

Changes to legislation: Sentencing Act 2020, SCHEDULE 17 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 17

Section 304

TRANSFER OF SUSPENDED SENTENCE ORDERS TO SCOTLAND OR NORTHERN IRELAND

Modifications etc. (not altering text)

- C1** Sch. 17 applied (with modifications) by 2006 c. 52, ss. 200, 204 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 paras. 19, 22](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

PART 1

SCOTLAND

Restriction on making relevant suspended sentence order where offender resides in Scotland

- 1 (1) This paragraph applies where—
- (a) a relevant suspended sentence order is available to a court dealing with an offender, and
 - (b) the court is satisfied that the offender—
 - (i) resides in Scotland, or
 - (ii) if a relevant suspended sentence order is made, will reside there when the order comes into force.
- (2) The court may make a relevant suspended sentence order only if—
- (a) it appears to the court that suitable arrangements for the offender's supervision can be made by the local council in Scotland, and
 - (b) the order will satisfy paragraphs 8 and 9.
- (3) If the court makes a relevant suspended sentence order in accordance with this paragraph, it may not provide for it to be subject to review.

Modifications etc. (not altering text)

- C2** Sch. 17 para. 1 modified by 2006 c. 52, s. 200(1)(e)(i) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 19](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

Commencement Information

- I1** Sch. 17 para. 1 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Amendment of relevant suspended sentence order to become SSSO

- 2 (1) This paragraph applies where—
- (a) a relevant suspended sentence order is in force,

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- (b) the appropriate court is satisfied that the offender—
 - (i) resides in Scotland, or
 - (ii) proposes to reside there, and
 - (c) it appears to the court that suitable arrangements for the offender's supervision can be made by the local council in Scotland.
- (2) The power of the appropriate court to amend the order under Part 3 of Schedule 16 (“the amendment power”) includes power to amend the order by requiring—
- (a) the order to be complied with in Scotland, and
 - (b) the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(c).
- (3) But the appropriate court may exercise the amendment power in that way only if the order (as amended) will satisfy paragraphs 8 and 9.

Commencement Information

I2 Sch. 17 para. 2 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 3
- (1) A relevant suspended sentence order which is subject to review ceases to be subject to review if it is amended in accordance with paragraph 2.
 - (2) If the court amends a relevant suspended sentence order in accordance with paragraph 2, it may not provide for it to be subject to review.

Commencement Information

I3 Sch. 17 para. 3 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 2

NORTHERN IRELAND

Restriction on making suspended sentence order where offender resides in Northern Ireland

- 4
- (1) This paragraph applies where—
 - (a) a relevant suspended sentence order is available to a court dealing with an offender, and
 - (b) the court is satisfied that the offender—
 - (i) resides in Northern Ireland, or
 - (ii) if a relevant suspended sentence order is made, will reside there when the order comes into force.
 - (2) The court may make a relevant suspended sentence order only if—
 - (a) it appears to the court that suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland, and
 - (b) the order will satisfy paragraphs 8 and 9.
 - (3) If the court makes a relevant suspended sentence order in accordance with this paragraph, it may not provide for it to be subject to review.

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Modifications etc. (not altering text)

- C3** Sch. 17 para. 4 modified by 2006 c. 52, s. 200(1)(e)(ii) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 19](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#))

Commencement Information

- I4** Sch. 17 para. 4 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Amendment of relevant suspended sentence order to become an NISSO

- 5 (1) This paragraph applies where—
- (a) a relevant suspended sentence order is in force,
 - (b) the appropriate court is satisfied that the offender—
 - (i) resides in Northern Ireland, or
 - (ii) proposes to reside there, and
 - (c) it appears to the court that suitable arrangements for the offender's supervision can be made by the Probation Board for Northern Ireland.
- (2) The power of the appropriate court to amend the order under Part 3 of Schedule 16 (“the amendment power”) includes power to amend the order by requiring—
- (a) the order to be complied with in Northern Ireland, and
 - (b) the offender to be supervised in accordance with the arrangements referred to in sub-paragraph (1)(c).
- (3) But the appropriate court may exercise the amendment power in that way only if the order (as amended) will satisfy paragraphs 8 and 9.

