

Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000, Cross Heading: Breach of order or attendance centre rules is up to date with all changes known to be in force on or before 17 July 2023. 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) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 5

BREACH, REVOCATION AND AMENDMENT OF ATTENDANCE CENTRE ORDERS

Textual Amendments

- F1** Schs. 5-7 repealed (30.11.2009 for specified purposes) by [Criminal Justice and Immigration Act 2008](#) (c. 4), s. 153(7), **Sch. 28 Pt. 1** (with [Sch. 27](#) paras. 15); S.I. 2009/3074, art. 2(u)(xxvi)

Breach of order or attendance centre rules

- 1 (1) Where an attendance centre order is in force and it appears on information to a justice ^{F2}... that the offender—
- (a) has failed to attend in accordance with the order, or
 - (b) while attending has committed a breach of rules made under [^{F3}section 394(1)(d) or (e) of the Sentencing Code] which cannot be adequately dealt with under those rules,
- the justice may issue a summons requiring the offender to appear at the place and time specified in the summons ^{F4}... or, if the information is in writing and on oath, may issue a warrant for the offender's arrest ^{F5}....
- [^{F6}(2) Any summons or warrant issued under this paragraph shall direct the offender to appear or be brought—
- (a) before a magistrates' court acting for the [^{F7}local justice area] in which the offender resides; or
 - (b) if it is not known where the offender resides, before a magistrates' court acting for the [^{F7}local justice area] in which is situated the attendance centre which the offender is required to attend by the order or by virtue of an order under paragraph 5(1)(b) below.]

Textual Amendments

- F2** Words in Sch. 5 para. 1(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004](#) (c. 28), s. 60, **Sch. 5 para. 6(2)(a)**; S.I. 2005/579, art. 3(d)
- F3** Words in [Sch. 5 para. 1\(1\)\(b\)](#) substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 170(2)** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F4** Words in Sch. 5 para. 1(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004](#) (c. 28), s. 60, **Sch. 5 para. 6(2)(b)**; S.I. 2005/579, art. 3(d)
- F5** Words in Sch. 5 para. 1(1) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004](#) (c. 28), s. 60, **Sch. 5 para. 6(2)(c)**; S.I. 2005/579, art. 3(d)
- F6** Sch. 5 para. 1(2) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004](#) (c. 28), s. 60, **Sch. 5 para. 6(3)**; S.I. 2005/579, art. 3(d)

Changes to legislation: *Powers of Criminal Courts (Sentencing) Act 2000, Cross Heading: Breach of order or attendance centre rules is up to date with all changes known to be in force on or before 17 July 2023. 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) View outstanding changes*

F7 Words in Sch. 5 para. 1(2) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 1, [Sch. para. 83\(b\)](#)

- 2 (1) If it is proved to the satisfaction of the magistrates' court before which an offender appears or is brought under paragraph 1 above that he has failed without reasonable excuse to attend as mentioned in sub-paragraph (1)(a) of that paragraph or has committed such a breach of rules as is mentioned in sub-paragraph (1)(b) of that paragraph, that court may deal with him in any one of the following ways—
- (a) it may impose on him a fine not exceeding £1,000;
 - (b) where the attendance centre order was made by a magistrates' court, it may deal with him, 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 if the order had not been made; or
 - (c) where the order was made by the Crown Court, it may commit him to custody or release him on bail until he can be brought or appear before the Crown Court.
- (2) Any exercise by the court of its power under sub-paragraph (1)(a) above shall be without prejudice to the continuation of the order.
- (3) A fine imposed under sub-paragraph (1)(a) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- [^{F8}(3A) Where—
- (a) the offender is aged under 18, and
 - (b) but for this sub-paragraph, the court would impose a fine on the offender under sub-paragraph (1)(a) above,
- section 380 of the Sentencing Code (order for payment by parent or guardian) applies to the fine.]
- (4) Where a magistrates' court deals with an offender under sub-paragraph (1)(b) above, it shall revoke the attendance centre order if it is still in force.
- (5) In dealing with an offender under sub-paragraph (1)(b) above, a magistrates' court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre order; and
 - (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in [^{F9}section 230(2) of the Sentencing Code].
- [^{F10}(5A) Where a magistrates' court dealing with an offender under sub-paragraph (1)(a) above would not otherwise have the power to amend the order under paragraph 5(1) (b) below (substitution of different attendance centre), that paragraph has effect as if references to an appropriate magistrates' court were references to the court dealing with the offender.]
- (6) A person sentenced under sub-paragraph (1)(b) above for an offence may appeal to the Crown Court against the sentence.
- (7) A magistrates' court which deals with an offender's case under sub-paragraph (1)(c) above shall send to the Crown Court—
- (a) a certificate signed by a justice of the peace giving particulars of the offender's failure to attend or, as the case may be, the breach of the rules which he has committed; and

Changes to legislation: Powers of Criminal Courts (Sentencing) Act 2000, Cross Heading: Breach of order or attendance centre rules is up to date with all changes known to be in force on or before 17 July 2023. 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) View outstanding changes

(b) such other particulars of the case as may be desirable;
and a certificate purporting to be so signed shall be admissible as evidence of the failure or the breach before the Crown Court.

