

Status: Point in time view as at 01/12/2020.

Changes to legislation: Sentencing Act 2020, SCHEDULE 2 is up to date with all changes known to be in force on or before 03 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 2 **E+W**

Section 81

ORDER FOR CONDITIONAL DISCHARGE: COMMISSION OF FURTHER OFFENCE

Application of Schedule

- 1 This Schedule applies where an order for conditional discharge has been made in respect of an offence (“the original offence”).

Commencement Information

- I1** Sch. 2 para. 1 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Orders made on appeal

- 2 If the order for conditional discharge was made on appeal, for the purposes of this Schedule it is to be taken—
- (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

- I2** Sch. 2 para. 2 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Issue of summons or warrant by justice of the peace

- 3 (1) This paragraph applies where—
- (a) the order for conditional discharge was made by a magistrates' court, and
 - (b) it appears to a justice of the peace on information that the offender—
 - (i) has been convicted by a court in Great Britain of an offence committed during the period of conditional discharge, and
 - (ii) has been dealt with in respect of that offence.
- (2) 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 the offender's arrest.

Status: Point in time view as at 01/12/2020.

Changes to legislation: Sentencing Act 2020, SCHEDULE 2 is up to date with all changes known to be in force on or before 03 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)

- (3) A summons or warrant issued under this paragraph must direct the offender to appear or to be brought before the court which made the order for conditional discharge.

Commencement Information

I3 Sch. 2 para. 3 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Issue of summons or warrant by Crown Court

- 4 (1) This paragraph applies where—
- (a) the order for conditional discharge was made by the Crown Court, and
 - (b) it appears to the Crown Court that the offender—
 - (i) has been convicted by a court in Great Britain of an offence committed during the period of conditional discharge, and
 - (ii) has been dealt with in respect of that offence.
- (2) The Crown Court may issue—
- (a) a summons requiring the offender to appear at the place and time specified in it, or
 - (b) a warrant for the offender's arrest.
- (3) A summons or warrant issued under this paragraph must direct the offender to appear or to be brought before the Crown Court.

Commencement Information

I4 Sch. 2 para. 4 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Power of magistrates' court convicting offender of further offence

- 5 (1) This paragraph applies where the offender is convicted by a magistrates' court ("the convicting court") of an offence committed during the period of conditional discharge.
- (2) If the order for conditional discharge was made by the convicting court, that court may re-sentence the offender for the original offence.
- (3) If the order for conditional discharge was made by another magistrates' court, the convicting court may, with the consent of the court which made the order, re-sentence the offender for the original offence.
- (4) If the order for conditional discharge was made by the Crown Court, the convicting court—
- (a) may commit the offender in custody or on bail to the Crown Court, and
 - (b) if it does so, must send the Crown Court a copy of the minute or memorandum of the conviction entered in the register, signed by the designated officer by whom the register is kept.
- (5) In sub-paragraph (4), the "register" means the register of proceedings before a magistrates' court required by the Criminal Procedure Rules to be kept by the designated officer of the court.

Status: Point in time view as at 01/12/2020.

Changes to legislation: Sentencing Act 2020, SCHEDULE 2 is up to date with all changes known to be in force on or before 03 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)

- (6) For powers of the convicting court, where it commits a person under sub-paragraph (4), to commit a person to the Crown Court in respect of other offences, see section 20.

Commencement Information

I5 Sch. 2 para. 5 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Conviction of further offence by another court: power of magistrates' court which made order

- 6 (1) This paragraph applies where—
- (a) the order for conditional discharge was made by a magistrates' court (“the original court”),
 - (b) it is proved to the satisfaction of the original court that the offender has been convicted by another court in Great Britain of an offence committed during the period of conditional discharge.
- (2) The original court may re-sentence the offender for the original offence.

Commencement Information

I6 Sch. 2 para. 6 in force at 1.12.2020 by S.I. 2020/1236, reg. 2

Powers of Crown Court with respect to original offence following subsequent conviction

- 7 (1) Sub-paragraph (2) applies where—
- (a) the offender—
 - (i) is convicted before the Crown Court of an offence committed during the period of conditional discharge, or
 - (ii) is brought or appears before the Crown Court having been committed by a magistrates' court for sentence in respect of any such offence, or
 - (b) the order for conditional discharge was made by the Crown Court and it is proved to the satisfaction of the Crown Court that the offender has been convicted by a court in Great Britain of an offence committed during the period of conditional discharge.
- (2) The Crown Court may re-sentence the offender for the original offence.
- (3) Any question under this paragraph whether the offender has been convicted of an offence committed during the period of conditional discharge is to be determined by the court and not by the verdict of a jury.
- (4) Where the offender is committed to the Crown Court under sub-paragraph (4) of paragraph 5, any duty or power which, apart from this sub-paragraph, would fall to be discharged or exercised by the convicting court (within the meaning of that paragraph)—
- (a) is not to be discharged or exercised by that court, but
 - (b) is instead to be discharged or may instead be exercised by the Crown Court.

Status: Point in time view as at 01/12/2020.

Changes to legislation: *Sentencing Act 2020, SCHEDULE 2 is up to date with all changes known to be in force on or before 03 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)*

This does not apply to any duty imposed on a magistrates' court by section 25(1) or (2) of the Road Traffic Offenders Act 1988 (certain duties relating to information).

Commencement Information

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

Status:

Point in time view as at 01/12/2020.

Changes to legislation:

Sentencing Act 2020, SCHEDULE 2 is up to date with all changes known to be in force on or before 03 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.