

SCHEDULES

SCHEDULE 14

Section 153

COMMUNITY AND SUSPENDED SENTENCE ORDERS: SPECIAL PROCEDURES RELATING TO REVIEW AND BREACH

PART 1

AMENDMENTS TO THE SENTENCING CODE

Introductory

- 1 The Sentencing Code is amended as specified in this Part of this Schedule.

Commencement Information

- II** [Sch. 14 para. 1](#) in force at 28.6.2022, see [s. 208\(5\)\(r\)](#)

Orders that qualify for special procedures

- 2 After section 395 insert—

“395A Community and suspended sentence orders qualifying for special procedures

- (1) A community order or suspended sentence order qualifies for special procedures for the purposes of a relevant provision if the order—
- (a) is of a description specified in regulations for the purposes of that provision, and
 - (b) is made within a period, or after a time, so specified.
- (2) In subsection (1) “relevant provision” means—
- (a) section 217A;
 - (b) section 293A;
 - (c) paragraphs 10(5)(ba) and 11(2)(ba) of Schedule 10;
 - (d) paragraph 13(1)(da) of Schedule 16.
- (3) A description specified under subsection (1)(a) may, among other things, be framed by reference to—
- (a) the courts by which the orders are made (for example, courts sitting in particular places or areas);
 - (b) the persons who are subject to the orders (for example, persons of a particular sex);
 - (c) the offences to which the orders relate.

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- (4) Where regulations under subsection (1)(a) specify a description of community or suspended sentence order for the first time, they must under subsection (1)(b) specify, in relation to that description of order, a period of 18 months beginning with the day on which the regulations come into force.
- (5) Regulations under this section are to be made by the Secretary of State.
- (6) Regulations under this section are subject to—
 - (a) the negative resolution procedure, where under subsection (1)(b) the regulations specify a period, and
 - (b) the affirmative resolution procedure, in any other case.”

Commencement Information

I2 Sch. 14 para. 2 in force at 28.6.2022, see s. 208(5)(r)

Review of community orders

- 3 (1) Section 211 (power of Crown Court to direct magistrates’ court supervision) is amended as follows.
 - (2) The existing provision becomes subsection (1).
 - (3) After that subsection insert—

“(2) Subsection (1) does not apply to a community order that qualifies for special procedures for the purposes of section 217A.”

Commencement Information

I3 Sch. 14 para. 3 in force at 28.6.2022, see s. 208(5)(r)

- 4 In section 217 (power to provide for court review of community orders), after subsection (2) insert—

“(2A) Regulations under this section may not make provision in respect of community orders which for the purposes of section 217A qualify for special procedures.”

Commencement Information

I4 Sch. 14 para. 4 in force at 28.6.2022, see s. 208(5)(r)

- 5 After section 217 insert—

“217A Review of community order qualifying for special procedures

- (1) A community order that—
 - (a) imposes one or more community order requirements, and
 - (b) qualifies for special procedures for the purposes of this section,
 may make provision for the order to be reviewed periodically (“provision for review”).

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- (2) Where a community order contains provision for review under this section, 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 217B, 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 order requirements of the order (a “progress report”) to be made to the responsible court before each review.
- (3) In this section “the responsible court”, in relation to a community order, means the court by which the order is made.
- (4) For more about community orders that qualify for special procedures, see section 395A.

217B Powers on review

- (1) This section applies where a review hearing is held on a review of a community order by virtue of section 217A.
- (2) The court may, after considering the progress report, amend—
 - (a) the community order requirements of the order, or
 - (b) any provision of the order which relates to those requirements.
- (3) But the court—
 - (a) may not amend the community order 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
 - (iii) an alcohol treatment requirement,
 unless the offender expresses willingness to comply with the requirement as amended, and
 - (c) 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 order requirement of a kind within any entry in the table in section 201 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 order requirement of the order, the court may adjourn the hearing so that the court can deal with the case forthwith under paragraph

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10 or 11 of Schedule 10 (powers of court to deal with offender on breach of requirement).

(6) For some powers available where the court is of the opinion referred to in subsection (5) but does not deal with the case forthwith, see paragraph 9A of Schedule 10.

(7) In this section—

“review hearing”, and

“progress report”,

have the same meanings as in section 217A.

