EXPLANATORY MEMORANDUM TO

THE SENTENCING ACT 2020 (SPECIAL PROCEDURES FOR COMMUNITY AND SUSPENDED SENTENCE ORDERS) (AMENDMENT) REGULATIONS 2025

2025 No. 1207

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Lord Timpson, Minister for Prisons, Probation and Reducing Reoffending at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

2.2 Stephen O'Connor, Deputy Director for Probation Policy, at the Ministry of Justice confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rosie Melville at the Ministry of Justice. Email: Rosie.Melville1@justice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) (Amendment) Regulations 2025 will amend the Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2023 (the "2023 Regulations") and the Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) Regulations 2024 (the "2024 Regulations") to provide that specified cases under these regulations will continue to qualify for special procedures until and including 31 March 2029.

4.2 The 2023 Regulations made provision for piloting special procedures for certain community and suspended sentence orders in Liverpool Crown Court, Teesside Crown Court and Birmingham Magistrates' Court. The 2024 Regulations made provision for a further pilot in Bristol Crown Court. These special procedures are known as a "problem-solving approach" and the initiative as "Intensive Supervision Courts" (ISCs) (see Section 5 for further information).

4.3 These Regulations will extend these pilots so that orders subject to special procedures can continue to be made until and including 31 March 2029.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The Ministry of Justice launched the ISCs pilot on 26 June 2023, diverting offenders with complex needs away from short custodial sentences and into enhanced community-based sentences which are managed between probation and the courts. The model tests a "problem-solving" approach, by targeting the complex needs of offenders to address the root cause of their offending, based on international evidence which has shown that this can be effective to reduce reoffending rates. We are piloting ISCs to robustly evaluate their effectiveness and to identify learnings to improve future roll out of the ISCs.

5.2 Amendments to the Sentencing Act 2020, introduced by the Police, Crime, Sentencing and Courts Act 2022, enabled courts selected as an ISC pilot site to trial certain special procedures as problem-solving measures. The courts specified in the 2023 Regulations and 2024 Regulations are able to impose suspended sentence orders or community orders with special procedures which give courts the power to require regular reviews of the orders, judicial power to initiate breach proceedings, and the ability to commit to custody for up to 28 days on no more than three occasions during the order. The 2023 Regulations launched two substance misuse ISCs at Liverpool Crown Court and Teesside Crown Court and one female offender ISC at Birmingham Magistrates' Court and the 2024 Regulations launched a further substance misuse ISC at Bristol Crown Court. These Regulations extend the operation of these ISCs until, and including, 31 March 2029 to align with the end of the next Spending Review (SR) period. This will avoid losing progress built across pilot locations, which will allow the initiative to keep diverting offenders from short custodial sentences, and allow further monitoring of data within the sites.

5.3 An independently commissioned interim process evaluation report[1] was published in January 2025. This report focused on early implementation of ISCs and suggested the pilot is delivering against its objectives. Key findings of the report are that offender engagement is positive and that drug and alcohol intake has reduced amongst some participants. Further findings conclude that the judicial reviews create greater oversight and accountability whilst developing positive relationships between the judiciary and the participants. The final process evaluation report is due for publication before the end of 2025. Offenders are being diverted from custody and there is some early evidence to suggest that some offenders on the ISC are beginning to address their offending behaviour. The planned economic and impact evaluations will provide an assessment of the impact of ISCs on reoffending and value for money. Findings are due in 2028.

5.4 This mirrors what we see in international evidence: In Texas, problem solving approaches led to a 33 per cent fall in arrests compared to prison sentences. While these initial outcomes are encouraging, long-term reoffending rates will not be known until the impact evaluation is completed in 2028. This is because to measure reoffending outcomes we require (following exposure to the ISC process) a minimum of 18 months: 12 months follow up period, plus 6 months for cases to make their way through the courts. Additional time is also needed to extract, analyse and report on the data.

[1] Process evaluation of intensive supervision courts pilot: interim report - GOV.UK (https://www.gov.uk/government/publications/process-evaluation-of-intensive-supervision-courts-pilot-interim-report).

5.5 The Independent Sentencing Review, chaired by David Gauke, recommended the expansion of the Intensive Supervision Court pilot in order to address prolific offending. This recommendation was accepted by the Government and the MoJ has committed to an expansion of the sites over the multi-year spending review period. An Expression of Interest (EOI) was launched on 6 August 2025 to identify future areas for ISC delivery and closed on 17 October 2025.

What was the previous policy, how is this different?

5.6 The ISC pilot seeks to divert offenders with complex needs away from short custodial sentences (currently up to two years in the Crown Court pilot sites and, from 18 November 2024, up to twelve months in the magistrates' court pilot site for a single either-way offence) into enhanced community-based sentences focussing on rehabilitation, targeting the root cause of offending behaviour by addressing underlying needs.

