

Changes to legislation: Sentencing Act 2020, SCHEDULE 10 is up to date with all changes known to be in force on or before 12 May 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 10

Section 218

BREACH, REVOCATION OR AMENDMENT OF COMMUNITY ORDER

Modifications etc. (not altering text)

- C1 Sch. 10 applied (with modifications) by 2006 c. 52, s. 182(3)(4) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 7\(5\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)
- C2 Sch. 10 applied (with modifications) by 2006 c. 52, s. 183 (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 8](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)
- C3 Sch. 10 applied by 2006 c. 52, s. 178(2) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 3\(3\)](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)
- C4 Sch. 10 modified by 2006 c. 52, s. 181 (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 6](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)
- C5 Sch. 10 applied (with modifications) by 2003 c. 44, s. 300(6), Sch. 31 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 paras. 241\(5\)](#), [249](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2)
- C6 Sch. 10 applied (with modifications) by 2006 c. 52, Sch. 6A (as inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 12](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)

PART 1

PRELIMINARY

Meaning of particular expressions relating to an order

- 1 (1) In this Schedule, in relation to a community order—
- “appropriate court” means—
- (a) if the community order imposes a drug rehabilitation requirement which is subject to review, the court responsible for the order (see paragraph 4);
 - (aa) [^{F1}if the community order qualifies for special procedures for the purposes of section 217A, the court that made the order;]
 - (b) if the community order is a Crown Court community order [^{F2}and does not fall within paragraph (aa)], the Crown Court;
 - (c) in any other case, a magistrates' court acting in the offender's home local justice area;
- “treatment requirement”, in relation to a community order, means—
- (a) a mental health treatment requirement of the order,
 - (b) a drug rehabilitation requirement of the order, or
 - (c) an alcohol treatment requirement of the order.

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- (2) In this Schedule, in relation to a community order, any reference (however expressed) to breach of a requirement of the order is a reference to any failure of the offender to comply with a requirement imposed by the order.

Textual Amendments

- F1** Words in Sch. 10 para. 1 inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 12\(2\)\(a\)](#)
- F2** Words in Sch. 10 para. 1 inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 12\(2\)\(b\)](#)

Commencement Information

- I1** Sch. 10 para. 1 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Enforcement officers

- 2 (1) In this Schedule, “enforcement officer” means a person who is for the time being responsible for discharging the functions conferred by this Schedule on an enforcement officer in accordance with arrangements made by the Secretary of State.
- (2) An enforcement officer must be an officer of a provider of probation services that is a public sector provider.
- (3) In sub-paragraph (2) “public sector provider” means—
- (a) a probation trust or other public body, or
 - (b) the Secretary of State.

Commencement Information

- I2** Sch. 10 para. 2 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Community order subject to magistrates' court supervision and Crown Court order

- 3 In this Schedule—
- “community order subject to magistrates' court supervision” means a community order which—
- (a) was made by a magistrates' court, or
 - (b) was made by the Crown Court and includes a direction under section 211 (order to be subject to magistrates' court supervision);
- “Crown Court community order” means a community order which—
- (a) was made by the Crown Court, and
 - (b) does not include a direction under that section.

Commencement Information

- I3** Sch. 10 para. 3 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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Requirements subject to review

- 4 For the purposes of this Schedule—
- (a) a drug rehabilitation requirement of a community order is subject to review if it is subject to review in accordance with paragraph 21 of Schedule 9;
 - (b) a reference to the court responsible for a community order imposing a drug rehabilitation requirement which is subject to review is to the responsible court within the meaning of that paragraph.

Commencement Information

I4 Sch. 10 para. 4 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Orders made on appeal

- 5 A community order made on appeal is to be taken for the purposes of this Schedule to have been made by the Crown Court.

