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Changes to legislation: Criminal Justice Act 2003, Cross Heading: Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) is up to date with all changes known to be in force on or before 20 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 32

AMENDMENTS RELATING TO SENTENCING

PART 1

GENERAL

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

90 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.

Commencement Information

II Sch. 32 para. 90 partly in force; Sch. 32 para. 90 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 90 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

91 (1) Section 6 (committal for sentence in certain cases where offender committed in respect of another offence) is amended as follows.

(2) In subsection (3)(b), for “section 120(1) below” there is substituted “ paragraph 11(1) of Schedule 12 to the Criminal Justice Act 2003 ”.

(3) For subsection (4)(e), there is substituted—

“(e) paragraph 11(2) of Schedule 12 to the Criminal Justice Act 2003 (committal to Crown Court where offender convicted during operational period of suspended sentence).”.

Commencement Information

I2 Sch. 32 para. 91 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

92 In section 7 (power of Crown Court on committal for sentence under section 6), in subsection (2), for “section 119 below” there is substituted “ paragraphs 8 and 9 of Schedule 12 to the Criminal Justice Act 2003 ”.

Commencement Information

I3 Sch. 32 para. 92 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

93 In section 12 (absolute and conditional discharge)—

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- (a) in subsection (1) for “109(2), 110(2) or 111(2) below” there is substituted “ section 110(2) or 111(2) below, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003) ”, and
- (b) subsection (4) (duty to explain effect of order for conditional discharge) is omitted.

Commencement Information

I4 Sch. 32 para. 93 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 94 In the heading to Part 4, and the heading to Chapter 1 of that Part, for “COMMUNITY ORDERS” there is substituted “ YOUTH COMMUNITY ORDERS ”.

Commencement Information

I5 Sch. 32 para. 94 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 95 For section 33 there is substituted—

“33 Meaning of “youth community order” and “community sentence”

- (1) In this Act “youth community order” means any of the following orders—
- (a) a curfew order;
 - (b) an exclusion order;
 - (c) an attendance centre order;
 - (d) a supervision order;
 - (e) an action plan order.
- (2) In this Act “community sentence” means a sentence which consists of or includes—
- (a) a community order under section 177 of the Criminal Justice Act 2003, or
 - (b) one or more youth community orders.”

Commencement Information

I6 Sch. 32 para. 95 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

- 96 (1) Section 36B (electronic monitoring of requirements in community orders) is amended as follows.
- (2) In the heading for “**community orders**” there is substituted “ **youth community orders** ”, and
- (3) In subsection (1)—
- (a) for “to (4)” there is substituted “ and (3) ”, and

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(b) for “community order” there is substituted “ youth community order ”.

(4) In subsection (2) and (6)(a), for “community order” there is substituted “ youth community order ”.

Commencement Information

I7 Sch. 32 para. 96 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

97 (1) Section 37 (curfew orders) is amended as follows.

(2) In subsection (1)—

(a) after the word “person” there is inserted “ aged under 16 ”, and

(b) for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”.

(3) In subsection (5), for “community order” there is substituted “ youth community order ”.

(4) Subsection (10) is omitted.

Commencement Information

I8 Sch. 32 para. 97 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

98 In section 39 (breach, revocation and amendment of curfew orders), for “community orders” there is substituted “ youth community orders ”.

Commencement Information

I9 Sch. 32 para. 98 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

99 In section 40 (curfew orders: supplementary), in subsection (3), for “paragraphs 2A(4) and (5) and 19(3)” there is substituted “ paragraph 16(2) ”.

100 (1) Section 40A (exclusion orders) is amended as follows.

(2) In subsection (1)—

(a) after “person” there is inserted “ aged under 16 ”,

(b) for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”, and

(c) for “two years” there is substituted “ three months ”.

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(3) In subsection (5), for “community order” there is substituted “ youth community order ”.

(4) Subsection (10) is omitted.

Commencement Information

I10 Sch. 32 para. 100 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

101 In section 40B (breach, revocation and amendment of exclusion orders), for “community orders” there is substituted “ youth community orders ”.

