

SCHEDULES

SCHEDULE 3

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

PART III

REVOCATION OF ORDER

Substitution of conditional discharge for probation or combination order

- 12 (1) This paragraph applies where a probation order or combination order is in force in respect of any offender and on the application of the offender or the responsible officer to the appropriate court it appears to the court that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the order to be revoked; and
 - (b) for an order to be made under section 12(1)(b) of this Act discharging the offender conditionally for the offence for which the probation or combination order was made.
- (2) In this paragraph “the appropriate court” means—
- (a) where the probation or combination order was made by a magistrates' court, a magistrates' court acting for the petty sessions area concerned;
 - (b) where the probation or combination order was made by the Crown Court, the Crown Court.
- (3) No application may be made under paragraph 10 or 11 above for a probation order or combination order to be revoked and replaced with an order for conditional discharge under section 12(1)(b); but otherwise nothing in this paragraph shall affect the operation of paragraphs 10 and 11 above.
- (4) Where this paragraph applies—
- (a) the appropriate court may revoke the probation or combination order and make an order under section 12(1)(b) of this Act discharging the offender in respect of the offence for which the probation or combination order was made, subject to the condition that he commits no offence during the period specified in the order under section 12(1)(b); and
 - (b) the period specified in the order under section 12(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation or combination order would have ended.
- (5) For the purposes of sub-paragraph (4) above, subsection (1) of section 12 of this Act shall apply as if—

Status: This is the original version (as it was originally enacted).

- (a) for the words from the beginning to “may make an order either” there were substituted the words “Where paragraph 12 of Schedule 3 to this Act applies, the appropriate court may (subject to the provisions of sub-paragraph (4) of that paragraph) make an order in respect of the offender”; and
 - (b) paragraph (a) of that subsection were omitted.
- (6) An application under this paragraph may be heard in the offender’s absence if—
- (a) the application is made by the responsible officer; and
 - (b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;
- and where the application is so heard section 12(4) of this Act shall not apply.
- (7) No application may be made under this paragraph while an appeal against the probation or combination order is pending.
- (8) Without prejudice to paragraph 15 below, on the making of an order under section 12(1)(b) of this Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.
- (9) Each of sections 1(11), 2(9) and 66(4) of the Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.