

Changes to legislation: Sentencing Act 2020, SCHEDULE 5 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 5

Section 115

BREACH, REVOCATION AND AMENDMENT OF REPARATION ORDER

PART 1

BREACH OF REPARATION ORDER

Application to court

- 1 (1) This Part of this Schedule applies where—
- (a) a reparation order is in force in respect of an offender, and
 - (b) the responsible officer makes an application to the appropriate court under this paragraph for it to exercise its powers under paragraph 2.
- (2) In this paragraph “appropriate court” means—
- (a) if the offender is aged under 18, a youth court acting in the relevant local justice area, and
 - (b) if the offender is aged 18 or over, a magistrates' court (other than a youth court) acting in that local justice area.
- (3) In sub-paragraph (2) “relevant local justice area” means—
- (a) the local justice area in which the offender resides, or
 - (b) if it is not known where the offender resides, the offender's home local justice area.
- (4) Where the responsible officer makes an application to the appropriate court under this paragraph, the officer may bring the offender before the court.

Commencement Information

II Sch. 5 para. 1 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of appropriate court

- 2 (1) This paragraph applies if it is proved to the satisfaction of the appropriate court that the offender has breached any requirement of the reparation order.
- (2) The appropriate court—
- (a) may order the offender to pay a fine of an amount not exceeding £1,000;
 - (b) if the reparation order was made by a magistrates' court, may revoke the order and re-sentence the offender for the offence in respect of which the order was made, or
 - (c) if the reparation order was made by the Crown Court, may—

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- (i) commit the offender to custody, or
 - (ii) release the offender on bail,
- until the offender can be brought or appear before the Crown Court.
- (3) Where the appropriate court deals with the offender's case under sub-paragraph (2)(c) it must send the Crown Court a certificate signed by a justice of the peace giving—
 - (a) particulars of the offender's failure to comply with the requirement in question, and
 - (b) such other particulars of the case as may be desirable;
 and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.
 - (4) The appropriate court may not make an order under this paragraph unless the offender is before the court.
 - (5) For powers to issue a summons or warrant to secure the offender's attendance, see paragraph 6.
 - (6) In dealing with the offender under this paragraph the appropriate court must take into account the extent to which the offender has complied with the requirements of the reparation order.
 - (7) A fine imposed under this paragraph is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
 - (8) Where—
 - (a) the offender is aged under 18, and
 - (b) but for this sub-paragraph, the court would impose a fine on the offender under sub-paragraph (2)(a),
 section 380 (order for payment by parent or guardian) applies to the fine.

Commencement Information

I2 Sch. 5 para. 2 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

Powers of Crown Court

- 3 (1) This paragraph applies where—
 - (a) by virtue of paragraph 2(2)(c) the offender is brought or appears before the Crown Court, and
 - (b) it is proved to the satisfaction of that court that the offender has breached the requirement in question.
- (2) The Crown Court may re-sentence the offender for the offence in respect of which the reparation order was made.
- (3) Where the Crown Court deals with the offender under sub-paragraph (2), it must revoke the reparation order if it is still in force.
- (4) In dealing with an offender under this paragraph the court must take into account the extent to which the offender has complied with the requirements of the reparation order.

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- (5) The appropriate court may not make an order under this paragraph unless the offender is before the court.
- (6) For powers to issue a summons or warrant to secure the offender's attendance, see paragraph 6.
- (7) In proceedings before the Crown Court under this paragraph any question whether the offender has breached a requirement of the reparation order is to be determined by the court and not by the verdict of a jury.

Commencement Information

I3 Sch. 5 para. 3 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Orders made on appeal

- 4 A reparation order made on appeal is to be taken, for the purposes of this Part of this Schedule—
- (a) if it was made on an appeal from a magistrates' court, to have been made by that magistrates' court;
 - (b) if it was made on an appeal—
 - (i) from the Crown Court, or
 - (ii) from the Court of Appeal,to have been made by the Crown Court.

Commencement Information

I4 Sch. 5 para. 4 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

PART 2

REVOCATION AND AMENDMENT OF REPARATION ORDER

- 5 (1) This paragraph applies where—
- (a) a reparation order is in force in respect of an offender, and
 - (b) the offender or the responsible officer makes an application to the relevant court under this paragraph.
- (2) In this paragraph “the relevant court” means—
- (a) a youth court acting in the offender's home local justice area, or
 - (b) in the case of an application made both under this paragraph and under paragraph 1, the appropriate court (as defined in that paragraph).
- (3) Where the responsible officer makes an application to a court under this paragraph, the responsible officer may bring the offender before the court.
- But this is subject to paragraph 6.
- (4) If it appears to the relevant court that it is appropriate to make an order under this sub-paragraph, the court may—

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- (a) make an order revoking the reparation order, or
 - (b) make an order amending it—
 - (i) by cancelling any provision included in it, or
 - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which it could include in a reparation order if, applying the relevant assumptions, it were now making such an order in respect of the relevant offence.
- (5) In this paragraph—
- “relevant offence” means the offence in respect of which the reparation order was made, and
- the “relevant assumptions” are that—
- (a) the offender has just been convicted by the relevant court of the relevant offence, and
 - (b) the offender is the same age as when in fact convicted of that offence.
- (6) Unless the offender is before it, the relevant court may not amend the reparation order under this paragraph, except to—
- (a) cancel a requirement included in the order,
 - (b) substitute a new local justice area for the offender's home local justice area specified in the order, or
 - (c) change the responsible officer.
- (7) Where an application under this paragraph for the revocation of a reparation order is dismissed, no-one may make a further application for its revocation under this paragraph except with the consent of the relevant court.