Commencement Information

I11 Sch. 32 para. 101 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

102 (1) Section 60 (attendance centre orders) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ” and for “21” there is substituted “ 16 ”, and
- (b) in paragraph (b), for “21” there is substituted “ 16 ”, and
- (c) paragraph (c) and the word “or” immediately preceding it are omitted.

(3) In subsection (4), for paragraphs (a) and (b) there is substituted “ shall not exceed 24 ”.

(4) In subsection (7), for “community order” there is substituted “ youth community order ”.

Commencement Information

I12 Sch. 32 para. 102 partly in force; Sch. 32 para. 102 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 102(1)(2)(a)(4) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

103 In section 63 (supervision orders), in subsection (1), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”.

Commencement Information

I13 Sch. 32 para. 103 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 104 (1) Section 69 (action plan orders) is amended as follows.
- (2) In subsection (1), for “sections 34 to 36 above” there is substituted “ sections 148, 150 and 156 of the Criminal Justice Act 2003 ”, and
- (3) In subsection (5)(b), for “a community rehabilitation order, a community punishment order, a community punishment and rehabilitation order,” there is substituted “ a community order under section 177 of the Criminal Justice Act 2003 ”.
- (4) Subsection (11) is omitted.

Commencement Information

I14 Sch. 32 para. 104 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 105 In section 70 (requirements which may be included in action plan orders and directions), in subsection (5)(a), after the word “other” there is inserted “ youth community order or any ”.

Commencement Information

I15 Sch. 32 para. 105 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 106 (1) Section 73 (reparation orders) is amended as follows.
- (2) In subsection (4)(b), for “a community punishment order, a community punishment and rehabilitation order,” there is substituted “ a community order under section 177 of the Criminal Justice Act 2003 ”.
- (3) Subsection (7) is omitted.

Commencement Information

I16 Sch. 32 para. 106 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 107 In section 74 (requirements and provisions of reparation order, and obligations of person subject to it), in subsection (3)(a), after “community order” there is inserted “ or any youth community order ”.

Commencement Information

I17 Sch. 32 para. 107 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 108 In section 76 (meaning of custodial sentence), in subsection (1) after paragraph (b) there is inserted—

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“(bb) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003;

(bc) a sentence of detention under section 228 of that Act;”.

Commencement Information

I18 Sch. 32 para. 108 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 109 (1) Section 82A (determination of tariffs) is amended as follows.
- (2) In subsection (1), for the words from “where” onwards there is substituted “ where the sentence is not fixed by law ”.
- (3) In subsection (3)—
- (a) in paragraph (b), for “section 87” there is substituted “ section 240 of the Criminal Justice Act 2003 ”, and
- (b) in paragraph (c), for “sections 33(2) and 35(1) of the Criminal Justice Act 1991” there is substituted “ section 244(1) of the Criminal Justice Act 2003 ”.
- (4) In subsection (4)—
- (a) after “If” there is inserted “ the offender was aged 21 or over when he committed the offence and ”, and
- (b) the words “subject to subsection (5) below” are omitted.
- (5) Subsections (5) and (6) are omitted.

Commencement Information

I19 Sch. 32 partly in force; Sch. 32 para. 109(2)(3)(b)(4)(5) in force at 18.12.2003, see s. 336(2); Sch. 32 para. 109(1) in force for certain purposes and Sch. 32 para. 109(3)(a) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 110 (1) Section 91 (offenders under 18 convicted of certain serious offences) is amended as follows.
- (2) In subsection (3), for “none of the other methods in which the case may legally be dealt with” there is substituted “ neither a community sentence nor a detention and training order ”.
- (3) In subsection (4), for “section 79 and 80 above” there is substituted “ section 152 and 153 of the Criminal Justice Act 2003 ”.

