

Status: Point in time view as at 13/04/2015.

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 12 is up to date with all changes known to be in force on or before 06 July 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)

SCHEDULES

SCHEDULE 12

Section 193

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

PART 1

PRELIMINARY

Interpretation

1 In this Schedule—

“the offender”, in relation to a suspended sentence order, means the person in respect of whom the order is made;

“the [^{F1}local justice area] concerned”, in relation to a suspended sentence order, means the [^{F1}local justice area] for the time being specified in the order;

“the responsible officer” has the meaning given by section 197.

Textual Amendments

F1 Words in Sch. 12 para. 1 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, **Sch. para. 110(a)**

Commencement Information

I1 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[^{F2}1A (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) In sub-paragraph (2) “public sector provider” means—

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

Textual Amendments

F2 Sch. 12 para. 1A inserted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 4 para. 7(2)**; [S.I. 2014/1287](#), art. 2(d)

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- 2 In this Schedule—
- (a) any reference to a suspended sentence order being subject to review is a reference to such an order being subject to review in accordance with section 191(1)(b) or to a drug rehabilitation requirement of such an order being subject to review in accordance with section 210(1)(b);
 - (b) any reference to the court responsible for a suspended sentence order which is subject to review is to be construed in accordance with section 191(3) or, as the case may be, 210(2).

Modifications etc. (not altering text)

- C1** Sch. 12 para. 2(b) modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 205\(3\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

- I2** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Orders made on appeal

- 3 Where a suspended sentence order is made on appeal it is to be taken for the purposes of this Schedule to have been made by the Crown Court.

Modifications etc. (not altering text)

- C2** Sch. 12 para. 3 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 205\(3\)](#), 383; [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

Commencement Information

- I3** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

PART 2

BREACH OF COMMUNITY REQUIREMENT OR CONVICTION OF FURTHER OFFENCE

Modifications etc. (not altering text)

- C3** Sch. 12 Pt. 2 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 206](#), 383, [Sch. 7](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#); (as amended (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 6 para. 7](#) (with s. 23(4)); [S.I. 2014/1287](#), [art. 2\(e\)](#))

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Duty to give warning in relation to community requirement

- 4 (1) If the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with any of the community requirements of a suspended sentence order, the officer must give him a warning under this paragraph unless—
- (a) the offender has within the previous twelve months been given a warning under this paragraph in relation to a failure to comply with any of the community requirements of the order, or
 - [^{F3}(b) the officer refers the matter to an enforcement officer (see paragraph 5A).]
- (2) A warning under this paragraph must—
- (a) describe the circumstances of the failure,
 - (b) state that the failure is unacceptable, and
 - (c) inform the offender that if within the next twelve months he again fails to comply with any requirement of the order, he will be liable to be brought before a court.
- (3) The responsible officer must, as soon as practicable after the warning has been given, record that fact.
- (4) In relation to any suspended sentence order which is made by the Crown Court and does not include a direction that any failure to comply with the community requirements of the order is to be dealt with by a magistrates' court, the reference in sub-paragraph (1)(b) to a justice of the peace is to be read as a reference to the Crown Court.

Textual Amendments

F3 Sch. 12 para. 4(1)(b) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 4 para. 7\(3\)](#); [S.I. 2014/1287](#), art. 2(d)

Commencement Information

I4 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Breach of order after warning

- 5 (1) If—
- (a) the responsible officer has given a warning under paragraph 4 to the offender in respect of a suspended sentence order, and
 - (b) at any time within the twelve months beginning with the date on which the warning was given, the responsible officer is of the opinion that the offender has since that date failed without reasonable excuse to comply with any of the community requirements of the order,
- the officer [^{F4}must refer the matter to an enforcement officer (see paragraph 5A).]
- (2) In relation to any suspended sentence order which is made by the Crown Court and does not include a direction that any failure to comply with the community requirements of the order is to be dealt with by a magistrates' court, the reference in sub-paragraph (1) to a justice of the peace is to be read as a reference to the Crown Court.