Commencement Information

I5 Sch. 10 para. 5 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 2

BREACH OF REQUIREMENT OF ORDER

Duty to give warning or refer matter to enforcement officer

- 6 (1) This paragraph applies where the responsible officer is of the opinion that the offender has without reasonable excuse breached a requirement of a community order.
- (2) If the offender has been given a warning under this paragraph within the previous 12 months in relation to a breach of any requirement of the order, the officer must refer the matter to an enforcement officer.
- (3) Otherwise the officer must either—
- (a) give the offender a warning under this paragraph, or
 - (b) refer the matter to an enforcement officer.
- (4) A warning under this paragraph must—
- (a) describe the circumstances of the breach,
 - (b) state that the breach is unacceptable, and
 - (c) inform the offender that if the offender again breaches a requirement of the order within the period of 12 months beginning with the date on which the warning was given, the offender will be liable to be brought before a court.
- (5) As soon as practicable after giving a warning under this paragraph, the responsible officer must record that fact.

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Commencement Information

I6 Sch. 10 para. 6 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Role of enforcement officer

- 7 Where a matter is referred to an enforcement officer under paragraph 6, the enforcement officer must—
- (a) consider the case, and
 - (b) where appropriate, cause an information to be laid in respect of the offender's breach of requirement—
 - (i) in the case of a community order subject to magistrates' court supervision, before a justice of the peace;
 - (ii) in the case of a Crown Court community order, before the Crown Court.

Commencement Information

I7 Sch. 10 para. 7 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Issue of summons or warrant by justice of the peace

- 8 (1) This paragraph applies where—
- (a) a community order subject to magistrates' court supervision is in force, and
 - (b) it appears on information to a justice of the peace that the offender has breached a requirement of the order.
- (2) The justice may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it, or
 - (b) if the information is in writing and on oath, 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—
- (a) in the case of a community order imposing a drug rehabilitation requirement which is subject to review, if a magistrates' court is responsible for the order, before that court,^{F3} ...
 - [^{F4}(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]
 - (b) in any other case, before a magistrates' court acting in—
 - (i) the local justice area in which the offender resides, or
 - (ii) if it is not known where the offender resides, the offender's home local justice area.
- (4) Where—
- (a) a summons is issued under this paragraph requiring the offender to appear before a magistrates' court, and
 - (b) the offender does not appear in answer to the summons,

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the magistrates' court may issue a warrant for the arrest of the offender.

Textual Amendments

- F3** Word in Sch. 10 para. 8(3)(a) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), Sch. 14 para. 12(3)(a)
- F4** Sch. 10 para. 8(3)(aa) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), Sch. 14 para. 12(3)(b)

Commencement Information

- I8** Sch. 10 para. 8 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Issue of summons or warrant by Crown Court

- 9 (1) This paragraph applies where—
- a Crown Court community order is in force, and
 - it appears on information to the Crown Court that the offender has breached a requirement of the order.
- (2) The Crown Court may—
- issue a summons requiring the offender to appear at the place and time specified in it, or
 - if the information is in writing and on oath, 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 Crown Court.
- (4) Where—
- a summons is issued under this paragraph, and
 - the offender does not appear in answer to the summons,
- the Crown Court may issue a warrant for the arrest of the offender.

Commencement Information

- I9** Sch. 10 para. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

[^{F5}Issue of summons or warrant after review hearing

Textual Amendments

- F5** Sch. 10 para. 9A and cross-heading inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), Sch. 14 para. 12(4)

- 9A (1) This paragraph applies where—
- a community order is in force,
 - 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

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- (c) the court does not deal with the case forthwith by virtue of section 217B(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.]

