

Supervised Release Order – Breach

Breach

384. Section 18 allows the court which made the SRO to deal with failure by the person to comply with its requirements. Only the court which made the SRO may deal with such alleged breaches. Alleged breaches cannot be dealt with by a court in England or Wales or by a different court in Scotland.

385. Once an officer of the local authority has **informed the court** of the grounds of the alleged breach, the court may either issue a warrant for the arrest of the offender or issue a citation requiring the offender to appear before the court at a specified time. The evidence of one witness will be sufficient evidence in breach cases.

386. Where an alleged breach of an SRO is proved the court may:

386.1 order the offender to be returned to prison for the whole or any part of the period which:

386.1.1 begins with the date of the order for his/her return; and

386.1.2 is equal in length to the period between the date of the first proven failure referred to in the statement made by the appropriate officer, and the date on which supervision under the SRO would have ceased; or

386.2 amend, vary or cancel any requirements specified in the SRO or insert an additional requirement into the SRO (i.e. amend or vary in accordance with Section 15(4) of the 1993 Act).

Example

387. A person is sentenced to 2 years imprisonment with a 12 months SRO. He is released after 1 year (i.e. at the half way stage of his sentence) subject to the SRO. After 3 months he fails to comply with a requirement of his order and his supervisor institutes breach proceedings. The breach case is heard 6 months after his release, the alleged breach is proved, and the Sheriff orders his return to custody, with immediate effect.

388. In this example, the Sheriff may order the prisoner's return to custody for a specified period which can be no longer than 9 months (i.e. the period of time from the commission of the first proved breach to the expiry of the SRO), commencing from the date the breach was proved.

389.Under section 18(5) of the Act, a person returned to prison for breach of an SRO will not then be subject to the early release arrangements set out in Part 1 of the Act, and will serve the full period ordered by the court.

Right of Appeal

390. An offender may appeal against the imposition of an SRO and against any decision taken by the court in respect of either an application under section 15(4) or a breach of the SRO.

Extended Sentence – Under 4 years

6.11.2 In the case of a short-term prisoner who is released on Extended Sentence and subsequently re-offends in the "at risk" period, (i.e. when he is no longer on licence) there is no specific social work role.

Examples of operation of Extended Sentences

Example 1 - custodial term of less than 4 years: if an offender is convicted of in the High Court of shameless indecency. If the court intended to impose a custodial sentence of 2 years but considers that in addition 6 years supervision is needed for public protection, it would impose an Extended Sentence of 8 years. This would be made up of a custodial term of 2 years and an extension period of 6 years. The offender would serve 1 year in custody, and then would be released on licence, which would last for 6 years. During that period, he would be subject to recall to custody in the same way as any other prisoner on licence. If recalled, he would have the right to require the Secretary of State to refer his case to the Parole Board, which if it were satisfied that his continued detention was not necessary to protect the public from serious harm would have to direct his release on licence. For the final year of the Extended Sentence he would remain "at risk" of an order which would return him to custody (under section 16 of the Prisoners and Criminal Proceedings (Scotland) Act 1993) if he were convicted of a further offence.