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Textual Amendments

- F4** Words in Sch. 12 para. 5(1) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(4\); S.I. 2014/1287, art. 2\(d\)](#)

Commencement Information

- I5** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

[^{F5}Role of enforcement officer

Textual Amendments

- F5** Sch. 12 para. 5A and cross-heading inserted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(5\); S.I. 2014/1287, art. 2\(d\)](#)

- 5A (1) Where a matter is referred to an enforcement officer under paragraph 4(1)(b) or 5(1), it is the duty of the enforcement officer to consider the case and, where appropriate, to cause an information to be laid before a justice of the peace in respect of the offender's failure to comply with the requirement.
- (2) In relation to any suspended sentence order which was made by the Crown Court and does not include a direction that any failure to comply with the requirements of the order is to be dealt with by a magistrates' court, the reference in sub-paragraph (1) to a justice of the peace is to be read as a reference to the Crown Court.]

Issue of summons or warrant by justice of the peace

- 6 (1) This paragraph applies to—
- (a) a suspended sentence order made by a magistrates' court, or
 - (b) any suspended sentence order which was made by the Crown Court and includes a direction that any failure to comply with the community requirements of the order is to be dealt with by a magistrates' court.
- ^{F6}(2) If at any time while a suspended sentence order to which this paragraph applies is in force it appears on information to a justice of the peace ^{F7}. . . that the offender has failed to comply with any of the community requirements of the order, 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 his arrest.
- (3) Any 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,
 - ^{F8}(b) in any other case, before a magistrates' court acting for the petty sessions area in which the offender resides or, if it is not known where he resides, before a magistrates' court [^{F9}acting in the local justice area] concerned.]

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- (4) Where a summons issued under sub-paragraph (2)(a) requires the offender to appear before a magistrates' court and the offender does not appear in answer to the summons, the magistrates' court may issue a warrant for the arrest of the offender.

Textual Amendments

- F6** By [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), [art. 2](#), [Sch. para. 110\(b\)](#), it is provided (1.4.2005) that in Sch. 12 para. 6(2) for the words "acting for the petty sessions area" there be substituted the words "acting in the local justice area"
- F7** Sch. 12 para. 6(2) omitted (31.3.2005) by virtue of [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 29, 60](#), [Sch. 5 para. 8\(2\)](#); [S.I. 2005/579](#), [art. 3\(d\)](#)
- F8** Sch. 12 para. 6(3)(b) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 29, 60](#), [Sch. 5 para. 8\(3\)](#); [S.I. 2005/579](#), [art. 3\(d\)](#)
- F9** Words in Sch. 12 para. 6(3)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), [art. 2](#), [Sch. para. 110\(b\)](#)

Commencement Information

- I6** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Issue of summons or warrant by Crown Court

- 7 (1) This paragraph applies to a suspended sentence order made by the Crown Court which does not include a direction that any failure to comply with the community requirements of the order is to be dealt with by a magistrates' court.
- (2) If at any time while a suspended sentence order to which this paragraph applies is in force it appears on information to the Crown Court that the offender has failed to comply with any of the community requirements of the order, the Crown Court may—
- issue a summons requiring the offender to appear at the place and time specified in it, or
 - if the information is in writing and on oath, issue a warrant for his arrest.
- (3) Any summons or warrant issued under this paragraph must direct the offender to appear or be brought before the Crown Court.
- (4) Where a summons issued under sub-paragraph (1)(a) requires the offender to appear before the Crown Court and 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

- I7** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Powers of court on breach of community requirement or conviction of further offence

- 8 (1) This paragraph applies where—
- it is proved to the satisfaction of a court before which an offender appears or is brought under paragraph 6 or 7 or by virtue of section 192(6) that he

