

Status: Point in time view as at 01/04/2005.

Changes to legislation: Domestic Violence, Crime and Victims Act 2004, SCHEDULE 5 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)

SCHEDULES

SCHEDULE 5

Section 29

PROCEDURE ON BREACH OF COMMUNITY PENALTY ETC

Interpretation

- 1 In this Schedule—
- “the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
 - “the 2003 Act” means the Criminal Justice Act 2003 (c. 44).

Detention and training orders

- 2 (1) Section 104 of the Sentencing Act (breach of supervision requirements of detention and training order) is amended as follows.
- (2) In subsection (1) (issue of summons or warrant by justice of the peace)—
- (a) omit the words “^{F1}acting in a relevant local justice area]”;
 - (b) in paragraph (a), omit the words “before a youth court [^{F2}acting in the area]”;
 - (c) in paragraph (b), omit the words “requiring him to be brought before such a court”.
- (3) For subsection (2) substitute—
- “(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—
- (a) before a youth court [^{F3}acting in the local justice] in which the offender resides; or
 - (b) if it is not known where the offender resides, before a youth court [^{F4}acting in the same local justice area] as the justice who issued the summons or warrant.”

Textual Amendments

- F1** Words in Sch. 5 para. 2(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(a)(i)}
- F2** Words in Sch. 5 para. 2(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(a)(i)}
- F3** Words in Sch. 5 para. 2(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(a)(ii)} [Editorial Note: the substituted words should probably read "acting in the local justice area". A correction slip has been requested.]
- F4** Words in Sch. 5 para. 2(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(a)(ii)}

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Suspended sentence supervision orders

- 3 (1) Section 123 of the Sentencing Act (breach of requirement of suspended sentence supervision order) is amended as follows.
- (2) In subsection (1) (issue of summons or warrant by justice of the peace) omit the words “acting for the [^{F5}local justice area] for the time being specified in the order”.
- (3) For subsection (2) substitute—
- “(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought—
- (a) before a magistrates' court for the [^{F6}local justice area] in which the offender resides; or
- (b) if it is not known where the offender resides, before a magistrates' court [^{F7}acting in the local justice area] for the time being specified in the suspended sentence supervision order.”
- (4) After subsection (4) insert—
- “(5) Where a magistrates' court dealing with an offender under this section would not otherwise have the power to amend the suspended sentence supervision order under section 124(3) below (amendment by reason of change of residence), that provision has effect as if the reference to a magistrates' court [^{F8}acting in the local justice area] for the time being specified in the suspended sentence supervision order were a reference to the court dealing with the offender.”

Textual Amendments

- F5** Words in Sch. 5 para. 3(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(i)}
- F6** Words in Sch. 5 para. 3(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(ii)}
- F7** Words in Sch. 5 para. 3(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(ii)}
- F8** Words in Sch. 5 para. 3(4) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(b)(iii)}

Community orders under the Sentencing Act

- 4 (1) Schedule 3 to the Sentencing Act (breach, revocation and amendment of certain community orders), as it has effect on the day on which this Act is passed, is amended as follows.
- (2) In paragraph 3(1) (issue of summons or warrant by justice of the peace) omit the words “ [^{F9}acting in the local justice area] concerned”.
- (3) In paragraph 3(2) (court before which offender to appear or be brought), for paragraph (c) substitute—
- “(c) in the case of a relevant order which is not an order to which paragraph (a) or (b) applies, before a magistrates' court [^{F9}acting in the local justice area] in which the offender resides or, if it is not

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known where he resides, before a magistrates' court [^{F9}acting in the local justice area] concerned.”

- (4) In paragraph 4 (powers of magistrates' court to deal with breach), after sub-paragraph (3) insert—

“(3A) Where a magistrates' court dealing with an offender under sub-paragraph (1) (a), (b) or (c) above would not otherwise have the power to amend the relevant order under paragraph 18 below (amendment by reason of change of residence), that paragraph has effect as if the reference to a magistrates' court [^{F9}acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

- F9** Words in [Sch. 5 para. 4](#) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {[Sch. para. 113\(c\)](#)}

Curfew orders and exclusion orders

- 5 (1) Schedule 3 to the Sentencing Act (breach, revocation and amendment of curfew orders and exclusion orders), as substituted by paragraph 125 of Schedule 32 to the 2003 Act, is amended as follows.

- (2) In paragraph 3(1) (issue of summons or warrant by justice of the peace) omit the words “ [^{F10}acting in the local justice area] concerned”.

- (3) In paragraph 3(2) (court before which offender to appear or be brought), for paragraph (b) substitute—

“(b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court [^{F10}acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [^{F10}acting in the local justice area] concerned.”

