

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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 16

Section 303

BREACH OR AMENDMENT OF SUSPENDED SENTENCE ORDER, AND EFFECT OF FURTHER CONVICTION

Modifications etc. (not altering text)

- C1** Sch. 16 applied (with modifications) by 2006 c. 52, s. 200, Sch. 7 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), Sch. 25 paras. 19, 26 (with s. 416(7), Sch. 27); S.I. 2020/1236, reg. 2)

PART 1

PRELIMINARY

Interpretation: general

- 1 (1) In this Schedule, in relation to a suspended sentence order—
“activation order” has the meaning given by paragraph 14(1);
“the appropriate court” means—
(a) in the case of a suspended sentence order which is subject to review, the court responsible for the order,
(b) in the case of a Crown Court order, the Crown Court, and
(c) in any other case, a magistrates' court acting in the local justice area for the time being specified in the order.
- (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.

Commencement Information

- II** Sch. 16 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) For this purpose, “public sector provider” means—

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (a) a probation trust or other public body, or
- (b) the Secretary of State.

Commencement Information

I2 Sch. 16 para. 2 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

“Order subject to magistrates' court supervision” and “Crown Court order”

3

In this Schedule—

“order subject to magistrates' court supervision” means a suspended sentence order that imposes any community requirement which—

- (a) was made by a magistrates' court, or
- (b) was made by the Crown Court and includes a direction that any breach of a community requirement of the order is to be dealt with by a magistrates' court;

“Crown Court order” means a suspended sentence order that imposes any community requirement which—

- (a) was made by the Crown Court, and
- (b) does not include a direction that any breach of a community requirement of the order is to be dealt with by a magistrates' court.

Commencement Information

I3 Sch. 16 para. 3 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Orders and community requirements which are subject to review

4

(1) For the purposes of this Schedule, a suspended sentence order is subject to review if—

- (a) the order is subject to review in accordance with section 293(1) [^{F1}or 293A(1)], or
- (b) the order imposes a drug rehabilitation requirement which is subject to review in accordance with paragraph 21 of Schedule 9.

(2) In this Schedule, a reference to the court responsible for a suspended sentence order which is subject to review is to the responsible court within the meaning given—

- (a) in section 293(4) [^{F2}or 293A(3)], or
- (b) in paragraph 21(4) of Schedule 9,

(as the case may be).

Textual Amendments

F1 Words in Sch. 16 para. 4(1)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(2\)\(a\)](#)

F2 Words in Sch. 16 para. 4(2)(a) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(2\)\(b\)](#)

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

Commencement Information

I4 Sch. 16 para. 4 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Orders made on appeal

- 5 A suspended sentence 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. 16 para. 5 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 2

BREACH OF COMMUNITY REQUIREMENT OR CONVICTION OF FURTHER OFFENCE

Breach of community requirement: duty to give warning or refer 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 community requirement of a suspended sentence 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 community requirement of the order, the officer must refer the matter to an enforcement officer.
- (3) Otherwise the officer must either—
- give the offender a warning under this paragraph, or
 - refer the matter to an enforcement officer.
- (4) A warning under this paragraph must—
- describe the circumstances of the breach,
 - state that the breach is unacceptable, and
 - inform the offender that if the offender again breaches a requirement of the order within the next 12 months, 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.

Commencement Information

I6 Sch. 16 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—
- consider the case, and

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (b) where appropriate, cause an information to be laid in respect of the offender's breach of the requirement—
 - (i) in the case of an order subject to magistrates' court supervision, before a justice of the peace;
 - (ii) in the case of a Crown Court order, before the Crown Court.

Commencement Information

I7 Sch. 16 para. 7 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Order subject to magistrates' court supervision: issue of summons or warrant by justice

- 8 (1) This paragraph applies where, during the supervision period of an order subject to magistrates' court supervision, it appears on information to a justice of the peace that the offender has breached any community 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 suspended sentence order which is subject to review, before the court responsible for the order;
 - (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, in the offender's home local justice area.
- (4) Where—
- (a) a summons issued under this paragraph requires the offender to appear before a magistrates' court, and
 - (b) the offender does not appear in answer to the summons,
- the magistrates' court may issue a warrant for the arrest of the offender.