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- has failed without reasonable excuse to comply with any of the community requirements of the suspended sentence order, or
- (b) an offender is convicted of an offence committed during the operational period of a suspended sentence (other than one which has already taken effect) and either—
- (i) he is so convicted by or before a court having power under paragraph 11 to deal with him in respect of the suspended sentence, or
- (ii) he subsequently appears or is brought before such a court.
- (2) The court must consider his case and deal with him in one of the following ways—
- (a) the court may order that the suspended sentence is to take effect with its original term ^{F10}... unaltered,
- (b) the court may order that the sentence is to take effect [^{F11}with the substitution for the original term of a lesser term].
- ^{F12}(ba) the court may order the offender to pay a fine of an amount not exceeding £2,500,]
- (c) [^{F13}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 it were then making the order,
- (ii) subject to subsections (3) and (4) of section 189, extending the supervision period, or
- (iii) subject to subsection (3) of that section, extending the operational period,
- ^{F14}(d) in the case of a suspended sentence order that does not impose any community requirements, the court may, subject to section 189(3), amend the order by extending the operational period.]
- (3) The court must make an order under sub-paragraph (2)(a) or (b) 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 (4); and where it is of that opinion the court must state its reasons.
- (4) The matters referred to in sub-paragraph (3) are—
- (a) the extent to which the offender has complied with [^{F15}any community requirements] of the suspended sentence order, and
- (b) in a case falling within sub-paragraph (1)(b), the facts of the subsequent offence.
- ^{F16}(4ZA) A fine imposed under sub-paragraph (2)(ba) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.]
- ^{F17}(4A)
- (5) Where a court deals with an offender under sub-paragraph (2) 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.
- (6) Where a suspended sentence order was made by the Crown Court and a magistrates' court would (apart from this sub-paragraph) be required to deal with the offender

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under sub-paragraph (2)(a), (b)^{F18}, (ba)] or (c) it may instead commit him to custody or release him on bail until he can be brought or appear before the Crown Court.

(7) A magistrates' court which deals with an offender's case under sub-paragraph (6) must send to the Crown Court—

- (a) a certificate signed by a justice of the peace certifying that the offender has failed to comply with 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 failure before the Crown Court.

(8) In proceedings before the Crown Court under this paragraph any question whether the offender has failed to comply with ^{F19}any community] requirements of the suspended sentence order and any question whether the offender has been convicted of an offence committed during the operational period of the suspended sentence is to be determined by the court and not by the verdict of a jury.

Textual Amendments

- F10** Words in Sch. 12 para. 8(2)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 38\(2\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F11** Words in Sch. 12 para. 8(2)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 38\(2\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F12** Sch. 12 para. 8(2)(ba) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 69\(2\)\(a\), 151\(1\)](#); S.I. 2012/2906, art. 2(a) (with art. 4)
- F13** Words in Sch. 12 para. 8(2)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 10\(2\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F14** Sch. 12 para. 8(2)(d) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 10\(3\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F15** Words in Sch. 12 para. 8(4)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 10\(4\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)
- F16** Sch. 12 para. 8(4ZA) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 69\(2\)\(b\), 151\(1\)](#); S.I. 2012/2906, art. 2(a) (with art. 4)
- F17** Sch. 12 para. 8(4A) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), ss. 18\(7\), 22\(1\)](#) (with [Sch. 7 para. 7](#)); S.I. 2015/40, art. 2(p)
- F18** Words in Sch. 12 para. 8(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 69\(2\)\(c\), 151\(1\)](#); S.I. 2012/2906, art. 2(a) (with art. 4)
- F19** Words in Sch. 12 para. 8(8) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 9 para. 10\(5\)](#) (with s. 68(7)); S.I. 2012/2906, art. 2(g)

Commencement Information

- I8** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

Further provisions as to order that suspended sentence is to take effect

- 9 (1) When making an order under paragraph 8(2)(a) or (b) that a sentence is to take effect (with or without any variation of the original term ^{F20}...), the court—
 - ^{F21}(a)

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- (b) may order that the sentence is to take effect immediately or that the term of that sentence is to commence on the expiry of another term of imprisonment passed on the offender by that or another court.
- (2) The power to make an order under sub-paragraph (1)(b) has effect subject to section 265 (restriction on consecutive sentences for released prisoners).
- (3) For the purpose of any enactment conferring rights of appeal in criminal cases, [F22 each of the following orders] is to be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed[F23—
- (a) an order made by the court under paragraph 8(2)(a) or (b);
- (b) an order made by the court under section 21A of the Prosecution of Offences Act 1985 (criminal courts charge) when making an order described in paragraph (a).]

