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## SCHEDULES

### SCHEDULE 32

#### AMENDMENTS RELATING TO SENTENCING

##### PART 1

##### GENERAL

VALID FROM 04/04/2005

#### *Piracy Act 1837 (c. 88)*

- 1 Section 3 of the Piracy Act 1837 (punishment for offence under certain repealed Acts relating to piracy) shall cease to have effect.

#### **Commencement Information**

- II** Sch. 32 para. 1 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(2\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

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

- 2 (1) Section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which young persons are concerned) is amended as follows.
- (2) In subsection (4A)(d), for “section 62(3) of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “section 222(1)(d) or (e) of the Criminal Justice Act 2003”.
- (3) In subsection (11)—
- (a) in the definition of “sexual offence”, for “has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “means an offence listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003”, and
- (b) in the definition of “violent offence”, for “has the same meaning as in the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “means an offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003”.

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**Commencement Information**

- I2** Sch. 32 para. 2 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(3\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

*Prison Act 1952 (c. 52)*

- 3 In section 53 of the Prison Act 1952 (interpretation), for “section 62 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “section 221 of the Criminal Justice Act 2003”.

**Commencement Information**

- I3** Sch. 32 para. 3 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(4\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

*Criminal Justice Act 1967 (c. 80)*

- 4 The Criminal Justice Act 1967 is amended as follows.

**Commencement Information**

- I4** Sch. 32 para. 4 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(5\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 5 In section 32 (amendments of Costs in Criminal Cases Act 1952), in subsection (3)(a), for “make an order under paragraph 5 of Schedule 2 to the Powers of Criminal Courts (Sentencing) Act 2000 (probation orders requiring treatment for mental condition) or” there is substituted “include in a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) a mental health requirement under section 207 of that Act or make an order under”.

**Commencement Information**

- I5** Sch. 32 para. 5 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(5\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 6 In section 104 (general provisions as to interpretation)\_  
 (a) in subsection (1), the definition of “suspended sentence” is omitted, and  
 (b) subsection (2) is omitted.

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**Commencement Information**

- I6** Sch. 32 para. 6 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(5\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

*Criminal Appeal Act 1968 (c. 19)*

7 The Criminal Appeal Act 1968 is amended as follows.

**Commencement Information**

- I7** Sch. 32 para. 7 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(6\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

8 (1) Section 10 (appeal against sentence in cases dealt with by Crown Court otherwise than on conviction on indictment) is amended as follows.

(2) In subsection (2) —

- (a) in paragraph (b), for “or a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “a youth community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 or a community order within the meaning of Part 12 of the Criminal Justice Act 2003”, and
- (b) paragraph (c) and the word “or” immediately preceding it are omitted.

**Commencement Information**

- I8** Sch. 32 para. 8 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(6\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

9 In section 11 (supplementary provisions as to appeal against sentence), subsection (4) is omitted.

**Commencement Information**

- I9** Sch. 32 para. 9 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(6\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

10 In Schedule 2 (procedural and other provisions applicable on order for retrial), in paragraph 2(4), for the words from the beginning to “apply” there is substituted “Section 240 of the Criminal Justice Act 2003 (crediting of periods of remand in custody: terms of imprisonment and detention) shall apply”.

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#### Commencement Information

- I10** Sch. 32 para. 10 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(6\)](#) (subject to [art. 2\(2\), Sch. 2](#))

#### *Firearms Act 1968 (c. 27)*

- 11 The Firearms Act 1968 is amended as follows.

#### Commencement Information

- I11** Sch. 32 para. 11 partly in force; Sch. 32 para. 11 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 11 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#)

- 12 (1) Section 21 (possession of firearms by persons previously convicted of crime) is amended as follows.

- (2) In subsection (2A), after paragraph (c) there is inserted—

“(d) in the case of a person who has been subject to a sentence of imprisonment to which an intermittent custody order under section 183(1)(b) of the Criminal Justice Act 2003 relates, the date of his final release.”

- (3) After subsection (2A) there is inserted—

“(2B) A person who is serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates shall not during any licence period specified for the purposes of subsection (1)(b) (i) of that section have a firearm or ammunition in his possession.”

- (4) In subsection (3)(b), for “probation order” there is substituted “community order”.

- (5) After subsection (3) there is inserted—

“(3ZA) In subsection (3)(b) above, “community order” means—

- (a) a community order within the meaning of Part 12 of the Criminal Justice Act 2003 made in England and Wales, or  
 (b) a probation order made in Scotland.”

- (6) In subsection (6), after “(2)” there is inserted “, (2B)”.

#### Commencement Information

- I12** Sch. 32 para. 12 wholly in force at 4.4.2005; Sch. 32 para. 12 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 12(1)-(3)(6) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); Sch. 32 para. 12 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(7\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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VALID FROM 04/04/2005

- 13 (1) Section 52 (forfeiture and disposal of firearms; cancellation of certificate by convicting court) is amended as follows.
- (2) In subsection (1)(c), for “probation order” there is substituted “community order”.
- (3) After subsection (1) there is inserted —
- “(1A) In subsection (1)(c) “community order” means—
- (a) a community order within the meaning of Part 12 of the Criminal Justice Act 2003 made in England and Wales, or
  - (b) a probation order made in Scotland.”

**Commencement Information**

- I13** Sch. 32 para. 13 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(7\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

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

- 14 In section 94 of the Social Work (Scotland) Act 1968 (interpretation), in the definition of “probation order” in subsection (1), for “community rehabilitation order” there is substituted “community order within the meaning of Part 12 of the Criminal Justice Act 2003”.

**Commencement Information**

- I14** Sch. 32 para. 14 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(8\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

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

- 15 In section 23 of the Children and Young Persons Act 1969 (remands and committals to local authority accommodation), for the definition of “sexual offence” and “violent offence” in subsection (12) there is substituted—
- ““sexual offence” means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003;
- “violent offence” means murder or an offence specified in Part 1 of Schedule 15 to the Criminal Justice Act 2003;”.

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#### Commencement Information

- I15** Sch. 32 para. 15 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(9\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

#### *Immigration Act 1971 (c. 77)*

- 16 In section 7 of the Immigration Act 1971 (exemption from deportation for certain existing residents), in subsection (4), for “section 67 of the Criminal Justice Act 1967” there is substituted “ section 240 of the Criminal Justice Act 2003 ”.

#### Commencement Information

- I16** Sch. 32 para. 16 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 42\(10\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

#### *Thames Barrier and Flood Prevention Act 1972 (c. xiv)*

- 17 In section 56 of the Thames Barrier and Flood Prevention Act 1972 (orders for carrying out certain defence works), in subsection (3)(a)(ii), for “six months” there is substituted “ 12 months ”.

VALID FROM 04/04/2005

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

- 18 (1) Section 5 of the Rehabilitation of Offenders Act 1974 (rehabilitation periods for particular offences) is amended as follows.
- (2) In subsection (1)—
- (a) at the end of paragraph (e), there is inserted “ and ”, and
- (b) after that paragraph, there is inserted the following paragraph—
- “(f) a sentence of imprisonment for public protection under section 225 of the Criminal Justice Act 2003, a sentence of detention for public protection under section 226 of that Act or an extended sentence under section 227 or 228 of that Act”
- (3) In subsection (4A), after the words “probation order” there is inserted “ or a community order under section 177 of the Criminal Justice Act 2003 ”.

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#### Commencement Information

- II7** Sch. 32 para. 18 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), Sch. 1 para. 42(11) (subject to [art. 2\(2\)](#), Sch. 2)

VALID FROM 28/03/2009

#### *Armed Forces Act 1976 (c. 52)*

- 19 (1) Section 8 of the Armed Forces Act 1976 (powers of Standing Civilian Courts in relation to civilians) is amended as follows.
- (2) In subsection (1)(a), for “six months” there is substituted “ twelve months ”.
- (3) In subsection (2), for “12 months” there is substituted “ 65 weeks ”.

VALID FROM 04/04/2005

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

- 20 The Bail Act 1976 is amended as follows.

#### Commencement Information

- II8** Sch. 32 para. 20 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), Sch. 1 para. 42(12) (subject to [art. 2\(2\)](#), Sch. 2)

- 21 (1) Section 2 (other definitions) is amended as follows.
- (2) In subsection (1)(d)—
- (a) the words “placing the offender on probation or” are omitted, and
- (b) for “him” there is substituted “ the offender ”.
- (3) In subsection (2), in the definition of “probation hostel”, for the words from “by” onwards there is substituted “ by a community order under section 177 of the Criminal Justice Act 2003 ”.

#### Commencement Information

- II9** Sch. 32 para. 21 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), Sch. 1 para. 42(12) (subject to [art. 2\(2\)](#), Sch. 2)

- 22 In section 4 (general right to bail of accused persons and others), in subsection (3), for the words from “to be dealt with” onwards there is substituted “or the Crown Court to be dealt with under—

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- (a) Part 2 of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000 (breach of certain youth community orders), or
- (b) Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of community order).”

**Commencement Information**

**I20** Sch. 32 para. 22 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(12\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 23 In Part 3 of Schedule 1 (interpretation), in the definition of “default” in paragraph 4, for the words from “Part II” onwards there is substituted “Part 2 of Schedule 8 to the Criminal Justice Act 2003 (breach of requirement of order) ”.

**Commencement Information**

**I21** Sch. 32 para. 23 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(12\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

*Criminal Law Act 1977 (c. 45)*

- 24 In section 3 of the Criminal Law Act 1977 (penalties for conspiracy), in subsection (1), for “section 127 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ section 163 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I22** Sch. 32 para. 24 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(13\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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

VALID FROM 04/04/2005

- 25 The Magistrates' Courts Act 1980 is amended as follows.

**Commencement Information**

**I23** Sch. 32 para. 25 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(14\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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VALID FROM 04/04/2005

26 In section 11 (non appearance of accused), in subsection (3), for “section 119 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ paragraph 8(2)(a) or (b) of Schedule 12 to the Criminal Justice Act 2003 ”.

**Commencement Information**

**I24** Sch. 32 para. 26 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(14\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

27 In section 33 (maximum penalties on summary conviction in pursuance of section 22), in subsection (1)(a), for “3 months” there is substituted “ 51 weeks ”.

PROSPECTIVE

28 In section 85 (power to remit fine), in subsection (2A), for “section 35(2)(a) or (b) of the Crime (Sentences) Act 1997” there is substituted “ section 300(2) of the Criminal Justice Act 2003 ”.

29 In section 131 (remand of accused already in custody), after subsection (2) there is inserted—

“(2A) Where the accused person is serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates, the reference in subsection (2) to the expected date of his release is to be read as a reference to the expected date of his next release on licence.”.