Commencement Information

- I5** Sch. 17 para. 5 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

- 6 (1) A relevant suspended sentence order which is subject to review ceases to be subject to review if it is amended in accordance with paragraph 5.
- (2) If the court amends a relevant suspended sentence order in accordance with paragraph 5, it may not provide for it to be subject to review.

Commencement Information

- I6** Sch. 17 para. 6 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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PART 3

MAKING OF ORDERS

Modifications etc. (not altering text)

- C4** Sch. 17 Pt. 3 modified by 2006 c. 52, s. 200(1)(e)(iii) (as substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 para. 19](#) (with s. 416(7), [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#))

Making or amending a suspended sentence order under

- 7 This Part of this Schedule applies where, in accordance with Part 1 or 2 of this Schedule, a court—
- (a) makes an SSSO or an NISSO, or
 - (b) amends a suspended sentence order so as to become an SSSO or an NISSO.

Commencement Information

- I7** Sch. 17 para. 7 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Community requirements: availability and restrictions on imposition

- 8 (1) If the order is an SSSO, it must not impose—
- (a) an alcohol abstinence and monitoring requirement,
 - (b) an attendance centre requirement, or
 - (c) an electronic whereabouts monitoring requirement.
- (2) If the order is an NISSO—
- (a) it must not impose an alcohol abstinence and monitoring requirement;
 - (b) it must not impose an electronic whereabouts monitoring requirement unless it appears to the court that—
 - (i) any necessary provision can be made in the offender's case under arrangements that exist for persons resident in Northern Ireland, and
 - (ii) arrangements are generally operational throughout Northern Ireland (even if not always operational everywhere there) under which the offender's whereabouts can be electronically monitored.

Commencement Information

- I8** Sch. 17 para. 8 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

- 9 (1) The order, as made or amended, may not impose a locally based requirement unless it appears to the court that—
- (a) arrangements exist for persons to comply with such a requirement in—
 - (i) the locality in Scotland in which the offender resides, or will be residing at the relevant time, in the case of an SSSO, or
 - (ii) Northern Ireland, in the case of an NISSO, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.

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- (2) For the purposes of this paragraph, “locally based requirement” means any of the following—
- (a) an unpaid work requirement;
 - (b) a rehabilitation activity requirement;
 - (c) a programme requirement;
 - (d) a mental health treatment requirement;
 - (e) a drug rehabilitation requirement;
 - (f) an alcohol treatment requirement;
 - (g) in relation to an NISSO, an attendance centre requirement [^{F1}, where such a requirement is available (see section 207(3))];
 - (h) an electronic compliance monitoring requirement [^{F2}, where such a requirement is available (see section 207(4))].

Textual Amendments

- F1** Words in Sch. 17 para. 9(2)(g) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 13 para. 10(2)(a)**; S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F2** Words in Sch. 17 para. 9(2)(h) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), **Sch. 13 para. 10(2)(b)**; S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

Commencement Information

- I9** Sch. 17 para. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

- 10 Schedule 9 (requirements) applies as if—
- (a) any reference to the responsible officer were to the relevant officer;
 - (b) the following provisions were omitted—
 - (i) paragraph 13(3) (residence requirement: hostel or institution not to be specified except on recommendation);
 - (ii) paragraph 31(2) (person for electronic monitoring to be of prescribed description);
 - (iii) paragraphs 34 and 35 (restriction on imposing electronic monitoring requirement);
 - (c) in paragraph 16(2) (mental health treatment requirement), for the definition of “in-patient treatment” there were substituted—
 - (i) in relation to an SSSO or proposed SSSO—

““in-patient treatment” means treatment as a resident patient in a hospital within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003, not being a State hospital within the meaning of that Act;”;
 - (ii) in relation to an NISSO or proposed NISSO—

““in-patient treatment” means treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health for the purpose of paragraph 4(3) of Schedule 1 to

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the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));”;

- (d) in relation to an NISSO or proposed NISSO, any reference in Part 13 (attendance centre requirement) to an attendance centre were to a day centre, as defined by paragraph 3(6) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).