Textual Amendments

- F20** Words in Sch. 12 para. 9(1) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 38\(3\)\(a\)](#); S.I. 2012/2906, art. 2(h)
- F21** Sch. 12 para. 9(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 38\(3\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F22** Words in Sch. 12 para. 9(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 12 para. 16\(a\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 78
- F23** Words in Sch. 12 para. 9(3) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 12 para. 16\(b\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 78

Commencement Information

- I9** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Restriction of powers in paragraph 8 where treatment required

- 10 (1) An offender who is required by any of the following community requirements of a suspended sentence order—
- (a) a mental health treatment requirement,
- (b) a drug rehabilitation requirement, or
- (c) an alcohol treatment requirement,
- to submit to treatment for his mental condition, or his dependency on or propensity to misuse drugs or alcohol, is not to be treated for the purposes of paragraph 8(1) (a) as having failed to comply with that requirement on the ground only that he had refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.
- (2) A court may not under paragraph 8(2)(c)(i) 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.

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Commencement Information

II0 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 34 (subject to art. 2(2), Sch. 2)

Court by which suspended sentence may be dealt with under paragraph 8(1)(b)

- 11 (1) An offender may be dealt with under paragraph 8(1)(b) in respect of a suspended sentence by the Crown Court or, where the sentence was passed by a magistrates' court, by any magistrates' court before which he appears or is brought.
- (2) Where an offender is convicted by a magistrates' court of any offence and the court is satisfied that the offence was committed during the operational period of a suspended sentence passed by the Crown Court—
- (a) the court may, if it thinks fit, commit him 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.

Commencement Information

III1 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 34 (subject to art. 2(2), Sch. 2)

Procedure where court convicting of further offence does not deal with suspended sentence

- 12 (1) If it appears to the Crown Court, where that court has jurisdiction in accordance with sub-paragraph (2), or to a justice of the peace having jurisdiction in accordance with that sub-paragraph—
- (a) that an offender has been convicted in the United Kingdom of an offence committed during the operational period of a suspended sentence, and
 - (b) that he has not been dealt with in respect of the suspended sentence,
- that court or justice may, subject to the following provisions of this paragraph, issue a summons requiring the offender to appear at the place and time specified in it, or a warrant for his arrest.
- (2) Jurisdiction for the purposes of sub-paragraph (1) may be exercised—
- (a) if the suspended sentence was passed by the Crown Court, by that court;
 - (b) if it was passed by a magistrates' court, by a justice [^{F24}acting in the local justice area in which the court acted].
- (3) 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.
- (4) Unless he is acting in consequence of a notice under sub-paragraph (3), a justice of the peace may not issue a summons under this paragraph except on information and

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may not issue a warrant under this paragraph except on information in writing and on oath.

- (5) 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.

Textual Amendments

F24 Words in Sch. 12 para. 12(2)(b) substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\)](#), art. 2, [Sch. para. 110\(c\)](#)

Commencement Information

I12 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

[^{F25}Power to amend amount of fine

Textual Amendments

F25 Sch. 12 para. 12A and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 69\(3\)](#), [151\(1\)](#); [S.I. 2012/2906](#), art. 2(a)

- 12A (1) The Secretary of State may by order amend the sum for the time being specified in paragraph 8(2)(ba).
- (2) The power conferred by sub-paragraph (1) may be exercised only if it appears to the Secretary of State that there has been a change in the value of money since the relevant date which justifies the change.
- (3) In sub-paragraph (2), “the relevant date” means—
- (a) if the sum specified in paragraph 8(2)(ba) has been substituted by an order under sub-paragraph (1), the date on which the sum was last so substituted;
 - (b) otherwise, the date on which section 69 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (which inserted this paragraph) came into force.
- (4) An order under sub-paragraph (1) (a “fine amendment order”) must not have effect in relation to any suspended sentence order made in respect of an offence committed before the fine amendment order comes into force.]

