



Sentencing Act 2020

2020 CHAPTER 17

THIRD GROUP OF PARTS Disposals

PART 10

CUSTODIAL SENTENCES

CHAPTER 5

SUSPENDED SENTENCES

What a suspended sentence order is

286 Suspended sentence order

- (1) A suspended sentence order is an order providing that a sentence of imprisonment or detention in a young offender institution in respect of an offence is not to take effect unless—
 - (a) an activation event occurs, and
 - (b) a court having power to do so subsequently orders under paragraph 13 of Schedule 16 that the sentence is to take effect.
- (2) A suspended sentence order may also specify one or more available community requirements with which the offender must comply during the supervision period.
- (3) An activation event occurs if the offender—
 - (a) commits another offence in the United Kingdom during the operational period (whether or not punishable with imprisonment), or
 - (b) during the supervision period, contravenes any community requirement imposed by the order.
- (4) The community requirements are listed in column 1 of the community requirements table (see section 287).

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- (5) Provision about each requirement is made by the provisions of Schedule 9 mentioned in the corresponding entry in column 2 of that table.
- (6) In this Code—
 “suspended sentence order” has the meaning given by subsection (1);
 “suspended sentence” means a sentence to which a suspended sentence order relates.
- (7) In this Code, references to a community requirement of, or imposed by, a suspended sentence order are to a requirement specified in the order under subsection (2).

287 **Suspended sentence order: community requirements table**

The community requirements table referred to in sections 286, 290 and 292 is—

<i>Requirement</i>	<i>Part of Schedule 9 relating to requirement</i>	<i>Restrictions on availability</i>
unpaid work requirement	Part 1	
rehabilitation activity requirement	Part 2	
programme requirement	Part 3	
prohibited activity requirement	Part 4	
curfew requirement	Part 5	
exclusion requirement	Part 6	
residence requirement	Part 7	
foreign travel prohibition requirement	Part 8	
mental health treatment requirement	Part 9	
drug rehabilitation requirement	Part 10	
alcohol treatment requirement	Part 11	
alcohol abstinence and monitoring requirement	Part 12	section 291(1) or (2)
attendance centre requirement	Part 13	section 291(3)
electronic compliance monitoring requirement	Part 14	section 291(4)
electronic whereabouts monitoring requirement	Part 14	

288 **Operational period and supervision period**

- (1) A suspended sentence order must specify the operational period (see section 286(3)(a)).
- (2) The operational period must be a period, beginning with the day on which the order is made, of—
 (a) at least 6 months, and

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- (b) not more than 2 years.
- (3) If a suspended sentence order imposes any community requirement or requirements, the order must specify the supervision period (see section 286(2)).
- (4) The supervision period specified must be a period, beginning with the day on which the order is made, of—
 - (a) at least 6 months, and
 - (b) not more than—
 - (i) 2 years, or
 - (ii) if less, the operational period.
- (5) But if the suspended sentence order imposes an unpaid work requirement, the supervision period—
 - (a) continues until the offender has worked under the order for the number of hours specified in the order under paragraph 2(1) of Schedule 9, but
 - (b) does not continue beyond the end of the operational period.

289 Suspended sentence to be treated generally as sentence of imprisonment etc

- (1) A suspended sentence which has not taken effect under paragraph 13 of Schedule 16 is to be treated as—
 - (a) a sentence of imprisonment, or
 - (b) as the case may be, a sentence of detention in a young offender institution, for the purposes of all enactments and instruments made under enactments.
- (2) Subsection (1) is subject to any provision to the contrary contained in—
 - (a) the Criminal Justice Act 1967,
 - (b) any enactment passed or instrument made under any enactment after 31 December 1967.

Available community requirements

290 Suspended sentence order: available community requirements

- (1) A suspended sentence order may not impose a community requirement that is not an available requirement.
- (2) A community requirement is an available requirement in relation to a suspended sentence order unless a provision mentioned in column 3 of the entry for that requirement in the table in section 287 provides otherwise.

291 Suspended sentence order: availability of particular requirements

Alcohol abstinence and monitoring requirement

- (1) An alcohol abstinence and monitoring requirement is not an available requirement unless regulations are in force under paragraph 25(7)(c) of Schedule 9 (prescribed arrangements for monitoring).
- (2) An alcohol abstinence and monitoring requirement imposing a requirement within paragraph 25(1)(a)(ii) of Schedule 9 (alcohol level to be kept below specified level)

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is not an available requirement unless regulations are in force under paragraph 25(7)(b) of that Schedule (prescribed alcohol level).

