. 22.

*Schedule 5*

- 13 (1) This paragraph applies if paragraph 123 of Schedule 13 to the <sup>M81</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date Schedule 5 to this Act shall have effect as if—
- (a) in paragraph 4(5), for the words “proper officer of” there were substituted “clerk to”;
  - (b) paragraph 4(7) were omitted; and
  - (c) in paragraph 5(3), for the words “justices’ chief executive for” there were substituted “clerk to”.

**Marginal Citations**

**M81** 1999 c. 22.

*Schedule 6*

- 14 (1) This paragraph applies if subsections (1) to (3) of section 71 of the <sup>M82</sup>Crime and Disorder Act 1998 have not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the appointed day paragraph 3 of Schedule 6 to this Act shall have effect as if the following provisions were omitted—
- (a) in sub-paragraph (2), paragraph (d);
  - (b) in sub-paragraph (3), the word “, (d)”;
  - (c) in sub-paragraph (5), paragraph (b).
- (3) In this paragraph “the appointed day” means—
- (a) if before the commencement of this Act an order has been made appointing a day for the coming into force of section 71(1) to (3) of the <sup>M83</sup>Crime and Disorder Act 1998, the day so appointed;
  - (b) otherwise, such day as the Secretary of State may by order appoint.

*Status: Point in time view as at 30/09/2004.*

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#### Marginal Citations

**M82** 1998 c. 37.

**M83** 1998 c. 37.

- 15 (1) This paragraph applies if paragraph 5 of Schedule 4 to the <sup>M84</sup>Access to Justice Act 1999 has not come into force before the commencement of this Act.
- (2) If this paragraph applies, then until the relevant commencement date paragraph 5(7) of Schedule 6 to this Act shall have effect as if—
- (a) for paragraph (a) there were substituted the following paragraph—
- “(a) he has applied for legal aid for the purposes of the proceedings and the application was refused on the ground that it did not appear that his resources were such that he required assistance; or”;
- and
- (b) in paragraph (b), for the words “such representation” there were substituted the words “legal aid”.

#### Marginal Citations

**M84** 1999 c. 22.

*Meaning of “the relevant commencement date”, etc.*

- 16 (1) Subject to sub-paragraph (2) below, in any of the preceding paragraphs “the relevant commencement date” means such day as the Lord Chancellor may by order made by statutory instrument appoint in relation to that paragraph; and different days may be appointed for different purposes.
- (2) Where—
- (a) a provision of the <sup>M85</sup>Access to Justice Act 1999 referred to in sub-paragraph (1) of paragraph 1, 3, 4, 5, 8, 9, 11, 12, 13 or 15 above has not come into force before the commencement of this Act, but
- (b) before the commencement of this Act an order under the <sup>M86</sup>Access to Justice Act 1999 has been made appointing a day for the coming into force of that provision,
- “the relevant commencement date”, in relation to that provision, means the day so appointed.

#### Marginal Citations

**M85** 1999 c. 22.

**M86** 1999 c. 22.

- 17 An order under any of paragraphs 2, 6, 7, 10 and 14 above may appoint different days for different purposes or different areas.

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*Power to make transitional provision*

- 18 Section 160(6) of this Act does not apply to an order made by the Secretary of State under any of the preceding provisions of this Schedule, but—
- (a) an order under paragraph 14 or 16(1) above may make such transitional provisions and savings as appear to the Secretary of State or the Lord Chancellor necessary or expedient; and
  - (b) an order under any of paragraphs 2, 6, 7 and 10 above may make such provision as, by virtue of section 64(4) of the <sup>M87</sup>Youth Justice and Criminal Evidence Act 1999 (regulations and orders), is authorised to be made by an order under section 68(3) of that Act (commencement).