Commencement Information

I20 Sch. 32 para. 110 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 111 (1) Section 100 (detention and training orders) is amended as follows.
- (2) In subsection (1)—

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- (a) for the words from the beginning to “subsection (2)” there is substituted “Subject to sections 90 and 91 above, sections 226 and 228 of the Criminal Justice Act 2003, and subsection (2)”, and
- (b) for paragraph (b) there is substituted—
 - “(b) the court is of the opinion that subsection (2) of section 152 of the Criminal Justice Act 2003 applies or the case falls within subsection (3) of that section,”.

(3) Subsection (4) is omitted.

Commencement Information

I21 Sch. 32 para. 111 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

112 In section 106 (interaction of detention and training orders with sentences of detention in a young offender institution), subsections (2) and (3) are omitted.

Commencement Information

I22 Sch. 32 para. 112 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

113 After section 106 there is inserted—

“106A Interaction with sentences of detention

- (1) In this section—
 - “the 2003 Act” means the Criminal Justice Act 2003;
 - “sentence of detention” means—
 - (a) a sentence of detention under section 91 above, or
 - (b) a sentence of detention under section 228 of the 2003 Act (extended sentence for certain violent or sexual offences: persons under 18).
- (2) Where a court passes a sentence of detention in the case of an offender who is subject to a detention and training order, the sentence shall take effect as follows—
 - (a) if the offender has at any time been released by virtue of subsection (2), (3), (4) or (5) of section 102 above, at the beginning of the day on which the sentence is passed, and
 - (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released by virtue of subsection (2), (3), (4) or (5) of section 102.
- (3) Where a court makes a detention and training order in the case of an offender who is subject to a sentence of detention, the order shall take effect as follows—
 - (a) if the offender has at any time been released under Chapter 6 of Part 12 of the 2003 Act (release on licence of fixed-term prisoners), at the beginning of the day on which the order is made, and

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- (b) if not, either as mentioned in paragraph (a) above or, if the court so orders, at the time when the offender would otherwise be released under that Chapter.
- (4) Where an order under section 102(5) above is made in the case of a person in respect of whom a sentence of detention is to take effect as mentioned in subsection (2)(b) above, the order is to be expressed as an order that the period of detention attributable to the detention and training order is to end at the time determined under section 102(5)(a) or (b) above.
- (5) In determining for the purposes of subsection (3)(b) the time when an offender would otherwise be released under Chapter 6 of Part 12 of the 2003 Act, section 246 of that Act (power of Secretary of State to release prisoners on licence before he is required to do so) is to be disregarded.
- (6) Where by virtue of subsection (3)(b) above a detention and training order made in the case of a person who is subject to a sentence of detention under section 228 of the 2003 Act is to take effect at the time when he would otherwise be released under Chapter 6 of Part 12 of that Act, any direction by the Parole Board under subsection (2)(b) of section 247 of that Act in respect of him is to be expressed as a direction that the Board would, but for the detention and training order, have directed his release under that section.
- (7) Subject to subsection (9) below, where at any time an offender is subject concurrently—
- (a) to a detention and training order, and
 - (b) to a sentence of detention,
- he shall be treated for the purposes of the provisions specified in subsection (8) below as if he were subject only to the sentence of detention.
- (8) Those provisions are—
- (a) sections 102 to 105 above,
 - (b) section 92 above and section 235 of the 2003 Act (place of detention, etc.), and
 - (c) Chapter 6 of Part 12 of the 2003 Act.
- (9) Nothing in subsection (7) above shall require the offender to be released in respect of either the order or the sentence unless and until he is required to be released in respect of each of them.”

Commencement Information

I23 Sch. 32 para. 113 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

114 In section 110 (required custodial sentence for third class A drug trafficking offence), subsection (3) is omitted.

Commencement Information

I24 Sch. 32 para. 114 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\), Sch. 2](#))

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- 115 In section 111 (minimum of three years for third domestic burglary) subsection (3) is omitted.

Commencement Information

I25 Sch. 32 para. 115 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 116 Sections 116 and 117 (return to prison etc. where offence committed during original sentence) shall cease to have effect.