217C Alteration of review arrangements

(1) Subsections (2) and (3) apply where a court—

(a) considers the progress report relating to a review under section 217A (the “current review”), and

(b) forms the opinion that the offender’s progress in complying with the community order requirements of the community 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 community 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 community 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 community order so as to vary the intervals specified under section 217A(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—

(a) where the court is the Crown Court, by a judge of the court, and

(b) where the court is a magistrates’ court, by a justice of the peace.

(7) In this section—

“review hearing”, and

“progress report”,

have the same meanings as in section 217A.”

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Commencement Information

I5 Sch. 14 para. 5 in force at 28.6.2022, see s. 208(5)(r)

Commencement Information

I3 Sch. 14 para. 3 in force at 28.6.2022, see s. 208(5)(r)

I4 Sch. 14 para. 4 in force at 28.6.2022, see s. 208(5)(r)

I5 Sch. 14 para. 5 in force at 28.6.2022, see s. 208(5)(r)

Review of suspended sentence orders

6 In section 293 (review of suspended sentence orders), at the end insert—

“(7) Nothing in this section applies in relation to suspended sentence orders which qualify for special procedures for the purposes of section 293A.”

Commencement Information

I6 Sch. 14 para. 6 in force at 28.6.2022, see s. 208(5)(r)

7 After section 293 insert—

“293A Review of suspended sentence order qualifying for special procedures

- (1) A suspended sentence order that—
 - (a) imposes one or more community requirements, and
 - (b) qualifies for special procedures for the purposes of this section,
 may make provision for the order to be reviewed periodically (“provision for review”).
- (2) Where a suspended sentence order contains provision for review under this section, 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 294, 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) In this section “the responsible court”, in relation to a suspended sentence order, means the court by which the order is made.
- (4) For more about suspended sentence orders that qualify for special procedures, see section 395A.”

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Commencement Information

I7 Sch. 14 para. 7 in force at 28.6.2022, see s. 208(5)(r)

- 8 (1) Section 294 (review hearings) is amended as follows.
- (2) In subsection (1), after “293” insert “or 293A”.
- (3) In subsection (5), after “the case” insert “forthwith”.
- (4) After subsection (5) insert—
- “(5A) For some powers available where the court is of the opinion referred to in subsection (5) but does not deal with the case forthwith, see paragraph 9A of Schedule 16.”
- (5) In subsection (6), after “293(2)” insert “(or, as the case may be, section 293A(2))”.

Commencement Information

I8 Sch. 14 para. 8 in force at 28.6.2022, see s. 208(5)(r)

- 9 (1) Section 295 (alteration of review arrangements) is amended as follows.
- (2) In subsection (1), after “a review” insert “under section 293 or 293A”.
- (3) In subsection (5), after “293(2)(a)” insert “or 293A(2)(a)”.
- (4) In subsection (7), after “293(2)” insert “(or, as the case may be, section 293A(2))”.

Commencement Information

I9 Sch. 14 para. 9 in force at 28.6.2022, see s. 208(5)(r)

- 10 (1) Section 297 (power to direct magistrates’ court supervision) is amended as follows.
- (2) The existing provision becomes subsection (1).
- (3) After that subsection insert—
- “(2) Subsection (1) does not apply to a suspended sentence order that qualifies for special procedures for the purposes of section 293A.”

Commencement Information

I10 Sch. 14 para. 10 in force at 28.6.2022, see s. 208(5)(r)

Commencement Information

I6 Sch. 14 para. 6 in force at 28.6.2022, see s. 208(5)(r)

I7 Sch. 14 para. 7 in force at 28.6.2022, see s. 208(5)(r)

I8 Sch. 14 para. 8 in force at 28.6.2022, see s. 208(5)(r)

I9 Sch. 14 para. 9 in force at 28.6.2022, see s. 208(5)(r)

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I10 Sch. 14 para. 10 in force at 28.6.2022, see s. 208(5)(r)

Review of drug rehabilitation requirements

11 In Schedule 9 (community orders and suspended sentence orders: community requirements), in paragraph 21 (review of drug rehabilitation requirements), at the end insert—

- “(7) Nothing in this paragraph or paragraph 22 applies in relation to—
- (a) a community order that qualifies for special procedures for the purposes of section 217A, or
 - (b) a suspended sentence order that qualifies for special procedures for the purposes of section 293A.”