**Commencement Information**

**I25** Sch. 32 para. 29 partly in force; Sch. 32 para. 29 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 29 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

VALID FROM 04/04/2005

30 In section 133 (consecutive terms of imprisonment), in subsection (1), for “Subject to section 84 of the Powers of Criminal Courts (Sentencing) Act 2000,” there is substituted “ Subject to section 265 of the Criminal Justice Act 2003, ”.

**Commencement Information**

**I26** Sch. 32 para. 30 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(14\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

*Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55)*

- 31 In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (ineligibility for and disqualification and excusal from jury service), in Part 2, in paragraph (bb), for sub-paragraph (v) there is substituted—
- “(v) a community order within the meaning of section 177 of the Criminal Justice Act 2003;
- (va) a youth community order as defined by section 33 of the Powers of Criminal Courts (Sentencing) Act 2000;”.

**Commencement Information**

- I27** Sch. 32 para. 31 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(15\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

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

- 32 (1) In Schedule 3 to the Public Passenger Vehicles Act 1981 (supplementary provisions as to qualifications for PSV operators licence), paragraph 1 is amended as follows.
- (2) In sub-paragraph (4)(a), for “a community service order for more than sixty hours” there is substituted “a community order requiring the offender to perform unpaid work for more than sixty hours”.
- (3) In sub-paragraph (6), for the words from “ “a community” onwards there is substituted “ “a community order” means an order under section 177 of the Criminal Justice Act 2003, a community punishment order made before the commencement of that section or a community service order under the Community Service by Offenders (Scotland) Act 1978”.

**Commencement Information**

- I28** Sch. 32 para. 32 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(16\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

*Criminal Attempts Act 1981 (c. 47)*

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### Textual Amendments

- F1** Sch. 32 para. 33 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

VALID FROM 04/04/2005

### *Criminal Justice Act 1982 (c. 48)*

34 The Criminal Justice Act 1982 is amended as follows.

#### Commencement Information

- I29** Sch. 32 para. 34 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(17\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

35 In section 32 (early release of prisoners), in subsection (1)(a), after “life” there is inserted “, imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or an extended sentence under section 227 of that Act ”.

#### Commencement Information

- I30** Sch. 32 para. 35 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(17\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

36 (1) Part 3 of Schedule 13 (reciprocal arrangements (Northern Ireland): persons residing in England and Wales or Scotland) is amended as follows.

(2) In paragraph 7—

- (a) in sub-paragraph (2)(b), for “such orders” there is substituted “ an unpaid work requirement of a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
- (b) in sub-paragraph (3)(b), for the words from “community service orders” onwards there is substituted “ community orders within the meaning of Part 12 of the Criminal Justice Act 2003 conferred on responsible officers by that Part of that Act. ”.

(3) For paragraph 9(3) there is substituted—

“(3) Subject to the following provisions of this paragraph—

- (a) a community service order made or amended in the circumstances specified in paragraph 7 above shall be treated as if it were a community order made in England and Wales under section 177 of the Criminal Justice Act 2003 and the provisions of Part 12 of that Act (so far as relating to such orders) shall apply accordingly; and
- (b) a community service order made or amended in the circumstances specified in paragraph 8 above shall be treated as if it were a community service order made in Scotland and the legislation relating to community service orders in Scotland shall apply accordingly.”

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- (4) In paragraph 9(4)(a), after “community service orders” there is inserted “ or, as the case may be, community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”.
- (5) In paragraph 9(5), after “a community service order” there is inserted “ or, as the case may be, a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”.
- (6) In paragraph 9(6)—
- (a) after “community service orders”, where first occurring, there is inserted “ or, as the case may be, community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
  - (b) in paragraph (b)(i), for “the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ Part 12 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I31** Sch. 32 para. 36 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(17\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

*Mental Health Act 1983 (c. 20)*

37 The Mental Health Act 1983 is amended as follows.

**Commencement Information**

**I32** Sch. 32 para. 37 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(18\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 38 In section 37 (powers of courts to order hospital admission or guardianship)—
- (a) in subsection (1), the words “or falls to be imposed under section 109(2) of the Powers of Criminal Courts (Sentencing) Act 2000” are omitted,
  - (b) for subsections (1A) and (1B) there is substituted —
    - “(1A) In the case of an offence the sentence for which would otherwise fall to be imposed—
      - (a) under section 51A(2) of the Firearms Act 1968,
      - (b) under section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000, or
      - (c) under any of sections 225 to 228 of the Criminal Justice Act 2003,

nothing in those provisions shall prevent a court from making an order under subsection (1) above for the admission of the offender to a hospital.

    - (1B) References in subsection (1A) above to a sentence falling to be imposed under any of the provisions mentioned in that

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subsection are to be read in accordance with section 305(4) of the Criminal Justice Act 2003.”

- (c) in subsection (8), for “probation order” there is substituted “community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”.

**Commencement Information**

**I33** Sch. 32 para. 38 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(18) (subject to art. 2(2), Sch. 2)

- 39 In section 45A (powers of higher courts to direct hospital admission), in subsection (1)(b), the words from “except” to “1997” are omitted.

**Commencement Information**

**I34** Sch. 32 para. 39 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(18) (subject to art. 2(2), Sch. 2)

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

VALID FROM 04/04/2005

- 40 The Repatriation of Prisoners Act 1984 is amended as follows.

**Commencement Information**

**I35** Sch. 32 para. 40 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(19) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 41 In section 2 (transfer out of the United Kingdom), in subsection (4)(b), for subparagraph (i) there is substituted—  
“(i) released on licence under section 28(5) of the Crime (Sentences) Act 1997 or under section 244 or 246 of the Criminal Justice Act 2003; or”.

**Commencement Information**

**I36** Sch. 32 para. 41 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(19) (subject to art. 2(2), Sch. 2)

- 42 In section 3 (transfer into the United Kingdom), subsection (9) is omitted.
- 43 (1) The Schedule (operation of certain enactments in relation to the prisoner) is amended as follows in relation to prisoners repatriated to England and Wales.

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(2) In paragraph 2, for sub-paragraphs (1A) and (2) there is substituted—

“(2) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the amount of time the prisoner has served shall, so far only as the question whether he has served a particular part of a life sentence is concerned, be deemed to be increased by that period.

(3) Where the prisoner’s sentence is for a term of less than twelve months, Chapter 6 of Part 12 of the Criminal Justice Act 2003 shall apply as if the sentence were for a term of twelve months or more.

(4) In this paragraph—

“the enactments relating to release on licence” means section 28(5) and (7) of the Crime (Sentences) Act 1997 and Chapter 6 of Part 12 of the Criminal Justice Act 2003;

“sentence”, means the provision included in the warrant which is equivalent to sentence.”.

(3) Paragraph 3 is omitted.

**Commencement Information**

**I37** Sch. 32 para. 43 wholly in force at 4.4.2005; Sch. 32 para. 43(3) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 43 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(19\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

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

44 In section 38 of the Police and Criminal Evidence Act 1984 (duties of custody officer after charge), for the definitions of “sexual offence” and “violent offence” in subsection (6A) there is substituted—

““sexual offence” means an offence specified in Part 2 of Schedule 15 to the Criminal Justice Act 2003;

“violent offence” means murder or an offence specified in Part 1 of that Schedule;”.

**Commencement Information**

**I38** Sch. 32 para. 44 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(20\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

*Criminal Justice Act 1988 (c. 33)*

45 The Criminal Justice Act 1988 is amended as follows.

**Commencement Information**

**I39** Sch. 32 para. 45 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(21\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

46 In section 36 (reviews of sentencing), in subsection (2), for the words from “erred in law” onwards there is substituted—

- “(a) erred in law as to his powers of sentencing; or
- (b) failed to impose a sentence required by—
  - (i) section 51A(2) of the Firearms Act 1968;
  - (ii) section 110(2) or 111(2) of the Powers of Criminal Courts (Sentencing) Act 2000; or
  - (iii) any of sections 225 to 228 of the Criminal Justice Act 2003.”

**Commencement Information**

**I40** Sch. 32 para. 46 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(21\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

47 In section 50 (suspended and partly suspended sentences on certain civilians in courts-martial and Standing Civilian Courts), in subsection (3)(b)(i), for “Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “Criminal Justice Act 2003”.

**Commencement Information**

**I41** Sch. 32 para. 47 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(21\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

*Firearms (Amendment) Act 1988 (c. 45)*

48 The Firearms (Amendment) Act 1988 is amended as follows.

49 In section 1 (prohibited weapons and ammunition), in subsection (4A) after paragraph (b) there is inserted—

- “(bb) may amend subsection (1A)(a) of section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 (offenders under 18 convicted of certain serious offences: power to detain for specified period) so as to include a reference to any provision added by the order to section 5(1) of the principal Act,
- (bc) may amend section 50(5A)(a), 68(4A)(a) or 170(4A)(a) of the Customs and Excise Management Act 1979 (offences relating to

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improper importation or exportation) so as to include a reference to anything added by the order to section 5(1) of the principal Act.”.

- 50 In section 27(4) (which relates to Northern Ireland), after “Except for” there is inserted “ section 1, so far as enabling provision to be made amending the Customs and Excise Management Act 1979, and ”.

PROSPECTIVE

*Road Traffic Act 1988 (c. 52)*

- 51 In section 164 of the Road Traffic Act 1988 (power of constables to require production of driving licence and in certain cases statement of date of birth), in subsection (5), for “section 40 of the Crime (Sentences) Act 1997” there is substituted “ section 301 of the Criminal Justice Act 2003 ”.

VALID FROM 01/12/2020

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

- 52 The Road Traffic Offenders Act 1988 is amended as follows.

**Commencement Information**

- I42** Sch. 32 para. 52 partly in force; Sch. 32 para. 52 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 52 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(22\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PROSPECTIVE

- 53 In section 27 (production of licence), in subsection (3), for “section 40 of the Crime (Sentences) Act 1997” there is substituted “ section 301 of the Criminal Justice Act 2003 ”.

- 54 In section 46 (combination of disqualification and endorsement with probation orders and orders for discharge), in subsection (1), paragraph (a) and the word “or” following it shall cease to have effect.

**Commencement Information**

- I43** Sch. 32 para. 54 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(22\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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*Football Spectators Act 1989 (c. 37)*

VALID FROM 04/04/2005

55 The Football Spectators Act 1989 is amended as follows.

**Commencement Information**

**I44** Sch. 32 para. 55 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(23\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

56 In section 7 (disqualification for membership of scheme), subsection (9) is omitted.

**Commencement Information**

**I45** Sch. 32 para. 56 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(23\)](#) (subject to [art. 2\(2\), Sch. 2](#))

57 In section 14E (banning orders: general), after subsection (6) there is inserted—

“(7) A person serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates is to be treated for the purposes of this section as having been detained in legal custody until his final release; and accordingly any reference in this section to release is, in relation to a person serving such a sentence, a reference to his final release.”

