**Sentencing Act 2020 *(commencing on 1 December 2020)***

*[Power to impose community order on persistent offender previously fined: introduced through an amendment by Schedule 22, Paragraph 14, of the Sentencing Act, inserting section 204A into the main Act]*

**Sentencing Act 2020, section 204 A (Exercise of power to impose community order: persistent offender previously fined)[[1]](#footnote-1)**

(1)Subsection [(2)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/22/enacted#p02864) applies (in addition to section 204[(2)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/22/enacted)) where—

(a)a community order is available to a court dealing with an offender by virtue of section 202[(1A)(b)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/22/enacted#p02860) (offender fined at least three times), and

(b)the offence is not punishable with imprisonment by that court.

(2)The court may not make a community order unless it also considers that, having regard to all the circumstances including the matters mentioned in subsection [(5)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/22/enacted#p02869), it would be in the interests of justice to make a community order.

***Sentencing Act 2020, Schedule 10 (Breach, revocation or amendment of community order)***

*[Breach power in respect of community order imposed on persistent offender previously fined: introduced through an amendment by Schedule 22, 22 Paragraph 21(2) of the Sentencing Act]*

**Paragraph 10 *Powers of magistrates’ court[[2]](#footnote-2)***

(1)This paragraph applies where—

(a)an offender appears or is brought before a magistrates’ court under paragraph [8](https://www.legislation.gov.uk/ukpga/2020/17/schedule/10/enacted#schedule-10-paragraph-8), and

(b)it is proved to the satisfaction of the court that the offender has breached a requirement of the community order without reasonable excuse.

(2)The court must deal with the case under sub-paragraph [(5)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/10/enacted#schedule-10-paragraph-10-5).

[…]

(5) Where the court deals with the case under this sub-paragraph, it must deal with the offender in respect of the breach in any one of the following ways—

(a)by ordering the offender to pay a fine not exceeding £2,500;

(b)by amending the terms of the community order so as to impose more onerous requirements which the court could include if it had just convicted the offender of the offence in respect of which the order was made and were then making the order;

(c)if the community order was made by a magistrates’ court, by re-sentencing the offender for the offence in respect of which the order was made.

“(d)where—

(i)the community order was made by a magistrates’ court,

(ii)the offence in respect of which the order was made was not an offence punishable by imprisonment,

(iii)the offender has wilfully and persistently failed to comply with the requirements of the order,

by dealing with the offender, in respect of that offence, by imposing a relevant custodial sentence for a term not exceeding 6 months.” [(d) inserted by Schedule 22 Paragraph 21(2) of the Sentencing Act]

(7) In dealing with the offender under sub-paragraph [(5)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/10/enacted#schedule-10-paragraph-10-5), the court must take into account the extent to which the offender has complied with the requirements of the community order.

[…]

(9) Where—

(a)the offender has wilfully and persistently breached the requirements of the community order, and

(b)the court is dealing with the offender under sub-paragraph [(5)(c)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/10/enacted#schedule-10-paragraph-10-5-c),

the court may impose a custodial sentence “(where the order was made in respect of an offence punishable with such a sentence)” [inserted per Schedule 22 Paragraph 21 of the Sentencing Act] even if it is not of the opinion mentioned in section 230[(2)](https://www.legislation.gov.uk/ukpga/2020/17/schedule/10/enacted) (general restriction on imposing discretionary custodial sentences).

1. This provision will replace the relevant sub-sections of section 150A and 151 of the Criminal Justice Act 2003. [↑](#footnote-ref-1)
2. This provision will replace the relevant sub-sections of Paragraph 9 of Schedule 8 of the Criminal Justice Act 2003. [↑](#footnote-ref-2)