Commencement Information

I26 Sch. 32 para. 116 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 117 In section 130 (compensation orders against convicted persons), in subsection (2), for “109(2), 110(2) or 111(2) above,” there is substituted “ 110(2) or 111(2) above, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003, ”.

Commencement Information

I27 Sch. 32 para. 117 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 118 In section 136 (power to order statement as to financial circumstances of parent or guardian) in subsection (2), for “section 126 above” there is substituted “ section 162 of the Criminal Justice Act 2003 ”.

Commencement Information

I28 Sch. 32 para. 118 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 119 (1) Section 138 (fixing of fine or compensation to be paid by parent or guardian) is amended as follows.
- (2) In subsection (1)(a), for “section 128 above” there is substituted “ section 164 of the Criminal Justice Act 2003 ”.
- (3) In subsection (2), for “sections 128(1) (duty to inquire into financial circumstances) and” there is substituted “ section 164(1) of the Criminal Justice Act 2003 and section ”.
- (4) In subsection (4)—
- (a) for “section 129 above” there is substituted “ section 165 of the Criminal Justice Act 2003 ”,
- (b) for “section 129(1)” there is substituted “ section 165(1) ”, and
- (c) for “section 129(2)” there is substituted “ section 165(2) ”.

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Commencement Information

I29 Sch. 32 para. 119 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

120 In section 146 (driving disqualification for any offence), in subsection (2), for “109(2), 110(2) or 111(2) above” there is substituted “ 110(2) or 111(2) above, section 51A(2) of the Firearms Act 1968 or section 225, 226, 227 or 228 of the Criminal Justice Act 2003 ”.

Commencement Information

I30 Sch. 32 para. 120 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

121 In section 154 (commencement of Crown Court sentence), in subsection (2), for “section 84 above” there is substituted “ section 265 of the Criminal Justice Act 2003 ”.

Commencement Information

I31 Sch. 32 para. 121 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

122 In section 159 (execution of process between England and Wales and Scotland), for “10(7) or 24(1)” there is substituted “ 10(6) or 18(1) ”.

- 123 (1) Section 163 (interpretation) is amended as follows.
- (2) In the definition of “attendance centre” for “section 62(2) above” there is substituted “ section 221(2) of the Criminal Justice Act 2003 ”.
- (3) In the definition of “attendance centre order” for the words from “by virtue of” to “Schedule 3” there is substituted “ by virtue of paragraph 4(2)(b) or 5(2)(b) of Schedule 3 ”.
- (4) In the definition of “community order”, for “section 33(1) above” there is substituted “ section 177(1) of the Criminal Justice Act 2003 ”.
- (5) For the definition of “curfew order” there is substituted—
- ““curfew order” means an order under section 37(1) above (and, except where the contrary intention is shown by paragraph 7 of Schedule 3 or paragraph 3 of Schedule 7 or 8, includes orders made under section 37(1) by virtue of paragraph 4(2)(a) or 5(2)(a) of Schedule 3 or paragraph 2(2) (a) of Schedule 7 or 8).”.
- (6) In the definition of “operational period”, for “section 118(3) above” there is substituted “ section 189(1)(b)(ii) of the Criminal Justice Act 2003 ”.

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(7) In the definition of “suspended sentence”, for “section 118(3) above” there is substituted “ section 189(7) of the Criminal Justice Act 2003 ”.

(8) At the end there is inserted—

““youth community order” has the meaning given by section 33(1) above.”.

Commencement Information

I32 Sch. 32 para. 123 partly in force; Sch. 32 para. 123 not in force at Royal Assent, see s. 336(3); Sch. 32 para. 123(5) in force for certain purposes and Sch. 32 para. 123(1)(2)(4)(6)-(8) in force at 4.4.2005 by S.I. 2005/950, [arts. 2](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

124 In section 164 (further interpretative provision) for subsection (3) there is substituted—

“(3) References in this Act to a sentence falling to be imposed—

- (a) under section 110(2) or 111(2) above,
 - (b) under section 51A(2) of the Firearms Act 1968, or
 - (c) under any of sections 225 to 228 of the Criminal Justice Act 2003,
- are to be read in accordance with section 305(4) of the Criminal Justice Act 2003.”