Attendance centre requirement

- (3) An attendance centre requirement is not an available requirement unless the offender is aged under 25 when convicted of the offence.

Electronic compliance monitoring requirement

- (4) An electronic compliance monitoring requirement is not an available requirement in relation to a suspended sentence order unless the suspended sentence order imposes at least one other available requirement, other than—
- (a) an alcohol abstinence and monitoring requirement;
 - (b) an electronic whereabouts monitoring requirement.

Exercise of power to impose community requirements

292 Suspended sentence order: exercise of power to impose requirements

- (1) This section applies where a court makes a suspended sentence order which imposes community requirements.
- (2) The power to impose a particular community requirement is subject to the provisions of the Part of Schedule 9 relating to requirements of that kind (see column 2 of the table in section 287).
- (3) If the suspended sentence order imposes two or more different community requirements, the court must, before making the order, consider whether, in the circumstances of the case, the requirements are compatible with each other.
- (4) The court must also ensure, so far as practicable, that any community requirement imposed by a suspended sentence order is such as to avoid—
- (a) any conflict with the offender’s religious beliefs,
 - (b) any conflict with any other court order to which the offender may be subject, and
 - (c) any interference with the times, if any, at which the offender normally—
 - (i) works, or
 - (ii) attends any educational establishment,
 and satisfies any additional restrictions that the Secretary of State may specify in regulations.
- (5) Regulations under subsection (4) are subject to the negative resolution procedure.

Provision for review of suspended sentence order with community requirements

293 Power to provide for review of suspended sentence order

- (1) A suspended sentence order which imposes one or more community requirements may make provision for the order to be reviewed periodically (“provision for review”).
- This is subject to subsection (3).

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- (2) Where an order contains provision for review, it must—
- (a) specify the intervals at which the order is to be reviewed,
 - (b) provide for each review to be made, subject to section 295, at a hearing held for the purpose by the responsible court (a “review hearing”),
 - (c) require the offender to attend each review hearing, and
 - (d) provide for a report by an officer of a provider of probation services on the offender’s progress in complying with the community requirements of the order (“a progress report”) to be made to the responsible court before each review.
- (3) If the suspended sentence order—
- (a) imposes a drug rehabilitation requirement, and
 - (b) contains provision for review under this section,
- the provision for review must not include provision relating to that requirement (but see paragraph 22 of Schedule 9 for separate provision about review of such a requirement).
- (4) In this section “the responsible court” in relation to a suspended sentence order means—
- (a) if a court is specified in the order in accordance with subsection (5), that court;
 - (b) otherwise, the court by which the order is made.
- (5) Where—
- (a) a suspended sentence order is made by a magistrates’ court, and
 - (b) the offender’s home local justice area is not the area in which the court acts,
- the order may specify that the responsible court is to be a magistrates’ court which acts in the offender’s home local justice area.
- (6) A suspended sentence order made on an appeal from—
- (a) the Crown Court, or
 - (b) the Court of Appeal,
- is to be taken for the purposes of subsection (4)(b) to have been made by the Crown Court.

294 Review hearings: power to amend community requirements etc

- (1) This section applies where a review hearing is held on a review of a suspended sentence order by virtue of section 293.
- (2) The court may, after considering the progress report, amend—
- (a) the community requirements of the suspended sentence order, or
 - (b) any provision of the order which relates to those requirements.
- (3) But the court—
- (a) may not amend the community requirements of the order so as to impose a requirement of a different kind unless the offender expresses willingness to comply with that requirement,
 - (b) may not amend—
 - (i) a mental health treatment requirement,
 - (ii) a drug rehabilitation requirement, or

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- (iii) an alcohol treatment requirement,
 unless the offender expresses willingness to comply with the requirement as amended,
 - (c) may amend the supervision period only if the period as amended complies with section 288(4),
 - (d) may not amend the operational period, and
 - (e) except with the consent of the offender, may not amend the order while an appeal against the order is pending.
- (4) For the purposes of subsection (3)(a)—
- (a) a community requirement of a kind within any entry in the table in section 287 is of the same kind as any other community requirement within that entry, and
 - (b) an electronic compliance monitoring requirement is a requirement of the same kind as any requirement within that table to which it relates.
- (5) If the court is of the opinion that the offender has without reasonable excuse breached a community requirement of the order, the court may adjourn the hearing so that it can deal with the case under paragraph 13 of Schedule 16 (powers of court to deal with offender on breach of requirement or subsequent conviction).
- (6) In this section—
- “review hearing”, and
 - “progress report”,
- have the meanings given by section 293(2).