Commencement Information

I10 Sch. 17 para. 10 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Matters to be specified in the order

- 11 (1) The suspended sentence order, as made or amended in accordance with Part 1 or 2 of this Schedule, must—
- (a) if it is an SSSO, specify the local authority area in Scotland in which the offender resides or will be residing at the relevant time, or
 - (b) if it is an NISSO, specify that the offender resides in Northern Ireland or will be residing there at the relevant time.
- (2) This paragraph has effect in place of section 296 (offender's home local justice area to be specified).

Commencement Information

I11 Sch. 17 para. 11 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Order to require home authority to appoint relevant officer

- 12 The suspended sentence order, as made or amended in accordance with Part 1 or 2 of this Schedule, must require the home authority to appoint or assign—
- (a) an officer, in the case of an SSSO, or
 - (b) a probation officer, in the case of an NISSO,
- who will be responsible for discharging in relation to the offender the functions conferred on responsible officers in relation to relevant suspended sentence orders by this Code.

Commencement Information

I12 Sch. 17 para. 12 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Provision of copies

- 13 (1) This paragraph applies where a court makes an order (“the transferring order”) which makes or amends a suspended sentence order as mentioned in paragraph 7.
- (2) The court must forthwith provide the offender with a copy of the transferring order.
- (3) The court must provide—
- (a) the home authority, and

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(b) the home court,
with the relevant documents.

- (4) In sub-paragraph (3), “the relevant documents” means—
- (a) a copy of the suspended sentence order as made or amended, and
 - (b) such other documents and information relating to the case as the court considers likely to be of assistance.
- (5) Where the transferring order 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 transferring 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.

- (6) Sub-paragraphs (7) and (8) apply where the transferring order is an order amending a suspended sentence order in accordance with paragraph 2 or 5.
- (7) The court must provide a copy of the transferring order to the responsible officer.
- (8) Where the court making the transferring order acts in a local justice area other than the offender's home local justice area specified in the suspended sentence order prior

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to the amendment (“the former home area”), the court must provide a copy of the transferring order to a magistrates' court acting in the former home area.

- (9) This paragraph applies in place of—
- (a) section 298 (provision of copies of suspended sentence orders), and
 - (b) paragraph 28 of Schedule 16 (provision of copies following amendment of suspended sentence order).

Commencement Information

I13 Sch. 17 para. 13 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 4

PROVISIONS WHERE SSSO OR NISSO IS IN FORCE

Application

- 14 (1) This Part of this Schedule applies while an SSSO or NISSO is in force in relation to an offender.
- (2) This is subject to Part 8 of this Schedule (transfer to England and Wales).

Commencement Information

I14 Sch. 17 para. 14 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Role of responsible officer to be carried out by relevant officer

- 15 Sections 300 to 302 (role of responsible officer) apply as if any reference to the responsible officer were to the relevant officer.

Commencement Information

I15 Sch. 17 para. 15 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Community requirements

- 16 Schedule 9 (requirements) applies as if—
- (a) any reference to the responsible officer were to the relevant officer;
 - (b) the following provisions were omitted—
 - (i) paragraph 13(3) (residence requirement: hostel or institution not to be specified except on recommendation);
 - (ii) paragraph 31(2) (person for electronic monitoring to be of prescribed description);
 - (iii) paragraphs 34 and 35 (restriction on imposing electronic monitoring requirement);
 - (c) in paragraph 16(2) (mental health treatment requirement), for the definition of “in-patient treatment” there were substituted—

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(i) in relation to an SSSO—

““in-patient treatment” means treatment as a resident patient in a hospital within the meaning of the Mental Health (Care and Treatment) (Scotland) Act 2003, not being a State hospital within the meaning of that Act;”;

(ii) in relation to an NISSO—

““in-patient treatment” means treatment (whether as an in-patient or an out-patient) at such hospital as may be specified in the order, being a hospital within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972, approved by the Department of Health for the purpose of paragraph 4(3) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24));”;

(d) in relation to an NISSO, any reference in Part 13 (attendance centre requirement) to an attendance centre were to a day centre, as defined by paragraph 3(6) of Schedule 1 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)).

