

Status: Point in time view as at 03/11/1994. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Criminal Justice Act 1991, Part III is up to date with all changes known to be in force on or before 17 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 2

ENFORCEMENT ETC. OF COMMUNITY ORDERS

Modifications etc. (not altering text)

- C1** Sch. 2 applied (with modifications) (1.4.1996) by 1995 c. 46, ss. 234(5)(6), 309(2) (with ss. 24(2), 307(2))
Sch. 2 applied (with modifications) (30.9.1998) by 1998 c. 37, ss. 68(3), 70(5), Sch. 5 para. 5(4)(5);
S.I. 1998/2327, arts.2(1)(o)
Sch. 2 applied (with modifications) (30.9.1998) by 1969 c. 54, s. 16B (as inserted by 1998 c. 37, s. 119,
Sch. 8 para.21; S.I. 1998/2327, arts.2(1)(y)(2)(i))

Commencement Information

- II** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

PART III

REVOCATION OF ORDER

Commencement Information

- II** Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Revocation of order with or without re-sentencing

- 7 (1) This paragraph applies where a relevant order is in force in respect of any offender and, on the application of the offender or the responsible officer, it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- that the order should be revoked; or
 - that the offender should be dealt with in some other manner for the offence in respect of which the order was made.
- (2) The court may—
- if the order was made by a magistrates' court—
 - revoke the order; or
 - revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by the court of the offence; or

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- (b) if the order was made by the Crown Court, commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a)(i) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(a)(ii) above, a magistrates' court shall take into account the extent to which the offender has complied with the requirements of the relevant order.
- (5) An offender sentenced under sub-paragraph (2)(a)(ii) above may appeal to the Crown Court against the sentence.
- (6) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.
- (7) Where a magistrates' court proposes to exercise its powers under this paragraph otherwise than on the application of the offender it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.
- (8) No application may be made by the offender under sub-paragraph (1) above while an appeal against the relevant order is pending.

Commencement Information

I2 [Sch. 2](#) (paras. 1 - 18) wholly in force at 1.10.1992 see [s. 102\(2\)\(3\)](#) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#).

- 8 (1) This paragraph applies where an offender in respect of whom a relevant order is in force—
 - (a) is convicted of an offence before the Crown Court; or
 - (b) is committed by a magistrates' court to the Crown Court for sentence and is brought or appears before the Crown Court; or
 - (c) by virtue of paragraph 7(2)(b) above is brought or appears before the Crown Court.
- (2) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—
 - (a) revoke the order; or
 - (b) revoke the order and deal with the offender, for the offence in respect of which the order was made, in any manner in which it could deal with him if he had just been convicted by or before the court of the offence.
- (3) The circumstances in which a probation order may be revoked under sub-paragraph (2)(a) above shall include the offender's making good progress or his responding satisfactorily to supervision.
- (4) In dealing with an offender under sub-paragraph (2)(b) above, the Crown Court shall take into account the extent to which the offender has complied with the requirements of the relevant order.

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Commencement Information

I3 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- [^{F1}8A (1) This paragraph applies where a probation order is in force in respect of any offender and on the application of the offender or the responsible officer it appears to a magistrates' court acting for the petty sessions area concerned that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice—
- (a) for the probation order to be revoked; and
 - (b) for an order to be made under section 1A(1)(b) of the 1973 Act discharging the offender conditionally for the offence for which the probation order was made.
- (2) No application may be made under paragraph 7 above for a probation order to be revoked and replaced with an order for conditional discharge under section 1A(1)(b) of the 1973 Act; but otherwise nothing in this paragraph shall affect the operation of paragraphs 7 and 8 above.
- (3) Where this paragraph applies and the probation order was made by a magistrates' court—
- (a) the magistrates' court dealing with the application may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
 - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (4) Where this paragraph applies and the probation order was made by the Crown Court, the magistrates' court may send the application to the Crown Court to be heard by that court, and if it does so shall also send to the Crown Court such particulars of the case as may be desirable.
- (5) Where an application under this paragraph is heard by the Crown Court by virtue of sub-paragraph (4) above—
- (a) the Crown Court may revoke the probation order and make an order under section 1A(1)(b) of the 1973 Act discharging the offender in respect of the offence for which the probation order was made, subject to the condition that he commits no offence during the period specified in the order under section 1A(1)(b); and
 - (b) the period specified in the order under section 1A(1)(b) shall be the period beginning with the making of that order and ending with the date when the probation period specified in the probation order would have ended.
- (6) For the purposes of sub-paragraphs (3) and (5) above, subsection (1) of section 1A of the 1973 Act shall apply as if—

