

Status: Point in time view as at 31/10/2009.

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SCHEDULES

SCHEDULE 5

BREACH, REVOCATION AND AMENDMENT OF COMMUNITY PUNISHMENTS

PART 1

SERVICE COMMUNITY ORDERS

General

- 1 (1) In Schedule 8 to the 2003 Act (breach, revocation or amendment of community order), “community order” includes a service community order under this Act.
- (2) In its application to such an order, that Schedule has effect as if paragraphs 2(b), 4, 5(4), 6(2), 7, 9, [F1 13, 16(5), 17(6)], 18(4), 20(2), 21 [F2, 25A] and 27(1)(b)(ii) and (d), (2) and (3)(a) were omitted.

Textual Amendments

- F1** Words in Sch. 5 para. 1(2) substituted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 26 para. 82\(3\)\(a\)](#); S.I. 2009/2606, art. 3(i)
- F2** Word in Sch. 5 para. 1(2) inserted (31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\)](#), [Sch. 26 para. 82\(3\)\(b\)](#); S.I. 2009/2606, art. 3(i)

Commencement Information

- I1** Sch. 5 para. 1 in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I2** Sch. 5 para. 1 in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Breach of requirement of order

- 2 Paragraphs 5(1)(b) and 6(1) of that Schedule (warning and laying of information) have effect in relation to a service community order under this Act as if the references to a justice of the peace were to the Crown Court.

Commencement Information

- I3** [Sch. 5 para. 2](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I4** [Sch. 5 para. 2](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 3 Paragraph 8 of that Schedule (issue of summons or warrant for breach) applies to such an order as it applies to an order mentioned in sub-paragraph (1) of that paragraph.

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- I5** [Sch. 5 para. 3](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I6** [Sch. 5 para. 3](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Revocation of order

- 4 Paragraph 14 of that Schedule (Crown Court's powers of revocation) has effect as if the reference in sub-paragraph (1)(a) to a community order as there mentioned included a service community order under this Act.

Commencement Information

- I7** [Sch. 5 para. 4](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I8** [Sch. 5 para. 4](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Amendment of order

- 5 In Part 4 of that Schedule (amendment of order) as it applies to a service community order under this Act, “the appropriate court” means the Crown Court.

Commencement Information

- I9** [Sch. 5 para. 5](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I10** [Sch. 5 para. 5](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

- 6 In paragraph 19 of that Schedule (amendment in relation to review of drug rehabilitation requirement) as it applies to such an order, “the court responsible for the order” means the Crown Court.

Commencement Information

- I11** [Sch. 5 para. 6](#) in force at 28.3.2009 for specified purposes by [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#) (with transitional provisions in [S.I. 2009/1059](#))
- I12** [Sch. 5 para. 6](#) in force at 31.10.2009 in so far as not already in force by [S.I. 2009/1167](#), [art. 4](#)

Powers of civilian courts in relation to order following subsequent conviction

- 7 Paragraph 22 of that Schedule (committal to Crown Court on subsequent conviction by magistrates' court in England or Wales) has effect as if the reference in sub-paragraph (1) to a community order made by the Crown Court included a service community order under this Act.

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- I13** Sch. 5 para. 7 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I14** Sch. 5 para. 7 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

Re-sentencing powers

- 8 (1) This paragraph applies for the purposes of construing the powers conferred on the Crown Court by paragraphs 10(1)(b), 14(2)(b)(ii), 17(3)(b) and 23(2)(b)(ii) of Schedule 8 to the 2003 Act to 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.
- (2) Each of those powers shall be construed in relation to a service community order under this Act as a power to deal with the offender, for the offence in respect of which the order was made—
- (a) if that offence is an offence punishable with imprisonment, in any way in which the Crown Court could deal with him if he had just been convicted before that court of an offence punishable with imprisonment;
- (b) if it is not an offence punishable with imprisonment, in any way in which the Crown Court could deal with him if he had just been convicted before that court of an offence not punishable with imprisonment.
- (3) A term of imprisonment or fine imposed by virtue of this paragraph—
- (a) must not exceed the maximum permitted for the offence in respect of which the order was made; and
- (b) where the order was made by the Service Civilian Court, must not exceed—
- (i) in the case of a term of imprisonment, 12 months;
- (ii) in the case of a fine, the prescribed sum.
- (4) In relation to a service community order under this Act, the references in paragraphs 10(4) and 17(4)(b) of that Schedule to a custodial sentence are to be read as references to a sentence of imprisonment.

Commencement Information

- I15** Sch. 5 para. 8 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I16** Sch. 5 para. 8 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

- 9 Where a sentence is passed by virtue of paragraph 8 above, section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.

Commencement Information

- I17** Sch. 5 para. 9 in force at 28.3.2009 for specified purposes by S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- I18** Sch. 5 para. 9 in force at 31.10.2009 in so far as not already in force by S.I. 2009/1167, art. 4

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