**Marginal Citations**

**M87** 1999 c. 23.

*Saving for old transitional provisions*

- 19 (1) This paragraph applies to any transitional provision or saving (“the transitional provision”) made in connection with the coming into force of a provision of the Access to Justice Act 1999, the Youth Justice and Criminal Evidence Act 1999 or the <sup>M88</sup>Crime and Disorder Act 1998 mentioned in sub-paragraph (1) of any of paragraphs 1 to 15 above (“the old enactment”).
- (2) If the old enactment is in force before the commencement of the provision of this Act reproducing its effect (“the corresponding provision of this Act”), the transitional provision shall continue to have effect (so far as capable of doing so) in relation to the corresponding provision of this Act.
- (3) If—
- (a) sub-paragraph (2) above does not apply, but
  - (b) before the commencement of this Act an order has been made appointing a day for the coming into force of the old enactment,
- the transitional provision shall, from the day so appointed, have effect in relation to the corresponding provision of this Act.

**Marginal Citations**

**M88** 1998 c. 37.

*Status: Point in time view as at 30/09/2004.*

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## SCHEDULE 11

Section 165.

### TRANSITIONAL PROVISIONS

#### PART I

#### GENERAL

##### *Continuity of the law: general*

- 1 (1) The substitution of this Act for the provisions repealed by it shall not affect the continuity of the law.
- (2) Any thing done (including subordinate legislation made), or having effect as if done, under or for the purposes of any provision repealed by this Act shall, if it could have been done under or for the purposes of the corresponding provision of this Act and if in force or effective immediately before the commencement of that corresponding provision, have effect thereafter as if done under or for the purposes of that corresponding provision.
- (3) Any reference (express or implied) in this Act or any other enactment, instrument or document to a provision of this Act shall (so far as the context permits) be construed as including, as respects times, circumstances or purposes in relation to which the corresponding provision repealed by this Act had effect, a reference to that corresponding provision.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision repealed by this Act shall (so far as the context permits) be construed, as respects times, circumstances and purposes in relation to which the corresponding provision of this Act has effect, as being or (according to the context) including a reference to the corresponding provision of this Act.
- (5) Sub-paragraphs (1) to (4) above have effect instead of section 17(2) of the <sup>M89</sup>Interpretation Act 1978 (but are without prejudice to any other provision of that Act).

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

- C2** Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, s. 43(3)(b); S.I. 2001/919, art. 2(b)  
 Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, s. 44(3)(b); S.I. 2001/919, art. 2(b)  
 Sch. 11 para. 1(3) excluded (1.4.2001) by 2000 c. 43, s. 45(3)(b); S.I. 2001/919, art. 2(b)

#### **Marginal Citations**

- M89** 1978 c. 30.

##### *General saving for old transitional provisions and savings*

- 2 (1) The repeal by this Act of a transitional provision or saving relating to the coming into force of a provision reproduced in this Act does not affect the operation of the transitional provision or saving, in so far as it is not specifically reproduced in this Act but remains capable of having effect in relation to the corresponding provision of this Act.



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- (2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving in so far as it is not specifically reproduced in this Act but remains capable of having effect.
- (4) Where the purpose of an enactment repealed by this Act was to secure that the substitution of the provisions of the Act containing that enactment for provisions repealed by that Act did not affect the continuity of the law, the enactment repealed by this Act continues to have effect in so far as it is capable of doing so.

*Use of existing forms etc.*

- 3 Any reference to an enactment repealed by this Act which is contained in a document made, served or issued after the commencement of that repeal shall be construed, except so far as a contrary intention appears, as a reference or (as the context may require) as including a reference to the corresponding provision of this Act.