Commencement Information

I8 Sch. 16 para. 8 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Crown Court order: issue of summons or warrant by Crown Court

- 9 (1) This paragraph applies where, during the supervision period of a Crown Court order, it appears on information to the Crown Court that the offender has breached any community requirement of the order.
- (2) The Crown Court may—
- (a) issue a summons requiring the offender to appear at the place and time specified in it, or

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (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 before the Crown Court.
- (4) Where—
 - (a) a summons issued under this paragraph requires the offender to appear before the Crown Court, and
 - (b) 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. 16 para. 9 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

[^{F3} Issue of summons or warrant after review hearing in special procedure cases

Textual Amendments

F3 [Sch. 16 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. 13\(3\)](#)

- 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.]

Offender before magistrates' court: breach of community requirement

- 10 (1) This paragraph applies where—
- (a) the offender is before a magistrates' court ("the present court") in relation to a suspended sentence order by virtue of—
 - (i) paragraph 8 [^{F4} or 9A] (breach of community requirement), or

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (ii) section 294(5) (review), and
 - (b) it is proved to the satisfaction of the court that the offender has breached a community requirement of the order without reasonable excuse.
- (2) If the suspended sentence order was made by a magistrates' court, the present court must deal with the case under paragraph 13.
- (3) If the suspended sentence order was made by the Crown Court, the present court must—
- (a) deal with the case under paragraph 13, or
 - (b) commit the offender to custody or release the offender on bail until the offender can be brought or appear before the Crown Court.
- (4) If the present court deals with the case under sub-paragraph (3)(b), it must send the Crown Court—
- (a) a certificate signed by a justice of the peace certifying that the offender has breached the community requirements of the suspended sentence 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 breach before the Crown Court.

Textual Amendments

F4 Words in [Sch. 16 para. 10\(1\)\(a\)\(i\)](#) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(4\)](#)

Commencement Information

I10 Sch. 16 para. 10 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Offender before magistrates' court: further conviction

- 11 (1) Where—
- (a) an offender is convicted of an offence committed during the operational period of a suspended sentence order (and the suspended sentence has not already taken effect),
 - (b) the suspended sentence order was made by a magistrates' court, and
 - (c) the offender is before a magistrates' court (“the present court”), whether on conviction of that other offence or subsequently,
- the present court must deal with the case under paragraph 13.
- (2) Where an offender is convicted by a magistrates' court of any offence (“the new offence”) which the court is satisfied was committed during the operational period of a suspended sentence order made by the Crown Court, the court—
- (a) may commit the offender in custody or on bail to the Crown Court, and
 - (b) if it does not, must give written notice of the conviction to the appropriate officer of the Crown Court.
- (3) Sub-paragraph (1) does not apply to the present court if it commits the offender to the Crown Court under section 20 (which confers power for magistrates' court to commit to Crown Court in certain circumstances in respect of the suspended sentence where

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

it commits in respect of new offence) to be dealt with in respect of the suspended sentence order.

- (4) Where a magistrates' court commits a person to the Crown Court under sub-paragraph (2)(a), any duty or power which, apart from this sub-paragraph, would fall to be discharged or exercised by the magistrates' court—
- (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead [^{F5}be] exercised by the Crown Court.

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (duties relating to information).

Textual Amendments

F5 Word in Sch. 16 para. 11(4)(b) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(aa), [Sch. 21 para. 8](#)

Commencement Information

I11 Sch. 16 para. 11 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Offender before Crown Court: breach of community requirement or further conviction

- 12 (1) Where—
- (a) an offender to whom a suspended sentence order relates is before the Crown Court, and
 - (b) sub-paragraph (2) or (3) applies,
- the court must deal with the case under paragraph 13.
- (2) This sub-paragraph applies where—
- (a) the offender is before the Crown Court in relation to the order by virtue of—
 - (i) paragraph 9 [^{F6}or 9A] (summons or warrant for breach of community requirement),
 - (ii) section 294(5) (review of order), or
 - (iii) paragraph 10(3)(b) (committal from magistrates' court), and
 - (b) it is proved to the satisfaction of the court that the offender has breached a community requirement of the order without reasonable excuse.
- (3) This sub-paragraph applies where the offender—
- (a) has been convicted of an offence committed during the operational period of the suspended sentence order, and
 - (b) the suspended sentence has not taken effect.
- (4) In proceedings before the Crown Court under this paragraph—
- (a) any question whether the offender has breached a community requirement of the suspended sentence order, and
 - (b) any question whether the offender has been convicted during the operational period of the suspended sentence,
- is to be determined by the court and not by the verdict of a jury.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