Commencement Information

I33 Sch. 32 para. 124 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

125 For Schedule 3 (breach revocation and amendment of certain community orders) there is substituted—

“SCHEDULE 3

BREACH, REVOCATION AND AMENDMENT OF CURFEW ORDERS AND EXCLUSION ORDERS

PART 1

PRELIMINARY

Definitions

1 In this Schedule—

“the ^[F1]local justice area] concerned” means—

- (a) in relation to a curfew order, the ^[F1]local justice area] in which the place for the time being specified in the order is situated; and

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(b) in relation to an exclusion order, the [F1local justice area] for the time being specified in the order;

“relevant order” means a curfew order or an exclusion order.

Orders made on appeal

- 2 Where a relevant order has been made on appeal, for the purposes of this Schedule it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates' court, to have been made by a magistrates' court;
 - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court.

PART 2

BREACH OF REQUIREMENT OF ORDER

Issue of summons or warrant

- 3 (1) If at any time while a relevant order is in force in respect of an offender it appears on information to a justice of the peace [F2acting in the local justice area] concerned that the offender has failed to comply with any of the requirements of the order, the justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
 - (b) if the information is in writing and on oath, issue a warrant for his arrest.
- (2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—
- (a) in the case of any relevant order which was made by the Crown Court and included a direction that any failure to comply with any of the requirements of the order be dealt with by the Crown Court, before the Crown Court; and
 - (b) in the case of a relevant order which is not an order to which paragraph (a) above applies, before a magistrates' court [F2acting in the local justice area] concerned.
- (3) Where a summons issued under sub-paragraph (1)(a) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a further summons requiring the offender to appear at the place and time specified in it.
- (4) Where a summons issued under sub-paragraph (1)(a) above or a further summons issued under sub-paragraph (3) above requires an offender to appear before the Crown Court and the offender does not appear in answer to the summons, the Crown Court may issue a warrant for the arrest of the offender.

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

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Powers of magistrates' court

- 4 (1) This paragraph applies if it is proved to the satisfaction of a magistrates' court before which an offender appears or is brought under paragraph 3 above that he has failed without reasonable excuse to comply with any of the requirements of the relevant order.
- (2) The magistrates' court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 7 below);
 - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
 - (c) where the relevant order was made by a magistrates' court, by dealing with him, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) In dealing with an offender under sub-paragraph (2)(c) above, a magistrates' 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 152(2) of the Criminal Justice Act 2003.
- (4) Where a magistrates' court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) Where a relevant order was made by the Crown Court and a magistrates' court has power to deal with the offender under sub-paragraph (2)(a) or (b) above, it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (6) A magistrates' court which deals with an offender's case under sub-paragraph (5) above shall send to the Crown Court—
- (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of the relevant order in the respect specified in the certificate; and
 - (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (7) A person sentenced under sub-paragraph (2)(c) above for an offence may appeal to the Crown Court against the sentence.

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Powers of Crown Court

- 5 (1) This paragraph applies where under paragraph 3 or by virtue of paragraph 4(5) 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.
- (2) The Crown Court may deal with the offender in respect of the failure in one of the following ways (and must deal with him in one of those ways if the relevant order is in force)—
- (a) by making a curfew order in respect of him (subject to paragraph 7 below);
 - (b) by making an attendance centre order in respect of him (subject to paragraph 8 below); or
 - (c) by dealing with him, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) In dealing with an offender under sub-paragraph (2)(c) 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 152(2) of the Criminal Justice Act 2003.
- (4) Where the Crown Court deals with an offender under sub-paragraph (2)(c) above, it shall revoke the relevant order if it is still in force.
- (5) 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.

Exclusions from paragraphs 4 and 5

- 6 Without prejudice to paragraphs 10 and 11 below, an offender who is convicted of a further offence while a relevant order is in force in respect of him shall not on that account be liable to be dealt with under paragraph 4 or 5 in respect of a failure to comply with any requirement of the order.