Powers of magistrates' court

- 10 (1) This paragraph applies where—
- (a) an offender appears or is brought before a magistrates' court under paragraph 8 [^{F6}or 9A or by virtue of section 217B(5)], and
 - (b) it is proved to the satisfaction of the court that the offender has breached a requirement of the community order without reasonable excuse.
- (2) The court must deal with the case under sub-paragraph (5).
- (3) But if the community order was made by the Crown Court, the court may instead—
- (a) commit the offender to custody, or
 - (b) release the offender on bail,
- until the offender can be brought or appear before the Crown Court.
- (4) If the court deals with the offender's case under sub-paragraph (3), it must send the Crown Court—
- (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with the requirements of the community order in the respect specified in the certificate, and
 - (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.
- (5) Where the court deals with the case under this sub-paragraph, it must deal with the offender in respect of the breach in any one of the following ways—
- (a) by ordering the offender to pay a fine not exceeding £2,500;
 - (b) by amending the terms of the community order so as to impose more onerous requirements which the court could include if it had just convicted the offender of the offence in respect of which the order was made and were then making the order;
 - [^{F7}(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);]
 - (c) if the community order was made by a magistrates' court, by re-sentencing the offender for the offence in respect of which the order was made.

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- (6) Where the court deals with the case under sub-paragraph (5), the criminal courts charge duty (see section 46) applies to the court.
- (7) In dealing with the offender under sub-paragraph (5), the court must take into account the extent to which the offender has complied with the requirements of the community order.
- (8) A fine imposed under sub-paragraph (5)(a) is to be treated for the purposes of any enactment as being a sum adjudged to be paid by a conviction.
- (9) Where—
 - (a) the offender has wilfully and persistently breached the requirements of the community order, and
 - (b) the court is dealing with the offender under sub-paragraph (5)(c),the court may impose a custodial sentence even if it is not of the opinion mentioned in section 230(2) (general restriction on imposing discretionary custodial sentences).
- (10) Where the court deals with the offender under sub-paragraph (5)(c), it must revoke the community order if it is still in force.
- (11) A person sentenced under sub-paragraph (5)(c) for an offence may appeal to the Crown Court against—
 - (a) the sentence, and
 - (b) a criminal courts charge order made when imposing that sentence.

Textual Amendments

- F6** Words in Sch. 10 para. 10(1) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 12\(5\)\(a\)](#)
- F7** Sch. 10 para. 10(5)(ba) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 12\(5\)\(b\)](#)
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Commencement Information

- I10** Sch. 10 para. 10 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of Crown Court

- 11 (1) This paragraph applies where—
- (a) an offender appears or is brought before the Crown Court under paragraph 9 [^{F8} or 9A] or by virtue of paragraph 10(3) [^{F9} or section 217B(5)], and
 - (b) it is proved to the satisfaction of that court that the offender has breached a requirement of the community order without reasonable excuse.
- (2) The Crown Court must deal with the offender in respect of the breach in any one of the following ways—
- (a) by ordering the offender to pay a fine of an amount not exceeding £2,500;
 - (b) by amending the terms of the community order so as to impose more onerous requirements which the Crown Court could include if the offender had just been convicted of the offence in respect of which the order was made and it were then making the order;

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- [^{F10}(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);]
- (c) by re-sentencing the offender for the offence in respect of which the order was made.
- (3) Where the court deals with the case under sub-paragraph (2), the criminal courts charge duty (see section 46) applies to the court.
- (4) In dealing with the offender under sub-paragraph (2), the Crown Court must take into account the extent to which the offender has complied with the requirements of the community order.
- (5) A fine imposed under sub-paragraph (2)(a) is to be treated for the purposes of any enactment as being a sum adjudged to be paid by a conviction.
- (6) Where—
- (a) the offender has wilfully and persistently breached the requirements of the community order, and
- (b) the court is dealing with the offender under sub-paragraph (2)(c),
- the court may impose a custodial sentence even if it is not of the opinion mentioned in section 230(2) (general restriction on imposing discretionary custodial sentences).
- (7) Where the Crown Court deals with the offender under sub-paragraph (2)(c), it must revoke the community order if it is still in force.
- (8) In proceedings before the Crown Court under this paragraph any question whether the offender has breached a requirement of the community order is to be determined by the court and not by the verdict of a jury.