Commencement Information

I11 Sch. 14 para. 11 in force at 28.6.2022, see s. 208(5)(r)

Breach of community order: power to commit to custody

- 12 (1) Schedule 10 (breach etc of community order) is amended as follows.
- (2) In paragraph 1 (interpretation), in the definition of “appropriate court” in subparagraph (1)—
- (a) after paragraph (a) insert—
 - “(aa) if the community order qualifies for special procedures for the purposes of section 217A, the court that made the order;”;
 - (b) in paragraph (b), after the second “order” insert “and does not fall within paragraph (aa)”.
- (3) In paragraph 8 (issue of summons or warrant by justice of the peace), in subparagraph (3)—
- (a) in paragraph (a), omit the final “or”;
 - (b) after paragraph (a) insert—
 - “(aa) in the case of a community order that qualifies for special procedures for the purposes of section 217A, before the court that made the order, or”.
- (4) After paragraph 9 insert—

“Issue of summons or warrant after review hearing

- 9A (1) This paragraph applies where—
- (a) a community order is in force,
 - (b) on a review hearing under section 217B a magistrates’ court or the Crown Court (“the court”) is of the opinion that the offender has without reasonable excuse breached a community order requirement of the order, and
 - (c) the court does not deal with the case forthwith by virtue of section 217B(5).

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- (2) The court may at any time—
 - (a) issue a summons requiring the offender to appear at the place and time specified in it, or
 - (b) issue a warrant for the offender’s arrest.
- (3) A summons or warrant issued under this paragraph must direct the offender to appear or be brought before the court which issued it.
- (4) Where—
 - (a) a summons is issued under this paragraph, and
 - (b) the offender does not appear in answer to the summons,
 the court may issue a warrant for the arrest of the offender.”
- (5) In paragraph 10—
 - (a) in sub-paragraph (1), after “paragraph 8” insert “or 9A or by virtue of section 217B(5)”;
 - (b) in sub-paragraph (5), after paragraph (b) insert—
 - “(ba) if the community order qualifies for special procedures for the purposes of this paragraph, by ordering the offender to be committed to prison for such period not exceeding 28 days as the court considers appropriate (but see also paragraph 13A);”.
- (6) In paragraph 11—
 - (a) in sub-paragraph (1)(a)—
 - (i) after “paragraph 9” insert “or 9A”;
 - (ii) after “10(3)” insert “or section 217B(5)”;
 - (b) in sub-paragraph (2), after paragraph (b) insert—
 - “(ba) if the community order qualifies for special procedures for the purposes of this paragraph, by ordering the offender to be committed to prison for such period not exceeding 28 days as the court considers appropriate (but see also paragraph 13A);”.
- (7) After paragraph 13 insert—

“Power under paragraphs 10 and 11 to commit to prison: further provision

- 13A (1) In the case of a person under the age of 21—
- (a) an order under paragraph 10(5)(ba) or 11(2)(ba) must be for committal to a young offender institution instead of to prison, but
 - (b) the Secretary of State may from time to time direct that a person committed to a young offender institution by such an order is to be detained in a prison or remand centre instead.
- (2) A person committed to prison or a young offender institution by an order under paragraph 10(5)(ba) or 11(2)(ba) is to be regarded as being in legal custody.
 - (3) No more than three orders under paragraph 10(5)(ba) or 11(2)(ba) may be made in relation to the same community order.”

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- (8) In paragraph 14 (revocation etc of community order subject to magistrates' court supervision), in sub-paragraph (2)—
- (a) in paragraph (a), omit the final “and”;
 - (b) after paragraph (a) insert—
 - “(aa) if the community order qualifies for special procedures for the purposes of section 217A, the court that made the order, and”.

Commencement Information

I12 Sch. 14 para. 12 in force at 28.6.2022, see s. 208(5)(r)

Breach of suspended sentence order: power to commit to custody

- 13 (1) Schedule 16 (breach etc of suspended sentence order) is amended as follows.

