

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Street Offences Act 1959, Schedule. (See end of Document for details)*

## [<sup>F1</sup>SCHEDULE

Section 1A(11)

### ORDERS UNDER SECTION 1(2A): BREACH, AMENDMENT ETC.

#### Textual Amendments

- F1** Sch. inserted (1.4.2010) by Policing and Crime Act 2009 (c. 26), ss. 17(4), 116(1), **Sch. 1**; S.I. 2010/507, art. 5(d) (with art. 6)

## PART 1

### PRELIMINARY

#### *Interpretation and application*

- 1 (1) This Schedule applies to an order made under section 1(2A).
- (2) In this Schedule, in relation to the order—  
“the offender” means the person in respect of whom the order was made;  
“the supervisor” means the person for the time being specified as the supervisor in the order.
- (3) For the purposes of this Schedule, the offender fails to comply with the order if the offender fails to attend any of the three meetings mentioned in section 1(2A) at the time and place determined by the supervisor.

## PART 2

### BREACH OF REQUIREMENT OF ORDER

#### *Breach of requirement of order*

- 2 (1) If the supervisor is of the opinion that the offender has failed without reasonable excuse to comply with the order, the supervisor must cause an information to be laid before a justice of the peace in respect of the failure.
- (2) If it appears on information to the justice of the peace that the offender has failed to comply with the order, the justice may issue a summons requiring the offender to appear at the place and time specified in it.
- (3) Any such summons must direct the offender to appear before—  
(a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or  
(b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (4) In sub-paragraph (3) “the relevant local justice area” means—  
(a) the local justice area for the time being specified in the order, or  
(b) if it appears to the justice of the peace that the offender resides in another local justice area, that local justice area.

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*Failure to answer to a summons*

- 3 (1) This paragraph applies where the offender does not appear in answer to a summons issued under paragraph 2.
- (2) The magistrates' court may issue a warrant for the arrest of the offender.
- (3) Any such warrant must require the offender to be brought before—
- (a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or
  - (b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (4) In sub-paragraph (3) “the relevant local justice area” means—
- (a) the local justice area for the time being specified in the order, or
  - (b) if it appears to the magistrates' court that the offender resides in another local justice area, that local justice area.

*Powers of magistrates' court*

- 4 (1) This paragraph applies where—
- (a) the offender appears or is brought before a magistrates' court in accordance with this Part of this Schedule, and
  - (b) it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with the order.
- (2) The court—
- (a) must revoke the order (if it remains in force), and
  - (b) may deal with the offender in respect of the failure by dealing with the offender, for the offence in respect of which the order was made, in any way in which the court could deal with the offender if the offender had just been convicted by it of the offence.
- (3) In dealing with an offender under sub-paragraph (2)(b), the court must take into account the extent to which the offender has complied with the order.
- (4) A person sentenced under sub-paragraph (2)(b) may appeal to the Crown Court against the sentence.

**PART 3**

AMENDMENT OF ORDER

*Change of supervisor*

- 5 (1) Where the supervisor is unable to continue acting in that capacity, the supervisor, a constable or the offender may apply to the relevant magistrates' court to amend the order by specifying a different person to act as supervisor.
- (2) Where the court is satisfied that the supervisor is unable to continue acting, the court must—
- (a) amend the order by specifying a different person to act as supervisor, or
  - (b) if no such person is available, revoke the order.

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- (3) The person specified to act as supervisor must be a suitable person (within the meaning given by section 1A(3)).
- (4) In this paragraph “the relevant magistrates' court” means—
- (a) a youth court acting in the relevant local justice area, if the offender is under the age of 18, or
  - (b) a magistrates' court (other than a youth court) acting in the relevant local justice area, if the offender is aged 18 or over.
- (5) In sub-paragraph (4) “the relevant local justice area” means—
- (a) the local justice area for the time being specified in the order, or
  - (b) if the offender resides in another local justice area, that local justice area.
- 6 (1) Where a court revokes an order under paragraph 5(2)(b), it may deal with the offender, for the offence in respect of which the order was made, in any way in which the court could deal with the offender if the offender had just been convicted by it of the offence (other than by making an order under section 1(2A)).
- (2) In dealing with an offender under sub-paragraph (1), the court must take into account the extent to which the offender has complied with the order.
- (3) A person sentenced under sub-paragraph (1) may appeal to the Crown Court against the sentence.