Textual Amendments

- F8** Words in Sch. 10 para. 11(1)(a) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), **Sch. 14 para. 12(6)(a)(i)**
- F9** Words in Sch. 10 para. 11(1)(a) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), **Sch. 14 para. 12(6)(a)(ii)**
- F10** Sch. 10 para. 11(2)(ba) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), **Sch. 14 para. 12(6)(b)**

Commencement Information

- I11** Sch. 10 para. 11 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Treatment requirement: reasonable refusal to undergo treatment

- 12 (1) Sub-paragraph (2) applies where the offender—
- (a) is required by a treatment requirement of the community order to submit to treatment, and
- (b) has refused to undergo any surgical, electrical or other treatment.
- (2) The offender is not to be treated for the purposes of paragraph 10 or 11 as having breached the requirement on the ground only of that refusal if, in the opinion of the court, the refusal was reasonable having regard to all the circumstances.

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Commencement Information

I12 Sch. 10 para. 12 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers in paragraphs 10 and 11 to impose more onerous requirements: further provision

- 13 (1) In dealing with an offender under paragraph 10(5)(b) or 11(2)(b), the court may—
- (a) extend the duration of particular requirements, subject to any limit imposed by Schedule 9;
 - (b) substitute a later date for the end date.
- (2) A date substituted under sub-paragraph (1)(b)—
- (a) must not be more than 6 months after the end date;
 - (b) subject to that, may be more than 3 years after the date of the order.
- (3) Once the power in sub-paragraph (1)(b) has been exercised in relation to the order, it may not be exercised again in relation to it by any court.
- (4) Where—
- (a) a community order does not contain an unpaid work requirement, and
 - (b) in dealing with the offender under paragraph 10(5)(b) or 11(2)(b), the court imposes an unpaid work requirement,
- the number of hours for which the offender may be required to work under the requirement (see paragraph 2(1) of Schedule 9) must not, in aggregate, be less than 20.
- (5) Paragraphs 10(5)(b) and 11(2)(b) (power to impose more onerous requirements) have effect subject to any provision that applies to the court in making a community order as if the court were imposing the requirements on making the order.

Commencement Information

I13 Sch. 10 para. 13 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

^{F11}Power under paragraphs 10 and 11 to commit to prison: further provision

Textual Amendments

F11 Sch. 10 para. 13A and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 12\(7\)](#)

- 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.

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- (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.]

PART 3

REVOCATION OF ORDER WITH OR WITHOUT RE-SENTENCING

Community order subject to magistrates' court supervision

- 14 (1) This paragraph applies where a community order subject to magistrates' court supervision is in force, and
- (a) the offender, or
 - (b) an officer of a provider of probation services,
- applies to the appropriate magistrates' court for the community order to be revoked or for the offender to be dealt with in some other way for the offence in respect of which the order was made.
- (2) In this paragraph “the appropriate magistrates' court” means—
- (a) in the case of a community order imposing a drug rehabilitation requirement which is subject to review, if a magistrates' court is responsible for the order, that court, ^{F12}...
 - [^{F13}(aa) if the community order qualifies for special procedures for the purposes of section 217A, the court that made the order, and]
 - (b) in any other case, a magistrates' court acting in the offender's home local justice area.
- (3) No application may be made under this paragraph while an appeal against the community order is pending.
- (4) Unless the application was made by the offender, the appropriate magistrates' court—
- (a) must, before exercising its powers under sub-paragraph (5)(b), summon the offender to appear before it, and
 - (b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.
- (5) If it appears to the court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the court may—
- (a) revoke the community order, or
 - (b) both—
 - (i) revoke the community order, and
 - (ii) re-sentence the offender for the offence in respect of which the order was made.
- (6) The circumstances in which a community order may be revoked under sub-paragraph (5) include the offender's—
- (a) making good progress, or
 - (b) responding satisfactorily to supervision or treatment (as the case requires).
- (7) If the court deals with the offender under sub-paragraph (5)(b), it must take into account the extent to which the offender has complied with the requirements of the community order.