Commencement Information

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

PART 3

SUPPLEMENTARY

Issue of summons or warrant

- 6 (1) This paragraph applies where an application is made under paragraph 1 or 5.
- (2) For the purpose of securing the attendance of the offender before it, the court to which the application is made may issue a summons.
- (3) If—
- (a) the offender fails to appear in court in answer to the summons, and
 - (b) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed by rules of court, that the summons—
 - (i) could not be served, or
 - (ii) was served on the offender within what appears to the court to be a reasonable time before the hearing,
- the court may issue a warrant.

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- (4) This paragraph does not affect any other power to issue a summons or warrant.

Commencement Information

I6 Sch. 5 para. 6 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

Warrants

- 7 (1) This paragraph applies where an offender—
- (a) is arrested under a warrant issued under paragraph 6, and
 - (b) cannot immediately be brought before the court before which the warrant directs the offender to be brought (“the relevant court”).
- (2) The person in whose custody the offender is—
- (a) may arrange for the offender to be detained in a place of safety for a period of not more than 72 hours from the time of the arrest, and
 - (b) must, within that period, bring the offender before a youth court ^{F1}or, if the offender is aged 18 or over, a magistrates’ court other than a youth court.]
- (3) A person detained in accordance with arrangements under sub-paragraph (2)(a) is deemed to be lawfully detained.

Textual Amendments

F1 Words in [Sch. 5 para. 7\(2\)\(b\)](#) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), s. 208(5)(aa), [Sch. 21 para. 7\(2\)](#)

Commencement Information

I7 Sch. 5 para. 7 in force at 1.12.2020 by [S.I. 2020/1236, reg. 2](#)

- 8 (1) Where the court before which the offender is brought under paragraph 7(2) (“the alternative court”) is not the relevant court, the alternative court may—
- (a) direct that the offender be released forthwith, or
 - (b) remand the offender.
- (2) If the offender is aged under 18, the power in sub-paragraph (1)(b) is a power to remand the offender to accommodation provided by or on behalf of a local authority.
- (3) Where a court remands an offender under this paragraph to accommodation provided by or on behalf of a local authority, it must designate the local authority which is to receive the offender.
- (4) The designated authority must be—
- (a) the local authority for the area in which the offender resides, or
 - (b) if it appears to the court that the offender does not reside in the area of a local authority, must be a local authority in whose area the offence or an associated offence was committed.

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Commencement Information

I8 Sch. 5 para. 8 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power to adjourn hearing and remand offender

- 9 (1) This paragraph applies to any hearing relating to an offender held by a youth court [F2 or other magistrates' court] in any proceedings under this Schedule.
- (2) The court may adjourn the hearing.
- (3) Where it adjourns the hearing under sub-paragraph (2), it may—
- (a) direct that the offender be released forthwith, or
 - (b) remand the offender.
- (4) Where the court remands the offender under sub-paragraph (3)—
- (a) it must fix the time and place at which the hearing is to be resumed, and
 - (b) that time and place must be the time and place at which the offender is required to appear or be brought before the court by virtue of the remand.
- (5) Where the court adjourns the hearing under sub-paragraph (2) but does not remand the offender—
- (a) it may fix the time and place at which the hearing is to be resumed, but
 - (b) if it does not do so, it must not resume the hearing unless it is satisfied that the following persons have had adequate notice of the time and place for the resumed hearing—
 - (i) the offender,
 - (ii) if the offender is aged under 14, a parent or guardian of the offender, and
 - (iii) the responsible officer.
- (6) The powers of a [F3 magistrates' court] under this paragraph may be exercised by a single justice of the peace, notwithstanding anything in the Magistrates' Courts Act 1980.
- (7) This paragraph—
- (a) applies to any hearing in any proceedings under this Schedule in place of section 10 of the Magistrates' Courts Act 1980 (adjournment of trial) where that section would otherwise apply, but
 - (b) is not to be taken to affect the application of that section to hearings of any other description.

Textual Amendments

F2 Words in Sch. 5 para. 9(1) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(aa), **Sch. 21 para. 7(3)(a)**

F3 Words in Sch. 5 para. 9(6) substituted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), s. 208(5)(aa), **Sch. 21 para. 7(3)(b)**

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I9 Sch. 5 para. 9 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

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Appeals

- 10 The offender may appeal to the Crown Court against—
- (a) any order made under paragraph 2(1) (order made by appropriate court on breach of reparation order),
 - (b) any order made under paragraph 5(4)(b) (amendment of order), other than an order which only does one or more of the following—
 - (i) cancels a requirement included in the order,
 - (ii) substitutes a new local justice area for the offender's home local justice area specified in the order, or
 - (iii) changes the responsible officer, or
 - (c) the dismissal of an application under paragraph 5 to revoke a reparation order.

Commencement Information

I10 Sch. 5 para. 10 in force at 1.12.2020 by [S.I. 2020/1236](#), [reg. 2](#)

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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)