**Commencement Information**

**I46** Sch. 32 para. 57 partly in force; Sch. 32 para. 57 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 57 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#)

58 In section 18 (information), after subsection (4) there is inserted—

“(5) In relation to a person serving a sentence of imprisonment to which an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates, any reference in this section to his detention or to his release shall be construed in accordance with section 14E(7).”

**Commencement Information**

**I47** Sch. 32 para. 58 partly in force; Sch. 32 para. 58 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 58 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#)

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VALID FROM 04/04/2005

*Children Act 1989 (c. 41)*

59 The Children Act 1989 is amended as follows.

**Commencement Information**

**I48** Sch. 32 para. 59 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(24\)](#) (subject to [art. 2\(2\), Sch. 2](#))

60 (1) Section 68 (persons disqualified from being foster parents) is amended as follows.

(2) In subsection (2)(d), the words “a probation order has been made in respect of him or he has been” are omitted.

(3) After subsection (2) there is inserted—

“(2A) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of subsection (2)(d).”

**Commencement Information**

**I49** Sch. 32 para. 60 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(24\)](#) (subject to [art. 2\(2\), Sch. 2](#))

61 (1) In Schedule 9A (child minding and day care for young children), paragraph 4 is amended as follows.

(2) In sub-paragraph (2)(g), the words “placed on probation or” are omitted.

(3) At the end there is inserted—

“(7) A conviction in respect of which a probation order was made before 1st October 1992 (which would not otherwise be treated as a conviction) is to be treated as a conviction for the purposes of this paragraph.”

**Commencement Information**

**I50** Sch. 32 para. 61 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(24\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

*Criminal Justice Act 1991 (c. 53)*

62 The Criminal Justice Act 1991 is amended as follows.

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### Commencement Information

**I51** Sch. 32 para. 62 partly in force; Sch. 32 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 62 in force for certain purposes at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(25) (subject to **art. 2(2)**, Sch. 2)

### PROSPECTIVE

- 63 Section 65 (supervision of young offenders after release) is omitted.
- 64 (1) Schedule 3 (reciprocal enforcement of certain orders) is amended as follows.
- (2) In paragraph 10(3)(d), for the words from “paragraph 3 of Schedule 2” onwards there is substituted “ section 201 of the Criminal Justice Act 2003 ”.
- (3) In paragraph 11(2) —
- (a) in paragraph (a)—
- (i) for “probation order” there is substituted “ community order ”, and
- (ii) after “England and Wales” there is inserted “ under section 177 of the Criminal Justice Act 2003 ”, and
- (b) for paragraph (b) there is substituted—
- “(b) the provisions of Part 12 of that Act (so far as relating to such orders) shall apply accordingly.”.
- (4) In paragraph 11(3), for paragraphs (a) and (b) there is substituted—
- “(a) the requirements of Part 12 of the Criminal Justice Act 2003 relating to community orders (within the meaning of that Part);
- (b) the powers of the home court under Schedule 8 to that Act, as modified by this paragraph; and”.
- (5) In paragraph 11(4), for the words from “probation order made by a court” onwards there is substituted “ community order made by a court in England and Wales under section 177 of the Criminal Justice Act 2003, except a power conferred by paragraph 9(1)(b) or (c) or 13(2) of Schedule 8 to that Act ”.
- (6) In paragraph 11(5), for “the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ Part 12 of the Criminal Justice Act 2003 ”.

### Commencement Information

**I52** Sch. 32 para. 64 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(25) (subject to **art. 2(2)**, Sch. 2)

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VALID FROM 04/04/2005

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

- 65 In section 1 of the Aggravated Vehicle-Taking Act 1992 (new offence of aggravated vehicle taking), in subsection (2)(a), for “section 127 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ section 163 of the Criminal Justice Act 2003 ”.

**Commencement Information**

- I53** Sch. 32 para. 65 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(26\)](#) (subject to [art. 2\(2\), Sch. 2](#))

*Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*

- 66 In section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to Scotland)—
- (a) in subsection (1)—
- (i) in paragraph (a), sub-paragraph (i), and the succeeding “or”, are omitted, and
- (ii) after paragraph (a)(ii) there is inserted “or
- (iii) subsections (5) to (8) of section 28 (early release of life prisoners to whom that section applies) of the Crime (Sentences) Act 1997 (c. 43) (in this section, the “1997 Act”) apply by virtue of an order made under section 28(2)(b) of that Act (while that provision was in force) or an order made under section 269(2) of, or paragraph 3(1)(a) of Schedule 22 to, the Criminal Justice Act 2003;”, and
- (iii) for “28(2)(b) or 82A(2) or paragraph” there is substituted “ 82A(2), 28(2)(b) or 269(2) or paragraph 3(1)(a) or ”;
- (b) after subsection (1) there is inserted—
- “(1AA) This Part of this Act, except section 2(9), applies also to a transferred life prisoner—
- (a) who is transferred from England and Wales on or after the date on which section 269 of the Criminal Justice Act 2003 comes into force,
- (b) in relation to whom paragraph 3 of Schedule 22 to that Act applies by virtue of paragraph 2(a) of that Schedule, but
- (c) in respect of whom, under the paragraph so applying, no order has been made,
- as if the prisoner were a life prisoner within the meaning of section 2 of this Act and the punishment part of his sentence within the meaning of that section were the notified minimum term defined by paragraph 3(4) of that Schedule.”; and

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- (c) in subsection (5)(b)—
- (i) for “the Crime (Sentences) Act 1997” there is substituted “ the 1997 Act ”, and
  - (ii) after the words “Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)” there is inserted “ section 269(2) of, or paragraph 3(1)(a) of Schedule 22 to, the Criminal Justice Act 2003, ”.

VALID FROM 04/04/2005

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

- 67 In section 25 of the Criminal Justice and Public Order Act 1994 (no bail for defendants charged with or convicted of homicide or rape after previous conviction of such offences), in paragraph (c) of the definition of “conviction” in subsection (5)—
- (a) the words “placing the offender on probation or” are omitted, and
  - (b) for “him” there is substituted “ the offender ”.

**Commencement Information**

- I54** Sch. 32 para. 67 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(27) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

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

- 68 (1) In Schedule 3 to the Goods Vehicles (Licensing of Operators) Act 1995 (qualifications for standard licence), paragraph 3 is amended as follows.
- (2) In sub-paragraph (2)(a), for “exceeding three months” there is substituted “ of 12 months or more or, before the commencement of section 181 of the Criminal Justice Act 2003, a term exceeding 3 months ”.
  - (3) In sub-paragraph (2)(c), for “community service order” there is substituted “ community order ”.
  - (4) For sub-paragraph (3)(b), there is substituted—
    - “(b) “community order” means a community order under section 177 of the Criminal Justice Act 2003, a community punishment order made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community service order under the Community Service by Offenders (Scotland) Act 1978.”.

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#### Commencement Information

- I55** Sch. 32 para. 68 partly in force; Sch. 32 para. 68 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 68(1)(3)(4) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(28) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 04/04/2005

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

69 The Criminal Procedure (Scotland) Act 1995 is amended as follows.

#### Commencement Information

- I56** Sch. 32 para. 69 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(29) (subject to **art. 2(2)**, Sch. 2)

70 (1) Section 234 (probation orders: persons residing in England and Wales) is amended as follows.

(2) In subsection (1), the words after paragraph (b) are omitted.

(3) For subsection (2) there is substituted—

“(2) Subsection (1) above applies to any probation order made under section 228 unless the order includes requirements which are more onerous than those which a court in England and Wales could impose on an offender under section 177 of the Criminal Justice Act 2003.”

(4) In subsection (3), the words from “or to vary” to “one hundred” are omitted.

(5) In subsection (4)—

(a) in paragraph (a)—

(i) for “paragraph 5(3) of Schedule 2 to the 2000 Act” there is substituted “section 207(2) of the Criminal Justice Act 2003”,

(ii) for “or, as the case may be, community rehabilitation orders” there is substituted “or, as the case may be, community orders under Part 12 of that Act”, and

(iii) for “paragraph 5 of the said Schedule 2” there is substituted “section 207 of the Criminal Justice Act 2003”, and

(b) in paragraph (b), for “sub-paragraphs (5) to (7) of the said paragraph 5” there is substituted “sections 207(4) and 208(1) and (2) of the Criminal Justice Act 2003”.

(6) After subsection (4) there is inserted—

“(4A) A probation order made or amended under this section must specify as the corresponding requirements for the purposes of this section requirements

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which could be included in a community order made under section 177 of the Criminal Justice Act 2003.”

(7) In subsection (5), for “Schedule 3” onwards there is substituted “ Schedule 8 to the Criminal Justice Act 2003 shall apply as if it were a community order made by a magistrates' court under section 177 of that Act and imposing the requirements specified under subsection (4A) above ”.

(8) For subsection (6) there is substituted—

“(6) In its application to a probation order made or amended under this section, Schedule 8 to the Criminal Justice Act 2003 has effect subject to the following modifications—

- (a) any reference to the responsible officer has effect as a reference to the person appointed or assigned under subsection (1)(a) above,
- (b) in paragraph 9—
  - (i) paragraphs (b) and (c) of sub-paragraph (1) are omitted,
  - (ii) in sub-paragraph (6), the first reference to the Crown Court has effect as a reference to a court in Scotland, and
  - (iii) any other reference in sub-paragraphs (6) or (7) to the Crown Court has effect as a reference to the court in Scotland, and
- (c) Parts 3 and 5 are omitted.”

(9) In subsection (10)—

- (a) for the words from “paragraph 6” to “community rehabilitation orders” there is substituted “ paragraph 8 of Schedule 9 (which relates to community orders ”, and
- (b) for “an order made under section 41” there is substituted “ a community order made under Part 12 ”.

#### **Commencement Information**

**I57** Sch. 32 para. 70 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(29) (subject to art. 2(2), Sch. 2)

71 In section 242 (community service orders: persons residing in England and Wales)—

(a) in subsection (1)—

- (i) in paragraph (a)(ii), for “a community punishment order” there is substituted “ an unpaid work requirement imposed by a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
- (ii) in paragraph (a)(iii), for “community punishment orders made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “ unpaid work requirements imposed by community orders made under section 177 of the Criminal Justice Act 2003 ”,

(b) in subsection (2)(b), for “community punishment orders made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000”

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- there is substituted “ unpaid work requirements imposed by community orders made under section 177 of the Criminal Justice Act 2003 ”, and
- (c) in subsection (3)(b), for “ in respect of community punishment orders conferred on responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000 ” there is substituted “ conferred on responsible officers by Part 12 of the Criminal Justice Act 2003 in respect of unpaid work requirements imposed by community orders (within the meaning of that Part) ”.