#### *Substitution of different local justice area*

- 7 (1) The offender or the supervisor may apply to the relevant magistrates' court to amend the order by substituting another local justice area for the area specified in the order.
- (2) An application under sub-paragraph (1) may only be made if the offender resides or will reside in the other local justice area.
- (3) If the application is made by the supervisor, the relevant magistrates' court must amend the order by substituting the other local justice area for the area specified in the order.
- (4) If the application is made by the offender, the relevant magistrates' court may amend the order by substituting the other local justice area for the area specified in the order.
- (5) Sub-paragraphs (4) and (5) of paragraph 5 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

#### *Supplementary*

- 8 (1) Where the relevant magistrates' court proposes to exercise its powers under paragraph 5, otherwise than on the application of the offender, it must summon the offender to appear before the court and, if the offender does not appear in answer to the summons, may issue a warrant for the arrest of the offender.
- (2) An order may not be amended under this Part of this Schedule while an appeal against the order is pending.

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## PART 4

### SUPPLEMENTARY

#### *Detention and remand of arrested offender*

- 9 (1) This paragraph applies where the offender is arrested in pursuance of a warrant under this Schedule and cannot be brought immediately before the court before which the warrant directs him to be brought (“the appropriate court”).
- (2) The person in whose custody the offender is must, as soon as practicable and in any event before the end of the period of 72 hours beginning with the time of the arrest, bring the offender before—
- (a) any youth court, if the offender is under the age of 18, or
  - (b) any magistrates' court other than a youth court, if the offender is aged 18 or over.
- (3) That person may make arrangements for the offender to be detained until brought before the court.
- (4) If the offender is under the age of 18 at the time of the arrest, the arrangements made under sub-paragraph (3) must be for the detention of the offender in a place of safety (within the meaning of the Children and Young Persons Act 1933).
- (5) A person who is detained in pursuance of arrangements made under sub-paragraph (3) is deemed to be in legal custody.
- 10 (1) This paragraph applies where the court before which an offender is brought under paragraph 9(2) is not the appropriate court (within the meaning of paragraph 9).
- (2) The alternative court may direct that the offender is to be released forthwith or remand him to appear before the appropriate court.
- (3) For the purposes of sub-paragraph (2), section 128 of the Magistrates' Courts Act 1980 (remand in custody or on bail) applies as if the court referred to in subsections (1)(a), (3), (4)(a) and (5) were the appropriate court.
- (4) Any power to remand the offender in custody which is conferred by section 128 of the Magistrates' Court Act 1980 (as modified by sub-paragraph (3)) is to be taken to be a power to remand the offender—
- (a) if the offender is under the age of 18, to accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989), and
  - (b) if the offender is aged 18 or over, to a prison.
- (5) Where the court remands the offender to accommodation provided by or on behalf of a local authority, the court must designate, as the authority who are to receive the offender, the local authority for the area in which it appears that the offender resides or will reside.

#### *Adjournments*

- 11 (1) This paragraph applies to any hearing relating to an offender held by a youth court or other magistrates' court in any proceedings under this Schedule.
- (2) The court may adjourn the hearing, and, where it does so, may—

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- (a) direct that the offender be released forthwith, or
  - (b) remand the offender.
- (3) Where the court remands the offender under sub-paragraph (2)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
  - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
  - (b) if it does not do so, must not resume the hearing unless it is satisfied that the offender and, where appropriate, the supervisor have had adequate notice of the time and place for the resumed hearing.
- (5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.
- (6) This paragraph—
- (a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
  - (b) is not to be taken to affect the application of that section to hearings of any other description.

#### *Notification*

- 12 (1) This paragraph applies where a court revokes or amends an order under any provision of this Schedule.
- (2) The proper officer must—
- (a) provide copies of the revoking or amending order to the offender and the supervisor, and
  - (b) in the case of an amending order which substitutes a new local justice area, provide a copy of the amending order to a magistrates' court acting for that area.
- (3) If the court that revokes or amends the order is a magistrates' court acting in a local justice area other than the area specified in the order, the proper officer must provide a copy of the revoking or amending order to a magistrates' court acting in the local justice area specified in the order.
- (4) Where the proper officer acts under sub-paragraph (2)(b), the officer must also provide to the court such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of any function in relation to the order.
- (5) In this paragraph “proper officer” means the designated officer for the court.]

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