Curfew orders imposed for breach of relevant order

- 7 (1) Section 37 of this Act (curfew orders) shall apply for the purposes of paragraphs 4(2)(a) and 5(2)(a) above as if for the words from the beginning to “make” there were substituted “ Where a court has power to deal with an offender under Part 2 of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may make in respect of the offender ”.

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

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- (2) The following provisions of this Act, namely—
- (a) section 37(3) to (12), and
 - (b) so far as applicable, sections 36B and 40 and this Schedule so far as relating to curfew orders;
- have effect in relation to a curfew order made by virtue of paragraphs 4(2)(a) and 5(2)(a) as they have effect in relation to any other curfew order, subject to sub-paragraph (3) below.
- (3) This Schedule shall have effect in relation to such a curfew order as if—
- (a) the power conferred on the court by each of paragraphs 4(2)(c), 5(2)(c) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the relevant order, in any way in which the appropriate court could deal with him for that failure if it had just been proved to the satisfaction of the court;
 - (b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
 - (c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the relevant order, in any way in which the appropriate court (if the relevant order was made by the magistrates' court) or the Crown Court (if that order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfaction.
- (4) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (3) above, as applied by that sub-paragraph, if the relevant order is no longer in force the appropriate court's powers shall be determined on the assumption that it is still in force.
- (5) Sections 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 4(2)(a) or 5(2)(a) above.

Attendance centre orders imposed for breach of relevant order

- 8 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraphs 4(2)(b) and 5(2)(b) above as if for the words from the beginning to “the court may,” there were substituted “ Where a court has power to deal with an offender under Part 2 of Schedule 3 to this Act for failure to comply with any of the requirements of a relevant order, the court may, ”.
- (2) The following provisions of this Act, namely—
- (a) subsections (3) to (11) of section 60, and
 - (b) so far as applicable, section 36B and Schedule 5,
- have effect in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) above as they have effect in relation to any other attendance centre order, but as if there were omitted from each of paragraphs 2(1)(b), 3(1) and 4(3) of Schedule 5 the words “, for the offence in respect of which the order was made,” and “for that offence”.

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- (3) Sections 148 and 156 of the Criminal Justice Act 2003 (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 4(2)(b) or 5(2)(b) above.

Supplementary

- 9 Any exercise by a court of its powers under paragraph 4(2)(a) or (b) or 5(2)(a) or (b) above shall be without prejudice to the continuance of the relevant order.

PART 3

REVOCATION OF ORDER

Revocation of order with or without re-sentencing: powers of magistrates' court

- 10 (1) This paragraph applies where a relevant order made by a magistrates' court is in force in respect of any offender and on the application of the offender or the responsible officer it appears to the appropriate magistrates' 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; or
 - (b) for the offender to be dealt with in some other way for the offence in respect of which the order was made.
- (2) In this paragraph “the appropriate magistrates' court” means a magistrates' court [^{F3}acting in the local justice area] concerned.
- (3) The appropriate magistrates' court may—
- (a) revoke the order; or
 - (b) both—
 - (i) revoke the order; and
 - (ii) deal with the offender for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (4) In dealing with an offender under sub-paragraph (3)(b) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.
- (5) A person sentenced under sub-paragraph (3)(b) above for an offence may appeal to the Crown Court against the sentence.
- (6) Where a magistrates' court proposes to exercise its powers under this paragraph otherwise than on the application of the offender, it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.
- (7) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

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*Revocation of order with or without re-sentencing:
powers of Crown Court on conviction etc.*

- 11 (1) This paragraph applies where—
- (a) a relevant order made by the Crown Court is in force in respect of an offender and the offender or the responsible officer applies to the Crown Court for the order to be revoked or for the offender to be dealt with in some other way for the offence in respect of which the order was made; or
 - (b) an offender in respect of whom a relevant order is in force is convicted of an offence before the Crown Court or, having been committed by a magistrates' court to the Crown Court for sentence, is brought or appears before the Crown Court.
- (2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—
- (a) revoke the order; or
 - (b) both—
 - (i) revoke the order; and
 - (ii) deal with the offender for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made.
- (3) In dealing with an offender under sub-paragraph (2)(b) above, the Crown Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

