

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 25 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) View outstanding changes

SCHEDULES

SCHEDULE 5 **E+W**

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

^{F12}

Textual Amendments

- F1** Sch. 5 para. 2 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), **ss. 1**, 5(2)(3))

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 [^{F2}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 [^{F3}local justice area] in which the offender resides; or
 - (b) if it is not known where the offender resides, before a magistrates' court [^{F4}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'

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court [^{F5}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

- F2** 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)}
- F3** 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)}
- F4** 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)}
- F5** 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 “ [^{F6}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 [^{F6}acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [^{F6}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 [^{F6}acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

- F6** 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.

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- (2) In paragraph 3(1) (issue of summons or warrant by justice of the peace) omit the words “ [F7acting 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 [F7acting in the local justice area] in which the offender resides or, if it is not known where he resides, before a magistrates' court [F7acting 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 [F7acting in the local justice area] concerned were a reference to the court dealing with the offender.”

Textual Amendments

- F7** 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)}

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 [F8local justice area]”;
 - (b) “before a magistrates' court [F9acting 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 [F10acting 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 [F10acting 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—

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“(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

F8 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)}

F9 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)}

F10 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

F117

Textual Amendments

F11 Sch. 5 paras. 7-9 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

Suspended sentence orders under the 2003 Act

F118

Textual Amendments

F11 Sch. 5 paras. 7-9 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

F119

Textual Amendments

F11 Sch. 5 paras. 7-9 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2 (see also [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\)](#), [ss. 1](#), 5(2)(3))

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

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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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)