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- (8) A person sentenced under sub-paragraph (5)(b) for an offence may appeal to the Crown Court against the sentence.

Textual Amendments

- F12** Word in Sch. 10 para. 14(2)(a) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), Sch. 14 para. 12(8)(a)
- F13** Sch. 10 para. 14(2)(aa) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(r), Sch. 14 para. 12(8)(b)

Commencement Information

- I14** Sch. 10 para. 14 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Crown Court community order

- 15 (1) This paragraph applies where a Crown Court community order is in force and—
- (a) the offender, or
 - (b) an officer of a provider of probation services,
- applies to the Crown Court for the community order to be revoked or for the offender to be dealt with in some other way for the offence in respect of which the order was made.
- (2) No application may be made under this paragraph while an appeal against the community order is pending.
- (3) Unless the application was made by the offender, the Crown Court—
- (a) must, before exercising its powers under sub-paragraph (4)(b), summon the offender to appear before the court, and
 - (b) if the offender does not appear in answer to the summons, may issue a warrant for the offender's arrest.
- (4) If it appears to the Crown Court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the Crown Court may—
- (a) revoke the order, or
 - (b) both—
 - (i) revoke the order, and
 - (ii) re-sentence the offender for the offence in respect of which the order was made.
- (5) The circumstances in which a community order may be revoked under sub-paragraph (4) include the offender's—
- (a) making good progress, or
 - (b) responding satisfactorily to supervision or treatment (as the case requires).
- (6) If the Crown Court deals with the offender under sub-paragraph (4)(b), it must take into account the extent to which the offender has complied with the requirements of the order.

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Commencement Information

I15 Sch. 10 para. 15 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

PART 4

AMENDMENT OF ORDER

Amendment because of change of residence

- 16 (1) This paragraph applies where at any time while a community order is in force—
- (a) the offender is given permission under section 216 to change residence, and
 - (b) the local justice area in which the new residence is situated (“the new local justice area”) is different from the offender's home local justice area.
- (2) If the permission is given by a court, the court must amend the order to specify the new local justice area as the offender's home local justice area.
- [^{F14}(3) If the permission is given by the responsible officer—
- (a) the officer must give notice to the appropriate court of the permission, and
 - (b) the court must amend the order as set out in sub-paragraph (2).]

Textual Amendments

F14 Sch. 10 para. 16(3) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 151(3), 208(5)(q)**

Commencement Information

I16 Sch. 10 para. 16 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 17 (1) This paragraph applies where at any time while a community order is in force—
- (a) a court amends the order,
 - (b) the order as amended includes a residence requirement requiring the offender to reside at a specified place, and
 - (c) the local justice area in which that place is situated (“the new local justice area”) is different from the offender's home local justice area.
- (2) The court must amend the order to specify the new local justice area as the offender's home local justice area.

Commencement Information

I17 Sch. 10 para. 17 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Changes to legislation: Sentencing Act 2020, SCHEDULE 10 is up to date with all changes known to be in force on or before 12 May 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

[^{F15} Amendment because of variation of curfew requirement by responsible officer

Textual Amendments

F15 Sch. 10 para. 17A and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 151\(4\), 208\(5\)\(q\)](#)

- 17A (1) This paragraph applies where at any time the responsible officer gives—
- (a) a copy of a variation notice in relation to a community order, and
 - (b) evidence of the offender’s consent to the notice,
- to the appropriate court under paragraph 10A of Schedule 9.
- (2) The appropriate court must amend the order to reflect the effect of the variation notice.]

