

---

**Changes to legislation:** Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes

---

## SCHEDULES

### SCHEDULE 25

#### AMENDMENTS TO THE ARMED FORCES ACT 2006

##### PART 3

###### AMENDMENTS TO CHAPTER 4 OF PART 8: SUSPENDED SENTENCE ORDERS

- 26 For Schedule 7 (suspended prison sentence: further conviction or breach of requirement) substitute—

“SCHEDULE 7

Section 200(2)(b)

###### SUSPENDED SENTENCE ORDERS: BREACH OR AMENDMENT; EFFECT OF FURTHER CONVICTION

- 1 Schedule 16 to the Sentencing Code (breach or amendment of suspended sentence order, and effect of further conviction) applies to a suspended sentence order made by a relevant service court with the following modifications.

###### *Preliminary*

- 2 Part 1 (preliminary) has effect as if—
- (a) in paragraph 1(1), for the definition of “the appropriate court” there were substituted—

““the appropriate court” means the Crown Court;”;
  - (b) at the end of paragraph 1(1) there were inserted—

““relevant service court” has the same meaning as in Chapter 4 of Part 8 of the Armed Forces Act 2006 (see section 207 of that Act);

“service offence” has the same meaning as in the Armed Forces Act 2006 (see section 50 of that Act).”;
  - (c) paragraphs 3 to 5 were omitted.

###### *Breach of community requirement or conviction of further offence*

- 3 Part 2 (breach of community requirement or conviction of further offence) has effect as if—
- (a) in paragraph 6(4)(c), for “a court” there were substituted “the Crown Court”;
  - (b) in paragraph 7, for paragraph (b) there were substituted—

---

*Changes to legislation: Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes*

---

- “(b) where appropriate, cause an information to be laid before the Crown Court in respect of the offender's breach of the requirement.”;
  - (c) paragraph 8 were omitted;
  - (d) in paragraph 9—
    - (i) in the heading, the words “Crown Court order:” were omitted;
    - (ii) in sub-paragraph (1), for “Crown Court order” there were substituted “suspended sentence order made by a relevant service court”;
  - (e) paragraph 10 were omitted;
  - (f) paragraphs 11 to 15 were modified as set out in paragraphs 4 to 8 of this Schedule;
  - (g) after paragraph 15 there were inserted the paragraph 15A set out in paragraph 9 of this Schedule;
  - (h) paragraphs 17 to 19 were modified as set out in paragraphs 10 to 12 of this Schedule;
  - (i) paragraph 20 were omitted.
- 4 Paragraph 11 (offender before magistrates' court: further conviction) has effect as if—
  - (a) sub-paragraph (1) were omitted;
  - (b) in sub-paragraph (2), for the words from “made” to the end, there were substituted “made by a relevant service court, the magistrates' court must notify the appropriate officer of the Court Martial of the conviction.”;
  - (c) sub-paragraphs (3) and (4) were omitted.
- 5 Paragraph 12 (offender before Crown Court: breach of community requirement or further conviction) has effect as if—
  - (a) in the heading, after “Crown Court” there were inserted “, Court Martial or Service Civilian Court”;
  - (b) in sub-paragraph (1)(b), the words “or (3)” were omitted;
  - (c) in sub-paragraph (2), paragraph (a)(iii) (but not the “and” following it) were omitted;
  - (d) for sub-paragraph (3) there were substituted—
    - “(3) Where—
      - (a) an offender to whom a suspended sentence order relates is convicted of a service offence or an offence under the law of any part of the British Islands that was committed during the operational period of the order,
      - (b) the suspended sentence order has not taken effect, and
      - (c) either—
        - (i) the offender is so convicted by the Crown Court, the Court Martial or the Service Civilian Court, or
        - (ii) the offender subsequently appears or is brought before the Court Martial,

the court must deal with the case under paragraph 13.

---

**Changes to legislation:** Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes

---

- (3A) Anything that under section 376(1) and (2) of the Armed Forces Act 2006 is treated as a conviction for the purposes of that Act is also to be treated as a conviction for the purposes of sub-paragraph (3).”
- 6 Paragraph 13 (powers of court to deal with offender on breach of requirement or subsequent conviction) has effect as if—
- (a) in sub-paragraph (1)—
    - (i) in the opening words, for “a court” there were substituted “the Crown Court, the Court Martial or the Service Civilian Court”;
    - (ii) in paragraph (c), at the beginning there were inserted “where the court dealing with the offender is the Crown Court,”;
  - (b) sub-paragraph (2) were omitted.
- 7 Paragraph 14 (exercise of power in paragraph 13: duty to make activation order where not unjust) has effect as if—
- (a) in sub-paragraph (1), for “The court” there were substituted “The Crown Court, the Court Martial or the Service Civilian Court”;
  - (b) in sub-paragraph (2)(b), the words “11 or” were omitted.
- 8 Paragraph 15 (activation orders: further provision) has effect as if—
- (a) in the heading, after “orders” there were inserted “made by the Crown Court”;
  - (b) in sub-paragraph (1), for “a court” there were substituted “the Crown Court”;
  - (c) for sub-paragraph (3) there were substituted—
    - “(3) For the purpose of any enactment conferring rights of appeal against sentence in criminal cases—
      - (a) the activation order is to be treated as a sentence passed on the offender by the Crown Court for the offence for which the suspended sentence was passed, and
      - (b) the offender is to be treated as if he or she had been convicted on indictment of that offence.”;
    - (d) in sub-paragraph (4) at the end there were inserted “and a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act)”.
- 9 The paragraph 15A to be inserted after paragraph 15 is as follows—
- “Activation orders made by the Court Martial  
or the Service Civilian Court: further provision*
- 15A(1) This paragraph applies where the Court Martial or the Service Civilian Court makes an activation order relating to a suspended sentence.
- (2) The activation order may provide for—
    - (a) the sentence to take effect immediately, or
    - (b) the term of the sentence to begin on the expiry of another custodial sentence passed on the offender.