Commencement Information

I16 Sch. 17 para. 16 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

PART 5

BREACH OF COMMUNITY REQUIREMENT

Application

17 This Part of this Schedule—

- (a) applies where an SSSO or an NISSO is in force in respect of an offender, and
- (b) includes provisions that modify, or apply in place of, certain provisions of Part 2 of Schedule 16 (breach of community requirement or conviction of further offence).

Commencement Information

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

Breach of community requirement: duty to give warning or refer to home court

- 18 (1) This paragraph applies where the relevant officer is of the opinion that the offender has without reasonable excuse breached a community requirement of the order.
- (2) If the offender has been given a relevant warning within the previous 12 months in relation to a breach of any community requirement of the order, the officer must—

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- (a) if the order is an SSSO, provide information to the home court with a view to it issuing a citation, or
 - (b) if the order is an NISSO, make a complaint to a lay magistrate in Northern Ireland.
- (3) Otherwise the officer must—
- (a) give the offender a warning under this paragraph,
 - (b) if the order is an SSSO, provide information to the home court with a view to it issuing a citation, or
 - (c) if the order is an NISSO, make a complaint to a lay magistrate in Northern Ireland.
- (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 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 relevant officer must record that fact.
- (6) For the purposes of sub-paragraph (2), a relevant warning is a warning under—
- (a) this paragraph, or
 - (b) paragraph 6 of Schedule 16 (corresponding provision for order not transferred to Scotland or Northern Ireland).
- (7) If the suspended sentence order is amended under paragraph 35 (transfer back to England and Wales), the reference in paragraph 6(2) of Schedule 16 to a previous warning under paragraph 6 of that Schedule includes a reference to a warning under this paragraph.

Commencement Information

I18 Sch. 17 para. 18 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Issue of citation or warrant by home court

- 19 (1) Sub-paragraph (2) applies where it appears to the home court—
- (a) if that court is in Scotland, on information from the relevant officer, or
 - (b) if that court is in Northern Ireland, upon a complaint being made by the relevant officer,
- that the offender has breached a community requirement of the suspended sentence order without reasonable excuse.
- (2) The home court may—
- (a) if it is in Scotland—
 - (i) issue a citation requiring the offender to appear before it at the time specified in the citation, or
 - (ii) issue a warrant for the offender's arrest;
 - (b) if it is in Northern Ireland—

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- (i) issue a summons requiring the offender to appear before it at the time specified in the summons, or
- (ii) issue a warrant for the offender' arrest.

Commencement Information

I19 Sch. 17 para. 19 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of home court to determine breach or refer to original court

- 20 (1) The court before which an offender appears or is brought by virtue of paragraph 19 must—
- (a) determine whether the offender has breached any community requirement of the suspended sentence order without reasonable excuse, or
 - (b) require the offender to appear before the original court.
- (2) Sub-paragraphs (3) to (6) apply if the home court determines under sub-paragraph (1) (a) that the offender has breached any requirement of the order without reasonable excuse.
- (3) The court must—
- (a) require the offender to appear before the original court, and
 - (b) send the original court a certificate certifying that the offender has without reasonable excuse breached the requirements of the order in the respect specified.
- (4) Sub-paragraph (5) applies when the offender appears before the original court by virtue of sub-paragraph (3).
- (5) Paragraph 10 or, as the case may be, 12 of Schedule 16 (functions of court on breach of community requirement) applies as if what the home court had determined under sub-paragraph (1)(a) had already been proved to the satisfaction of the original court.
- (6) Where an offender is required under sub-paragraph (3)(a) to appear before the original court, a certificate under sub-paragraph (3)(b) signed by the clerk of the home court is admissible before the original court as conclusive evidence of the matters stated in it.
- (7) See Part 7 of this Schedule for provisions that apply to the original court where it exercises a power by virtue of sub-paragraph (1)(b) or (3)(a).

