



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 3

PRISON SENTENCES OF LESS THAN 12 MONTHS

Suspended sentences

189 Suspended sentences of imprisonment

- (1) A court which passes a sentence of imprisonment for a term of at least 28 weeks but not more than 51 weeks in accordance with section 181 may—
 - (a) order the offender to comply during a period specified for the purposes of this paragraph in the order (in this Chapter referred to as “the supervision period”) with one or more requirements falling within section 190(1) and specified in the order, and
 - (b) order that the sentence of imprisonment is not to take effect unless either—
 - (i) during the supervision period the offender fails to comply with a requirement imposed under paragraph (a), or
 - (ii) during a period specified in the order for the purposes of this subparagraph (in this Chapter referred to as “the operational period”) the offender commits in the United Kingdom another offence (whether or not punishable with imprisonment),and (in either case) a court having power to do so subsequently orders under paragraph 8 of Schedule 12 that the original sentence is to take effect.
- (2) Where two or more sentences imposed on the same occasion are to be served consecutively, the power conferred by subsection (1) is not exercisable in relation to

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any of them unless the aggregate of the terms of the sentences does not exceed 65 weeks.

- (3) The supervision period and the operational period must each be a period of not less than six months and not more than two years beginning with the date of the order.
- (4) The supervision period must not end later than the operational period.
- (5) A court which passes a suspended sentence on any person for an offence may not impose a community sentence in his case in respect of that offence or any other offence of which he is convicted by or before the court or for which he is dealt with by the court.
- (6) Subject to any provision to the contrary contained in the Criminal Justice Act 1967 (c. 80), the Sentencing Act or any other enactment passed or instrument made under any enactment after 31st December 1967, a suspended sentence which has not taken effect under paragraph 8 of Schedule 12 is to be treated as a sentence of imprisonment for the purposes of all enactments and instruments made under enactments.
- (7) In this Part—
 - (a) “suspended sentence order” means an order under subsection (1),
 - (b) “suspended sentence” means a sentence to which a suspended sentence order relates, and
 - (c) “community requirement”, in relation to a suspended sentence order, means a requirement imposed under subsection (1)(a).

190 Imposition of requirements by suspended sentence order

- (1) The requirements falling within this subsection are—
 - (a) an unpaid work requirement (as defined by section 199),
 - (b) an activity requirement (as defined by section 201),
 - (c) a programme requirement (as defined by section 202),
 - (d) a prohibited activity requirement (as defined by section 203),
 - (e) a curfew requirement (as defined by section 204),
 - (f) an exclusion requirement (as defined by section 205),
 - (g) a residence requirement (as defined by section 206),
 - (h) a mental health treatment requirement (as defined by section 207),
 - (i) a drug rehabilitation requirement (as defined by section 209),
 - (j) an alcohol treatment requirement (as defined by section 212),
 - (k) a supervision requirement (as defined by section 213), and
 - (l) in a case where the offender is aged under 25, an attendance centre requirement (as defined by section 214).
- (2) Section 189(1)(a) has effect subject to section 218 and to the following provisions of Chapter 4 relating to particular requirements—
 - (a) section 199(3) (unpaid work requirement),
 - (b) section 201(3) and (4) (activity requirement),
 - (c) section 202(4) and (5) (programme requirement),
 - (d) section 203(2) (prohibited activity requirement),
 - (e) section 207(3) (mental health treatment requirement),
 - (f) section 209(2) (drug rehabilitation requirement), and

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- (g) section 212(2) and (3) (alcohol treatment requirement).
- (3) Where the court makes a suspended sentence order imposing a curfew requirement or an exclusion requirement, it must also impose an electronic monitoring requirement (as defined by section 215) unless—
 - (a) the court is prevented from doing so by section 215(2) or 218(4), or
 - (b) in the particular circumstances of the case, it considers it inappropriate to do so.
- (4) Where the court makes a suspended sentence order imposing an unpaid work requirement, an activity requirement, a programme requirement, a prohibited activity requirement, a residence requirement, a mental health treatment requirement, a drug rehabilitation requirement, an alcohol treatment requirement, a supervision requirement or an attendance centre requirement, the court may also impose an electronic monitoring requirement unless the court is prevented from doing so by section 215(2) or 218(4).
- (5) Before making a suspended sentence order imposing two or more different requirements falling within subsection (1), the court must consider whether, in the circumstances of the case, the requirements are compatible with each other.