- (4) In paragraph 4 (powers of magistrates' court to deal with breach), after sub-paragraph (4) insert—

“(4A) Where a magistrates' court dealing with an offender under sub-paragraph (2) (a) or (b) above would not otherwise have the power to amend the relevant order under paragraph 15 below (amendment by reason of change of residence), that paragraph has effect as if the reference to a magistrates' court [^{F10}acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

- F10** Words in [Sch. 5 para. 5](#) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {[Sch. para. 113\(c\)](#)}

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Attendance centre orders

- 6 (1) Schedule 5 to the Sentencing Act (breach, revocation and amendment of attendance centre orders) is amended as follows.
- (2) In paragraph 1(1) (issue of summons or warrant by justice of the peace), omit the words—
- (a) “acting for a relevant [F11]local justice area”;
 - (b) “before a magistrates' court [F12]acting in the area”;
 - (c) “requiring him to be brought before such a court”.
- (3) For paragraph 1(2) substitute—
- “(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—
- (a) before a magistrates' court [F13]acting in the local justice area] in which the offender resides; or
 - (b) if it is not known where the offender resides, before a magistrates' court [F13]acting in the local justice area] in which is situated the attendance centre which the offender is required to attend by the order or by virtue of an order under paragraph 5(1)(b) below.”
- (4) In paragraph 2 (powers of magistrates' court to deal with breach), after sub-paragraph (5) insert—
- “(5A) Where a magistrates' court dealing with an offender under sub-paragraph (1) (a) above would not otherwise have the power to amend the order under paragraph 5(1)(b) below (substitution of different attendance centre), that paragraph has effect as if references to an appropriate magistrates' court were references to the court dealing with the offender.”

Textual Amendments

- F11** Words in Sch. 5 para. 6(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(i)}
- F12** Words in Sch. 5 para. 6(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(i)}
- F13** Words in Sch. 5 para. 6(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(d)(ii)}

Community orders under the 2003 Act

- 7 (1) Schedule 8 to the 2003 Act (breach, revocation or amendment of community order) is amended as follows.
- (2) In paragraph 7(2)(issue of summons or warrant by justice of the peace) omit the words “ [F14]acting in the local justice area] concerned”.
- (3) In paragraph 7(3) (court before which offender to appear or be brought), for paragraph (b) substitute—
- “(b) in any other case, before a magistrates' court [F14]acting in the local justice area] in which the offender resides or, if it is not known where

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he resides, before a magistrates' court [^{F14}acting in the local justice area] concerned.”

- (4) In paragraph 9 (powers of magistrates' court to deal with breach), after sub-paragraph (5) insert—

“(5A) Where a magistrates' court dealing with an offender under sub-paragraph (1) (a) would not otherwise have the power to amend the community order under paragraph 16 (amendment by reason of change of residence), that paragraph has effect as if the references to the appropriate court were references to the court dealing with the offender.”

- (5) In paragraph 27 (provision of copies of orders), at the end of sub-paragraph (1)(c) insert “, and

(d) where the court [^{F15}acts in a local justice area] other than the one specified in the order prior to the revocation or amendment, provide a copy of the revoking or amending order to a magistrates' court [^{F16}acting in the area] so specified.”

Textual Amendments

F14 Words in Sch. 5 para. 7(2)(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(e)}

F15 Words in Sch. 5 para. 7(5) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(f)}

F16 Words in Sch. 5 para. 7(5) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), arts, 1, 2, {Sch. para. 113(f)}

Suspended sentence orders under the 2003 Act

- 8 (1) Schedule 12 to the 2003 Act (breach or amendment of suspended sentence order, and effect of further conviction) is amended as follows.

(2) In paragraph 6(2)(issue of summons or warrant by justice of the peace) omit the words “ [^{F17}acting in the local justice area] concerned”.

(3) In paragraph 6(3) (court before which offender to appear or be brought), for paragraph (b) substitute—

“(b) in any other case, before a magistrates' court [^{F17}acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [^{F17}acting in the local justice area] concerned.”

(4) In paragraph 8 (powers of magistrates' court to deal with breach), after sub-paragraph (4) insert—

“(4A) Where a magistrates' court dealing with an offender under sub-paragraph (2) (c) would not otherwise have the power to amend the suspended sentence order under paragraph 14 (amendment by reason of change of residence), that paragraph has effect as if the references to the appropriate court were references to the court dealing with the offender.”

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- (5) In paragraph 22 (provision of copies of orders), at the end of sub-paragraph (1)(c) insert “, and
- (d) where the court [^{F18}acts in a local justice area] other than the one specified in the order prior to the revocation or amendment, provide a copy of the revoking or amending order to a magistrates' court [^{F19}acting in the area] so specified.”

Textual Amendments

- F17** Words in Sch. 5 para. 8(2)(3) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(e)}
- F18** Words in Sch. 5 para. 8(5) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(f)}
- F19** Words in Sch. 5 para. 8(5) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(f)}

- 9 In Schedule 13 to the 2003 Act (transfer of suspended sentence orders to Scotland or Northern Ireland), in paragraph 12 (modifications of Schedule 12), after sub-paragraph (5) insert—

“(5A) In paragraph 6(3)(b), the words “before a magistrates' court [^{F20}acting in the local justice area] in which the offender resides or, if it is not known where he resides,” are omitted.”

Textual Amendments

- F20** Words in Sch. 5 para. 9 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), arts, 1, 2, {Sch. para. 113(e)}

Local justice areas

- 10 The power conferred by section 109(5)(b) of the Courts Act 2003 (c. 39) to amend or repeal any enactment, other than one contained in an Act passed in a later session, includes power to amend any such enactment as amended by this Schedule, but only for the purpose of making consequential provision in connection with the establishment of local justice areas under section 8 of that Act.

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