Commencement Information

I20 Sch. 17 para. 20 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Determination by home court of breach of community requirement: further provision

- 21 (1) Sub-paragraph (2) applies where an offender—
- (a) is required by any of the following community requirements of a suspended sentence order to submit to treatment—
 - (i) a mental health treatment requirement,
 - (ii) a drug rehabilitation requirement, or

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- (iii) an alcohol treatment requirement, 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 20 as having breached that requirement on the ground only of that refusal if, in the opinion of the court, the offender's refusal was reasonable having regard to all the circumstances.
- (3) Where the court makes a determination under paragraph 20(1)(a), the evidence of one witness is sufficient.
- (4) If the order—
- (a) is an SSSO, and
 - (b) contains an electronic monitoring requirement,
- section 245H of the Criminal Procedure (Scotland) Act 1995 (documentary evidence) applies to proceedings under paragraph 20 as it applies to proceedings under section 245F of that Act (breach of restriction of liberty order).

Commencement Information

I21 Sch. 17 para. 21 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

- 22 Paragraphs 18 to 21 have effect in place of paragraphs 6 and 7 of Schedule 16 (breach or amendment of suspended sentence order).

Commencement Information

I22 Sch. 17 para. 22 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Modifications of Part 2 of Schedule 16 etc

- 23 (1) Part 2 of Schedule 16 (breach of community requirement and effect of further conviction), apart from paragraphs 6 and 7, applies as if—
- (a) any reference to the responsible officer were to the relevant officer;
 - (b) any reference to a magistrates' court acting in the offender's home local justice area were to a magistrates' court acting in the same local justice area as the original court;
 - (c) any reference to a justice of the peace acting in the offender's home local justice area were to a justice of the peace acting in the same local justice area as the original court;
 - (d) any reference to the appropriate court were to the original court;
 - (e) for sub-paragraphs (i) and (ii) of paragraph 8(3)(b) there were substituted “the same local justice area as the original court”.
- (2) No court in England and Wales may exercise any power in relation to any breach by the offender of a community requirement of the order unless the offender has been required to appear before that court in accordance with paragraph 20(1)(b) or (3)(a).

Commencement Information

I23 Sch. 17 para. 23 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

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PART 6

AMENDMENT OF SSSO OR NISSO: OFFENDER REMAINING IN SCOTLAND OR NORTHERN IRELAND

Application

- 24 This Part of this Schedule—
- (a) applies where an SSSO or an NISSO is in force in respect of an offender, and
 - (b) includes provisions that modify, or apply in place of, certain provisions of Part 3 of Schedule 16 (amendment of suspended sentence order).

Commencement Information

I24 Sch. 17 para. 24 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Modifications of Part 3 of Schedule 16

- 25 Part 3 of Schedule 16 (amendment of suspended sentence order) applies as if—
- (a) any reference to the responsible officer were to the relevant officer;
 - (b) any reference a magistrates' court acting in the offender's home local justice area were to a magistrates' court acting in the same local justice area as the original court;
 - (c) any reference to a justice of the peace acting in the offender's home local justice area were to a justice of the peace acting in the same local justice area as the original court;
 - (d) any reference to the appropriate court were to the original court;
 - (e) in the case of an SSSO, in paragraphs 23 and 24 of that Schedule (amendment by reason of change of residence), any reference to the offender's home local justice area were to the local authority area specified in the order, and any other reference to a local justice area were to a local authority area;
 - (f) in the case of an NISSO, those paragraphs were omitted.

Commencement Information

I25 Sch. 17 para. 25 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers to amend suspended sentence order exercisable by home court

- 26 (1) The home court may exercise any power conferred by Part 3 of Schedule 16 (amendment of suspended sentence order) as if it were the original court.

This is subject to sub-paragraph (2).

- (2) Where paragraph 25(7) of Schedule 16 (power to deal with offender who fails to express willingness to comply with amended treatment requirement) applies, the home court—
- (a) may not exercise the power conferred by that provision, and

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(b) must require the offender to appear before the original court.

(3) See paragraph 27 and Part 7 of this Schedule for provisions that apply to the home court where it exercises a power by virtue of sub-paragraph (1).

