

*Status: Point in time view as at 01/04/2005.*

*Changes to legislation: Criminal Justice Act 2003, SCHEDULE 10 is up to date with all changes known to be in force on or before 07 July 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 10

Section 187

#### REVOCATION OR AMENDMENT OF CUSTODY PLUS ORDERS AND AMENDMENT OF INTERMITTENT CUSTODY ORDERS

##### Modifications etc. (not altering text)

- C1** Sch. 10 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006](#) (c. 52), [ss. 199\(1\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

##### Interpretation

- 1 (1) In this Schedule—
- “the appropriate court” means—
- (a) where the custody plus order or intermittent custody order was made by the Crown Court, the Crown Court, and
- (b) in any other case, a magistrates' court [<sup>F1</sup>acting in the local justice area] concerned;
- “the offender”, in relation to a custody plus order or intermittent custody order, means the person in respect of whom the order is made;
- “the responsible officer” has the meaning given by section 197.
- “the [<sup>F2</sup>local justice area] concerned”, in relation to a custody plus order or intermittent custody order, means the [<sup>F2</sup>local justice area] for the time being specified in the order;
- (2) In this Schedule any reference to a requirement being imposed by, or included in, a custody plus order or intermittent custody order is to be read as a reference to compliance with the requirement being required by the order to be a condition of a licence.

##### Textual Amendments

- F1** Words in Sch. 10 para. 1(1) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005](#) (S.I. 2005/886), [art. 2](#), [Sch. para. 108\(a\)\(i\)](#)
- F2** Words in Sch. 10 para. 1(1) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005](#) (S.I. 2005/886), [art. 2](#), [Sch. para. 108\(a\)\(ii\)](#)

##### Commencement Information

- I1** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see [s. 336\(3\)](#); Sch. 10 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), Sch.

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### *Orders made on appeal*

- 2 Where a custody plus order or intermittent custody order has been made on appeal, it is to be taken for the purposes of this Schedule to have been made by the Crown Court.

#### **Commencement Information**

- I2** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.

### *Revocation of custody plus order or removal from intermittent custody order of requirements as to licence conditions*

- 3 (1) Where at any time while a custody plus order or intermittent custody order is in force, it appears to the appropriate court on the application of the offender or the responsible officer that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice to do so, the court may—
- (a) in the case of a custody plus order, revoke the order, and
  - (b) in the case of an intermittent custody order, amend the order so that it contains only provision specifying periods for the purposes of section 183(1)(b)(i).
- (2) The revocation under this paragraph of a custody plus order does not affect the sentence of imprisonment to which the order relates, except in relation to the conditions of the licence.

#### **Commencement Information**

- I3** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.

### *Amendment by reason of change of residence*

- 4 (1) This paragraph applies where, at any time during the term of imprisonment to which a custody plus order or intermittent custody order relates, the appropriate court is satisfied that the offender proposes to change, or has changed, his residence during the licence period from the [F3local justice area] concerned to another [F3local justice area] .
- (2) Subject to sub-paragraphs (3) and (4), the appropriate court may, and on the application of the Secretary of State or the responsible officer must, amend the custody plus order or intermittent custody order by substituting the other [F3local justice area] for the area specified in the order.
- (3) The court may not amend under this paragraph a custody plus order or intermittent custody order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender resides in the [F3local justice area] concerned unless, in accordance with paragraph 5, it either—
- (a) cancels those requirements, or
  - (b) substitutes for those requirements other requirements which can be complied with if the offender does not reside in that area.

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- (4) The court may not amend under this paragraph any custody plus order or intermittent custody order imposing a programme requirement unless it appears to the court that the accredited programme specified in the requirement is available in the other [F3 local justice area] .