Amendment of requirements of community order

- 18 (1) The appropriate court may, on the application of the offender or an officer of a provider of probation services, amend a community order—
- (a) by cancelling any of the requirements of the order, or
 - (b) by replacing any of those requirements with a requirement of the same kind which the court could include if the offender had just been convicted by or before it of the offence in respect of which the order was made and it were then making the order.
- (2) For the purposes of sub-paragraph (1)(b)—
- (a) requirements are of the same kind if they fall within the same entry in column 1 of the table in section 201, and
 - (b) an electronic compliance monitoring requirement is a requirement of the same kind as any requirement within that table to which it relates.
- (3) No application may be made under this paragraph while an appeal against the community order is pending, other than an application which—
- (a) relates to a treatment requirement, and
 - (b) is made by an officer of a provider of probation services with the offender's consent.
- (4) Before exercising its powers under this paragraph, the court must summon the offender to appear before it, unless—
- (a) the application was made by the offender, or
 - (b) the court would exercise the powers only to—
 - (i) cancel a requirement of the community order,
 - (ii) replace any such requirement with one of a shorter duration, or
 - (iii) substitute a new place for one specified in the order.
- (5) If the offender fails to appear in answer to a summons under sub-paragraph (4) the court may issue a warrant for the offender's arrest.
- (6) Sub-paragraph (1)(b) has effect subject to any provision that applies to the court in making a community order as if the court were imposing the requirements on making the order.

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- (7) The court may not under this paragraph amend a treatment requirement unless the offender expresses willingness to comply with the requirement as amended.
- (8) If the offender fails to express willingness to comply with a treatment requirement as proposed to be amended under this paragraph, the court may—
 - (a) revoke the community order, and
 - (b) re-sentence the offender for the offence in respect of which the order was made.
- (9) If the court deals with the offender under sub-paragraph (8)(b), it—
 - (a) must take into account the extent to which the offender has complied with the requirements of the order, and
 - (b) may impose a custodial sentence even if it is not of the opinion mentioned in section 230(2) (general restrictions on imposing discretionary custodial sentences).

Commencement Information

I18 Sch. 10 para. 18 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Amendment of treatment requirement on report of practitioner

- 19 (1) This paragraph applies where an offender is being treated in pursuance of a treatment requirement and the treatment practitioner—
- (a) is of the opinion that—
 - (i) the treatment of the offender should be continued beyond the period specified in the order,
 - (ii) the offender needs different treatment,
 - (iii) the offender is not susceptible to treatment, or
 - (iv) the offender does not require further treatment, or
 - (b) is for any reason unwilling to continue to treat or direct the treatment of the offender.
- (2) The treatment practitioner must make a report in writing to that effect to the responsible officer.
- (3) The responsible officer must cause an application to be made under paragraph 18 to the appropriate court for the replacement or cancellation of the requirement.
- (4) In this paragraph, “the treatment practitioner”, in relation to a treatment requirement, means—
- (a) the medical practitioner or other person specified in the community order as the person by whom, or under whose direction, the offender is being treated in pursuance of the requirement, or
 - (b) in the case of a mental health treatment requirement, if no such person is specified, the person by whom, or under whose direction, the offender is being treated in pursuance of the requirement.

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Commencement Information

I19 Sch. 10 para. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Extension of order

- 20 (1) The appropriate court may, on the application of—
- (a) the offender, or
 - (b) an officer of a provider of probation services,
- amend a community order by substituting a later date for the end date.
- (2) Unless the application was made by the offender, the court—
- (a) must, before exercising its powers under this paragraph, summon the offender to appear before the court, and
 - (b) if the offender fails to appear in answer to the summons, may issue a warrant for the offender's arrest.
- (3) A date substituted under sub-paragraph (1)—
- (a) must not be more than 6 months after the end date;
 - (b) subject to that, may be more than 3 years after the date of the order.
- (4) Once the power in sub-paragraph (1) has been exercised in relation to the order, it may not be exercised again in relation to it by any court.
- (5) No application may be made under this paragraph while an appeal against the community order is pending.