## PART II

### SPECIFIC PROVISIONS: REPLICATION OF OLD TRANSITIONAL PROVISIONS

#### *Sections 37, 41, 46 and 79 and Schedules 2, 3 and 6: consent requirements*

- 4 (1) In relation to an offence committed before 1st October 1997—
  - (a) section 37 of this Act shall have effect as if at the end of subsection (10) (but not as part of paragraph (c)) there were added the words “ and the court shall not make the order unless he expresses his willingness to comply with its requirements ”;
  - (b) section 41 of this Act shall have effect as if at the end of subsection (7) (but not as part of paragraph (c)) there were added the words “ and the court shall not make the order unless he expresses his willingness to comply with its requirements ”;
  - (c) section 46(4) of this Act shall have effect as if after the word “unless” there were inserted “ the offender consents and ”;
  - (d) section 79(3) of this Act shall have effect as if for the words from “he fails to” onwards there were substituted “ he refuses to give his consent to a community sentence which is proposed by the court and requires that consent ”; and
  - (e) Schedule 2 to this Act shall have effect as if there were omitted from each of paragraphs 5(4) and 6(5) paragraph (b) and the word “and” immediately preceding it.
- (2) In relation to an offence committed before 1st October 1997, Schedule 3 to this Act shall have effect as if—
  - (a) for paragraph (b) of each of paragraphs 4(2) and 5(2) there were substituted the following paragraph—
    - “(b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that

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he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.”;

- (b) paragraph 19(2)(b)(i) were omitted; and
- (c) at the end of paragraph 20(2)(b) there were inserted “ , being treatment of a kind to which he could be required to submit in pursuance of a probation or combination order ”.

(3) In relation to an offence committed before 1st October 1997, paragraph 3(4) of Schedule 6 to this Act shall have effect as if for paragraph (c) there were substituted the following paragraph—

“(c) the offender or, if he is a child, his parent or guardian, consents to their inclusion.”

*Section 37: minimum age for curfew order*

5 In relation to an offence committed before 1st January 1998, section 37 of this Act shall have effect as if—

- (a) in subsection (1), after the word “person” there were inserted “ aged 16 or over ”; and
- (b) subsections (4) and (9) were omitted.

*Custodial sentences for young offenders: section 98 and re-sentencing powers*

6 In relation to an offender sentenced to detention in a young offender institution before 1st April 2000, section 98(2) of this Act shall have effect as if at the end there were inserted “ , but if he is under 18 at the time of the direction, only for a temporary purpose ”.

7 A court to which it falls after the commencement of this Act to determine for the purposes of any enactment how a previous court could or might have dealt with an offender shall in the case of an offender aged under 18 make that determination—

- (a) as if sections 100 to 107 of this Act (detention and training orders) and section 96 of this Act (detention in a young offender institution available only if offender is at least 18) had been in force; and
- (b) as if sections 1 to 4 of the <sup>M90</sup>Criminal Justice and Public Order Act 1994 (secure training orders, repealed by the <sup>M91</sup>Crime and Disorder Act 1998) had not been in force.

**Marginal Citations**

**M90** 1994 c. 33.

**M91** 1998 c. 37.

*Sections 143, 147, 148 and 150: miscellaneous transitional provisions*

8 The following provisions of this Act, namely—

- (a) subsections (6) and (7) of section 143, and
- (b) subsections (2) and (4) of section 147,

do not apply in relation to an offence committed before 1st July 1992.

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- 9 In relation to an offence into which a criminal investigation began before 1st April 1997, section 148 of this Act shall have effect as if for paragraph (b) of subsection (6) there were substituted the following paragraph—
- “(b) the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.”
- 10 In relation to an offence committed before 3rd February 1995, section 150 of this Act shall have effect as if there were omitted from subsection (2) the words from “and where the court” onwards.

### PART III

#### SPECIFIC PROVISIONS: MISCELLANEOUS TRANSITIONAL PROVISIONS

##### *Referral orders*

- 11 (1) Any provision of Part III of this Act which re-enacts an enactment contained in the <sup>M92</sup>Youth Justice and Criminal Evidence Act 1999 which has not been brought into force before the commencement of this Act shall be of no effect until that enactment is brought into force.
- (2) The repeal by this Act of any enactment contained in the <sup>M93</sup>Youth Justice and Criminal Evidence Act 1999 which has not been brought into force before the commencement of this Act shall not have effect until that enactment is brought into force.
- (3) Sub-paragraph (2) above does not apply to the repeal by this Act of paragraph 5, 20, 29 or 30 of Schedule 4 to the <sup>M94</sup>Youth Justice and Criminal Evidence Act 1999.
- (4) Any provision of Schedule 9 to this Act which amends an enactment as amended by Schedule 4 to the <sup>M95</sup>Youth Justice and Criminal Evidence Act 1999 shall, if the amendment in question made by Schedule 4 to that Act has not been brought into force before the commencement of this Act, be of no effect until that amendment is brought into force.