191 Power to provide for review of suspended sentence order

- (1) A suspended sentence order may—
 - (a) provide for the order to be reviewed periodically at specified intervals,
 - (b) provide for each review to be made, subject to section 192(4), at a hearing held for the purpose by the court responsible for the order (a “review hearing”),
 - (c) require the offender to attend each review hearing, and
 - (d) provide for the responsible officer to make to the court responsible for the order, before each review, a report on the offender’s progress in complying with the community requirements of the order.
- (2) Subsection (1) does not apply in the case of an order imposing a drug rehabilitation requirement (provision for such a requirement to be subject to review being made by section 210).
- (3) In this section references to the court responsible for a suspended sentence order are references—
 - (a) where a court is specified in the order in accordance with subsection (4), to that court;
 - (b) in any other case, to the court by which the order is made.
- (4) Where the area specified in a suspended sentence order made by a magistrates' court is not the area for which the court acts, the court may, if it thinks fit, include in the order provision specifying for the purpose of subsection (3) a magistrates' court which acts for the area specified in the order.
- (5) Where a suspended sentence order has been made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, it is to be taken for the purposes of subsection (3)(b) to have been made by the Crown Court.

192 Periodic reviews of suspended sentence order

- (1) At a review hearing (within the meaning of subsection (1) of section 191) the court may, after considering the responsible officer's report referred to in that subsection, amend the community requirements of the suspended sentence order, or any provision of the order which relates to those requirements.
- (2) The court—
 - (a) may not amend the community requirements of the order so as to impose a requirement of a different kind unless the offender expresses his willingness to comply with that requirement,
 - (b) may not amend a mental health treatment requirement, a drug rehabilitation requirement or an alcohol treatment requirement unless the offender expresses his willingness to comply with the requirement as amended,
 - (c) may amend the supervision period only if the period as amended complies with section 189(3) and (4),
 - (d) may not amend the operational period of the suspended sentence, and
 - (e) except with the consent of the offender, may not amend the order while an appeal against the order is pending.
- (3) For the purposes of subsection (2)(a)—
 - (a) a community requirement falling within any paragraph of section 190(1) is of the same kind as any other community requirement falling within that paragraph, and
 - (b) an electronic monitoring requirement is a community requirement of the same kind as any requirement falling within section 190(1) to which it relates.
- (4) If before a review hearing is held at any review the court, after considering the responsible officer's report, is of the opinion that the offender's progress in complying with the community requirements of the order is satisfactory, it may order that no review hearing is to be held at that review; and if before a review hearing is held at any review, or at a review hearing, the court, after considering that report, is of that opinion, it may amend the suspended sentence order so as to provide for each subsequent review to be held without a hearing.
- (5) If at a review held without a hearing the court, after considering the responsible officer's report, is of the opinion that the offender's progress under the order is no longer satisfactory, the court may require the offender to attend a hearing of the court at a specified time and place.
- (6) If at a review hearing the court is of the opinion that the offender has without reasonable excuse failed to comply with any of the community requirements of the order, the court may adjourn the hearing for the purpose of dealing with the case under paragraph 8 of Schedule 12.
- (7) At a review hearing the court may amend the suspended sentence order so as to vary the intervals specified under section 191(1).
- (8) In this section any reference to the court, in relation to a review without a hearing, is to be read—
 - (a) in the case of the Crown Court, as a reference to a judge of the court, and
 - (b) in the case of a magistrates' court, as a reference to a justice of the peace acting for the commission area for which the court acts.

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193 Breach, revocation or amendment of suspended sentence order, and effect of further conviction

Schedule 12 (which relates to the breach, revocation or amendment of the community requirements of suspended sentence orders, and to the effect of any further conviction) shall have effect.

194 Transfer of suspended sentence orders to Scotland or Northern Ireland

Schedule 13 (transfer of suspended sentence orders to Scotland or Northern Ireland) shall have effect.