

*Changes to legislation:* Sentencing Act 2020, Cross Heading: Restrictions on exercise of powers to amend order 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 17

#### TRANSFER OF SUSPENDED SENTENCE ORDERS TO SCOTLAND OR NORTHERN IRELAND

##### Modifications etc. (not altering text)

- C1** Sch. 17 applied (with modifications) by 2006 c. 52, ss. 200, 204 (as amended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 25 paras. 19, 22](#) (with s. 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2)

### PART 7

#### EXERCISE OF POWERS TO AMEND SSSO OR NISSO BY VIRTUE OF PART 5 OR 6 OF THIS SCHEDULE

##### *Restrictions on exercise of powers to amend order*

- 32 (1) The court must not amend the order to impose a requirement unless it appears to the court, in relation to the requirement, that suitable arrangements for the offender's supervision can be made by—
- (a) the local council in Scotland, if the order is an SSSO, or
  - (b) the Probation Board for Northern Ireland, if the order is an NISSO.
- (2) If the order is an SSSO, the court must not impose—
- (a) an alcohol abstinence and monitoring requirement,
  - <sup>F1</sup>(b) .....
  - (c) an electronic whereabouts monitoring requirement.
- (3) If the order is an NISSO—
- (a) the court must not impose an alcohol abstinence and monitoring requirement;
  - (b) the court must not amend the order to impose an electronic whereabouts monitoring requirement unless it appears to the court that—
    - (i) any necessary provision can be made in the offender's case under arrangements that exist for persons resident in Northern Ireland, and
    - (ii) arrangements are generally operational throughout Northern Ireland (even if not always operational everywhere there) under which the offender's whereabouts can be electronically monitored.
- (4) The court must not impose a locally based requirement unless it appears to the court that—
- (a) arrangements exist for persons to comply with such a requirement in—
    - (i) the locality in Scotland in which the offender resides, or will be residing at the relevant time, in the case of an SSSO, or

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- (ii) Northern Ireland, in the case of an NISSO, and
  - (b) provision can be made for the offender to comply with the requirement under those arrangements.
- (5) For the purposes of this paragraph, “locally based requirement” means any of the following—
- (a) an unpaid work requirement;
  - (b) a rehabilitation activity requirement;
  - (c) a programme requirement;
  - (d) a mental health treatment requirement;
  - (e) a drug rehabilitation requirement;
  - (f) an alcohol treatment requirement;
  - (g) in relation to an NISSO, an attendance centre requirement [<sup>F2</sup>, where such a requirement is available (see section 291(3))];
  - (h) an electronic compliance monitoring requirement [<sup>F3</sup>, where such a requirement is available (see section 291(4))].
- (6) The court may not provide for the SSSO or NISSO to be subject to review.

#### Textual Amendments

- F1** Sch. 17 para. 32(2)(b) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(1), [Sch. 13 para. 10\(3\)\(a\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F2** Words in Sch. 17 para. 32(5)(g) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(1), [Sch. 13 para. 10\(3\)\(b\)\(i\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))
- F3** Words in Sch. 17 para. 32(5)(h) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022](#) (c. 32), s. 208(1), [Sch. 13 para. 10\(3\)\(b\)\(ii\)](#); S.I. 2022/520, reg. 5(q) (as amended by S.I. 2022/680, reg. 2(c))

#### Commencement Information

- I1** Sch. 17 para. 32 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)