#### Commencement Information

**I58** Sch. 32 para. 71 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(29) (subject to art. 2(2), Sch. 2)

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In section 244 (community service orders: provisions relating to persons living in England and Wales or Northern Ireland)—

- (a) in subsection (3)(a)—
- (i) for “ community punishment order ” there is substituted “ community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
- (ii) for “ community punishment orders ” there is substituted “ such community orders ”,
- (b) in subsection (4)(a), for “ community punishment orders ” there is substituted “ community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”,
- (c) in subsection (5), for “ community punishment order ” there is substituted “ a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
- (d) in subsection (6)—
- (i) for “ community punishment orders ”, where first occurring, there is substituted “ community orders (within the meaning of Part 12 of the Criminal Justice Act 2003) ”, and
- (ii) in paragraph (b)(ii), for “ the Powers of Criminal Courts (Sentencing) Act 2000 ” there is substituted “ Part 12 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I59** Sch. 32 para. 72 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(29) (subject to art. 2(2), Sch. 2)



**Status:** Point in time view as at 26/01/2004. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Criminal Justice Act 2003, Part 1 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 04/04/2005

*Education Act 1996 (c. 56)*

- 73 In section 562 of the Education Act 1996 (Act not to apply to persons detained under order of a court), for “probation order” there is substituted “ community order under section 177 the Criminal Justice Act 2003 ”.

**Commencement Information**

- I60** Sch. 32 para. 73 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(30\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

*Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I.24))*

- 74 The Criminal Justice (Northern Ireland) Order 1996 is amended as follows.

**Commencement Information**

- I61** Sch. 32 para. 74 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 75 In Article 2 (interpretation) after paragraph (8) there is inserted—

“(9) For the purposes of this Order, a sentence falls to be imposed under paragraph (2) of Article 52A of the Firearms (Northern Ireland) Order 1981 if it is required by that paragraph and the court is not of the opinion there mentioned.”

**Commencement Information**

- I62** Sch. 32 para. 75 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 76 In Article 4 (absolute and conditional discharge), in paragraph (1), for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

**Commencement Information**

- I63** Sch. 32 para. 76 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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77 In Article 10 (probation orders), in paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

**Commencement Information**

**I64** Sch. 32 para. 77 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

78 (1) Article 13 (community service orders) is amended as follows.

(2) In paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

(3) In paragraph (4)(b) as it has effect pursuant to paragraph 7(1) of Schedule 13 to the Criminal Justice Act 1982 (reciprocal arrangements), for “such orders” there is substituted “an unpaid work requirement of a community order (within the meaning of Part 12 of the Criminal Justice Act 2003) ”.

**Commencement Information**

**I65** Sch. 32 para. 78 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

79 In Article 15 (orders combining probation and community service), in paragraph (1) for “(not being an offence for which the sentence is fixed by law)” there is substituted “ (not being an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981) ”.

**Commencement Information**

**I66** Sch. 32 para. 79 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

80 In Article 19 (restrictions on imposing custodial sentences), at the end of paragraph (1) there is inserted “or falling to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981”.

**Commencement Information**

**I67** Sch. 32 para. 80 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 81 (1) In Article 20 (length of custodial sentences), at the end of paragraph (1) there is inserted “ or falling to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981 ”.
- (2) In Article 24 (custody probation orders), in paragraph (1) for “other than one fixed by law” there is substituted “ , other than an offence for which the sentence is fixed by law or falls to be imposed under Article 52A(2) of the Firearms (Northern Ireland) Order 1981, ”.

**Commencement Information**

**I68** Sch. 32 para. 81 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(31\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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

VALID FROM 04/04/2005

- 82 The Crime (Sentences) Act 1997 is amended as follows.

**Commencement Information**

**I69** Sch. 32 para. 82 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(32\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 83 (1) Section 31 (duration and conditions of licences) is amended as follows.
- (2) In subsection (3), for the words from “except” onwards there is substituted “ except in accordance with recommendations of the Parole Board ”.
- (3) Subsection (4) is omitted.
- (4) In subsection (6), for “section 46(3) of the 1991 Act” there is substituted “ section 259 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I70** Sch. 32 para. 83 wholly in force at 4.4.2005; Sch. 32 para. 83(1)-(3) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 83(4) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(32\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 84 In section 32 (recall of life prisoners while on licence) for subsection (5) there is substituted—

“(5) Where on a reference under subsection (4) above the Parole Board directs the immediate release on licence under this section of the life prisoner, the Secretary of State shall give effect to the direction.”

- 85 (1) Schedule 1 (transfers of prisoners within the British Islands) is amended as follows.

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(2) In paragraph 6, after sub-paragraph (3) there is inserted—

“(4) In this Part of this Schedule—

“the 2003 Act” means the Criminal Justice Act 2003;

“custody plus order” has the meaning given by section 181(4) of that Act;

“intermittent custody order” has the meaning given by section 183(2) of that Act.”

(3) In paragraph 8 (restricted transfers from England and Wales to Scotland)—

(a) for sub-paragraph (2)(a) there is substituted—

“(a) sections 241, 244, 247 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;

(aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;

(ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and”,

(b) for sub-paragraph (4)(a) there is substituted—

“(a) sections 241, 249 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;

(aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;

(ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and”, and

(c) for sub-paragraphs (5) to (7) there is substituted—

“(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a relevant officer of such local authority as may be specified in the licence”.

(“) Any provision of sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if—

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- (a) any reference to secure accommodation were a reference to secure accommodation within the meaning of Part 2 of the Children (Scotland) Act 1995 or a young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989,
- (b) except in section 103(2), any reference to the Secretary of State were a reference to the Scottish Ministers,
- (c) any reference to an officer of a local probation board were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
- (d) any reference to a youth court were a reference to a sheriff court,
- (e) in section 103, any reference to a [F<sup>2</sup>local justice area] were a reference to a local government area within the meaning of the Local Government etc. (Scotland) Act 1994,
- (f) in section 103(3), for paragraphs (b) and (c) there were substituted a reference to an officer of a local authority constituted under that Act for the local government area in which the offender resides for the time being,
- (g) section 103(5) were omitted,
- (h) in section 104, for subsection (1) there were substituted—
  - “(1) Where a detention and training order is in force in respect of an offender and it appears on information to a sheriff court having jurisdiction in the locality in which the offender resides that the offender has failed to comply with requirements under section 103(6)(b), the court may—
    - (a) issue a citation requiring the offender to appear before it at the time specified in the citation, or
    - (b) issue a warrant for the offender’s arrest.”,
- (i) section 104(2) were omitted, and
- (j) in section 104(6), the reference to the Crown Court were a reference to the High Court of Justiciary.”

(4) In paragraph 9 (restricted transfers from England and Wales to Northern Ireland)—

(a) for sub-paragraph (2)(a) there is substituted—

- “(a) sections 241, 244, 247 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
- (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4

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of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and”,

(b) for sub-paragraph (4)(a) there is substituted—

“(a) sections 241, 249 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;

(aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;

(ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and”,

(c) for sub-paragraphs (5) to (7) there is substituted—

“(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a probation appointed for or assigned to the petty sessions district within which the prisoner for the time being resides”.”

(5) In paragraph 15 (unrestricted transfers: general provisions), sub-paragraph (5) is omitted.

#### Textual Amendments

**F2** Words in Sch. 32 para. 85(3)(c) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 112\(a\)](#)

85 (1) Schedule 1 (transfers of prisoners within the British Islands) is amended as follows.

(2) In paragraph 6, after sub-paragraph (3) there is inserted—

“(4) In this Part of this Schedule—

“the 2003 Act” means the Criminal Justice Act 2003;

“custody plus order” has the meaning given by section 181(4) of that Act;

“intermittent custody order” has the meaning given by section 183(2) of that Act.”

(3) In paragraph 8 (restricted transfers from England and Wales to Scotland)—

(a) for sub-paragraph (2)(a) there is substituted—

“(a) sections 241, 244, 247 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to

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- 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
- (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;
- (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and”,
- (b) for sub-paragraph (4)(a) there is substituted—
- “(a) sections 241, 249 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Scotland;
- (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Scotland;
- (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall also apply to him (subject to Schedule 11 to that Act); and”, and
- (c) for sub-paragraphs (5) to (7) there is substituted—
- “(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a relevant officer of such local authority as may be specified in the licence”.
- (“) Any provision of sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 which is applied by sub-paragraph (2) or (4) above shall have effect (as so applied) as if—
- (a) any reference to secure accommodation were a reference to secure accommodation within the meaning of Part 2 of the Children (Scotland) Act 1995 or a young offenders institution provided under section 19(1)(b) of the Prisons (Scotland) Act 1989,
- (b) except in section 103(2), any reference to the Secretary of State were a reference to the Scottish Ministers,
- (c) any reference to an officer of a local probation board were a reference to a relevant officer as defined by section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
- (d) any reference to a youth court were a reference to a sheriff court,

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- (e) in section 103, any reference to a petty sessions area were a reference to a local government area within the meaning of the Local Government etc. (Scotland) Act 1994,
  - (f) in section 103(3), for paragraphs (b) and (c) there were substituted a reference to an officer of a local authority constituted under that Act for the local government area in which the offender resides for the time being,
  - (g) section 103(5) were omitted,
  - (h) in section 104, for subsection (1) there were substituted—
    - “(1) Where a detention and training order is in force in respect of an offender and it appears on information to a sheriff court having jurisdiction in the locality in which the offender resides that the offender has failed to comply with requirements under section 103(6)(b), the court may—
      - (a) issue a citation requiring the offender to appear before it at the time specified in the citation, or
      - (b) issue a warrant for the offender’s arrest.”,
    - (i) section 104(2) were omitted, and
    - (j) in section 104(6), the reference to the Crown Court were a reference to the High Court of Justiciary.”
- (4) In paragraph 9 (restricted transfers from England and Wales to Northern Ireland)—
- (a) for sub-paragraph (2)(a) there is substituted—
    - “(a) sections 241, 244, 247 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 102 to 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 28 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
    - (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
    - (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and”,
  - (b) for sub-paragraph (4)(a) there is substituted—
    - “(a) sections 241, 249 to 252 and 254 to 264 of the 2003 Act (fixed-term prisoners) or, as the case may require, sections 103 and 104 of the Powers of Criminal Courts (Sentencing) Act 2000 (detention and training orders) or sections 31 to 34 of this Act (life sentences) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;
    - (aa) sections 62 and 64 of the Criminal Justice and Court Services Act 2000 (which relate to licence conditions) shall apply to him in place of the corresponding provisions of the law of Northern Ireland;



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- (ab) where a custody plus order or intermittent custody order has effect in relation to him, the provisions of Chapters 3 and 4 of Part 12 of the 2003 Act relating to such orders shall apply to him (subject to Schedule 11 to that Act); and”,
- (c) for sub-paragraphs (5) to (7) there is substituted—

“(5) Section 31(2A) of this Act (conditions as to supervision after release), as applied by sub-paragraph (2) or (4) above, shall have effect as if for paragraphs (a) to (c) there were substituted the words “a probation appointed for or assigned to the petty sessions district within which the prisoner for the time being resides”.”