PART 3

AMENDMENT OF SUSPENDED SENTENCE ORDER

Modifications etc. (not altering text)

- C4** Sch. 12 Pt. 3 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- C5** Sch. 12 Pt. 3 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 205\(1\)](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I.](#)

Status: Point in time view as at 13/04/2015.

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 12 is up to date with all changes known to be in force on or before 06 July 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)

2009/1167, **art. 4** (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 6 para. 9** (with s. 23(4), **Sch. 7 para. 7**); S.I. 2015/40, art. 2(w))

[^{F26}Application of Part

Textual Amendments

F26 Sch. 12 para. 12B and cross-heading inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 9 para. 11** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

12B This Part of this Schedule applies only in relation to a suspended sentence order that imposes one or more community requirements.]

Cancellation of community requirements of suspended sentence order

- 13 (1) Where at any time while a suspended sentence order is in force, it appears to the appropriate court on the application of the offender or [^{F27}an officer of a provider of probation services] that, having regard to the circumstances which have arisen since the order was made, it would be in the interests of justice to do so, the court may cancel the community requirements of the suspended sentence order.
- (2) The circumstances in which the appropriate court may exercise its power under sub-paragraph (1) include the offender’s making good progress or his responding satisfactorily to supervision.
- (3) In this paragraph “the appropriate court” means—
- in the case of a suspended sentence order which is subject to review, the court responsible for the order,
 - in the case of a suspended sentence order which was made by the Crown Court and does not include any direction that any failure to comply with the community requirements of the order is to be dealt with by a magistrates' court, the Crown Court, and
 - in any other case, a magistrates' court [^{F28}acting in the local justice area] concerned.

Textual Amendments

F27 Words in Sch. 12 para. 13(1) substituted (1.6.2014) by **Offender Rehabilitation Act 2014** (c. 11), s. 22(1), **Sch. 4 para. 7(6)**; S.I. 2014/1287, art. 2(d)

F28 Words in Sch. 12 para. 13(3)(c) substituted (1.4.2005) by **The Courts Act 2003 (Consequential Provisions) Order 2005** (S.I. 2005/886), art. 2, **Sch. para. 110(d)**

Commencement Information

I13 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 34** (subject to art. 2(2), **Sch. 2**)

Amendment by reason of change of residence

- 14 [^{F29}(1) This paragraph applies where at any time while a suspended sentence order is in force in respect of an offender—

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- (a) the offender is given permission under section 220A 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 local justice area specified in the order.
- (2) If the permission is given by a court, the court must amend the order to specify the new local justice area.
- (3) If the permission is given by the responsible officer—
- (a) the officer must apply to the appropriate court to amend the order to specify the new local justice area, and
 - (b) the court must make that amendment.
- (4) In this paragraph “the appropriate court” has the same meaning as in paragraph 13.

Textual Amendments

- F29** Sch. 12 paras. 14, 14A substituted for Sch. 12 para. 14 (1.2.2015 for specified purposes) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 18\(8\), 22\(1\)](#) (with [Sch. 7 para. 7](#)); [S.I. 2015/40, art. 2\(p\)](#)
- F30** Words in Sch. 12 para. 14 substituted (1.4.2005) by [The Courts Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/886\), art. 2, Sch. para. 110\(e\)](#)

Commencement Information

- I14** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

- 14A (1) This paragraph applies where at any time while a suspended sentence order is in force in respect of an offender—
- (a) a court amends the 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 local justice area specified in the order.
- (2) The court must amend the order to specify the new local justice area.]