Textual Amendments

- F8** Sch. 5 para. 2(3A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 170\(3\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F9** Words in Sch. 5 para. 2(5)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 170\(4\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F10** Sch. 5 para. 2(5A) inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 60, [Sch. 5 para. 6\(4\)](#); S.I. 2005/579, art. 3(d)

- 3 (1) Where by virtue of paragraph 2(1)(c) above the offender is brought or appears before the Crown Court and it is proved to the satisfaction of the court—
- (a) that he has failed without reasonable excuse to attend as mentioned in paragraph 1(1)(a) above, or
 - (b) that he has committed such a breach of rules as is mentioned in paragraph 1(1)(b) above,
- that court may deal with him, for the offence in respect of which the order was made, in any way in which it could have dealt with him for that offence if it had not made the order.
- (2) Where the Crown Court deals with an offender under sub-paragraph (1) above, it shall revoke the attendance centre order if it is still in force.
- (3) In dealing with an offender under sub-paragraph (1) above, the Crown Court—
- (a) shall take into account the extent to which the offender has complied with the requirements of the attendance centre order; and
 - (b) in the case of an offender who has wilfully and persistently failed to comply with those requirements, may impose a custodial sentence notwithstanding anything in [^{F11}section 230(2) of the Sentencing Code].
- (4) In proceedings before the Crown Court under this paragraph any question whether there has been a failure to attend or a breach of the rules shall be determined by the court and not by the verdict of a jury.]

Textual Amendments

- F11** Words in Sch. 5 para. 3(3)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 170\(4\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Changes to legislation:

Powers of Criminal Courts (Sentencing) Act 2000, Cross Heading: Breach of order or attendance centre rules is up to date with all changes known to be in force on or before 17 July 2023. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 12(1A)(g) inserted by [2019 c. 17 s. 13\(6\)](#)
- s. 41(9A) inserted by [2000 c. 43 Sch. 7 para. 165\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 165 repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- s. 41(12) inserted by [2000 c. 43 Sch. 7 para. 165\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 165 repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- s. 58(2) inserted by [2000 c. 43 Sch. 7 para. 172](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 172 repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- s. 82A(3A)-(3C) inserted by [2008 c. 4 s. 19\(3\)](#)
- s. 83(2)(aa) substituted for s. 83(2)(b)(c) by [2000 c. 43 Sch. 7 para. 178](#)
- s. 101(2A) inserted by [2003 c. 44 s. 298\(3\)](#)
- s. 147A(6)(a) words substituted by [2012 c. 10 Sch. 13 para. 12\(b\)](#)
- s. 147A(6)(b) words inserted by [2012 c. 10 Sch. 13 para. 12\(c\)](#)
- Sch. 2 para. 8 and cross-heading inserted by [2000 c. 43 s. 51](#) (This amendment not applied to legislation.gov.uk. S. 51 repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- Sch. 3 para. 6A and cross-heading inserted by [2000 c. 43 Sch. 7 para. 199\(9\)](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 199(9) repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- Sch. 3 para. 26 inserted by [2000 c. 43 Sch. 7 para. 199\(26\)](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 199(26) repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- Sch. 3 para. 4(4A) inserted by [2004 c. 28 Sch. 5 para. 5\(4\)](#) (Effect not applied as it relates to a version of Sch. 3 para. 4 prospectively substituted but not brought into force)
- Sch. 3 para. 7(4)-(7) substituted for Sch. 3 para. 7(4)-(6) by [2000 c. 43 Sch. 7 para. 199\(10\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 199(10)(c) repealed (4.4.2005) without ever being in force by 2003 c. 44, Sch. 37 Pt. 7; S.I. 2005/950, art. 2(1), Sch. 1 para. 44(4)(t))
- Sch. 10 para. 12(2)(e)(f) inserted by [2000 c. 43 Sch. 7 para. 204](#) (This amendment not applied to legislation.gov.uk. Sch. 7 para. 204 repealed (30.11.2009) without ever being in force by 2008 c. 4, Sch. 28 Pt. 1; S.I. 2009/3074, art. 2(u)(xxix))