Commencement Information

I26 Sch. 17 para. 26 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Cases in which offender is to be required to appear before home court

27 (1) This paragraph applies in place of sub-paragraphs (5) and (6) of paragraph 25 of Schedule 16 (amendment of community requirements of suspended sentence order) in relation to any exercise by the home court of the power conferred by sub-paragraph (1) of that paragraph.

(2) Before exercising the power, the home court must issue—

- (a) a citation, if it is Scotland, or
- (b) a summons, if it is in Northern Ireland,

requiring the offender to appear before it.

(3) If the offender does not appear in answer to a citation or summons under sub-paragraph (2), the court may issue a warrant for the offender's arrest.

(4) Sub-paragraph (2) does not apply where the home court exercises the power—

- (a) on the application of the offender, or
- (b) to cancel a community requirement of the suspended sentence order.

Commencement Information

I27 Sch. 17 para. 27 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Modification of sections 300 to 302 and Schedule 9

28 (1) This paragraph applies where the home court is considering amending an SSSO or an NISSO under Part 3 of Schedule 16 by virtue of this Part of this Schedule.

(2) Sections 300 to 302 (functions of responsible officer) and Schedule 9 (requirements) apply as if any reference to a provider of probation services were—

- (a) in the case of an SSSO, to a local authority in Scotland;
- (b) in the case of an NISSO, to the Probation Board for Northern Ireland.

Commencement Information

I28 Sch. 17 para. 28 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Power for home court to refer application to original court

29 (1) This paragraph applies where an application is made to the home court under Part 3 of Schedule 16 by virtue of paragraph 26 of this Schedule (powers to amend order exercisable by home court).

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- (2) The home court may (instead of dealing with the application) require the offender to appear before the original court.

Commencement Information

I29 Sch. 17 para. 29 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers exercisable by court in England and Wales only after home court consideration

- 30 (1) No court in England and Wales may exercise any power conferred by Part 3 of Schedule 16 (amendment of suspended sentence order) unless the offender has been required to appear before that court in accordance with—
- (a) paragraph 26(2)(b) of this Schedule (refusal of offender to express willingness to comply with amended treatment requirement), or
 - (b) paragraph 29(2) of this Schedule (power of home court to refer application to original court).
- (2) See Part 7 of this Schedule for provisions that apply to the original court where it exercises a power in the circumstances mentioned in sub-paragraph (1)(a) or (b).

Commencement Information

I30 Sch. 17 para. 30 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 7

EXERCISE OF POWERS TO AMEND SSSO OR NISSO BY VIRTUE OF PART 5 OR 6 OF THIS SCHEDULE

Application

- 31 This Part of this Schedule applies where—
- (a) a court in England and Wales exercises a power by virtue of paragraph 20(1)(b) or (3)(a) to amend an SSSO or a NISSO,
 - (b) the home court exercises a power in Part 3 of Schedule 16 to amend an SSSO or an NISSO by virtue of paragraph 26 of this Schedule, or
 - (c) a court in England and Wales exercises such a power in the circumstances mentioned in paragraph 30(1)(a) or (b) of this Schedule.

Commencement Information

I31 Sch. 17 para. 31 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Restrictions on exercise of powers to amend order

- 32 (1) The court must not amend the order to impose a requirement unless it appears to the court, in relation to the requirement, that suitable arrangements for the offender's supervision can be made by—

