

## 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 “acting for a relevant petty sessions area”;
  - (b) in paragraph (a), omit the words “before a youth court acting for 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 acting for the petty sessions area in which the offender resides; or
  - (b) if it is not known where the offender resides, before a youth court acting for same petty sessions area as the justice who issued the summons or warrant.”

##### *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 petty sessions 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 petty sessions area in which the offender resides; or

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- (b) if it is not known where the offender resides, before a magistrates' court acting for the petty sessions 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 acting for the petty sessions area for the time being specified in the suspended sentence supervision order were a reference to the court dealing with the offender.”

#### *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 “acting for the petty sessions 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 acting for the petty sessions area in which the offender resides or, if it is not known where he resides, before a magistrates' court acting for the petty sessions 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 acting for the petty sessions area concerned were a reference to the court dealing with the offender.”

#### *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 “acting for the petty sessions 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 acting for the petty sessions area in which the offender resides or, if it is not

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known where he resides, before a magistrates' court acting for the petty sessions area concerned.”

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

“(4A) Where a magistrates' court dealing with an offender under subparagraph (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 acting for the petty sessions area concerned were a reference to the court dealing with the offender.”

#### *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 petty sessions area”;
- (b) “before a magistrates' court acting for 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 acting for the petty sessions area in which the offender resides; or
- (b) if it is not known where the offender resides, before a magistrates' court acting for the petty sessions 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 subparagraph (5) insert—

“(5A) Where a magistrates' court dealing with an offender under subparagraph (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.”

#### *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 “acting for the petty sessions area concerned”.

- (3) In paragraph 7(3) (court before which offender to appear or be brought), for paragraph (b) substitute—

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“(b) in any other case, before a magistrates' court acting for the petty sessions area in which the offender resides or, if it is not known where he resides, before a magistrates' court acting for the petty sessions 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 acts for a petty sessions 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 acting for the area so specified.”

#### *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 “acting for the petty sessions 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 acting for the petty sessions area in which the offender resides or, if it is not known where he resides, before a magistrates' court acting for the petty sessions 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.”

(5) In paragraph 22 (provision of copies of orders), at the end of sub-paragraph (1)(c) insert “, and

(d) where the court acts for a petty sessions 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 acting for the area so specified.”

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—

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“(5A) In paragraph 6(3)(b), the words “before a magistrates' court acting for the petty sessions area in which the offender resides or, if it is not known where he resides,” are omitted.”

*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.