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STATUTORY INSTRUMENTS

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**2010 No. 60**

**The Criminal Procedure Rules 2010**

**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—*

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- (1) 2000 c. 6; Schedule 3 was substituted by section 304 of, and paragraphs 90 and 125 of Schedule 32 to, the Criminal Justice Act 2003 (c. 44). It is repealed by section 149 of, and Part 1 of Schedule 28 to, the Criminal Justice and Immigration Act 2008 (c. 4), with effect from a date to be appointed.
  - (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; Schedule 2 will take effect from a date to be appointed.

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- (e) *Schedule 5 will be repealed when the relevant provisions of the Criminal Justice Act 2003 come into force; Schedules 3 and 7 will be repealed when the relevant provisions of the Criminal Justice and Immigration Act 2008 come into force; and Schedule 8 no longer will refer to action plan orders when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