#### **Marginal Citations**

- M92** 1999 c. 23.  
**M93** 1999 c. 23.  
**M94** 1999 c. 23.  
**M95** 1999 c. 23.

##### *Modifications for Isles of Scilly*

- 12 If immediately before the commencement of this Act an order made under section 71 of the <sup>M96</sup>Children and Young Persons Act 1969 (application to Isles of Scilly) is in force which modifies any provisions of that Act reproduced in this Act—
- (a) the order shall have effect as if also made under section 68 of this Act; and
- (b) the provisions modified by the order shall be deemed to include any provision of the sections and Schedules mentioned in section 68(1) which

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corresponds to a provision of the <sup>M97</sup>Children and Young Persons Act 1969 which, immediately before the commencement of this Act, was modified by the order.

**Marginal Citations**

**M96** 1969 c. 54.

**M97** 1969 c. 54.

*Consequential amendments*

- 13 The amendments made by Schedule 9 to this Act of subsections (5)(e) and (10) of section 5 of the <sup>M98</sup>Rehabilitation of Offenders Act 1974 shall not be taken to affect the operation of paragraph 36(7) of Schedule 14 to the <sup>M99</sup>Children Act 1989 (which saves the effect of section 5 in relation to certain care orders made under the Children and Young Persons Act 1969).

**Marginal Citations**

**M98** 1974 c. 53.

**M99** 1989 c. 41.

**PART IV**

INTERPRETATION

- 14 In this Schedule, where the context permits, “repeal” includes revoke.

SCHEDULE 12

Section 165.

REPEALS AND REVOCATIONS

**PART I**

ACTS OF PARLIAMENT REPEALED

Chapter	Short title	Extent of repeal
23 Geo 5 c. 12.	Children and Young Persons Act 1933.	Section 53.  Sections 55 and 56.  In section 106, in subsection (1), the words from “or, in the case” to “officer”, and subsection (2).

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9 & 10 Eliz 2 c. 39.	Criminal Justice Act 1961.	In Schedule 4, the entry relating to section 53 of the Children and Young Persons Act 1933.
1963 c. 37.	Children and Young Persons Act 1963.	In Schedule 3, paragraph 14.
1965 c. 71.	Murder (Abolition of Death Penalty) Act 1965.	In section 1, in subsection (1), the words “, subject to subsection (5) below,” and subsection (5).
1967 c. 80.	Criminal Justice Act 1967.	Section 56.
1968 c. 60.	Theft Act 1968.	Section 28.
1969 c. 54.	Children and Young Persons Act 1969.	In section 7, subsections (7), (8), (8A), (8B) and (9). Sections 11 to 19. In section 70, in subsection (1), in the definition of “reside”, the words from “except” to the end, and subsection (2). In Schedule 4, paragraph 12(3). In Schedule 5, paragraphs 6 and 11.
1971 c. 23.	Courts Act 1971.	In Schedule 9, in Part I, in the entry relating to the Children and Young Persons Act 1969, the word “16(8),”.
1972 c. 71.	Criminal Justice Act 1972.	Section 6. In Schedule 5, the entries relating to the Theft Act 1968 and section 7(8) of the Children and Young Persons Act 1969.
1973 c. 62.	Powers of Criminal Courts Act 1973.	The whole Act.
1977 c. 45.	Criminal Law Act 1977.	Section 46. Section 49. Section 57. In Schedule 12, the entry relating to the Theft Act 1968 and paragraphs 1 and 4 of the entry relating to the Powers of Criminal Courts Act 1973.