Textual Amendments

F6 Words in [Sch. 16 para. 12\(2\)\(a\)\(i\)](#) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(5\)](#)

Commencement Information

I12 Sch. 16 para. 12 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of court to deal with offender on breach of requirement or subsequent conviction

- 13 (1) Where a court deals with a case under this paragraph, the court must deal with the offender in one of the following ways—
- (a) the court may order that the suspended sentence is to take effect with its original term unaltered;
 - (b) the court may order that the suspended sentence is to take effect with the substitution for the original term of a lesser term;
 - (c) the court may order the offender to pay a fine of an amount not exceeding £2,500;
 - (d) in the case of a suspended sentence order that imposes one or more community requirements, the court may amend the order by doing any one or more of the following—
 - (i) imposing more onerous community requirements 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,
 - (ii) subject to section 288(4), extending the supervision period, or
 - (iii) subject to section 288(2), extending the operational period;
 - [^{F7}(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);]
 - (e) in the case of a suspended sentence order that does not impose any community requirement, the court may, subject to section 288(2), amend the order by extending the operational period.
- (2) The criminal courts charge duty (see section 46) applies where—
- (a) a magistrates' court deals with an offender under this paragraph by virtue of paragraph 10 (breach of community requirement), or
 - (b) the Crown Court deals with an offender under this paragraph by virtue of paragraph 12(2) (breach of community requirement).
- (3) Where a court deals with an offender under sub-paragraph (1) in respect of a suspended sentence, the appropriate officer of the court must notify the appropriate officer of the court which passed the sentence of the method adopted.

Textual Amendments

F7 [Sch. 16 para. 13\(1\)\(da\)](#) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(6\)](#)

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

Commencement Information

113 Sch. 16 para. 13 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Exercise of power in paragraph 13: duty to make activation order where not unjust

- 14 (1) Where the court deals with the case under paragraph 13, it must make an order under paragraph 13(1)(a) or (b) (“an activation order”) unless it is of the opinion that it would be unjust to do so in view of all the circumstances, including the matters mentioned in sub-paragraph (2).

Where it is of that opinion the court must state its reasons.

- (2) The matters referred to in sub-paragraph (1) are—
- (a) the extent to which the offender has complied with any community requirements of the suspended sentence order, ^{F8}...
 - (b) in a case falling within paragraph 11 or 12(3) (conviction of further offence during operational period), the facts of the subsequent offence [^{F9}, 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).]

Textual Amendments

F8 Word in Sch. 16 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. 13\(7\)\(a\)](#)

F9 Sch. 16 para. 14(2)(c) and word inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(5)(r), [Sch. 14 para. 13\(7\)\(b\)](#)

Commencement Information

114 Sch. 16 para. 14 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Activation orders: further provision

- 15 (1) This paragraph applies where a court makes an activation order relating to a suspended sentence.
- (2) The activation order may provide for—
- (a) the sentence to take effect immediately, or
 - (b) the term of the sentence to begin on the expiry of another custodial sentence passed on the offender.

This is subject to section 225 (restriction on consecutive sentences for released prisoners).

- (3) For the purpose of any enactment conferring rights of appeal in criminal cases, each of the following orders is to be treated as a sentence passed on the offender by the court for the offence for which the suspended sentence was passed—
- (a) the activation order;
 - (b) any order made by the court under section 46 (criminal courts charge duty) when making the activation order.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (4) In this paragraph “custodial sentence” includes a pre-Code custodial sentence (see section 222(4)).

Commencement Information

I15 Sch. 16 para. 15 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Power under paragraph 13 to fine or amend community requirements: further provision

- 16 (1) A fine imposed under paragraph 13(1)(c) is to be treated for the purposes of any enactment as being a sum adjudged to be paid by a conviction.
- (2) Paragraph 13(1)(d)(i) (power to impose more onerous requirements) is subject to any provision that applies to the court in making a suspended sentence order as if the court were making the order.

Commencement Information

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

^{F10}Power under paragraph 13(1)(da) to commit to prison: further provision

Textual Amendments

F10 Sch. 16 para. 16A and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(r), [Sch. 14 para. 13\(8\)](#)

- 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.]