- (2) In paragraph 4—
- (a) in sub-paragraph (1)(a), after “293(1)” insert “or 293A(1)”;
 - (b) in sub-paragraph (2)(a), after “293(4)” insert “or 293A(3)”.
- (3) After paragraph 9 insert—

“Issue of summons or warrant after review hearing in special procedure cases

- 9A (1) This paragraph applies where—
- (a) a suspended sentence order is subject to review in accordance with section 293A(1),
 - (b) on a review hearing under section 294(5) a magistrates' court or the Crown Court (“the court”) is of the opinion that the offender has without reasonable excuse breached a community requirement of the order, and
 - (c) the court does not deal with the case forthwith under section 294(5).
- (2) The court may at any time—
- (a) issue a summons requiring the offender to appear at the place and time specified in it, or
 - (b) issue a warrant for the offender's arrest.
- (3) A summons or warrant issued under this paragraph must direct the offender to appear or be brought before the court which issued it.
- (4) Where—
- (a) a summons is issued under this paragraph, and
 - (b) the offender does not appear in answer to the summons,
- the court may issue a warrant for the arrest of the offender.”

- (4) In paragraph 10, in sub-paragraph (1)(a)(i), after “8” insert “or 9A”.

- (5) In paragraph 12, in sub-paragraph (2)(a)(i), after “9” insert “or 9A”.

- (6) In paragraph 13, in sub-paragraph (1), after paragraph (d) insert—

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“(da) in a case where the suspended sentence order qualifies for special procedures for the purposes of this paragraph, the court is dealing with the case by virtue of paragraph 10 or 12(2) and the offender is aged 18 or over, the court may order the offender to be committed to prison for such period not exceeding 28 days as the court considers appropriate (but see also paragraph 13A);”.

(7) In paragraph 14 (duty to make activation order where not unjust), in sub-paragraph (2)—

- (a) in paragraph (a), omit the final “and”;
- (b) after paragraph (b) insert “, and
- (c) in a case where the suspended sentence order qualifies for special procedures for the purposes of paragraph 13(1)(da), the court is dealing with the case by virtue of paragraph 10 or 12(2) and the offender is aged 18 or over, the possibility of making an order under paragraph 13(1)(da).”

(8) After paragraph 16 insert—

“Power under paragraph 13(1)(da) to commit to prison: further provision

- 16A (1) In the case of an offender under the age of 21—
- (a) an order under paragraph 13(1)(da) must be for committal to a young offender institution instead of to prison, but
 - (b) the Secretary of State may from time to time direct that a person committed to a young offender institution by such an order is to be detained in a prison or remand centre instead.
- (2) A person committed to prison or a young offender institution by an order under paragraph 13(1)(da) is to be regarded as being in legal custody.
- (3) No more than three orders under paragraph 13(1)(da) may be made in relation to the same suspended sentence order.”

Commencement Information

I13 Sch. 14 para. 13 in force at 28.6.2022, see **s. 208(5)(r)**

PART 2

PROSPECTIVE AMENDMENTS

Prospective amendments relating to abolition of detention in a young offender institution

- 14 (1) Schedule 22 of the Sentencing Act 2020 (prospective amendments) is amended as follows.
- (2) In paragraph 21 (powers to imprison for breach of community order)—
- (a) in sub-paragraph (2)(a), in the inserted paragraph (d), after sub-paragraph (i) insert—

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“(ia) the order does not qualify for special procedures for the purposes of paragraph (ba);”;

- (b) in sub-paragraph (3)(a), in the inserted paragraph (d), before sub-paragraph (i) insert—

“(ai) the community order does not qualify for special procedures for the purposes of paragraph (ba),”.

- (3) After paragraph 75 insert—

“75A In paragraph 13A of Schedule 10 (detention following breach of community order)—

- (a) omit sub-paragraph (1);
- (b) in sub-paragraph (2), omit “or a young offender institution”.

- (4) After paragraph 78 insert—

“78A In paragraph 16A of Schedule 16 (detention following breach of suspended sentence order)—

- (a) omit sub-paragraph (1);
- (b) in sub-paragraph (2), omit “or a young offender institution”.

Commencement Information

I14 Sch. 14 para. 14 in force at 28.6.2022, see **s. 208(5)(r)**

Changes to legislation:

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