---

*Changes to legislation: Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes*

---

- (3) The reference in sub-paragraph (2) to another custodial sentence does not include a sentence from which the offender has been released early under Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Part 2 of the Criminal Justice Act 1991.
- (4) For the purposes of sections 285 to 287 of the Armed Forces Act 2006 (appeals from Service Civilian Court) or, as the case may be, the Court Martial Appeals Act 1968—
- (a) an activation order made by the Court Martial or the Service Civilian Court is to be treated as a sentence passed on the offender, by the court that made the order, for the offence for which the suspended sentence was passed, and
  - (b) if the offender was not convicted of that offence by that court, he or she is to be treated for the purpose of enabling an appeal against the order as if he or she had been so convicted.
- (5) For the purposes of any appeal against the order, references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making an order.
- (6) In this paragraph “custodial sentence” includes a pre-Code custodial sentence (see section 222(4)) and a custodial sentence within the meaning of the Armed Forces Act 2006 (see section 374 of that Act).”
- 10 Paragraph 17 (treatment requirement: reasonable refusal to undergo certain treatment) has effect as if, in sub-paragraph (2), the words “10(1)(b) or” were omitted.
- 11 Paragraph 18 (duty of court in Scotland or Northern Ireland when informed of suspended sentence) has effect as if—
- (a) in sub-paragraph (b), for “in England or Wales” there were substituted “(anywhere) by a relevant service court”;
  - (b) in the words following sub-paragraph (b), for “the court by which the suspended sentence was passed” there were substituted “the Court Martial”.
- 12 Paragraph 19 (issue of summons or warrant where court convicting of further offence does not deal with suspended sentence) has effect as if—
- (a) in sub-paragraph (1)—
    - (i) in the opening words, for “the Crown Court” there were substituted “the Court Martial”;
    - (ii) in paragraph (a), for the words from “United Kingdom” to “Court” there were substituted “British Islands of an offence committed during the operational period of a suspended sentence order passed by a relevant service court, or has been convicted of a service offence committed during that period”;
  - (b) in sub-paragraph (2), for “Crown Court” there were substituted “Court Martial”;
  - (c) in sub-paragraph (3), for “Crown Court” there were substituted “Court Martial”.

---

**Changes to legislation:** Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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) View outstanding changes

---

*Amendment of order*

- 13 Part 3 (amendment of order) has effect as if in paragraph 25 (amendment of community requirements of suspended sentence order), after sub-paragraph (8) there were inserted—
- “(8A) In a case where the order was made by the Service Civilian Court, a term of imprisonment or detention in a young offender institution or fine imposed under sub-paragraph (7)(b) must not exceed—
- (a) in the case of a term of imprisonment or detention in a young offender institution, 6 months;
  - (b) in the case of a fine, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980.
- (8B) Where a sentence is passed under sub-paragraph (7)(b), section 9 of the Criminal Appeal Act 1968 (appeal against sentence) applies as if the offender had been convicted on indictment of the offence for which the sentence was passed.”

*Supplementary*

- 14 Part 4 (supplementary) has effect as if in paragraph 28 (provision of copies of orders etc)—
- (a) in sub-paragraph (1) for “a court” there were substituted “ the Crown Court or a relevant service court ”;
  - (b) in sub-paragraph (3), paragraph (b) were omitted;
  - (c) sub-paragraphs (5) and (6) were omitted.”

---

**Commencement Information**

**II** Sch. 25 para. 26 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

**Changes to legislation:**

Sentencing Act 2020, Paragraph 26 is up to date with all changes known to be in force on or before 23 April 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.