- (5) In paragraph 15 (unrestricted transfers: general provisions), sub-paragraph (5) is omitted.

VALID FROM 04/04/2005

86 In Schedule 2 (repatriation of prisoners to the British Islands) paragraphs 2 and 3 are omitted.

**Commencement Information**

**I71** Sch. 32 para. 86 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(32) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

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

87 The Crime and Disorder Act 1998 is amended as follows.

**Commencement Information**

**I72** Sch. 32 para. 87 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(33) (subject to art. 2(2), Sch. 2)

- 88 In section 18 (interpretation etc. of Chapter 1)—
- (a) after the definition of “responsible officer” in subsection (1) there is inserted—
- ““serious harm” shall be construed in accordance with section 224 of the Criminal Justice Act 2003;”;
- and
- (b) subsection (2) is omitted.

**Commencement Information**

**I73** Sch. 32 para. 88 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(33) (subject to art. 2(2), Sch. 2)

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- 89 (1) Section 38 (local provision of youth justice services) is amended as follows.
- (2) In subsection (4)(g), for “probation order, a community service order or a combination order” there is substituted “community order under section 177 of the Criminal Justice Act 2003”.
- (3) In subsection (4)(i), after “1997 Act”)” there is inserted “or by virtue of conditions imposed under section 250 of the Criminal Justice Act 2003”.

**Commencement Information**

**I74** Sch. 32 para. 89 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(33\)](#) (subject to [art. 2\(2\), Sch. 2](#))

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

VALID FROM 04/04/2005

- 90 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

**Commencement Information**

**I75** Sch. 32 para. 90 partly in force; Sch. 32 para. 90 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 90 in force for certain purposes at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

- 91 (1) Section 6 (committal for sentence in certain cases where offender committed in respect of another offence) is amended as follows.
- (2) In subsection (3)(b), for “section 120(1) below” there is substituted “paragraph 11(1) of Schedule 12 to the Criminal Justice Act 2003”.
- (3) For subsection (4)(e), there is substituted—  
     “(e) paragraph 11(2) of Schedule 12 to the Criminal Justice Act 2003 (committal to Crown Court where offender convicted during operational period of suspended sentence).”.

**Commencement Information**

**I76** Sch. 32 para. 91 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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VALID FROM 04/04/2005

- 92 In section 7 (power of Crown Court on committal for sentence under section 6), in subsection (2), for “section 119 below” there is substituted “ paragraphs 8 and 9 of Schedule 12 to the Criminal Justice Act 2003 ”.

**Commencement Information**

- I77 Sch. 32 para. 92 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 93 In section 12 (absolute and conditional discharge)—
- (a) in subsection (1) for “109(2), 110(2) or 111(2) below” there is substituted “ section 110(2) or 111(2) below, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003 ”, and
  - (b) subsection (4) (duty to explain effect of order for conditional discharge) is omitted.

**Commencement Information**

- I78 Sch. 32 para. 93 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 94 In the heading to Part 4, and the heading to Chapter 1 of that Part, for “COMMUNITY ORDERS” there is substituted “ YOUTH COMMUNITY ORDERS ”.

**Commencement Information**

- I79 Sch. 32 para. 94 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 95 For section 33 there is substituted—

**“33 Meaning of “youth community order” and “community sentence”**

- (1) In this Act “youth community order” means any of the following orders—

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- (a) a curfew order;
  - (b) an exclusion order;
  - (c) an attendance centre order;
  - (d) a supervision order;
  - (e) an action plan order.
- (2) In this Act “community sentence” means a sentence which consists of or includes—
- (a) a community order under section 177 of the Criminal Justice Act 2003, or
  - (b) one or more youth community orders.”

#### Commencement Information

**180** Sch. 32 para. 95 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 96 (1) Section 36B (electronic monitoring of requirements in community orders) is amended as follows.
- (2) In the heading for “**community orders**” there is substituted “**youth community orders**”, and
- (3) In subsection (1)—
- (a) for “to (4)” there is substituted “and (3)”, and
  - (b) for “community order” there is substituted “youth community order”.
- (4) In subsection (2) and (6)(a), for “community order” there is substituted “youth community order”.

#### Commencement Information

**181** Sch. 32 para. 96 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 97 (1) Section 37 (curfew orders) is amended as follows.
- (2) In subsection (1)—
- (a) after the word “person” there is inserted “aged under 16”, and
  - (b) for “sections 34 to 36 above” there is substituted “sections 148, 150 and 156 of the Criminal Justice Act 2003”.

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(3) In subsection (5), for “community order” there is substituted “ youth community order ”.

(4) Subsection (10) is omitted.

#### Commencement Information

**182** Sch. 32 para. 97 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

VALID FROM 04/04/2005

98 In section 39 (breach, revocation and amendment of curfew orders), for “community orders” there is substituted “ youth community orders ”.

#### Commencement Information

**183** Sch. 32 para. 98 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

99 In section 40 (curfew orders: supplementary), in subsection (3), for “paragraphs 2A(4) and (5) and 19(3)” there is substituted “ paragraph 16(2) ”.

VALID FROM 04/04/2005

100 (1) Section 40A (exclusion orders) is amended as follows.

(2) In subsection (1)—

(a) after “person” there is inserted “ aged under 16 ”,

(b) for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”, and

(c) for “two years” there is substituted “ three months ”.

(3) In subsection (5), for “community order” there is substituted “ youth community order ”.

(4) Subsection (10) is omitted.

#### Commencement Information

**184** Sch. 32 para. 100 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

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VALID FROM 04/04/2005

101 In section 40B (breach, revocation and amendment of exclusion orders), for “community orders” there is substituted “ youth community orders ”.

**Commencement Information**

**I85** Sch. 32 para. 101 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

102 (1) Section 60 (attendance centre orders) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ” and for “21” there is substituted “ 16 ”, and

(b) in paragraph (b), for “21” there is substituted “ 16 ”, and

(c) paragraph (c) and the word “or” immediately preceding it are omitted.

(3) In subsection (4), for paragraphs (a) and (b) there is substituted “ shall not exceed 24 ”.

(4) In subsection (7), for “community order” there is substituted “ youth community order ”.

**Commencement Information**

**I86** Sch. 32 para. 102 partly in force; Sch. 32 para. 102 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 102(1)(2)(a)(4) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

103 In section 63 (supervision orders), in subsection (1), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I87** Sch. 32 para. 103 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

- 104 (1) Section 69 (action plan orders) is amended as follows.
- (2) In subsection (1), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”, and
- (3) In subsection (5)(b), for “a community rehabilitation order, a community punishment order, a community punishment and rehabilitation order,” there is substituted “ a community order under section 177 of the Criminal Justice Act 2003 ”.
- (4) Subsection (11) is omitted.

**Commencement Information**

**I88** Sch. 32 para. 104 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 105 In section 70 (requirements which may be included in action plan orders and directions), in subsection (5)(a), after the word “other” there is inserted “ youth community order or any ”.

**Commencement Information**

**I89** Sch. 32 para. 105 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 106 (1) Section 73 (reparation orders) is amended as follows.
- (2) In subsection (4)(b), for “a community punishment order, a community punishment and rehabilitation order,” there is substituted “ a community order under section 177 of the Criminal Justice Act 2003 ”.
- (3) Subsection (7) is omitted.

**Commencement Information**

**I90** Sch. 32 para. 106 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

- 107 In section 74 (requirements and provisions of reparation order, and obligations of person subject to it), in subsection (3)(a), after “community order” there is inserted “ or any youth community order ”.

**Commencement Information**

- I91** Sch. 32 para. 107 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 108 In section 76 (meaning of custodial sentence), in subsection (1) after paragraph (b) there is inserted—
- “(bb) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003;
  - (bc) a sentence of detention under section 228 of that Act;”.

**Commencement Information**

- I92** Sch. 32 para. 108 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 109 (1) Section 82A (determination of tariffs) is amended as follows.
- (2) In subsection (1), for the words from “where” onwards there is substituted “ where the sentence is not fixed by law ”.
- (3) In subsection (3)—
- (a) in paragraph (b), for “section 87” there is substituted “ section 240 of the Criminal Justice Act 2003 ”, and
  - (b) in paragraph (c), for “sections 33(2) and 35(1) of the Criminal Justice Act 1991” there is substituted “ section 244(1) of the Criminal Justice Act 2003 ”.
- (4) In subsection (4)—
- (a) after “If” there is inserted “ the offender was aged 21 or over when he committed the offence and ”, and
  - (b) the words “subject to subsection (5) below” are omitted.
- (5) Subsections (5) and (6) are omitted.

**Commencement Information**

- I93** Sch. 32 partly in force; Sch. 32 para. 109(2)(3)(b)(4)(5) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 109(1) in force for certain purposes and Sch. 32 para. 109(3)(a) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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VALID FROM 04/04/2005

- 110 (1) Section 91 (offenders under 18 convicted of certain serious offences) is amended as follows.
- (2) In subsection (3), for “none of the other methods in which the case may legally be dealt with” there is substituted “neither a community sentence nor a detention and training order”.
- (3) In subsection (4), for “section 79 and 80 above” there is substituted “section 152 and 153 of the Criminal Justice Act 2003”.

**Commencement Information**

**I94** Sch. 32 para. 110 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 111 (1) Section 100 (detention and training orders) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from the beginning to “subsection (2)” there is substituted “Subject to sections 90 and 91 above, sections 226 and 228 of the Criminal Justice Act 2003, and subsection (2)”, and
- (b) for paragraph (b) there is substituted—
- “(b) the court is of the opinion that subsection (2) of section 152 of the Criminal Justice Act 2003 applies or the case falls within subsection (3) of that section.”.
- (3) Subsection (4) is omitted.

