

SCHEDULES

SCHEDULE 2

Section 3

SUPERVISION DEFAULT ORDERS: NEW SCHEDULE 19A TO CRIMINAL JUSTICE ACT 2003

In Chapter 6 of Part 12 of the Criminal Justice Act 2003, after Schedule 19 insert the following Schedule.

“SCHEDULE 19A

SUPERVISION DEFAULT ORDERS

PART 1

REQUIREMENTS ETC

Application of provisions of Chapter 4 of Part 12

- 1 The provisions of Chapter 4 of Part 12 listed in paragraph 2 apply in relation to a supervision default order as they apply in relation to a community order but with the modifications listed in paragraph 3.
- 2 Those provisions are—
 - (a) section 199(1) to (3) (unpaid work requirement);
 - (b) section 200(1) and (3) (obligations of person subject to unpaid work requirement);
 - (c) section 204(1), (2) and (6) (curfew requirement);
 - (d) section 215(1) to (3) and (4A) (electronic monitoring requirement);
 - (e) section 215A (data from electronic monitoring: code of practice);
 - (f) section 216(1) (local justice area to be specified in order);
 - (g) section 217(1) and (2) (requirement to avoid conflict with religious beliefs);
 - (h) section 218(1), (4) and (5) (availability of arrangements in local area);
 - (i) section 219(1)(a) and (b) and (2) and Schedule 14 (provision of copies).
- 3
 - (1) The modifications mentioned in paragraph 1 are as follows.
 - (2) Section 199 applies as if for paragraphs (a) and (b) of subsection (2) (limit on number of hours of unpaid work) there were substituted—
 - “(a) not less than 20 hours, and
 - (b) not more than 60 hours.”
 - (3) Section 200(1) applies—
 - (a) as if the reference to the responsible officer were to the supervisor, and
 - (b) as if at the end there were inserted “and the work must be performed before the end of the supervision period.”

Status: This is the original version (as it was originally enacted).

- (4) Section 204(2) applies as if for the words after “but” there were substituted—
- “(a) may not specify periods which amount to less than 2 hours or more than 16 hours in any day,
 - (b) may not specify periods which fall outside the supervision period, and
 - (c) must require the person to remain at the specified place or places on at least 20 days.”
- (5) Section 215(1)(a) applies as if the words “or determined by the responsible officer in accordance with the relevant order” were omitted.
- (6) Section 215(4A) applies as if the references to the responsible officer were to the supervisor.
- (7) Section 217(2) applies as if the reference to the responsible officer were to the supervisor.
- (8) Section 219(1)(b) applies as if the reference to the responsible officer were to the supervisor.

Powers of Secretary of State in relation to provisions of Chapter 4 of Part 12

- 4 The Secretary of State’s power to make orders under section 217(3) (requirement to avoid conflict with religious beliefs etc) includes power to provide that section 217(1) and (2), as applied by this Schedule, have effect with additional restrictions specified in the order.
- 5 (1) The Secretary of State’s power to make rules under section 222 (rules regulating the supervision of persons subject to community orders etc) may be exercised in relation to persons subject to supervision default orders.
- (2) For the purpose of sub-paragraph (1), section 222(1)(b) has effect as if the reference to the responsible officer were to the supervisor.
- 6 The Secretary of State may by order amend paragraph 3(2) or (4) by changing the number of hours or days for the time being specified there.

PART 2

BREACH, REVOCATION OR AMENDMENT

Proceedings for breach

- 7 (1) If the supervisor in relation to a person subject to supervision requirements under section 256AA—
- (a) is satisfied that the person has failed without reasonable excuse to comply with a requirement imposed by a supervision default order, and
 - (b) considers that the failure should be dealt with by a court,
- the supervisor must refer the matter to an enforcement officer.
- (2) Where a matter is referred to an enforcement officer under this paragraph, it is the duty of the enforcement officer—
- (a) to consider the case, and

- (b) where appropriate, to cause an information to be laid before a justice of the peace in respect of the person's failure to comply with the requirement.
- (3) In this paragraph "enforcement officer" means a person who is for the time being responsible for discharging the functions conferred by this Schedule on an enforcement officer in accordance with arrangements made by the Secretary of State.
- (4) An enforcement officer must be an officer of a provider of probation services that is a public sector provider.
- (5) In sub-paragraph (4) "public sector provider" means—
 - (a) a probation trust or other public body, or
 - (b) the Secretary of State.