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- (a) the local council in Scotland, if the order is an SSSO, or
 - (b) the Probation Board for Northern Ireland, if the order is an NISSO.
- (2) If the order is an SSSO, the court must not impose—
- (a) an alcohol abstinence and monitoring requirement,
 - ^{F3}(b)
 - (c) an electronic whereabouts monitoring requirement.
- (3) If the order is an NISSO—
- (a) the court must not impose an alcohol abstinence and monitoring requirement;
 - (b) the court must not amend the order to impose an electronic whereabouts monitoring requirement unless it appears to the court that—
 - (i) any necessary provision can be made in the offender's case under arrangements that exist for persons resident in Northern Ireland, and
 - (ii) arrangements are generally operational throughout Northern Ireland (even if not always operational everywhere there) under which the offender's whereabouts can be electronically monitored.
- (4) The court must not impose a locally based requirement unless it appears to the court that—
- (a) arrangements exist for persons to comply with such a requirement in—
 - (i) the locality in Scotland in which the offender resides, or will be residing at the relevant time, in the case of an SSSO, or
 - (ii) Northern Ireland, in the case of an NISSO, and
 - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- (5) For the purposes of this paragraph, “locally based requirement” means any of the following—
- (a) an unpaid work requirement;
 - (b) a rehabilitation activity requirement;
 - (c) a programme requirement;
 - (d) a mental health treatment requirement;
 - (e) a drug rehabilitation requirement;
 - (f) an alcohol treatment requirement;
 - (g) in relation to an NISSO, an attendance centre requirement [^{F4}, where such a requirement is available (see section 291(3))];
 - (h) an electronic compliance monitoring requirement [^{F5}, where such a requirement is available (see section 291(4))].
- (6) The court may not provide for the SSSO or NISSO to be subject to review.

Textual Amendments

- F3** Sch. 17 para. 32(2)(b) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 13 para. 10\(3\)\(a\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F4** Words in Sch. 17 para. 32(5)(g) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(1), [Sch. 13 para. 10\(3\)\(b\)\(i\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

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- F5** Words in Sch. 17 para. 32(5)(h) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(1), Sch. 13 para. 10(3)(b)(ii); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

Commencement Information

- I32** Sch. 17 para. 32 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Provision of copies

- 33 (1) This paragraph applies where a court amends an SSSO or an NISSO and this Part of this Schedule applies.
- (2) The court must provide copies of the amending order to—
- (a) the offender, and
 - (b) the relevant officer.
- (3) Where the order is an SSSO and the court amends it so as to substitute a new local authority area, the court must provide—
- (a) the home authority, and
 - (b) the home court,
- with a copy of the order as made or amended, and such other documents and information relating to the case as the court considers likely to be of assistance.

Commencement Information

- I33** Sch. 17 para. 33 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Application of provisions of Part 3 of this Schedule

- 34 Paragraphs 10 to 12 have effect in relation to the amendment of an SSSO or an NISSO to which this Part of this Schedule applies as they have effect in relation to the amendment of such an order in accordance with Part 1 or 2 of this Schedule.

Commencement Information

- I34** Sch. 17 para. 34 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

PART 8

AMENDMENT OF ORDER: RETURN TO ENGLAND AND WALES

Amendment of order: return to England and Wales

- 35 (1) This paragraph applies where—
- (a) an SSSO or NISSO is in force in respect of an offender, and
 - (b) the home court is satisfied that the offender is residing or proposes to reside in England and Wales.
- (2) The home court—

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- (a) may, and
 - (b) on the application of the relevant officer must,
- amend the suspended sentence order by requiring it to be complied with in England and Wales.

Commencement Information

I35 Sch. 17 para. 35 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Restrictions on exercise of power under this Part of this Schedule

- 36 (1) This paragraph applies where the SSSO or NISSO contains requirements which, in the opinion of the home court, cannot be complied with in the local justice area in which the offender is residing or proposes to reside.
- (2) The court may not exercise the power conferred by paragraph 35 to amend the order unless, in accordance with paragraph 25 of Schedule 16 it—
- (a) cancels those requirements, or
 - (b) substitutes for those requirements other requirements which can be complied with if the offender resides in that area.

Commencement Information

I36 Sch. 17 para. 36 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

- 37 (1) This paragraph applies where the SSSO or NISSO imposes a programme requirement.
- (2) The home court may not exercise the power conferred by paragraph 35 to amend the order unless it appears to the court that the accredited programme specified in the requirement is available in the local justice area in England and Wales in which the offender is residing or proposes to reside.