**Commencement Information**

**I95** Sch. 32 para. 111 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 112 In section 106 (interaction of detention and training orders with sentences of detention in a young offender institution), subsections (2) and (3) are omitted.

**Commencement Information**

**I96** Sch. 32 para. 112 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

113 After section 106 there is inserted—

**“106A Interaction with sentences of detention**

- (1) In this section—
- “the 2003 Act” means the Criminal Justice Act 2003;
- “sentence of detention” means—
- (a) a sentence of detention under section 91 above, or
  - (b) a sentence of detention under section 228 of the 2003 Act (extended sentence for certain violent or sexual offences: persons under 18).
- (2) Where a court passes a sentence of detention in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—
- (a) if the offender has at any time been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the sentence is passed, and
  - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.
- (3) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention, the order shall take effect as follows—
- (a) if the offender has at any time been released under Chapter 6 of Part 12 of the 2003 Act (release on licence of fixed-term prisoners), at the beginning of the day on which the order is made, and
  - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Chapter.
- (4) Where an order under section 102(5) above is made in the case of a person in respect of whom a sentence of detention is to take effect as mentioned in subsection (2)(b) above, the order is to be expressed as an order that the period of detention attributable to the detention and training order is to end at the time determined under section 102(5)(a) or (b) above.
- (5) In determining for the purposes of subsection (3)(b) the time when an offender would otherwise be released under Chapter 6 of Part 12 of the 2003 Act, section 246 of that Act (power of Secretary of State to release prisoners on licence before he is required to do so) is to be disregarded.
- (6) Where by virtue of subsection (3)(b) above a detention and training order made in the case of a person who is subject to a sentence of detention under section 228 of the 2003 Act is to take effect at the time when he would otherwise be released under Chapter 6 of Part 12 of that Act, any direction by the Parole Board under subsection (2)(b) of section 247 of that Act in respect of him is to be expressed as a direction that the Board

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would, but for the detention and training order, have directed his release under that section.

(7) Subject to subsection (9) below, where at any time an offender is subject concurrently—

- (a) to a detention and training order, and
- (b) to a sentence of detention,

he shall be treated for the purposes of the provisions specified in subsection (8) below as if he were subject only to the sentence of detention.

(8) Those provisions are—

- (a) sections 102 to 105 above,
- (b) section 92 above and section 235 of the 2003 Act (place of detention, etc.), and
- (c) Chapter 6 of Part 12 of the 2003 Act.

(9) Nothing in subsection (7) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.”

#### Commencement Information

**I97** Sch. 32 para. 113 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

114 In section 110 (required custodial sentence for third class A drug trafficking offence), subsection (3) is omitted.

#### Commencement Information

**I98** Sch. 32 para. 114 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

115 In section 111 (minimum of three years for third domestic burglary) subsection (3) is omitted.

#### Commencement Information

**I99** Sch. 32 para. 115 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 04/04/2005

116 Sections 116 and 117 (return to prison etc. where offence committed during original sentence) shall cease to have effect.

**Commencement Information**

**I100** Sch. 32 para. 116 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

117 In section 130 (compensation orders against convicted persons), in subsection (2), for “109(2), 110(2) or 111(2) above,” there is substituted “ 110(2) or 111(2) above, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003, ”.

**Commencement Information**

**I101** Sch. 32 para. 117 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

118 In section 136 (power to order statement as to financial circumstances of parent or guardian) in subsection (2), for “section 126 above” there is substituted “ section 162 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I102** Sch. 32 para. 118 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

119 (1) Section 138 (fixing of fine or compensation to be paid by parent or guardian) is amended as follows.

(2) In subsection (1)(a), for “section 128 above” there is substituted “ section 164 of the Criminal Justice Act 2003 ”.

(3) In subsection (2), for “sections 128(1) (duty to inquire into financial circumstances) and” there is substituted “ section 164(1) of the Criminal Justice Act 2003 and section ”.

(4) In subsection (4)—

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- (a) for “section 129 above” there is substituted “ section 165 of the Criminal Justice Act 2003 ”,
- (b) for “section 129(1)” there is substituted “ section 165(1) ”, and
- (c) for “section 129(2)” there is substituted “ section 165(2) ”.

#### Commencement Information

**I103** Sch. 32 para. 119 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 120 In section 146 (driving disqualification for any offence), in subsection (2), for “109(2), 110(2) or 111(2) above” there is substituted “ 110(2) or 111(2) above, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I104** Sch. 32 para. 120 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

- 121 In section 154 (commencement of Crown Court sentence), in subsection (2), for “section 84 above” there is substituted “ section 265 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I105** Sch. 32 para. 121 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 122 In section 159 (execution of process between England and Wales and Scotland), for “10(7) or 24(1)” there is substituted “ 10(6) or 18(1) ”.

VALID FROM 04/04/2005

- 123 (1) Section 163 (interpretation) is amended as follows.
- (2) In the definition of “attendance centre” for “section 62(2) above” there is substituted “ section 221(2) of the Criminal Justice Act 2003 ”.

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- (3) In the definition of “attendance centre order” for the words from “by virtue of” to “Schedule 3” there is substituted “ by virtue of paragraph 4(2)(b) or 5(2)(b) of Schedule 3 ”.
- (4) In the definition of “community order”, for “section 33(1) above” there is substituted “ section 177(1) of the Criminal Justice Act 2003 ”.
- (5) For the definition of “curfew order” there is substituted—
- ““curfew order” means an order under section 37(1) above (and, except where the contrary intention is shown by paragraph 7 of Schedule 3 or paragraph 3 of Schedule 7 or 8, includes orders made under section 37(1) by virtue of paragraph 4(2)(a) or 5(2)(a) of Schedule 3 or paragraph 2(2)(a) of Schedule 7 or 8).”.
- (6) In the definition of “operational period”, for “section 118(3) above” there is substituted “ section 189(1)(b)(ii) of the Criminal Justice Act 2003 ”.
- (7) In the definition of “suspended sentence”, for “section 118(3) above” there is substituted “ section 189(7) of the Criminal Justice Act 2003 ”.
- (8) At the end there is inserted—
- ““youth community order” has the meaning given by section 33(1) above.”.

#### Commencement Information

**I106** Sch. 32 para. 123 partly in force; Sch. 32 para. 123 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 123(5) in force for certain purposes and Sch. 32 para. 123(1)(2)(4)(6)-(8) in force at 4.4.2005 by S.I. 2005/950, arts. 2, Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 124 In section 164 (further interpretative provision) for subsection (3) there is substituted—
- “(3) References in this Act to a sentence falling to be imposed—
- (a) under section 110(2) or 111(2) above,
- (b) under section 51A(2) of the Firearms Act 1968, or
- (c) under any of sections 225 to 228 of the Criminal Justice Act 2003,
- are to be read in accordance with section 305(4) of the Criminal Justice Act 2003.”

#### Commencement Information

**I107** Sch. 32 para. 124 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

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- 125 For Schedule 3 (breach revocation and amendment of certain community orders) there is substituted—

### “SCHEDULE 3

#### BREACH, REVOCATION AND AMENDMENT OF CURFEW ORDERS AND EXCLUSION ORDERS

#### PART 1

##### PRELIMINARY

##### *Definitions*

- 1 In this Schedule—
- “the [<sup>F3</sup>local justice area] concerned” means—
- (a) in relation to a curfew order, the [<sup>F3</sup>local justice area] in which the place for the time being specified in the order is situated; and
  - (b) in relation to an exclusion order, the [<sup>F3</sup>local justice area] for the time being specified in the order;
- “relevant order” means a curfew order or an exclusion order.

##### *Orders made on appeal*

- 2 Where a relevant 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.

#### PART 2

##### 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 [<sup>F4</sup>acting in the local justice 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—

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- (a) in the case of any 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
  - (b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court [<sup>F4</sup>acting in the local justice area] concerned.
- (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.

#### *Powers of magistrates' court*

- 4 (1) This paragraph applies 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.
- (2) The magistrates' court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) where the relevant order was made by a magistrates' court, by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where a magistrates' court deals with an offender under sub-paragraph (2) (c) above, it shall revoke the relevant order if it is still in force.
- (5) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (2)(a) or (b)



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above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.

- (6) A magistrates' court which deals with an offender's case under sub-paragraph (5) 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.
- (7) A person sentenced under sub-paragraph (2)(c) above for an offence may appeal to the Crown Court against the sentence.

#### *Powers of Crown Court*

- 5 (1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(5) 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.
- (2) The Crown Court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where the Crown Court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) 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.

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*Exclusions from paragraphs 4 and 5*

- 6 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 in respect of a failure to comply with any requirement of the order.

*Curfew orders imposed for breach of relevant order*

- 7 (1) Section 37 of this Act (curfew orders) shall apply for the purposes of paragraphs 4(2)(a) and 5(2)(a) above as if for the words from the beginning to “make” there were substituted “ Where a court has power to deal with an offender under Part 2 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) The following provisions of this Act, namely—
- (a) section 37(3) to (12), and
  - (b) so far as applicable, sections 36B and 40 and this Schedule so far as relating to curfew orders;
- have effect in relation to a curfew order made by virtue of paragraphs 4(2)(a) and 5(2)(a) as they have effect in relation to any other curfew order, subject to sub-paragraph (3) below.
- (3) This Schedule shall have effect in relation to such a curfew order as if—
- (a) the power conferred on the court by each of paragraphs 4(2)(c), 5(2)(c) 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 relevant 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 the 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 relevant order, in any way in which the appropriate court (if the relevant order was made by the 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.
- (4) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (3) above, as applied by that sub-paragraph, if the relevant order is no longer in force the appropriate court’s powers shall be determined on the assumption that it is still in force.
- (5) Sections 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 4(2)(a) or 5(2)(a) above.

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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(2)(b) and 5(2)(b) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court has power to deal with an offender under Part 2 of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant 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, section 36B and Schedule 5,
- have effect in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) 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 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) above.

*Supplementary*

- 9 Any exercise by a court of its powers under paragraph 4(2)(a) or (b) or 5(2)(a) or (b) above shall be without prejudice to the continuance of the relevant order.

**PART 3**

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 magistrates' court [<sup>F5</sup>acting in the local justice area] concerned.
- (3) The appropriate magistrates' court may—
- (a) revoke the order; or
  - (b) both—
    - (i) revoke the order; and

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- (ii) 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) 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.
- (5) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.
- (6) 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.
- (7) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

*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 he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) 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.

