

SCHEDULES

SCHEDULE 3

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

PART II

BREACH OF REQUIREMENT OF ORDER

Powers of Crown Court

- 5 (1) Where under paragraph 3 or by virtue of paragraph 4(4) above an offender is brought or appears before the Crown Court and it is proved to the satisfaction of that court that he has failed without reasonable excuse to comply with any of the requirements of the relevant order, the Crown Court may deal with him in respect of the failure in any one of the following ways—
- (a) it may impose on him a fine not exceeding £1,000;
 - (b) where the offender is aged 16 or over it may, subject to paragraph 7 below, make a community service order in respect of him;
 - (c) where—
 - (i) the relevant order is a curfew order and the offender is aged under 16, or
 - (ii) the relevant order is a probation order or combination order and the offender is aged under 21,it may, subject to paragraph 8 below, make an attendance centre order in respect of him; or
 - (d) it may deal with him, for the offence in respect of which the order was made, in any way in which it could deal with him if he had just been convicted before the Crown Court of the offence.
- (2) In dealing with an offender under sub-paragraph (1)(d) above, the Crown Court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the relevant order; and
 - (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence (where the relevant order was made in respect of an offence punishable with such a sentence) notwithstanding anything in section 79(2) of this Act.
- (3) Where the Crown Court deals with an offender under sub-paragraph (1)(d) above, it shall revoke the relevant order if it is still in force.
- (4) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with the requirements of the relevant order shall be determined by the court and not by the verdict of a jury.