

SCHEDULE 3

Rule 11

“Part 44

Breach, revocation and
amendment of community
and other orders in
a magistrates' court

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When this Part applies

- 44.1.** This Part applies in a magistrates' court where—
- (a) the officer 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(1),
 - (ii) Schedule 8 to the Criminal Justice Act 2003(2), or
 - (iii) Schedule 2 to the Criminal Justice and Immigration Act 2008(3)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,
 - (ii) the defendant, or
 - (iii) 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;*

(1) 2000 c. 6; Schedule 3 is to be substituted by section 304 of, and paragraphs 90 and 125 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44) from 4 April 2009 and it is to be repealed by section 149 of, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4) from a date to be appointed. Schedules 5 and 7 are to be repealed by section 149 of, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4) from a date to be appointed. 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 is to be 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) from a date to be appointed. Other amendments to these Schedules do not affect the procedure prescribed by these rules.

(2) 2003 c. 44; paragraph 25A is to be inserted in Schedule 8 by section 6 of, and paragraph 109 of Schedule 4 to, the Criminal Justice and Immigration Act 2008 (c. 4) from a date to be appointed. Other amendments to Schedule 8 do not affect the procedure prescribed by these rules.

(3) 2008 c. 4.

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- (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;*
- (d) *Schedule 8 deals with the breach, revocation and amendment of action plan orders and reparation orders; and*
- (e) *Schedule 5 will be repealed when the relevant provisions of the Criminal Justice Act 2003 come into force; Schedules 3 and 7 will be repealed when the relevant provisions of the Criminal Justice and Immigration Act 2008 come into force; and Schedule 8 no longer will refer to action plan orders when the relevant provisions of the 2008 Act come into force.*

Schedule 8 to the Criminal Justice Act 2003 deals with the breach, revocation and amendment of community orders.

When it comes into force, Schedule 2 to the Criminal Justice and Immigration Act 2008 will deal with the breach, revocation and amendment of youth rehabilitation orders.

Under Schedule 8 to the Powers of Criminal Courts (Sentencing) Act 2000, Schedule 8 to the Criminal Justice Act 2003 and Schedule 2 to the Criminal Justice and Immigration Act 2008, a single member of the court can adjourn a hearing to which this Part applies.]

Application by responsible officer

44.2.—(1) This rule applies where—

- (a) the responsible officer 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; and
- (b) with the necessary consequential modifications.

Application by defendant or person affected

44.3.—(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) 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—

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- (i) the court officer,
- (ii) the responsible officer, and
- (iii) as appropriate, the defendant or the person affected.

Procedure on application by responsible officer

44.4.—(1) Except for rule 37.8, the rules in Part 37, 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.”