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

- 12 (1) This paragraph applies where—

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- (a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;
  - (b) the court imposes a custodial sentence on the offender; and
  - (c) it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to exercise its powers under this paragraph having regard to circumstances which have arisen since the order was made.
- (2) In sub-paragraph (1) above “a magistrates' court unconnected with the order” means a magistrates' court not [<sup>F5</sup>acting in the local justice area] concerned.
- (3) The court may—
  - (a) if the order was made by a magistrates' court, revoke it;
  - (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) Where the court deals with an offender's case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

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

- 13 Where by virtue of paragraph 12(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*

- 14 (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 [<sup>F6</sup>designated officer] 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.

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## PART 4

### AMENDMENT OF ORDER

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

- 15 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court [<sup>F7</sup>acting in the local justice area] concerned is satisfied that the offender proposes to change, or has changed, his residence from that [<sup>F8</sup>local justice area] to another [<sup>F8</sup>local justice area].
- (2) Subject to sub-paragraph (3) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other [<sup>F9</sup>local justice 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 curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the [<sup>F9</sup>local justice area] concerned unless, in accordance with paragraph 16 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.

#### *Amendment of requirements of order*

- 16 (1) Without prejudice to the provisions of paragraph 15 above but subject to the following provisions of this paragraph, a magistrates' court [<sup>F10</sup>acting in the local justice area] concerned may, on the application of an eligible person, by order amend a relevant order—
- (a) by cancelling any of the requirements of the order; or
  - (b) by inserting in the order (either in addition to or in substitution for any 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 curfew order by extending the curfew periods beyond the end of six months from the date of the original order.
- (3) 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 three months from the date of the original order.
- (4) 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, any affected person.

But an application under sub-paragraph (1) by a person such as is mentioned in paragraph (c) above must be for the cancellation

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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.

*Supplementary*

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

*Supplementary*

- 18 (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 to an order under paragraph 15 above substituting a new [F11]local justice area] or a new place for the one specified in a relevant order.

*Supplementary*

- 19 (1) On the making under this Part of this Schedule of an order amending a relevant order, the [F12]designated officer] for the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting, by virtue of paragraph 15 above, a new [F13]local justice 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 [F14]designated officer for] the justices for the new [F13]local justice area] or, as the case may be, for the [F13]local justice 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 of the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.”

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### Textual Amendments

- F3** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(i)**
- F4** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(ii)**
- F5** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iii)**
- F6** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iv)**
- F7** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F8** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F9** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F10** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vi)**
- F11** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vii)**
- F12** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**
- F13** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**
- F14** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**

125 For Schedule 3 (breach revocation and amendment of certain community orders) there is substituted—

“SCHEDULE  
3 **E+W**”

BREACH, REVOCATION AND AMENDMENT OF  
CURFEW ORDERS AND EXCLUSION ORDERS

**PART 1 **E+W****

PRELIMINARY

*Definitions*

1 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 an exclusion order, the petty sessions area for the time being specified in the order;

“relevant order” means a curfew order or an exclusion order.



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### *Orders made on appeal*

- 2 Where a relevant 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.

## **PART 2** **E+W**

### 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 any 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
  - (b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court acting for the petty sessions area concerned.
- (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.

#### *Powers of magistrates' court*

- 4 (1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3

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above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.

- (2) The magistrates' court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
  - (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) where the relevant order was made by a magistrates' court, by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where a magistrates' court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (2)(a) or (b) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (6) A magistrates' court which deals with an offender's case under sub-paragraph (5) 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.
- (7) A person sentenced under sub-paragraph (2)(c) above for an offence may appeal to the Crown Court against the sentence.

#### *Powers of Crown Court*

- 5 (1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(5) 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.

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- (2) The Crown Court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
  - (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where the Crown Court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) 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 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 in respect of a failure to comply with any requirement of the order.

*Curfew orders imposed for breach of relevant order*

- 7 (1) Section 37 of this Act (curfew orders) shall apply for the purposes of paragraphs 4(2)(a) and 5(2)(a) above as if for the words from the beginning to “make” there were substituted “Where a court has power to deal with an offender under Part 2 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) The following provisions of this Act, namely—
  - (a) section 37(3) to (12), and
  - (b) so far as applicable, sections 36B and 40 and this Schedule so far as relating to curfew orders;

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have effect in relation to a curfew order made by virtue of paragraphs 4(2)(a) and 5(2)(a) as they have effect in relation to any other curfew order, subject to sub-paragraph (3) below.

- (3) This Schedule shall have effect in relation to such a curfew order as if—
- (a) the power conferred on the court by each of paragraphs 4(2)(c), 5(2)(c) 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 relevant 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 the 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 relevant order, in any way in which the appropriate court (if the relevant order was made by the 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.
- (4) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (3) above, as applied by that sub-paragraph, if the relevant order is no longer in force the appropriate court's powers shall be determined on the assumption that it is still in force.
- (5) Sections 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 4(2)(a) or 5(2)(a) above.

*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(2)(b) and 5(2)(b) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court has power to deal with an offender under Part 2 of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant 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, section 36B and Schedule 5,
- have effect in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) 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 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) above.

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### *Supplementary*

- 9 Any exercise by a court of its powers under paragraph 4(2)(a) or (b) or 5(2)(a) or (b) above shall be without prejudice to the continuance of the relevant order.

## **PART 3** **E+W**

### 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 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 he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (4) 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.
- (5) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.
- (6) 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.
- (7) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

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

- 11 (1) This paragraph applies where—

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- (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 he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) 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.

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

- 12 (1) This paragraph applies where—
- (a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;
  - (b) the court imposes a custodial sentence on the offender; and
  - (c) it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to exercise its powers under this paragraph having regard to circumstances which have arisen since the order was made.
- (2) In sub-paragraph (1) above “a magistrates' court unconnected with the order” means a magistrates' court not acting for the petty sessions area concerned.
- (3) The court may—
- (a) if the order was made by a magistrates' court, revoke it;
  - (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) Where the court deals with an offender's case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

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

- 13 Where by virtue of paragraph 12(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*

- 14 (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.

**PART 4 E+W**

AMENDMENT OF ORDER

*Amendment by reason of change of residence*

- 15 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court acting for the petty sessions area concerned is satisfied that the offender proposes to change, or has changed, his residence from that petty sessions area to another petty sessions area.
- (2) Subject to sub-paragraph (3) 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 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 16 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.

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*Amendment of requirements of order*

- 16 (1) Without prejudice to the provisions of paragraph 15 above but subject to the following provisions of this paragraph, a magistrates' court acting for the petty sessions area concerned may, on the application of an eligible person, by order amend a relevant order—
- (a) by cancelling any of the requirements of the order; or
  - (b) by inserting in the order (either in addition to or in substitution for any 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 curfew order by extending the curfew periods beyond the end of six months from the date of the original order.
- (3) 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 three months from the date of the original order.
- (4) 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, any affected person.

But an application under sub-paragraph (1) 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.

*Supplementary*

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

*Supplementary*

- 18 (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 to an order under paragraph 15 above substituting a new petty sessions area or a new place for the one specified in a relevant order.



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### Supplementary

- 19 (1) On the making under this Part of this Schedule of an order amending a relevant order, the justices' chief executive for the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting, by virtue of paragraph 15 above, a new petty session 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 of the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.”

125 For Schedule 3 (breach revocation and amendment of certain community orders) there is substituted—

### “SCHEDULE 3 E+W

#### BREACH, REVOCATION AND AMENDMENT OF CURFEW ORDERS AND EXCLUSION ORDERS

#### PART 1 E+W

##### PRELIMINARY

##### Definitions

- 1 In this Schedule—
- “the [F3]local justice area] concerned” means—
- (a) in relation to a curfew order, the [F3]local justice area] in which the place for the time being specified in the order is situated; and
  - (b) in relation to an exclusion order, the [F3]local justice area] for the time being specified in the order;
- “relevant order” means a curfew order or an exclusion order.

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### *Orders made on appeal*

- 2 Where a relevant 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.

## PART 2 E+W

### 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 [<sup>F4</sup>acting in the local justice 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 any 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
  - (b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court [<sup>F4</sup>acting in the local justice area] concerned.
- (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.

#### *Powers of magistrates' court*

- 4 (1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3

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above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.

- (2) The magistrates' court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
  - (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) where the relevant order was made by a magistrates' court, by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where a magistrates' court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (2)(a) or (b) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (6) A magistrates' court which deals with an offender's case under sub-paragraph (5) 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.
- (7) A person sentenced under sub-paragraph (2)(c) above for an offence may appeal to the Crown Court against the sentence.

#### *Powers of Crown Court*

- 5 (1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(5) 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.

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- (2) The Crown Court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
  - (a) by making a curfew order in respect of him (subject to paragraph 7 below);
  - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
  - (c) by dealing 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.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where the Crown Court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) 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 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 in respect of a failure to comply with any requirement of the order.

*Curfew orders imposed for breach of relevant order*

- 7 (1) Section 37 of this Act (curfew orders) shall apply for the purposes of paragraphs 4(2)(a) and 5(2)(a) above as if for the words from the beginning to “make” there were substituted “ Where a court has power to deal with an offender under Part 2 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) The following provisions of this Act, namely—
  - (a) section 37(3) to (12), and
  - (b) so far as applicable, sections 36B and 40 and this Schedule so far as relating to curfew orders;

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have effect in relation to a curfew order made by virtue of paragraphs 4(2)(a) and 5(2)(a) as they have effect in relation to any other curfew order, subject to sub-paragraph (3) below.

- (3) This Schedule shall have effect in relation to such a curfew order as if—
- (a) the power conferred on the court by each of paragraphs 4(2)(c), 5(2)(c) 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 relevant 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 the 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 relevant order, in any way in which the appropriate court (if the relevant order was made by the 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.
- (4) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (3) above, as applied by that sub-paragraph, if the relevant order is no longer in force the appropriate court's powers shall be determined on the assumption that it is still in force.
- (5) Sections 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 4(2)(a) or 5(2)(a) above.

*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(2)(b) and 5(2)(b) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court has power to deal with an offender under Part 2 of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant 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, section 36B and Schedule 5,
- have effect in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) 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 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) above.

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### *Supplementary*

- 9 Any exercise by a court of its powers under paragraph 4(2)(a) or (b) or 5(2)(a) or (b) above shall be without prejudice to the continuance of the relevant order.

## PART 3 E+W

### 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 magistrates' court [<sup>F5</sup>acting in the local justice 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 he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (4) 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.
- (5) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.
- (6) 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.
- (7) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

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

- 11 (1) This paragraph applies where—

*Status:* Point in time view as at 26/01/2004. This version of this part contains provisions that are not valid for this point in time.

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- (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 he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) 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.