295 Suspended sentence order: alteration of periodic review arrangements

- (1) Subsections (2) and (3) apply where the court—
- (a) considers the progress report relating to a review (the “current review”), and
 - (b) forms the opinion that the offender’s progress in complying with the community requirements of the order is satisfactory.
- (2) If the court forms that opinion before a review hearing is held at the current review—
- (a) it may order that no review hearing is to be held at the current review, and
 - (b) it may amend the suspended sentence order so as to provide for each subsequent review to be held without a review hearing.
- (3) If a review hearing is held at the current review, the court may at the hearing amend the suspended sentence order so as to provide for each subsequent review to be held without a review hearing.
- (4) If at a review held without a review hearing the court—
- (a) considers the progress report, and
 - (b) forms the opinion that the offender’s progress under the order is no longer satisfactory,
- it may require the offender to attend a hearing of the court at a specified time and place.
- (5) At a review hearing the court may amend the suspended sentence order so as to vary the intervals specified under section 293(2)(a).
- (6) The functions of a court under this section that are exercisable in relation to a review without a hearing are to be exercised—

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- (a) in the case of the Crown Court, by a judge of the court, and
 - (b) in the case of a magistrates’ court, by a justice of the peace.
- (7) In this section—
“review hearing”, and
“progress report”,
have the meanings given by section 293(2).

Making a suspended sentence order with community requirements

296 Order to specify offender’s home local justice area

- (1) A suspended sentence order which imposes any community requirement must specify the area which is the offender’s home local justice area.
- (2) That area must be the local justice area in which the offender resides or will reside.

297 Power to direct magistrates’ court supervision of order

Where the Crown Court makes a suspended sentence order which imposes any community requirement, it may make a direction that the order is to be subject to magistrates’ court supervision.

For the effect of such a direction, see Parts 2 and 3 of Schedule 16 (breach or amendment of a community requirement of a suspended sentence order).

298 Provision of copies of order and related documents

- (1) This section applies on the making by a court of a suspended sentence order which imposes one or more community requirements.
- (2) The court must forthwith provide copies of the order—
 - (a) to the offender,
 - (b) to the responsible officer,
 - (c) to an officer of a provider of probation services that is a public sector provider who is acting at the court, and
 - (d) if the court does not act in the offender’s home local justice area, to a provider of probation services that is a public sector provider and is operating in that area.
- (3) If the order imposes any requirement specified in column 1 of the following table the court must also forthwith provide the person specified in the corresponding entry in column 2 with a copy of so much of the order as relates to the requirement.

<i>The requirement</i>	<i>The person to whom a copy must be provided</i>
An exclusion requirement imposed for the purpose (or partly for the purpose) of protecting a person from being approached by the offender.	The person intended to be protected

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<i>The requirement</i>	<i>The person to whom a copy must be provided</i>
A residence requirement relating to residence in an institution.	The person in charge of the institution
A mental health treatment requirement.	The person specified under paragraph 16(3)(b)(iii) of Schedule 9 or the person in charge of the institution or place specified under paragraph 16(3)(b)(i) or (ii) of that Schedule
A drug rehabilitation requirement	The person in charge of the institution or place specified under paragraph 19(5)(b) or (c) of Schedule 9
An alcohol treatment requirement	The person in charge of the institution or place specified under paragraph 23(5)(c) or (d) of Schedule 9 or, in the case of practitioner-based treatment, the person specified under paragraph 23(5)(a) of that Schedule
An electronic monitoring requirement	Any person who by virtue of paragraph 31(1) of Schedule 9 will be responsible for the electronic monitoring Any person without whose consent the requirement could not be included in the order.

- (4) If the court does not act in the offender’s home local justice area, it must provide the magistrates’ court acting in that area with—
- (a) a copy of the order, and
 - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting in that area in the exercise of its functions in relation to the order.
- (5) In subsection (2) “public sector provider” means—
- (a) a probation trust or other public body, or
 - (b) the Secretary of State.