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- (a) for the words from the beginning to “may make an order either” there were substituted the words “Where paragraph 8A of Schedule 2 to the^{M1} Criminal Justice Act 1991 applies, the court which under sub-paragraph (3) or (5) of that paragraph has power to dispose of the application may (subject to the provisions of that sub-paragraph) make an order in respect of the offender”; and
- (b) paragraph (a) of that subsection were omitted.
- (7) An application under this paragraph may be heard in the offender’s absence if—
- (a) the application is made by the responsible officer; and
- (b) that officer produces to the court a statement by the offender that he understands the effect of an order for conditional discharge and consents to the making of the application;
- and where the application is so heard section 1A(3) of the 1973 Act shall not apply.
- (8) No application may be made under this paragraph while an appeal against the probation order is pending.
- (9) Without prejudice to paragraph 11 below, on the making of an order under section 1A(1)(b) of the 1973 Act by virtue of this paragraph the court shall forthwith give copies of the order to the responsible officer, and the responsible officer shall give a copy to the offender.
- (10) Each of sections 1(11), 2(9) and 66(4) of the Crime and Disorder Act 1998 (which prevent a court from making an order for conditional discharge in certain cases) shall have effect as if the reference to the court by or before which a person is convicted of an offence there mentioned included a reference to a court dealing with an application under this paragraph in respect of the offence.]

Textual Amendments

- F1** Sch. 2 para. 8A inserted (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(11); S.I. 1998/2327, art.2(1)(w)

Marginal Citations

- M1** 1991 c.53.

Revocation of order following custodial sentence

- 9 (1) This paragraph applies where—
- (a) an offender in respect of whom a relevant order is in force is convicted of an offence before a magistrates’ court other than a magistrates’ court acting for the petty sessions area concerned; and
- (b) the court imposes a custodial sentence on the offender.
- (2) If it appears to the court, on the application of the offender or the responsible officer, that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made, the court may—
- (a) if the order was made by a magistrates’ court, revoke it; and

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- (b) if the order was made by the Crown Court, commit the offender in custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where the court deals with an offender's case under sub-paragraph (2)(b) above, it shall send to the Crown Court such particulars of the case as may be desirable.

Commencement Information

I4 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

- 10 Where by virtue of paragraph 9(2)(b) above an offender is brought or appears before the Crown Court and it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the relevant order was made, the Crown Court may revoke the order.

Commencement Information

I5 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

Supplemental

- 11 (1) On the making under this Part of this Schedule of an order revoking a relevant order, the clerk to the court shall forthwith give copies of the revoking order to the responsible officer.
- (2) A responsible officer to whom in accordance with sub-paragraph (1) above copies of a revoking order are given shall give a copy to the offender and to the person in charge of any institution in which the offender was required by the order to reside.

Commencement Information

I6 Sch. 2 (paras. 1 - 18) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

VALID FROM 30/09/1998

- [^{F2}11A Paragraph 6A above shall apply for the purposes of paragraphs 7 and 8 above as it applies for the purposes of paragraph 3 above, but as if in paragraph 6A(1) for the words “powers exercisable under paragraph 3(1)(d) above” there were substituted the words “powers to deal with the offender which are exercisable under paragraph 7(2)(a)(ii) or 8(2)(b) below”.]

Textual Amendments

F2 Sch. 2 para. 11A inserted (30.9.1998) by 1998 c. 37, s. 106, Sch. 7 para. 46(12); S.I. 1998/2327, art.2(1)(w)

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VALID FROM 30/09/1998

- [^{F3}11B Where under this Part of this Schedule a relevant order is revoked and replaced by an order for conditional discharge under section 1A(1)(b) of the 1973 Act and—
- (a) the order for conditional discharge is not made in the circumstances mentioned in section 1B(9) of the 1973 Act (order made by magistrates' court in the case of an offender under eighteen in respect of offence triable only on indictment in the case of an adult), but
 - (b) the relevant order was made in those circumstances,
- section 1B(9) of the 1973 Act shall apply as if the order for conditional discharge had been made in those circumstances.]

Textual Amendments

- F3** Sch. 2 para. 11B inserted (30.9.1998) by 1998 c. 37, s. 106, **Sch. 7 para. 46(12)**; S.I. 1998/2327, art. 2(1)(w)

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