Commencement Information

I37 Sch. 17 para. 37 in force at 1.12.2020 by [S.I. 2020/1236](#), **reg. 2**

Making of order under this Part of this Schedule

- 38 (1) This paragraph applies where the home court exercises the power conferred by paragraph 35 to amend a relevant suspended sentence order which is an SSSO or NISSO.
- (2) The relevant suspended sentence order as amended must specify the local justice area in which the offender resides or proposes to reside (“the new local justice area”).
- (3) The home court must—
- (a) provide copies of the amending order to—
 - (i) the offender,
 - (ii) the relevant officer, and

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- (iii) a provider of probation services operating in the new local justice area, and
- (b) provide the magistrates' court acting in that area with—
 - (i) a copy of the amending order, and
 - (ii) such other documents and information relating to the case as the home court considers likely to be of assistance to a court acting in that area in the exercise of its functions in relation to the order.

This sub-paragraph applies in place of paragraph 28 of Schedule 16 (amendment of suspended sentence order: provision of copies).

- (4) The relevant suspended sentence order ceases to be an SSSO or NISSO.

Commencement Information

I38 Sch. 17 para. 38 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

PART 9

SUPPLEMENTARY

Electronic monitoring and SSSO

- 39 Subsections (1) and (3) of section 245C of the Criminal Procedure (Scotland) Act 1995 (provision of remote monitoring) have effect as if they included a reference to the electronic monitoring of the community requirements of a suspended sentence order made or amended in accordance with paragraph 1 or 2 of this Schedule.

Commencement Information

I39 Sch. 17 para. 39 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Service of citation or warrant

- 40 (1) Section 4 of the Summary Jurisdiction (Process) Act 1881 (which provides, among other things, for service in England and Wales of Scottish citations or warrants) applies to any citation or warrant issued under paragraph 19(2)(a) or 27(2)(a) or (3) as it applies to a citation or warrant granted under section 134 of the Criminal Procedure (Scotland) Act 1995.
- (2) A summons issued by a court in Northern Ireland under paragraph 19(2)(b) or 27(2)(b) may, in such circumstances as may be prescribed by rules of court, be served in England and Wales or Scotland.

Commencement Information

I40 Sch. 17 para. 40 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Changes to legislation: Sentencing Act 2020, SCHEDULE 17 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

PART 10

INTERPRETATION

41 (1) In this Schedule—

“the appropriate court” has the same meaning as in Schedule 16 (see paragraph 1 of that Schedule);

“breach” in relation to a community requirement, means a failure to comply with it, and related expressions are to be read accordingly;

“the home authority”—

(a) in relation to an SSSO, means the local authority for the local authority area specified in the order;

(b) in relation to an NISSO, means the Probation Board for Northern Ireland;

“home court” means—

(a) in the case of an SSSO, the sheriff court having jurisdiction in the locality in which the offender resides or proposes to reside, and

(b) in the case of an NISSO, a court of summary jurisdiction in Northern Ireland;

“local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994; and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act;

“the local council in Scotland”, in relation to an SSSO, means the local authority in whose area the offender resides, or will be residing at the relevant time;

“NISSO” means a relevant suspended sentence order that—

(a) has been made or amended under Part 2 of this Schedule (Northern Ireland), and

(b) has not ceased to be such an order under paragraph 35 (transfer to England and Wales);

“original court”, in relation to an SSSO or an NISSO, means the court in England and Wales which made or last amended the order;

“the relevant officer” means—

(a) in relation to an SSSO, the local authority officer appointed or assigned under paragraph 12;

(b) in relation to an NISSO, the probation officer appointed or assigned under paragraph 12;

“relevant suspended sentence order” means a suspended sentence order that imposes one or more community requirements;

“the relevant time”—

(a) in relation to making, or amending a suspended sentence order so as to become, an SSSO or an NISSO, means the time when the order or the amendment comes into force;

(b) in relation to the amendment of an SSSO or NISSO, means the time when the amendment comes into force;

“SSSO” means a relevant suspended sentence order that—

(a) has been made or amended under Part 1 of this Schedule (Scotland), and

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(b) has not ceased to be such an order under paragraph 35 (transfer to England and Wales).

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

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

Commencement Information

I41 Sch. 17 para. 41 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Changes to legislation:

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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)