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1979 c. 2.	Customs and Excise Management Act 1979.	In Schedule 4, in paragraph 12, in Part I of the Table, the entry relating to the Powers of Criminal Courts Act 1973.
1980 c. 43.	Magistrates' Courts Act 1980.	Sections 30 and 31.  Section 36.  Sections 38 to 40.  In Schedule 6A, the entries relating to the Children and Young Persons Act 1969, the Powers of Criminal Courts Act 1973, the Criminal Justice Act 1982 and the Criminal Justice Act 1991.  In Schedule 7, paragraphs 65, 67, 81, 82, 119 to 123, 143, 144 and 146.
1981 c. 54.	Supreme Court Act 1981.	Section 47.  In section 81(1)(g), subparagraph (iv) and the word "or" immediately preceding it.
1981 c. 56.	Transport Act 1981.	In Schedule 9, Part II.
1982 c. 48.	Criminal Justice Act 1982.	Section 1(1), (2), (5) and (5A).  Section 1A.  Section 1C.  Section 3.  Sections 8 and 9.  Sections 12 and 13.  Sections 16 to 21.  Section 26.  Section 63.  Section 67.  Section 69(1).  In Schedule 12, paragraph 1.  In Schedule 14, paragraphs 4, 9, 33, 48 and 51.  In Schedule 17, paragraph 1(2).

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1988 c. 33.	Criminal Justice Act 1988.	Section 42. Section 60(2). Section 69. Sections 104 and 105. Section 107. Section 123(4). Sections 127 to 129. Section 163. In Schedule 8, paragraph 11(2). Schedule 10. In Schedule 15, paragraphs 33, 38, 39, 41, 52 and 79.
1988 c. 54.	Road Traffic (Consequential Provisions) Act 1988.	In Schedule 3, paragraphs 3, 11 and 20.
1989 c. 41.	Children Act 1989.	In Schedule 12, paragraphs 22 and 23, and, in paragraph 29, paragraph (b) and the word “and” immediately preceding it.
1990 c. 41.	Courts and Legal Services Act 1990.	In Schedule 16, paragraphs 4 and 5.
1991 c. 40.	Road Traffic Act 1991.	Section 36. Section 38.
1991 c. 53.	Criminal Justice Act 1991.	Sections 1 to 15. In section 16, paragraph (a). In section 17(2), in paragraph (a), the words from “and section 36(1)” to “court)”, and, in paragraph (b), the words from “and section 36(2)” to “court”). Section 18. Section 20. Section 21. Section 25. Sections 28 and 29.

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In section 30(2), the words “(other than an order under section 12(4) above)”.

Section 31.

Section 40.

Section 44 as it applies to persons sentenced for sexual offences committed before 30th September 1998.

In section 51(2B), paragraph (d) and the word “and” immediately preceding it.

Sections 57 and 58.

Section 63.

Sections 66 and 67.

In section 102, in subsection (5)(c), the words “paragraph 15 of Schedule 11 to this Act”, and, in subsection (6), the words “paragraph 16 of Schedule 11 to this Act”.

Schedules 1 and 2.

In Schedule 3, Part I.

In Schedule 4, in Part I, the entries relating to section 27(3) of the Powers of Criminal Courts Act 1973 and section 40(1) of the Magistrates’ Courts Act 1980.

Schedule 7.

In Schedule 8, in paragraph 6(1), paragraphs (c) and (d).

In Schedule 11, paragraphs 4 to 8, 12, 13, 15, 16, 19, 20(a), 21, 26, 30 to 34, 38 and 39 and, in paragraph 40(2), in paragraph (a), the word “, 56”, in paragraph (g), the words “7,” and “15, 16,”, paragraph (i), and, in paragraph (o), the words “section 16(2) and”.