Treatment requirement: reasonable refusal to undergo certain treatment

- 17 (1) Sub-paragraph (2) applies where the offender—
- (a) is required by a treatment requirement of a suspended sentence 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(1)(b) or 12(2)(b) as having breached that 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.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (3) In this paragraph, “treatment requirement” means—
- (a) a mental health treatment requirement,
 - (b) a drug rehabilitation requirement, or
 - (c) an alcohol treatment requirement.

Commencement Information

I17 Sch. 16 para. 17 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Duty of court in Scotland or Northern Ireland when informed of suspended sentence

- 18 Where—
- (a) an offender is convicted in Scotland or Northern Ireland of an offence, and
 - (b) the court is informed that the offence was committed during the operational period of a suspended sentence passed in England or Wales,
- the court must give written notice of the conviction to the appropriate officer of the court by which the suspended sentence was passed.

Commencement Information

I18 Sch. 16 para. 18 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Issue of summons or warrant where court convicting of further offence does not deal with suspended sentence

- 19 (1) This paragraph applies where it appears to the Crown Court that an offender—
- (a) has been convicted in the United Kingdom of an offence committed during the operational period of a suspended sentence order passed by the Crown Court, and
 - (b) has not been dealt with in respect of the suspended sentence.
- (2) The Crown Court may issue—
- (a) a summons requiring the offender to appear at the place and time specified in it, or
 - (b) 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.

Commencement Information

I19 Sch. 16 para. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 20 (1) This paragraph applies where it appears to a justice of the peace that an offender—
- (a) has been convicted in the United Kingdom of an offence committed during the operational period of a suspended sentence passed by a magistrates' court acting in the same local justice area as the justice, and
 - (b) has not been dealt with in respect of the suspended sentence.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (2) The justice may issue—
- (a) a summons requiring the offender to appear at the place and time specified in it, or
 - (b) a warrant for the offender's arrest.

This is subject to sub-paragraphs (3) and (4).

- (3) Unless acting in consequence of a notice under paragraph 18 (conviction in Scotland or Northern Ireland), a justice—
- (a) may not issue a summons under this paragraph except on information, and
 - (b) may not issue a warrant under this paragraph except on information in writing and on oath.
- (4) A summons or warrant issued under this paragraph must direct the offender to appear or be brought before the court by which the suspended sentence was passed.

Commencement Information

I20 Sch. 16 para. 20 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

PART 3

AMENDMENT OF ORDER

Application of Part

- 21 This Part of this Schedule applies during the supervision period of a suspended sentence order that imposes one or more community requirements.

Commencement Information

I21 Sch. 16 para. 21 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Cancellation of community requirements of suspended sentence order

- 22 (1) This paragraph applies where an application is made to the appropriate court by—
- (a) the offender, or
 - (b) an officer of a provider of probation services,
- for the community requirements of the suspended sentence order to be cancelled.
- (2) 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 cancel the community requirements of the suspended sentence order.
- (3) The circumstances in which community requirements of the order may be cancelled under sub-paragraph (2) include the offender's—
- (a) making good progress, or
 - (b) responding satisfactorily to supervision.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (4) No application may be made under this paragraph while an appeal against the suspended sentence is pending.

Commencement Information

I22 Sch. 16 para. 22 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Amendment because of change of residence

- 23 (1) This paragraph applies where—
- (a) the offender is given permission under section 302 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 suspended sentence order to specify the new local justice area as the offender's home local justice area.
- [^{F11}(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

F11 Sch. 16 para. 23(3) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 151(5), 208(5)(q)**

Commencement Information

I23 Sch. 16 para. 23 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 24 (1) This paragraph applies where—
- (a) a court amends the suspended sentence 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.

