

SCHEDULES

SCHEDULE 17

DEFERRED PROSECUTION AGREEMENTS

PART 1

GENERAL

Discontinuance of proceedings on expiry of DPA

- 11 (1) If a DPA remains in force until its expiry date, then after the expiry of the DPA the proceedings instituted under paragraph 2(1) are to be discontinued by the prosecutor giving notice to the Crown Court that the prosecutor does not want the proceedings to continue.
- (2) Where proceedings are discontinued under sub-paragraph (1), fresh criminal proceedings may not be instituted against P for the alleged offence.
- (3) But sub-paragraph (2) does not prevent fresh proceedings from being instituted against P in a case where, after a DPA has expired, the prosecutor finds that, during the course of the negotiations for the DPA—
- (a) P provided inaccurate, misleading or incomplete information to the prosecutor, and
 - (b) P knew or ought to have known that the information was inaccurate, misleading or incomplete.
- (4) A DPA is not to be treated as having expired for the purposes of sub-paragraph (1) if, on the expiry date specified in the DPA—
- (a) an application made by the prosecutor under paragraph 9 (breach) has not yet been decided by the court,
 - (b) following an application under paragraph 9 the court has invited the parties to agree proposals to remedy P's failure to comply, but the parties have not yet reached an agreement, or
 - (c) the parties have agreed proposals to remedy P's failure to comply following an invitation of the court under paragraph 9(3)(a) but P has not yet complied with the agreement.
- (5) In the case mentioned in sub-paragraph (4)(a)—
- (a) if the court decides that P has not failed to comply with the terms of the DPA, or that P has failed to comply but does not take action under paragraph 9(3), the DPA is to be treated as expiring when the application is decided;
 - (b) if the court terminates the DPA, the DPA is to be treated as not having remained in force until its expiry date (and sub-paragraph (1) therefore does not apply);

Status: This is the original version (as it was originally enacted).

- (c) if the court invites the parties to agree proposals to remedy P's failure to comply, the DPA is to be treated as expiring when the parties have reached such an agreement and P has complied with it.
- (6) In the case mentioned in sub-paragraph (4)(b), the DPA is to be treated as expiring when the parties have reached an agreement and P has complied with it.
- (7) In the case mentioned in sub-paragraph (4)(c), the DPA is to be treated as expiring when P complies with the agreement.
- (8) Where proceedings are discontinued under sub-paragraph (1), the prosecutor must publish—
 - (a) the fact that the proceedings have been discontinued, and
 - (b) details of P's compliance with the DPA,unless the prosecutor is prevented from doing so by an enactment or by an order of the court under paragraph 12 (postponement of publication to avoid prejudicing proceedings).