

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 4 – Justice

Part 6 – Community orders

Community orders: variation

164. Paragraph 15 enables the Scottish Ministers, by regulations, to vary the requirements of CPOs or DTTOs. Such variation can include revoking requirements, or orders in their entirety.
165. The orders to be affected by such a variation can be specified by reference to the type of order (e.g. Community Payback Order); the requirements imposed under an order (e.g. supervision requirements); the type of offender; and the type of offence the offender has been convicted of.
166. Certain restrictions are placed on this regulation-making power, which all broadly serve to ensure that it cannot be used to increase the severity of the sentence, or to alter aspects which are unlikely to be affected by the effects of coronavirus. In particular, regulations cannot change the amount of compensation to be paid; increase the number of hours of unpaid work or activity; increase or extend the period during which an offender is subject to a requirement; or increase the period during which an offender's movements are to be restricted.
167. The regulations can only be made if the Scottish Ministers are satisfied that, if no action were taken, it is likely that there would be non-compliance with the requirements of community orders as a result of the coronavirus pandemic, or that such regulations are necessary as a result of the impact of the pandemic on local authorities (which deliver community orders through justice social work) or on the Scottish Courts and Tribunals Service. In addition, the Scottish Ministers must be satisfied that any variation through regulations does not make the affected orders more difficult to comply with.
168. Subparagraph (6) places a duty on local authorities to inform those subject to the relevant CPOs or DTTOs of the changes made under any such regulations (e.g. that certain requirements in their order have varied, and in what way).