Commencement Information

I24 Sch. 16 para. 24 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

[^{F12}Amendment because of variation of curfew requirement by responsible officer

Textual Amendments

F12 Sch. 16 para. 24A and cross-heading inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), **ss. 151(6), 208(5)(q)**

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- 24A (1) This paragraph applies where at any time the responsible officer gives—
- (a) a copy of a variation notice in relation to a suspended sentence 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 community requirements of suspended sentence order

- 25 (1) The appropriate court may, on the application of the offender or an officer of a provider of probation services, amend any community requirement of the suspended sentence order—
- (a) by cancelling the requirement, or
 - (b) by replacing it 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)—
- (a) a requirement falling within any entry in the table in section 287 is of the same kind as any other requirement falling 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.
- (3) Sub-paragraph (1)(b) is subject to any provision that applies to the court in making a suspended sentence order as if the court were making the order.
- (4) No application may be made under this paragraph while an appeal against the suspended sentence 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.
- (5) Before exercising its powers under this paragraph, the court must summon the offender to appear before the court, unless—
- (a) the application was made by the offender, or
 - (b) the order would cancel a community requirement of the suspended sentence order.
- (6) If the offender fails to appear in answer to a summons under sub-paragraph (5) the court may issue a warrant for the offender's arrest.
- (7) 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—
 - (i) the suspended sentence order, and
 - (ii) the suspended sentence to which it relates, and
 - (b) re-sentence the offender for the offence in respect of which the suspended sentence was imposed.
- (8) In dealing with the offender under sub-paragraph (7)(b), the court must take into account the extent to which the offender has complied with the requirements of the order.

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

- (9) In this paragraph “treatment requirement” means—
- (a) a mental health treatment requirement,
 - (b) a drug rehabilitation requirement, or
 - (c) an alcohol treatment requirement.

Commencement Information

I25 Sch. 16 para. 25 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Amendment of treatment requirement on report of practitioner

- 26 (1) This paragraph applies where the suspended sentence order contains a treatment requirement under which the offender is being treated and the treatment practitioner—
- (a) is of the opinion that—
 - (i) the treatment of the offender should be continued beyond the period specified in that behalf 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 25 to the appropriate court for the requirement to be replaced or cancelled.
- (4) For the purposes of this paragraph—
- (a) “treatment requirement” means—
 - (i) a mental health treatment requirement,
 - (ii) a drug rehabilitation requirement, or
 - (iii) an alcohol treatment requirement;
 - (b) the treatment practitioner is—
 - (i) the person specified in the order as the person by whom, or under whose direction, the offender is being treated in pursuance of the requirement, or
 - (ii) 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.

Commencement Information

I26 Sch. 16 para. 26 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Changes to legislation: *Sentencing Act 2020, SCHEDULE 16 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*

Extension of unpaid work requirement

- 27 (1) This paragraph applies where the suspended sentence order imposes an unpaid work requirement.
- (2) The appropriate court may, in relation to the order, extend the period of 12 months specified in paragraph 1(1) of Schedule 9.
- (3) The power in sub-paragraph (2) is exercisable only where—
- (a) an application is made by—
 - (i) the offender, or
 - (ii) an officer of a provider of probation services, and
 - (b) it appears to the appropriate court that it would be in the interests of justice to exercise it in the way proposed having regard to circumstances which have arisen since the order was made.
- (4) No application may be made under this paragraph while an appeal against the suspended sentence is pending.

Commencement Information

I27 Sch. 16 para. 27 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

PART 4

SUPPLEMENTARY

Provision of copies of orders etc

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

The requirement

The person to whom a copy must be provided

Changes to legislation: Sentencing Act 2020, SCHEDULE 16 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

| | |
|---|--|
| 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 amendment or revocation (“the former home area”), the court must provide a copy of the amending or revoking 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 or revoking 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 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 probation trust or other public body, or
 - the Secretary of State.

Commencement Information

I28 Sch. 16 para. 28 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Changes to legislation:

Sentencing Act 2020, SCHEDULE 16 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Sch. 16 amendment to earlier affecting provision 2006 c. 52, Sch. 7 para. 13 by [2020 c. 17 Sch. 26 para. 5\(a\)](#)
- Sch. 16 amendment to earlier affecting provision 2006 c. 52, Sch. 7 para. 13 by [2020 c. 17 Sch. 26 para. 5\(b\)](#)
- Sch. 16 para. 23(3) inserted by [2020 c. 17 Sch. 22 para. 79](#)
- Sch. 16 para. 16A(1) omitted by 2020 c. 17, Sch. 10 para. 78A(a) (as inserted) by [2022 c. 32 Sch. 14 para. 14\(4\)](#)
- Sch. 16 para. 16A(2) words omitted by 2020 c. 17, Sch. 10 para. 78A(b) (as inserted) by [2022 c. 32 Sch. 14 para. 14\(4\)](#)

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)