Textual Amendments

- F29** Sch. 12 paras. 14, 14A substituted for Sch. 12 para. 14 (1.2.2015 for specified purposes) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 18\(8\), 22\(1\)](#) (with [Sch. 7 para. 7](#)); [S.I. 2015/40, art. 2\(p\)](#)

Amendment of community requirements of suspended sentence order

- 15 (1) At any time during the supervision period, the appropriate court may, on the application of the offender or [^{F31}an officer of a provider of probation services], by order amend any community requirement of a 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 it were then making the order.
- (2) For the purposes of sub-paragraph (1)—

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- (a) a requirement falling within any paragraph of section 190(1) is of the same kind as any other requirement falling within that paragraph, and
 - (b) an electronic monitoring requirement is a requirement of the same kind as any requirement falling within section 190(1) to which it relates.
- (3) The court may not under this paragraph 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.
- (4) If the offender fails to express his willingness to comply with a mental health treatment requirement, drug rehabilitation requirement or alcohol treatment requirement as proposed to be amended by the court under this paragraph, the court may—
- (a) revoke the suspended sentence order and the suspended sentence to which it relates, and
 - (b) deal with him, for the offence in respect of which the suspended sentence was imposed, in any way in which it could deal with him if he had just been convicted by or before the court of the offence.
- (5) In dealing with the offender under sub-paragraph (4)(b), the court must take into account the extent to which the offender has complied with the requirements of the order.
- (6) In this paragraph “the appropriate court” has the same meaning as in paragraph 13.

Textual Amendments

- F31** Words in Sch. 12 para. 15(1) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\)](#), [Sch. 4 para. 7\(6\)](#); [S.I. 2014/1287, art. 2\(d\)](#)

Modifications etc. (not altering text)

- C6** Sch. 12 para. 15 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\), ss. 205\(2\), 383](#); [S.I. 2009/812, art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167, art. 4](#) (as amended (temp.) (24.4.2009 for certain purposes, otherwise 31.10.2009) by [S.I. 2009/1059, arts. 1\(3\), 206, Sch. 2 paras. 3\(d\), 14\(3\)\(d\)](#))

Commencement Information

- I15** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

Amendment of treatment requirements on report of practitioner

- 16 (1) Where the medical practitioner or other person by whom or under whose direction an offender is, in pursuance of any requirement to which this sub-paragraph applies, being treated for his mental condition or his dependency on or propensity to misuse drugs or alcohol—
- (a) is of the opinion mentioned in sub-paragraph (3), or
 - (b) is for any reason unwilling to continue to treat or direct the treatment of the offender,

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he must make a report in writing to that effect to the responsible officer and that officer must [^{F32}cause an application to be made] under paragraph 15 to the appropriate court for the variation or cancellation of the requirement.

- (2) The requirements to which sub-paragraph (1) applies are—
- (a) a mental health treatment requirement,
 - (b) a drug rehabilitation requirement, and
 - (c) an alcohol treatment requirement.
- (3) The opinion referred to in sub-paragraph (1) is—
- (a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order,
 - (b) that the offender needs different treatment,
 - (c) that the offender is not susceptible to treatment, or
 - (d) that the offender does not require further treatment.
- (4) In this paragraph “the appropriate court” has the same meaning as in paragraph 13.

Textual Amendments

F32 Words in Sch. 12 para. 16(1) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(7\)](#); [S.I. 2014/1287, art. 2\(d\)](#)

Commencement Information

I16 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

Amendment in relation to review of drug rehabilitation requirement

- 17 Where [^{F33}an officer of a provider of probation services] is of the opinion that a suspended sentence order imposing a drug rehabilitation requirement which is subject to review should be so amended as to provide for each periodic review (required by section 211) to be made without a hearing instead of at a review hearing, or vice versa, he must apply under paragraph 15 to the court responsible for the order for the variation of the order.

Textual Amendments

F33 Words in Sch. 12 para. 17 substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(6\)](#); [S.I. 2014/1287, art. 2\(d\)](#)

Commencement Information

I17 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

Extension of unpaid work requirement

- 18 (1) Where—
- (a) a suspended sentence order imposing an unpaid work requirement is in force in respect of the offender, and

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- (b) on the application of the offender or [^{F34}an officer of a provider of probation services], it appears to the appropriate court that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made,

the court may, in relation to the order, extend the period of twelve months specified in section 200(2).

- (2) In this paragraph “the appropriate court” has the same meaning as in paragraph 13.

