

DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Criminal Justice

Section 29: Procedure on breach of community penalty etc

105. This section introduces *Schedule 5*, which amends those provisions of the Powers of Criminal Courts (Sentencing) Act 2000 and the Criminal Justice Act 2003 that dictate the location of the magistrates' court where proceedings for breach of a community penalty must be taken. The existing provisions have the effect of restricting such proceedings to a court in a single petty sessions area in each individual case. Where the offender has moved away from that area, the cost and inconvenience of transporting him to court on arrest can be considerable. The purpose of the amendments is to ensure, so far as possible, that breach proceedings are taken in a court in the area where the offender is living at the time of the breach.
106. Each of paragraphs 2 to 8 of *Schedule 5* applies to a different type of community sentence. In each case the amendments have two effects. Firstly, a summons or warrant to secure the attendance of an offender who is in breach of the community sentence can be issued by any magistrates' court. Secondly, such a summons or warrant will direct the offender to attend or be brought before a court in the area where he lives, if this is known. If his place of residence is unknown then the summons or warrant will direct the offender to attend a court in the area that would previously have been specified had the amendments not been made.
107. *Paragraph 9* of *Schedule 5* amends Schedule 13 to the Criminal Justice Act 2003, disapplying the other amendments in the case of a breach of a suspended sentence order that has been transferred to Scotland or Northern Ireland. This amendment is required because of the particular wording of Schedule 13 to the 2003 Act; the same result is achieved in respect of the other types of community sentence without express provision.
108. *Paragraph 10* of *Schedule 5* extends the amending power conferred by section 109(5)(b) of the Courts Act 2003 to ensure that *Schedule 5* continues to have effect after section 8 of that Act comes into force, replacing petty sessions areas with local justice areas.