[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. 34A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 1](#)
- s. 80(3)(f) inserted by [2021 c. 17 s. 54\(2\)](#)
- s. 179(4A) inserted by [2020 c. 17 Sch. 22 para. 11\(1\)](#)
- s. 179A inserted by [2020 c. 17 Sch. 22 para. 12\(2\)](#)
- s. 179A(1)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 16\(2\)](#)
- s. 180(5) inserted by [2020 c. 17 Sch. 22 para. 11\(2\)](#)
- s. 186(8A) inserted by [2020 c. 17 Sch. 22 para. 11\(3\)](#)
- s. 202(1A)(1B) inserted by [2020 c. 17 Sch. 22 para. 13\(b\)](#)
- s. 202(1A)(b)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 17\(2\)](#)
- s. 204A inserted by [2020 c. 17 Sch. 22 para. 14\(2\)](#)
- s. 204A(3)(c)(i)(ii) substituted for words by [2020 c. 17 Sch. 22 para. 18\(2\)](#)
- s. 215(1A)(1B) inserted by [2022 c. 32 s. 149\(2\)\(a\)](#)
- s. 215(2A) inserted by [2022 c. 32 s. 149\(2\)\(c\)](#)
- s. 226(2)(ba) and word substituted for s. 226(2)(c)(d) by [2020 c. 17 Sch. 22 para. 43](#)
- s. 230(3A) and words inserted by [2020 c. 17 Sch. 22 para. 2](#)
- s. 234(1)(aa) inserted by [2020 c. 17 Sch. 22 para. 27\(1\)\(b\)](#)
- s. 234(1)(aa) omitted by [2020 c. 17 Sch. 22 para. 28\(1\)](#)
- s. 235(3A) inserted by [2020 c. 17 Sch. 22 para. 27\(2\)](#)
- s. 236(2A) inserted by [2020 c. 17 Sch. 22 para. 29\(3\)](#)
- s. 236(2A)(b) word substituted by [2020 c. 17 Sch. 22 para. 47\(b\)](#)
- s. 301(1A)(1B) inserted by [2022 c. 32 s. 149\(3\)\(a\)](#)
- s. 301(2A) inserted by [2022 c. 32 s. 149\(3\)\(c\)](#)
- s. 323(2A)-(2C) inserted by [2020 c. 17 Sch. 22 para. 85\(3\)](#)
- s. 343(4) inserted by [2022 c. 32 s. 178\(2\)](#)
- s. 348A348B inserted by [2022 c. 32 s. 178\(4\)](#)
- s. 350(6C)(6D) inserted by [2022 c. 32 s. 178\(5\)](#)
- s. 387A inserted by [2021 c. 17 s. 54\(3\)](#)
- s. 397A inserted by [2020 c. 17 Sch. 22 para. 15](#)
- s. 397A(4)(a)(ia) inserted by [2020 c. 17 Sch. 22 para. 19\(2\)\(b\)](#)
- s. 397A(4)(a)(i) words omitted by [2020 c. 17 Sch. 22 para. 19\(2\)\(a\)](#)
- s. 397A(5) words inserted by [2020 c. 17 Sch. 22 para. 19\(3\)](#)
- s. 397A(6)(7) inserted by [2020 c. 17 Sch. 22 para. 19\(4\)](#)
- s. 418(2A) inserted by [2021 c. 11 Sch. 13 para. 43\(5\)](#)
- Sch. 1 para. 13A inserted by [2020 c. 17 Sch. 22 para. 4\(a\)](#)
- Sch. 10 para. 10(5)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(a\)](#)
- Sch. 10 para. 10(9A) inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(c\)](#)
- Sch. 10 para. 11(2)(d) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(a\)](#)
- Sch. 10 para. 11(6A) inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(c\)](#)
- Sch. 10 para. 10(9A) omitted by [2020 c. 17 Sch. 22 para. 74\(1\)\(b\)](#)
- Sch. 10 para. 11(6A) omitted by [2020 c. 17 Sch. 22 para. 75\(1\)\(b\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 25\(a\)](#)
- Sch. 10 para. 10(5)(d) words substituted by [2020 c. 17 Sch. 22 para. 74\(1\)\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 26\(a\)](#)
- Sch. 10 para. 11(2)(d) words substituted by [2020 c. 17 Sch. 22 para. 75\(1\)\(a\)](#)
- Sch. 17A para. 24A inserted by [2020 c. 17, Sch. 22 para. 79A \(as inserted\) by 2021 c. 11 Sch. 13 para. 11\(20\)\(m\)](#)
- Sch. 18 para. 26A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 80](#)
- Sch. 19 para. 22A and cross-heading inserted by [2020 c. 17 Sch. 22 para. 84](#)

- Sch. 26 para. 13A inserted by 2021 c. 11 Sch. 13 para. 43(7)(a)
- Sch. 26 para. 15(a)(iii) inserted by 2021 c. 11 Sch. 13 para. 43(7)(c)
- Sch. 26 para. 19(a)(ia) inserted by 2021 c. 11 Sch. 13 para. 43(7)(e)(i)
- Sch. 26 para. 20(c) inserted by 2021 c. 11 Sch. 13 para. 43(7)(f)
- Sch. 26 para. 20A inserted by 2021 c. 11 Sch. 13 para. 43(7)(g)
- Sch. 26 para. 24A inserted by 2021 c. 11 Sch. 13 para. 43(7)(i)
- Sch. 26 para. 20A(za) inserted by 2022 c. 32 s. 129(3)(d)
- Sch. 27 para. 16(2)(a)(b) substituted for words by 2021 c. 11 Sch. 13 para. 43(8)