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		In Schedule 12, paragraphs 1 to 6, 8(3), 14, 17, 20 and 21.
1991 c. 62.	Armed Forces Act 1991.	In Schedule 2, paragraph 9(1).
1993 c. 36.	Criminal Justice Act 1993.	Section 65(1). Section 66. In Schedule 3, paragraphs 2, 3, 5 and 6(1), (2), (6) and (7).
1993 c. 47.	Probation Service Act 1993.	In Schedule 3, paragraphs 3(2) and 10.
1994 c. 33.	Criminal Justice and Public Order Act 1994.	Section 16. Section 18(1) and (2). Section 48. In Schedule 9, paragraphs 10, 15, 16, 21, 40 to 42, 44, 45, 47 and 50. In Schedule 10, paragraphs 4, 5, 49 and 65 to 67.
1994 c. 39.	Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 173.
1995 c. 40.	Criminal Procedure (Consequential Provisions) (Scotland) Act 1995.	In Schedule 4, paragraph 80(3).
1996 c. 25.	Criminal Procedure and Investigations Act 1996.	In Schedule 1, paragraph 20.
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraphs 15 and 16.
1997 c. 25.	Justices of the Peace Act 1997.	In Schedule 5, paragraph 15.
1997 c. 30.	Police (Property) Act 1997.	Section 2. Section 7(3)(b).
1997 c. 43.	Crime (Sentences) Act 1997.	Part I. Sections 9 and 9A. Sections 36 to 39. Sections 43 and 44. Sections 50 and 51. Section 55(2)(a).

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		In Schedule 4, paragraphs 5(1), 8, 15(1) to (9) and (11) to (13) and 17.
1998 c. 37.	Crime and Disorder Act 1998.	<p>In section 47(1), paragraph (b) and the word “or” immediately preceding it, and the words “or, as the case may be, for sentence”.</p> <p>Section 58.</p> <p>Sections 61 to 64.</p> <p>Sections 67 to 79.</p> <p>Section 82.</p> <p>Section 85.</p> <p>Section 102.</p> <p>Section 107(3) to (5).</p> <p>Section 121(6)(f).</p> <p>Schedules 4 and 5.</p> <p>In Schedule 7, paragraphs 1 to 7, 13 to 16, 18 to 31, 33 to 38, 40 to 49, 50(2) to (5), 51 and 52.</p> <p>In Schedule 8, paragraphs 2, 3, 4, 9, 10, 16 to 21, 25 to 34, 46, 47, 49 to 53, 72 to 78, 85, 92, 96, 109, 112 and 132(2) and (3).</p> <p>In Schedule 9, paragraphs 3 and 4.</p>
1999 c. 22.	Access to Justice Act 1999.	<p>Section 58(1) and (6).</p> <p>Section 66.</p> <p>In Schedule 4, paragraphs 5, 9, 24 and 25.</p> <p>Schedule 9.</p> <p>In Schedule 13, paragraphs 11(b) and (c), 63, 83 to 85, 123 and 166.</p>
1999 c. 23.	Youth Justice and Criminal Evidence Act 1999.	<p>Sections 1 to 15.</p> <p>In section 64, the words “regulations or”, wherever occurring, and, in subsection (2), the words “6(4) or”, and, in</p>

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subsection (3), the word  
“2(3),” and paragraph (b) and  
the word “or” immediately  
preceding that paragraph.

Section 67(2).

Section 68(7).

Schedule 1.

In Schedule 4, paragraphs 5,  
20, 29 and 30.

Schedule 5.

In Schedule 7, paragraph 2.

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## PART II

### SUBORDINATE LEGISLATION REVOKED

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<b>S.I. Number</b>	<b>Title</b>	<b>Extent of revocation</b>
1990/144.	Driving Licences (Community Driving Licence) Regulations 1990.	In Schedule 4, paragraph 2.
1996/1974.	Driving Licences (Community Driving Licence) Regulations 1996.	In Schedule 4, paragraph 1.
1996/3161.	Criminal Justice (Northern Ireland Consequential Amendments) Order 1996.	In Article 2, paragraphs (a) to (c).
2000/90.	Health Act 1999 (Supplementary, Consequential etc. Provisions) Order 2000.	In Schedule 2, paragraph 3.
2000/694.	Health Act 1999 (Supplementary, Consequential etc. Provisions) (No. 2) Order 2000.	In the Schedule, paragraph 1.

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