Commencement Information

I20 Sch. 10 para. 20 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Extension of unpaid work requirement

- 21 (1) This paragraph applies where a community order imposing an unpaid work requirement is in force in respect of an offender.
- (2) The appropriate court may, on the application of—
- (a) the offender, or
 - (b) an officer of a provider of probation services,
- extend the period of 12 months specified in paragraph 1(1)(b) of Schedule 9, if it appears to the court to be in the interests to do so, having regard to circumstances which have arisen since the order was made.
- (3) No application may be made under this paragraph while an appeal against the community order is pending.
- (4) Unless the application was made by the offender, the court—
- (a) must, before exercising its powers under this paragraph, summon the offender to appear before the court, and
 - (b) if the offender fails to appear in answer to the summons, may issue a warrant for the offender's arrest.

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Commencement Information

I21 Sch. 10 para. 21 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 5

CONVICTION OF FURTHER OFFENCE

Powers of magistrates' court following subsequent conviction

- 22 Paragraphs 23 and 24 apply where—
- (a) a community order (“the existing community order”) is in force in respect of an offender, and
 - (b) the offender is convicted of an offence by a magistrates' court (“the present court”).

Commencement Information

I22 Sch. 10 para. 22 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 23 (1) This paragraph applies if the existing community order was made by a magistrates' court.
- (2) If it appears to the present court to be in the interests of justice to do so, having regard to circumstances which have arisen since the order was made, the present court may—
- (a) revoke the community order, or
 - (b) both—
 - (i) revoke the community order, and
 - (ii) re-sentence the offender for the offence in respect of which the order was made.
- (3) Unless the offender is before it, the present court may not deal with the offender under sub-paragraph (2)(b) unless it has summoned the offender to appear before it.
- (4) If the offender fails to appear in answer to a summons under sub-paragraph (3) the present court may issue a warrant for the offender's arrest.
- (5) If the present court deals with the offender under sub-paragraph (2)(b), it must take into account the extent to which the offender has complied with the requirements of the community order.
- (6) A person sentenced under sub-paragraph (2)(b) for an offence may appeal to the Crown Court against the sentence.

Commencement Information

I23 Sch. 10 para. 23 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 24 (1) This paragraph applies if the existing community order was made by the Crown Court.

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- (2) The present court may—
 - (a) commit the offender to custody, or
 - (b) release the offender on bail,until the offender can be brought before the Crown Court.
- (3) Unless the offender is before it, the present court may not deal with the offender under this paragraph unless it has summoned the offender to appear before it.
- (4) If the offender fails to appear in answer to a summons under sub-paragraph (3) the present court may issue a warrant for the offender's arrest.
- (5) Where the present court deals with the case under this paragraph, it must send the Crown Court such particulars of the case as may be desirable.

Commencement Information

I24 Sch. 10 para. 24 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of Crown Court following subsequent conviction

- 25
- (1) This paragraph applies where a community order is in force in respect of an offender, and the offender—
 - (a) is convicted of an offence by the Crown Court, or
 - (b) is brought or appears before the Crown Court—
 - (i) by virtue of paragraph 24, or
 - (ii) having been committed by a magistrates' court to the Crown Court for sentence.
 - (2) If it appears to the Crown Court that it would be in the interests of justice to do so, having regard to circumstances which have arisen since the community order was made, the Crown Court may—
 - (a) revoke the order, or
 - (b) both—
 - (i) revoke the order, and
 - (ii) re-sentence the offender for the offence in respect of which the order was made.
 - (3) Unless the offender is before it, the Crown Court may not deal with the offender under sub-paragraph (2)(b) unless it has summoned the offender to appear before it.
 - (4) If the offender fails to appear in answer to a summons under sub-paragraph (3) the Crown Court may issue a warrant for the offender's arrest.
 - (5) If the Crown Court deals with the offender under sub-paragraph (2)(b), it must take into account the extent to which the offender has complied with the requirements of the community order.