*Revocation following custodial sentence by
magistrates' court unconnected with order*

- 12 (1) This paragraph applies where—
- (a) an offender in respect of whom a relevant order is in force is convicted of an offence by a magistrates' court unconnected with the order;
 - (b) the court imposes a custodial sentence on the offender; and
 - (c) it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to exercise its powers under this paragraph having regard to circumstances which have arisen since the order was made.
- (2) In sub-paragraph (1) above “a magistrates' court unconnected with the order” means a magistrates' court not [^{F3}acting in the local justice area] concerned.
- (3) The court may—
- (a) if the order was made by a magistrates' court, revoke it;
 - (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.

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- (4) Where the court deals with an offender’s case under sub-paragraph (3)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

Revocation following custodial sentence by magistrates' court unconnected with order

- 13 Where by virtue of paragraph 12(3)(b) above an offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the relevant order was made, the Crown Court may revoke the order.

Supplementary

- 14 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the proper officer of the court shall forthwith give copies of the revoking order to the responsible officer.
- (2) In sub-paragraph (1) above “proper officer” means—
- (a) in relation to a magistrates' court, the [F⁴designated officer] for the court; and
- (b) in relation to the Crown Court, the appropriate officer.
- (3) A responsible officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

PART 4

AMENDMENT OF ORDER

Amendment by reason of change of residence

- 15 (1) This paragraph applies where, at any time while a relevant order is in force in respect of an offender, a magistrates' court [F⁵acting in the local justice area] concerned is satisfied that the offender proposes to change, or has changed, his residence from that [F⁶local justice area] to another [F⁶local justice area].
- (2) Subject to sub-paragraph (3) below, the court may, and on the application of the responsible officer shall, amend the relevant order by substituting the other [F⁷local justice area] for the area specified in the order or, in the case of a curfew order, a place in that other area for the place so specified.
- (3) The court shall not amend under this paragraph a curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the [F⁷local justice area] concerned unless, in accordance with paragraph 16 below, it either—
- (a) cancels those requirements; or

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- (b) substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.

Amendment of requirements of order

- 16 (1) Without prejudice to the provisions of paragraph 15 above but subject to the following provisions of this paragraph, a magistrates' court [^{F8}acting in the local justice area] concerned may, on the application of an eligible person, by order amend a relevant order—
- (a) by cancelling any of the requirements of the order; or
 - (b) by inserting in the order (either in addition to or in substitution for any of its requirements) any requirement which the court could include if it were then making the order.
- (2) A magistrates' court shall not under sub-paragraph (1) above amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.
- (3) A magistrates' court shall not under sub-paragraph (1) above amend an exclusion order by extending the period for which the offender is prohibited from entering the place in question beyond the end of three months from the date of the original order.
- (4) For the purposes of this paragraph the eligible persons are—
- (a) the offender;
 - (b) the responsible officer; and
 - (c) in relation to an exclusion order, any affected person.

But an application under sub-paragraph (1) by a person such as is mentioned in paragraph (c) above must be for the cancellation of a requirement which was included in the order by virtue of his consent or for the purpose (or partly for the purpose) of protecting him from being approached by the offender, or for the insertion of a requirement which will, if inserted, be such a requirement.

Supplementary

- 17 No order may be made under paragraph 15 above, and no application may be made under paragraph 16 above, while an appeal against the relevant order is pending.

Supplementary

- 18 (1) Subject to sub-paragraph (2) below, where a court proposes to exercise its powers under this Part of this Schedule, otherwise than on the application of the offender, the court—
- (a) shall summon him to appear before the court; and
 - (b) if he does not appear in answer to the summons, may issue a warrant for his arrest.
- (2) This paragraph shall not apply to an order cancelling a requirement of a relevant order or reducing the period of any requirement, or to an order under

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paragraph 15 above substituting a new [F⁹local justice area] or a new place for the one specified in a relevant order.

