

*Status:* This version of this cross heading contains provisions that are prospective.

*Changes to legislation:* Sentencing Act 2020, Paragraph 21 is up to date with all changes known to be in force on or before 20 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 22

#### AMENDMENTS OF THE SENTENCING CODE AND RELATED AMENDMENTS OF OTHER LEGISLATION

PROSPECTIVE

#### PART 4

##### COMMUNITY SENTENCES

*Community orders: powers to imprison offender for wilful or persistent breach*

- 21 (1) Schedule 10 (breach etc of community order) is amended as follows.
- (2) In paragraph 10 (powers of magistrates' court on breach)—
- (a) in sub-paragraph (5), after paragraph (c) insert—
- “(d) where—
- (i) the community order was made by a magistrates' court,
- [<sup>F1</sup>(ia) the order does not qualify for special procedures for the purposes of paragraph (ba);]
- (ii) the offence in respect of which the order was made was not an offence punishable by imprisonment,
- (iii) the offender has wilfully and persistently failed to comply with the requirements of the order,
- by dealing with the offender, in respect of that offence, by imposing a relevant custodial sentence for a term not exceeding 6 months.”
- (b) in sub-paragraph (9), after “custodial sentence” insert “ (where the order was made in respect of an offence punishable with such a sentence) ”;
- (c) after that sub-paragraph insert—
- “(9A) In sub-paragraph (5)(d), “relevant custodial sentence” means—
- (a) in the case of an offender who is aged under 21, a sentence of detention in a young offender institution;
- (b) in any other case, a sentence of imprisonment.”;
- (d) in sub-paragraph (10), after “(5)(c)” insert “ or (d) ”;
- (e) in sub-paragraph (11), after “(5)(c)” insert “ or (d) ”.
- (3) In paragraph 11 (powers of Crown Court on breach)—
- (a) in sub-paragraph (2), after paragraph (c) insert—

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- “(d) where—
- [<sup>F2</sup>(ai) the community order does not qualify for special procedures for the purposes of paragraph (ba),]
  - (i) the offence in respect of which the order was made was not an offence punishable by imprisonment, and
  - (ii) the offender has wilfully and persistently failed to comply with the requirements of the order, by dealing with the offender, in respect of that offence, by imposing a relevant custodial sentence for a term not exceeding 6 months.”;
- (b) in sub-paragraph (6), after “custodial sentence” insert “ (where the order was made in respect of an offence punishable with such a sentence) ”;
- (c) after that sub-paragraph insert—
- “(6A) In sub-paragraph (2)(d), “relevant custodial sentence” means—
- (a) in the case of an offender who is aged under 21, a sentence of detention in a young offender institution;
  - (b) in any other case, a sentence of imprisonment.”;
- (d) in sub-paragraph (7), after “(2)(c)” insert “ or (d) ”.

#### Textual Amendments

- F1** Words in Sch. 22 para. 21(2)(a) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), **Sch. 14 para. 14(2)(a)**
- F2** Words in Sch. 22 para. 21(3)(a) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), **Sch. 14 para. 14(2)(b)**

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**Changes and effects yet to be applied to :**

- Sch. 22 para. 21(2)(c) omitted by 2020 c. 17 Sch. 22 para. 74(2)(b)
- Sch. 22 para. 21(3)(c) omitted by 2020 c. 17 Sch. 22 para. 75(2)(b)
- Sch. 22 para. 21(2)(a) words substituted by 2020 c. 17 Sch. 22 para. 25(b)
- Sch. 22 para. 21(2)(a) words substituted by 2020 c. 17 Sch. 22 para. 74(2)(a)
- Sch. 22 para. 21(3)(a) words substituted by 2020 c. 17 Sch. 22 para. 26(b)
- Sch. 22 para. 21(3)(a) words substituted by 2020 c. 17 Sch. 22 para. 75(2)(a)

**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)