#### Textual Amendments

- F3** Words in [Sch. 10 para. 4](#) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I.2005/886\)](#), art. 2, [Sch. para. 108\(b\)](#)

#### Commencement Information

- I4** [Sch. 10](#) partly in force; [Sch. 10](#) not in force at Royal Assent, see [s. 336\(3\)](#); [Sch. 10](#) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

#### *Amendment of requirements of custody plus order or intermittent custody order*

- 5 (1) At any time during the term of imprisonment to which a custody plus order or intermittent custody order relates, the appropriate court may, on the application of the offender, the Secretary of State or the responsible officer, by order amend any requirement of the custody plus order or intermittent custody order—
- (a) by cancelling the requirement, or
  - (b) by replacing it with a requirement of the same kind imposing different obligations, which the court could include if it were then making the order.
- (2) For the purposes of sub-paragraph (1)—
- (a) a requirement falling within any paragraph of section 182(1) is of the same kind as any other requirement falling within that paragraph, and
  - (b) an electronic monitoring requirement is a requirement of the same kind as any requirement falling within section 182(1) to which it relates.
- (3) Sub-paragraph (1)(b) has effect subject to the provisions mentioned in subsection (2) of section 182, and to subsections (3) and (5) of that section.

#### Commencement Information

- I5** [Sch. 10](#) partly in force; [Sch. 10](#) not in force at Royal Assent, see [s. 336\(3\)](#); [Sch. 10](#) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

#### *Alteration of pattern of temporary release*

- 6 (1) At any time during the term of imprisonment to which an intermittent custody order relates, the appropriate court may, on the application of the offender, the Secretary of State or the responsible officer, amend the order—
- (a) so as to specify different periods for the purposes of section 183(1)(b)(i), or
  - (b) so as to provide that he is to remain in prison until the number of days served by him in prison is equal to the number of custodial days.
- (2) The appropriate court may not by virtue of sub-paragraph (1) amend an intermittent custody order unless it has received from the Secretary of State notification that

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suitable prison accommodation is available for the offender during the periods which, under the order as amended, will be custodial periods.

(3) In this paragraph “custodial period” has the same meaning as in section 184(3).

**Commencement Information**

**I6** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.

*Supplementary*

7 No application may be made under paragraph 3(1), 5(1) or 6(1) while an appeal against the sentence of which the custody plus or intermittent custody order forms part is pending.

**Commencement Information**

**I7** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.

8 (1) Subject to sub-paragraph (2), where a court proposes to exercise its powers under paragraph 5 or 6, otherwise than on the application of the offender, the court—

- (a) must 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 does not apply to an order cancelling any requirement of a custody plus or intermittent custody order.

**Commencement Information**

**I8** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.

9 (1) On the making under this Schedule of an order revoking or amending a custody plus order or amending an intermittent custody order, the proper officer of the court must—

- (a) provide copies of the revoking or amending order to the offender and the responsible officer,
- (b) in the case of an amending order which substitutes a new [F4]local justice area], provide a copy of the amending order to—
  - (i) the local probation board [F5]acting in that area], and
  - (ii) the magistrates' court [F5]acting in that area],
- (c) in the case of an order which cancels or amends a requirement specified in the first column of Schedule 14, provide a copy of so much of the amending order as relates to that requirement to the person specified in relation to that requirement in the second column of that Schedule.

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- (2) Where under sub-paragraph (1)(b) the proper officer of the court provides a copy of an amending order to a magistrates' court [<sup>F6</sup>acting in a different area], the officer must also provide to that court such documents and information relating to the case as it considers likely to be of assistance to a court [<sup>F7</sup>acting in that area] in the exercise of its functions in relation to the order.

#### Textual Amendments

- F4** Words in Sch. 10 para. 9(1)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 108(c)(i)**
- F5** Words in Sch. 10 para. 9(1)(b) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 108(c)(i)**
- F6** Words in Sch. 10 para. 9(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 108(c)(ii)**
- F7** Words in Sch. 10 para. 9(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 108(c)(ii)**

#### Modifications etc. (not altering text)

- C2** Sch. 10 para. 9(1)(b)(ii) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 199(2)**, 383; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- C3** Sch. 10 para. 9(2) excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), **ss. 199(2)**, 383; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

#### Commencement Information

- I9** Sch. 10 partly in force; Sch. 10 not in force at Royal Assent, see s. 336(3); Sch. 10 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.

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