Textual Amendments

F34 Words in Sch. 12 para. 18(1)(b) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(6\)](#); S.I. 2014/1287, art. 2(d)

Commencement Information

I18 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

Supplementary

- 19 (1) No application may be made under paragraph 13, 15 or 18 ^{F35}... while an appeal against the suspended sentence is pending.
- (2) Sub-paragraph (1) does not apply to an application under paragraph 15 which—
- relates to a mental health treatment requirement, a drug rehabilitation requirement or an alcohol treatment requirement, and
 - is made by [^{F36}an officer of a provider of probation services] with the consent of the offender.

Textual Amendments

F35 Words in Sch. 12 para. 19(1) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), ss. 18\(9\), 22\(1\)](#) (with [Sch. 7 para. 7](#)); S.I. 2015/40, art. 2(p)

F36 Words in Sch. 12 para. 19(2)(b) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 4 para. 7\(6\)](#); S.I. 2014/1287, art. 2(d)

Commencement Information

I19 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 34](#) (subject to [art. 2\(2\), Sch. 2](#))

- 20 (1) Subject to sub-paragraph (2), where a court proposes to exercise its powers under paragraph 15, otherwise than on the application of the offender, the court—
- must summon him to appear before the court, and
 - if he does not appear in answer to the summons, may issue a warrant for his arrest.
- (2) This paragraph does not apply to an order cancelling any community requirement of a suspended sentence order.

Status: Point in time view as at 13/04/2015.

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Commencement Information

I20 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

21 Paragraphs 8(2)(c) and 15(1)(b) have effect subject to the provisions mentioned in subsection (2) of section 190, and to subsections (3) and (5) of that section.

Commencement Information

I21 Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950, art. 2\(1\)](#), [Sch. 1 para. 34](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

22 (1) On the making under this Schedule of an order amending a suspended sentence order, the proper officer of the court must—

(a) provide copies of the amending order to the offender and the responsible officer,

^{F37}(b) in the case of an amending order which substitutes a new local justice area, provide a copy of the amending order to—

(i) a provider of probation services that is a public sector provider operating in that area, and

(ii) the magistrates' court acting in that area, and]

(c) in the case of an amending order which imposes or amends a requirement specified in the first column of Schedule 14, provide a copy of so much of the amending order as relates to that requirement to the person specified in relation to that requirement in the second column of that Schedule^{F38}, and

(d) where the court acts for a petty sessions area other than the one specified in the order prior to the revocation or amendment, provide a copy of the revoking or amending order to a magistrates' court acting for the area so specified.]

(2) Where under sub-paragraph (1)(b) the proper officer of the court provides a copy of an amending order to a magistrates' court [^{F39}acting in a different area], the officer must also provide to that court such documents and information relating to the case as it considers likely to be of assistance to a court [^{F40}acting in that area] in the exercise of its functions in relation to the order.

(3) In this paragraph “proper officer” means—

(a) in relation to a magistrates' court, the [^{F41}designated officer] for the court; and

(b) in relation to the Crown Court, the appropriate officer.

^{F42}(4) In this paragraph “public sector provider” means—

(a) a probation trust or other public body, or

(b) the Secretary of State.]

Textual Amendments

F37 Sch. 12 para. 22(1)(b) substituted (1.6.2014) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 4 para. 15\(2\)](#); [S.I. 2014/1287, art. 2\(d\)](#)

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- F38** Sch. 12 para. 22(1)(d) and preceding word inserted (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 29, 60, **Sch. 5 para. 8(5)**; S.I. 2005/579, **art. 3(d)**
- F39** Words in Sch. 12 para. 22(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 110(f)(ii)**
- F40** Words in Sch. 12 para. 22(2) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 110(f)(ii)**
- F41** Words in Sch. 12 para. 22(3) substituted (1.4.2005) by The Courts Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/886), art. 2, **Sch. para. 110(f)(iii)**
- F42** Sch. 12 para. 22(4) inserted (1.6.2014) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 4 para. 15(3)**; S.I. 2014/1287, art. 2(d)

Commencement Information

- I22** Sch. 12 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 34 (subject to **art. 2(2)**, Sch. 2)

Status:

Point in time view as at 13/04/2015.

Changes to legislation:

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