

PART 32

BREACH, REVOCATION AND AMENDMENT OF COMMUNITY AND OTHER ORDERS

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When this Part applies**32.1.** This Part applies where—

- (a) the person responsible for a defendant's compliance with an order to which applies—
 - (i) Schedule 3, 5, 7 or 8 to the Powers of Criminal Courts (Sentencing) Act 2000(a),
 - (ii) Schedule 8 or 12 to the Criminal Justice Act 2003(b),
 - (iii) Schedule 2 to the Criminal Justice and Immigration Act 2008(c), or
 - (iv) the Schedule to the Street Offences Act 1959(d)
wants the court to deal with that defendant for failure to comply;
- (b) one of the following wants the court to exercise any power it has to revoke or amend such an order—
 - (i) the responsible officer or supervisor,
 - (ii) the defendant, or
 - (iii) where the legislation allows, a person affected by the order; or
- (c) the court considers exercising on its own initiative any power it has to revoke or amend such an order.

[Note. In the Powers of Criminal Courts (Sentencing) Act 2000—

- (a) *Schedule 3 deals with the breach, revocation and amendment of curfew orders and exclusion orders;*
- (b) *Schedule 5 deals with the breach, revocation and amendment of attendance centre orders;*
- (c) *Schedule 7 deals with the breach, revocation and amendment of supervision orders;*

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- (a) 2000 c. 6; Schedules 3, 5 and 7 were repealed by section 149 of, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4). For transitional provisions and savings, see section 148(2) of, and paragraphs 1(1) and 5 of Schedule 27 to, the Criminal Justice and Immigration Act 2008 (c. 4). Paragraph 3(3) of Schedule 7 was amended by section 304 of, and paragraphs 90 and 128 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44); paragraph 6A was inserted into Schedule 8 by section 6 of, and paragraphs 106 and 108 of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4). Other amendments to these Schedules do not affect the procedure prescribed by these rules.
 - (b) 2003 c. 44; Schedule 8 was amended by article 2 of, and paragraph 106(a) of the Schedule to, S.I. 2005/886, section 6 of, and paragraph 109 of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4) and section 66 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). Other amendments to Schedule 8 do not affect the procedure prescribed by these rules. Schedule 12 was amended by article 2 of, and paragraph 110 of the Schedule to, S.I. 2005/886 and section 69 of, and paragraphs 2 and 11 of Schedule 9 to, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (c) 2008 c. 4; Schedule 2 was amended by section 59(5) of, and paragraph 1(2) of Schedule 11 to, the Constitutional Reform Act 2005 (c. 4) and sections 83 and 84 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (d) 1959 c. 57; Schedule: Orders under section 1(2A) was inserted by section 17(1) and (4) of the Policing and Crime Act 2009 (c. 26).

- (d) *Schedule 8 deals with the breach, revocation and amendment of action plan orders and reparation orders; and*
- (e) *Schedules 3, 5 and 7 are repealed, with savings for existing orders, by the relevant provisions of the Criminal Justice and Immigration Act 2008; and, with savings for existing orders, Schedule 8 no longer refers to action plan orders.*

In the Criminal Justice Act 2003—

- (a) *Schedule 8 deals with the breach, revocation and amendment of community orders; and*
- (b) *Schedule 12 deals with the breach and amendment of suspended sentence orders.*

Schedule 2 to the Criminal Justice and Immigration Act 2008 deals with the breach, revocation and amendment of youth rehabilitation orders.

Under Schedule 8 to the 2000 Act, Schedule 8 to the 2003 Act and Schedule 2 to the 2008 Act, a single member of the court can adjourn a hearing to which this Part applies.]

Application by responsible officer or supervisor

32.2.—(1) This rule applies where—

- (a) the responsible officer or supervisor wants the court to—
 - (i) deal with a defendant for failure to comply with an order to which this Part applies, or
 - (ii) revoke or amend such an order; or
- (b) the court considers exercising on its own initiative any power it has to—
 - (i) revoke or amend such an order, and
 - (ii) summon the defendant to attend for that purpose.

(2) Rules 7.2 to 7.4, which deal, among other things, with starting a prosecution in a magistrates' court by information and summons, apply—

- (a) as if—
 - (i) a reference in those rules to an allegation of an offence included a reference to an allegation of failure to comply with an order to which this Part applies, and
 - (ii) a reference to the prosecutor included a reference to the responsible officer or supervisor; and
- (b) with the necessary consequential modifications.

Application by defendant or person affected

32.3.—(1) This rule applies where—

- (a) the defendant wants the court to exercise any power it has to revoke or amend an order to which this Part applies; or
- (b) where the legislation allows, a person affected by such an order wants the court to exercise any such power.

(2) That defendant, or person affected, must—

- (a) apply in writing, explaining why the order should be revoked or amended; and
- (b) serve the application on—
 - (i) the court officer,
 - (ii) the responsible officer or supervisor, and
 - (iii) as appropriate, the defendant or the person affected.

Procedure on application by responsible officer or supervisor

32.4.—(1) Except for rules 24.8 (Written guilty plea: special rules) and 24.9 (Single justice procedure: special rules), the rules in Part 24, which deal with the procedure at a trial in a magistrates' court, apply—

(a) as if—

- (i) a reference in those rules to an allegation of an offence included a reference to an allegation of failure to comply with an order to which this Part applies,
- (ii) a reference to the court's verdict included a reference to the court's decision to revoke or amend such an order, or to exercise any other power it has to deal with the defendant, and
- (iii) a reference to the court's sentence included a reference to the exercise of any such power; and

(b) with the necessary consequential modifications.

(2) The court officer must serve on each party any order revoking or amending an order to which this Part applies.