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

- 12 (1) This paragraph applies where—
- (a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;
  - (b) the court imposes a custodial sentence on the offender; and
  - (c) it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to exercise its powers under this paragraph having regard to circumstances which have arisen since the order was made.
- (2) In sub-paragraph (1) above “a magistrates' court unconnected with the order” means a magistrates' court not [<sup>F5</sup>acting in the local justice area] concerned.
- (3) The court may—
- (a) if the order was made by a magistrates' court, revoke it;
  - (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) Where the court deals with an offender's case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

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

- 13 Where by virtue of paragraph 12(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*

- 14 (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 [F<sup>6</sup>designated officer] 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.

**PART 4 E+W**

AMENDMENT OF ORDER

*Amendment by reason of change of residence*

- 15 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court [F<sup>7</sup>acting in the local justice area] concerned is satisfied that the offender proposes to change, or has changed, his residence from that [F<sup>8</sup>local justice area] to another [F<sup>8</sup>local justice area].
- (2) Subject to sub-paragraph (3) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other [F<sup>9</sup>local justice 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 curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the [F<sup>9</sup>local justice area] concerned unless, in accordance with paragraph 16 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.



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#### *Amendment of requirements of order*

- 16 (1) Without prejudice to the provisions of paragraph 15 above but subject to the following provisions of this paragraph, a magistrates' court [<sup>F10</sup>acting in the local justice area] concerned may, on the application of an eligible person, by order amend a relevant order—
- (a) by cancelling any of the requirements of the order; or
  - (b) by inserting in the order (either in addition to or in substitution for any 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 curfew order by extending the curfew periods beyond the end of six months from the date of the original order.
- (3) 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 three months from the date of the original order.
- (4) 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, any affected person.

But an application under sub-paragraph (1) 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.

#### *Supplementary*

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

#### *Supplementary*

- 18 (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 to an order under paragraph 15 above substituting a new [<sup>F11</sup>local justice area] or a new place for the one specified in a relevant order.

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### Supplementary

- 19 (1) On the making under this Part of this Schedule of an order amending a relevant order, the [<sup>F12</sup>designated officer] for the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting, by virtue of paragraph 15 above, a new [<sup>F13</sup>local justice 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 [<sup>F14</sup>designated officer for] the justices for the new [<sup>F13</sup>local justice area] or, as the case may be, for the [<sup>F13</sup>local justice 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 of the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.”

#### Textual Amendments

- F3** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(i)**
- F4** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(ii)**
- F5** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iii)**
- F6** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iv)**
- F7** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F8** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F9** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F10** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vi)**
- F11** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vii)**
- F12** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**
- F13** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**

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**F14** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, Sch. para. 112(b)(viii)

VALID FROM 04/04/2005

- 126 In Schedule 5 (breach, revocation and amendment of attendance centre orders)—
- (a) in paragraph 1(1)(b), for “section 62(3) of this Act” there is substituted “section 222(1)(d) or (e) of the Criminal Justice Act 2003 ”,
  - (b) in paragraph 2(5)(b), for “section 79(2) of this Act” there is substituted “section 152(2) of the Criminal Justice Act 2003 ”, and
  - (c) in paragraph 3(3)(b), for “section 79(2) of this Act” there is substituted “section 152(2) of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I108** Sch. 32 para. 126 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 127 In Schedule 6 (requirements which may be included in supervision orders)—
- (a) in paragraph 2(7)(a), after the word “other” there is inserted “ youth community order or any ”, and
  - (b) in paragraph 3(6)(a), for “community order” there is substituted “ youth community order ”.

**Commencement Information**

**I109** Sch. 32 para. 127 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(34) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

- 128 In Schedule 7 (breach, revocation and amendment of supervision orders)—
- (a) in paragraph 3—
    - (i) in sub-paragraph (2), for “sub-paragraphs (4) and (5)” there is substituted “ sub-paragraph (5) ”,
    - (ii) in sub-paragraph (3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”,
    - (iii) sub-paragraph (4) is omitted, and

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- (iv) in sub-paragraph (5)(a), for the words from the beginning to “and” there is substituted “ the power conferred on the court by each of paragraphs 4(2)(c) and ”, and
- (b) in paragraph 4(3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I110** Sch. 32 para. 128 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(34) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 04/04/2005

- 129 In Schedule 8 (breach, revocation and amendment of action plan orders and reparation orders)—
- (a) in paragraph 3—
    - (i) in sub-paragraph (2), for “sub-paragraphs (4) and (5)” there is substituted “ sub-paragraph (5) ”,
    - (ii) in sub-paragraph (3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”,
    - (iii) sub-paragraph (4) is omitted, and
    - (iv) in sub-paragraph (5)(a), for the words from the beginning to “and” there is substituted “ The power conferred on the court by each of paragraphs 4(2)(c) and ”, and
  - (b) in paragraph 4(3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”.

#### Commencement Information

**I111** Sch. 32 para. 129 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(34) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 04/04/2005

#### *Child Support, Pensions and Social Security Act 2000 (c. 19)*

- 130 The Child Support, Pensions and Social Security Act 2000 is amended as follows.

**Status:** Point in time view as at 26/01/2004. This version of this part contains provisions that are not valid for this point in time.

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**Commencement Information**

**I112** Sch. 32 para. 130 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(35) (subject to art. 2(2), Sch. 2)

131 (1) Section 62 (loss of benefit for breach of community order) is amended as follows.

(2) In subsection (8), for the definition of “relevant community order” there is substituted—

““relevant community order” means—

- (a) a community order made under section 177 of the Criminal Justice Act 2003; or
- (b) any order falling in England or Wales to be treated as such an order.”

(3) In subsection (11)(c)(ii), for “to (e)” there is substituted “ and (b) ”.

**Commencement Information**

**I113** Sch. 32 para. 131 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(35) (subject to art. 2(2), Sch. 2)

132 In section 64 (information provision), in subsection (6)(a), after “community orders” there is inserted “ (as defined by section 177 of the Criminal Justice Act 2003) ”.

**Commencement Information**

**I114** Sch. 32 para. 132 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(35) (subject to art. 2(2), Sch. 2)

VALID FROM 04/04/2005

*Criminal Justice and Court Services Act 2000 (c. 43)*

133 The Criminal Justice and Court Services Act 2000 is amended as follows.

**Commencement Information**

**I115** Sch. 32 para. 133 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(36) (subject to art. 2(2), Sch. 2)

134 In section 1 (purposes of Chapter 1 of Part 1 of the Act), in subsection (2)—

- (a) in paragraph (a), after “community orders” there is inserted “ (as defined by section 177 of the Criminal Justice Act 2003) ”, and

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(b) after paragraph (c) there is inserted—

“(d) giving effect to suspended sentence orders (as defined by section 189 of the Criminal Justice Act 2003).”

**Commencement Information**

**I116** Sch. 32 para. 134 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

135 In section 42 (interpretation of Part 2), in subsection (2)(a), for “section 119 of the Powers of Criminal Court (Sentencing) Act 2000” there is substituted “paragraph 8(2)(a) or (b) of Schedule 12 of the Criminal Justice Act 2003”.

**Commencement Information**

**I117** Sch. 32 para. 135 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

136 (1) Section 62 (release on licence etc: conditions as to monitoring) is amended as follows.

(2) For subsection (3) there is substituted—

“(3) In relation to a prisoner released under section 246 of the Criminal Justice Act 2003 (power to release prisoners on licence before required to do so), the monitoring referred to in subsection (2)(a) does not include the monitoring of his compliance with conditions imposed under section 253 of that Act (curfew condition).”

(3) In subsection (5) after paragraph (e) there is inserted “, and

(f) a sentence of detention under section 226 or 228 of the Criminal Justice Act 2003”.

**Commencement Information**

**I118** Sch. 32 para. 136 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

137 In section 69 (duties of local probation boards in connection with victims of certain offences), in subsection (8), for paragraph (a) there is substituted—

“(a) murder or an offence specified in Schedule 15 to the Criminal Justice Act 2003.”

**Commencement Information**

**I119** Sch. 32 para. 137 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(36\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

138 In section 70 (general interpretation), in subsection (5), for the words “a community order” there is substituted “a curfew order, an exclusion order, a

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community rehabilitation order, a community punishment order, a community punishment and rehabilitation order, a drug treatment and testing order, a drug abstinence order, an attendance centre order, a supervision order or an action plan order ”.

**Commencement Information**

**I120** Sch. 32 para. 138 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(36) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 04/04/2005

*International Criminal Court Act 2001 (c. 17)*

139 (1) Schedule 7 to the International Criminal Court Act 2001 (domestic provisions not applicable to ICC prisoners), is amended as follows.

(2) In paragraph 2(1), for paragraph (d) there is substituted—

“(d) section 240 of the Criminal Justice Act 2003 (crediting of periods of remand in custody).”

(3) In paragraph 3(1), for “Part 2 of the Criminal Justice Act 1991” there is substituted “sections 244 to 264 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I121** Sch. 32 para. 139 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(37) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 28/03/2009

*Armed Forces Act 2001 (c. 19)*

140 In section 30 of the Armed Forces Act 2001 (conditional release from custody), in subsection (6)(a) for “six months” there is substituted “ the term specified in subsection (1)(a) of section 8 of the Armed Forces Act 1976 (powers of courts in relation to civilians) ”.

VALID FROM 04/04/2005

*Proceeds of Crime Act 2002 (c. 29)*

141 In section 38 of the Proceeds of Crime Act 2002 (provisions about imprisonment or detention), in subsection (4)(a), for “section 118(1) of the Sentencing Act” there is substituted “ section 189(1) of the Criminal Justice Act 2003 ”.

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**Commencement Information**

**I122** Sch. 32 para. 141 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(38) (subject to **art. 2(2)**, Sch. 2)

VALID FROM 04/04/2005

*Sexual Offences Act 2003 (c. 42)*

142 The Sexual Offences Act 2003 is amended as follows.

**Commencement Information**

**I123** Sch. 32 para. 142 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(39) (subject to **art. 2(2)**, Sch. 2)

143 In section 131 (application of Part 2 to young offenders), after paragraph (j) there is inserted—

“(k) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003,

(l) an extended sentence under section 228 of that Act,”.

**Commencement Information**

**I124** Sch. 32 para. 143 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(39) (subject to **art. 2(2)**, Sch. 2)

144 In section 133 (general interpretation), at the end of paragraph (a) of the definition of “community order” there is inserted “(as that Act had effect before the passing of the Criminal Justice Act 2003) ”.

**Commencement Information**

**I125** Sch. 32 para. 144 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(39) (subject to **art. 2(2)**, Sch. 2)



**Status:**

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