Supplementary

- 19 (1) On the making under this Part of this Schedule of an order amending a relevant order, the [F¹⁰designated officer] for the court shall forthwith—
- (a) if the order amends the relevant order otherwise than by substituting, by virtue of paragraph 15 above, a new [F¹¹local justice area] or a new place for the one specified in the relevant order, give copies of the amending order to the responsible officer;
 - (b) if the order amends the relevant order in the manner excepted by paragraph (a) above, send to the [F¹²designated officer for] the justices for the new [F¹¹local justice area] or, as the case may be, for the [F¹¹local justice area] in which the new place is situated—
 - (i) copies of the amending order; and
 - (ii) such documents and information relating to the case as he considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order;
 and in a case falling within paragraph (b) above the chief executive of the justices for that area shall give copies of the amending order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of an order are given shall give a copy to the offender and to the person in charge of any institution in which the offender is or was required by the order to reside.”

Textual Amendments

- F1** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(i)**
- F2** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(ii)**
- F3** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iii)**
- F4** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(iv)**
- F5** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F6** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F7** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(v)**
- F8** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vi)**
- F9** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(vii)**
- F10** Words in Sch. 32 para. 125 substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 112(b)(viii)**

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- F11** Words in Sch. 32 para. 125 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 112\(b\)\(viii\)](#)
- F12** Words in Sch. 32 para. 125 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 112\(b\)\(viii\)](#)

- 126 In Schedule 5 (breach, revocation and amendment of attendance centre orders)—
- (a) in paragraph 1(1)(b), for “section 62(3) of this Act” there is substituted “section 222(1)(d) or (e) of the Criminal Justice Act 2003 ”,
 - (b) in paragraph 2(5)(b), for “section 79(2) of this Act” there is substituted “section 152(2) of the Criminal Justice Act 2003 ”, and
 - (c) in paragraph 3(3)(b), for “section 79(2) of this Act” there is substituted “section 152(2) of the Criminal Justice Act 2003 ”.

Commencement Information

- I34** Sch. 32 para. 126 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 127 In Schedule 6 (requirements which may be included in supervision orders)—
- (a) in paragraph 2(7)(a), after the word “other” there is inserted “ youth community order or any ”, and
 - (b) in paragraph 3(6)(a), for “community order” there is substituted “ youth community order ”.

Commencement Information

- I35** Sch. 32 para. 127 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 42\(34\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 128 In Schedule 7 (breach, revocation and amendment of supervision orders)—
- (a) in paragraph 3—
 - (i) in sub-paragraph (2), for “sub-paragraphs (4) and (5)” there is substituted “ sub-paragraph (5) ”,
 - (ii) in sub-paragraph (3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”,
 - (iii) sub-paragraph (4) is omitted, and
 - (iv) in sub-paragraph (5)(a), for the words from the beginning to “and” there is substituted “ the power conferred on the court by each of paragraphs 4(2)(c) and ”, and
 - (b) in paragraph 4(3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”.

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Commencement Information

I36 Sch. 32 para. 128 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

129 In Schedule 8 (breach, revocation and amendment of action plan orders and reparation orders)—

(a) in paragraph 3—

(i) in sub-paragraph (2), for “sub-paragraphs (4) and (5)” there is substituted “ sub-paragraph (5) ”,

(ii) in sub-paragraph (3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”,

(iii) sub-paragraph (4) is omitted, and

(iv) in sub-paragraph (5)(a), for the words from the beginning to “and” there is substituted “ The power conferred on the court by each of paragraphs 4(2)(c) and ”, and

(b) in paragraph 4(3), for “Sections 35 and 36 of this Act” there is substituted “ Sections 148 and 156 of the Criminal Justice Act 2003 ”.

Commencement Information

I37 Sch. 32 para. 129 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 42(34) (subject to [art. 2\(2\)](#), Sch. 2)

Status:

Point in time view as at 04/04/2005.

Changes to legislation:

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