Commencement Information

I25 Sch. 10 para. 25 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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PART 6

SUPPLEMENTARY

Adjournment of hearing

- 26 (1) This paragraph applies to any hearing relating to an offender held by a magistrates' court in any proceedings under this Schedule.
- (2) The court may adjourn the hearing, and, where it does so, may—
- (a) direct that the offender be released forthwith, or
 - (b) remand the offender.
- (3) Where the court remands the offender under sub-paragraph (2)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
 - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (4) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
 - (b) if it does not do so, it must not resume the hearing unless it is satisfied that—
 - (i) the offender, and
 - (ii) any officer of a provider of probation services who the court considers has an interest in the proceedings,
 have had adequate notice of the time and place for the resumed hearing.
- (5) The powers of a magistrates' court under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.
- (6) This paragraph—
- (a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
 - (b) is not to be taken to affect the application of that section to hearings of any other description.

Commencement Information

I26 Sch. 10 para. 26 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Provision of copies of orders etc

- 27 (1) This paragraph applies on the making of an order by a court under this Schedule revoking or amending a community order.
- (2) The court must provide copies of the revoking or amending order to—
- (a) the offender, and
 - (b) the responsible officer.

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- (3) In the case of an amending order which substitutes a new local justice area as the offender's home local justice area, the court must also provide a copy of the amending order to—
- (a) a provider of probation services that is a public sector provider operating in that area, and
 - (b) the magistrates' court acting in that area.
- (4) In case of an amending order which imposes or amends a requirement specified in column 1 of the following table, the court must also provide the person specified in the corresponding entry in column 2 with a copy of so much of the amending order as relates to that 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
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.

- (5) Where the court acts in a local justice area other than the offender's home local justice area specified in the order prior to the revocation or amendment (the “former home area”), the court must provide a copy of the revoking or amending order to a magistrates' court acting in the former home area.
- (6) Where under sub-paragraph (3) the court provides a copy of an amending order to a magistrates' court acting in a different area, it must also provide that court with such documents and information relating to the case as it considers likely to be of

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assistance to a court acting in that area in the exercise of its functions in relation to the order.

- (7) In this paragraph, “public sector provider” means—
- (a) a probation trust or other public body, or
 - (b) the Secretary of State.

Commencement Information

I27 Sch. 10 para. 27 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Changes to legislation:

Sentencing Act 2020, SCHEDULE 10 is up to date with all changes known to be in force on or before 12 May 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.

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Changes and effects yet to be applied to :

- Sch. 10 para. 10(5) amendment to earlier affecting provision 2020 c. 17, Sch. 22 para. 21(2)(a) by [2022 c. 32 Sch. 14 para. 14\(2\)\(a\)](#)
- Sch. 10 para. 11(2) amendment to earlier affecting provision 2020 c. 17, Sch. 22 para. 21(3)(a) by [2022 c. 32 Sch. 14 para. 14\(2\)\(b\)](#)
- Sch. 10 amendment to earlier amending provision 2006 c. 52, s. 181 by [2020 c. 17 Sch. 26 para. 3\(a\)](#)
- Sch. 10 amendment to earlier amending provision 2006 c. 52, s. 181 by [2020 c. 17 Sch. 26 para. 3\(b\)](#)
- Sch. 10 para. 16(3) inserted by [2020 c. 17 Sch. 22 para. 23](#)
- Sch. 10 para. 13A(1) omitted by Sch. 22 para. 75(A)(a) (as inserted) by [2022 c. 32 Sch. 14 para. 14\(3\)](#)
- Sch. 10 para. 10(9) words inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(b\)](#)
- Sch. 10 para. 10(10) words inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(d\)](#)
- Sch. 10 para. 10(11) words inserted by [2020 c. 17 Sch. 22 para. 21\(2\)\(e\)](#)
- Sch. 10 para. 11(6) words inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(b\)](#)
- Sch. 10 para. 11(7) words inserted by [2020 c. 17 Sch. 22 para. 21\(3\)\(d\)](#)
- Sch. 10 para. 18(9)(b) words inserted by [2020 c. 17 Sch. 22 para. 22\(2\)](#)
- Sch. 10 para. 13A(2) words omitted by Sch. 22 para. 75(A)(b) (as inserted) by [2022 c. 32 Sch. 14 para. 14\(3\)](#)

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)