Issue of summons or warrant by justice of the peace

- 8
- (1) If at any time while a supervision default order is in force it appears on information to a justice of the peace that the person subject to the order has failed to comply with a requirement imposed by the order, the justice may—
 - (a) issue a summons requiring the person 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 the person's arrest.
 - (2) A summons or warrant issued under this paragraph must direct the person to appear or be brought before—
 - (a) a magistrates' court acting for the local justice area in which the person resides, or
 - (b) if it is not known where the person resides, before a magistrates' court acting for the local justice area specified in the supervision default order.

Powers of magistrates' court to deal with breach

- 9
- (1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which a person appears or is brought under paragraph 8 that the person has failed without reasonable excuse to comply with a requirement imposed by the supervision default order.
 - (2) The court may revoke the order and deal with the person for the failure in any of the ways listed in section 256AC(4)(a) to (c) (and section 256AC(5) and (7) to (9) apply accordingly).
 - (3) In dealing with a person under this paragraph, a magistrates' court must take into account the extent to which the person has complied with the supervision default order.
 - (4) A person dealt with under this paragraph may appeal to the Crown Court against the order made by the court.

Amendment or revocation of order by magistrates' court

- 10 (1) Where a person is subject to a supervision default order, the appropriate magistrates' court may on the application of the person or an officer of a provider of probation services—
- (a) revoke the order,
 - (b) amend the order, or
 - (c) revoke the order and deal with the person under section 256AC(4) in any way in which it could deal with the person if the order had never been made.
- (2) A magistrates' court acting under sub-paragraph (1)(b)—
- (a) may not increase the number of hours or days specified in the order;
 - (b) may reduce the number of hours or days so specified, but not so as to reduce them below the minimum specified in section 199(2) or 204(2) (as modified by paragraph 3).
- (3) In exercising its powers under sub-paragraph (1), a magistrates' court must take into account the extent to which the person has complied with the supervision default order.
- (4) Where a court exercises its powers under sub-paragraph (1)(b) or (c), the person may appeal to the Crown Court against the order made by the court.
- (5) Where a magistrates' court proposes to exercise its powers under this paragraph on an application of an officer of a provider of probation services, the court—
- (a) must summon the person subject to the supervision default order to appear before the court, and
 - (b) if the person does not appear in answer to the summons, may issue a warrant for the person's arrest.
- (6) Sub-paragraph (5) does not apply where the court proposes only to amend the order to reduce the number of hours or days specified in it.
- (7) Where an application under this paragraph is made by a person subject to a supervision default order, the magistrates' court may not hear the application unless satisfied that adequate notice has been given to any officer of a provider of probation services who the court thinks has an interest in the application.
- (8) No application may be made under this paragraph while an appeal against the supervision default order is pending.
- (9) In this paragraph "the appropriate magistrates' court" means a magistrates' court acting in the local justice area specified in the supervision default order.

Amendment of local justice area specified in order

- 11 (1) This paragraph applies where, at any time while a supervision default order is in force in respect of a person, the appropriate magistrates' court is satisfied that the person proposes to change, or has changed, residence from the local justice area specified in the order to another local justice area ("the new local justice area").
- (2) The appropriate magistrates' court may amend the order to specify the new local justice area.

- (3) In this paragraph “the appropriate magistrates’ court” has the same meaning as in paragraph 10.

Revocation of order on imposition of further sentence

- 12 (1) This paragraph applies where—
- (a) the Crown Court or a magistrates’ court is sentencing a person for an offence, and
 - (b) a supervision default order is in force in respect of the person.
- (2) If the court imposes a sentence of imprisonment or detention (other than a suspended sentence) it must revoke the supervision default order.
- (3) If the court makes a community order or suspended sentence order it may revoke the supervision default order and deal with the person under section 256AC(4) in any way in which the person could be dealt with under section 256AC(4) if the supervision default order had never been made.
- 13 Where—
- (a) the Crown Court or a magistrates’ court orders that a suspended sentence or any part of it is to take effect in relation to a person, and
 - (b) a supervision default order is in force in respect of the person,
- the court must revoke the supervision default order.”