*Suspended sentence order with community requirement:
obligations of responsible officer and offender*

299 Responsible officer

- (1) This section applies for the purposes of this Chapter in relation to a suspended sentence order made in respect of an offender which imposes one or more community requirements.
- (2) “The responsible officer”, in relation to the offender, means the person who for the time being is responsible for discharging the functions conferred by this Chapter on the responsible officer in accordance with arrangements made by the Secretary of State.
- (3) The responsible officer must be—
 - (a) an officer of a provider of probation services, or

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- (b) a person responsible for monitoring the offender in accordance with an electronic monitoring requirement imposed by the order.

300 Obligations of responsible officer

- (1) This section applies during the supervision period of a suspended sentence order which imposes any community requirement.

Functions of the responsible officer

- (2) The responsible officer must—
 - (a) make any arrangements that are necessary in connection with the requirements imposed by the order, and
 - (b) promote the offender’s compliance with those requirements.
- (3) This is subject to paragraph 16(6) of Schedule 9 (in-patient treatment under mental health treatment requirement).

Exercise of functions by responsible officer

- (4) The responsible officer must also ensure, as far as practicable, that any instruction given or requirement imposed by the responsible officer is such as to avoid—
 - (a) any conflict with the offender’s religious beliefs,
 - (b) any conflict with the requirements of any other court order to which the offender may be subject, and
 - (c) any interference with the times, if any, at which the offender normally—
 - (i) works, or
 - (ii) attends any educational establishment,and satisfies any additional restrictions that the Secretary of State may specify in regulations.
- (5) Regulations under subsection (4) are subject to the negative resolution procedure.

301 Duty of offender to keep in touch with responsible officer

- (1) This section applies during the supervision period of a suspended sentence order which imposes one or more community requirements.
- (2) The offender must keep in touch with the responsible officer in accordance with such instructions as the responsible officer may give the offender from time to time.
- (3) That obligation is enforceable as if it were a community requirement imposed by the suspended sentence order.

302 Duty to obtain permission before changing residence

- (1) This section applies during the supervision period of a suspended sentence order which imposes one or more community requirements.

But it does not apply if the order includes a residence requirement (see paragraph 13 of Schedule 9).

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- (2) The offender must not change residence without permission given in accordance with this section by—
 - (a) the responsible officer, or
 - (b) a court.
- (3) The obligation imposed by subsection (2) has effect as if it were a community requirement imposed by the suspended sentence order.
- (4) The appropriate court may, on an application made by the offender, give permission in a case in which the responsible officer has refused.
- (5) A court may also give permission in any proceedings before it under Schedule 16 (breach or amendment of orders etc).
- (6) The grounds on which the responsible officer or court may refuse an application for permission are that, in the opinion of the officer or court, the change in residence—
 - (a) is likely to prevent the offender complying with a requirement imposed by the suspended sentence order, or
 - (b) would hinder the offender’s rehabilitation.
- (7) The responsible officer must refuse an application for permission if—
 - (a) the offender’s present residence is in England or Wales, and
 - (b) the offender’s proposed residence is outside England and Wales.
- (8) For cases in which a suspended sentence order has to be amended because of permission given under this section, see paragraph 23 of Schedule 16 (amendment to reflect change in local justice area).
- (9) In this section “the appropriate court” has the same meaning as in Schedule 16.

Activation of sentence and amendment of order etc

303 Breach or amendment of suspended sentence order, and effect of further conviction

Schedule 16 makes provision about—

- (a) the effect of any further conviction where an offender is subject to a suspended sentence order, and
- (b) breach or amendment of the community requirements of a suspended sentence order.

Transferring order with community requirements to Scotland or Northern Ireland

304 Transfer to Scotland or Northern Ireland of suspended sentence orders which impose community requirements

Schedule 17 makes provision about the transfer to Scotland or Northern Ireland of suspended sentence orders which impose community requirements.

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Interpretation

305 Suspended sentences: interpretation

In this Chapter—

“the operational period”, in relation to a suspended sentence, means the period specified under—

- (a) section 288(1), or
- (b) paragraph 13(1)(d)(iii) of Schedule 16 (extension of operational period on breach of order);

“sentence of imprisonment” does not include a committal for contempt of court or any kindred offence;

“the supervision period”, in relation to a suspended sentence, means the period (if any) specified under—

- (a) section 288(3),
- (b) section 294 (review of order), or
- (c) paragraph 13(1)(d)(ii) of Schedule 16 (extension of supervision period on breach of order),

but subject to section 288(5) (extension to allow completion of unpaid work requirement).