5.7 The ISC model uses a multi-agency approach, providing wraparound interventions. Unlike 'business as usual', the sentences are overseen by a single judge with regular review hearings attached to every order. Judges also have the power to initiate breach proceedings, a process which is usually the sole responsibility of the probation service, and there is the option to order the offender to be committed to prison for up to 28 days as an immediate short custodial breach sanction that can be used up to a maximum of three times throughout the order.

5.8 There is also an expansion of drug testing beyond Drug Rehabilitation Requirements (DRRs) to incorporate offenders who do not reach the threshold for a DRR but whose drug misuse drives their offending behaviour.

5.9 These Regulations do not alter the powers which can be used within an ISC.

6. Legislative and Legal Context

How has the law changed?

6.1 The 2023 Regulations, as enacted, provided that orders qualifying for special procedures must be made within a period of 18 months beginning with 26 June 2023, which is the date that the 2023 Regulations came into force for the pilot sites at Liverpool Crown Court, Teesside Crown Court and Birmingham Magistrates' Court. This satisfied the requirement in section 395A(4) of the Sentencing Act 2020, which states that where regulations specify a description of community or suspended order for the first time, a time limit of 18 months must be imposed. The 2023 Regulations were amended by the Sentencing Act 2020 (Special Procedures for Community and Suspended Sentence Orders) (Amendment) Regulations 2024, which extended the period from 18 months to 30 months.

6.2 The 2024 Regulations, as enacted, provide that orders qualifying for special procedures must be made within a period of 18 months beginning with 14 June 2024, which is the date that the 2024 Regulations came into force for the pilot site at Bristol Crown Court. This satisfied the requirement in section 395A(4) of the Sentencing Act 2020, which states that where regulations specify a description of community or suspended order for the first time, a time limit of 18 months must be imposed. The 2024 Regulations have not been amended prior to these Regulations.

6.3 These Regulations amend the 2023 Regulations to provide that orders may be made within a period beginning with 26 June 2023 and ending on 31 March 2029. In

addition, these Regulations also amend the 2024 Regulations to provide that orders may be made within a period beginning with 14 June 2024 and ending on 31 March 2029.

6.4 As a result of these amendments, relevant offenders at all current pilot sites can continue to be sentenced to an order qualifying for special procedures until, and including, 31 March 2029. Offenders sentenced to an order qualifying for special procedures within this period will continue to be managed through the ISC for the course of their full order, even if this is beyond the sentencing power period ending on 31 March 2029.

Why was this approach taken to change the law?

6.5 These Regulations amend the 2023 Regulations and the 2024 Regulations by extending the period within which orders qualifying for special procedures may be made, which is considered the clearest and simplest means of extending the pilot. Practitioners, already familiar with the 2023 Regulations and the 2024 Regulations, will be able to continue to refer to them, as amended, and not have to refer to an additional set of regulations.

7. Consultation

Summary of consultation outcome and methodology

7.1 No public consultation has been carried out in relation to these Regulations. There is no requirement to consult in relation to determining the length of the pilot period. Operational details of how the pilots will operate are not matters which lend themselves to public consultation.

7.2 Consultation with stakeholders involved in the ISC pilot was undertaken both at an operational and strategic level. The Ministry of Justice supported this by providing forecasted impact on agencies involved in delivery of ISC orders, and invited feedback through the regional governance channels, requiring a joint decision from each strategic oversight board from respective ISC regions. All areas indicated support for extension of the sentencing powers pilot period.

8. Applicable Guidance

8.1 Operational guidance has been developed with stakeholders in each pilot site and is reviewed regularly.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

A full Impact Assessment has not been prepared for these Regulations because an Impact Assessment was prepared for the Police, Crime, Sentencing and Courts Act 2022, which remains accurate. This Impact Assessment, 'IA: Sentencing, Release, Probation and Youth Justice Measures' is available on the gov.uk website[2] under the Impact Assessment: 'sentencing, release, probation and youth justice measures' as measure K throughout. Overall, the aim of the pilot evaluation is to estimate the impact of ISCs on outcomes such as: reoffending and offender health and wellbeing. Value for money, including wider societal costs and benefits, will also be evaluated. This is not expected to be available until 2028 at the earliest.

Impact on businesses, charities and voluntary bodies

9.1 This measure is not a regulatory provision and is out of scope of the Better Regulation Framework. There are no, or no significant, impact on business, charities or voluntary bodies. The Ministry of Justice and operational partners remain in regular communication and strong governance around the pilot ensures that any unforeseen significant impact can be addressed and escalated through the necessary channels.

9.2 These Regulations do not impact small or micro businesses.

9.3 The impact on the public sector is on the Ministry of Justice and its agencies. The Ministry of Justice has provided dedicated funding to support pilot activity, which funds ISC Probation Practitioners within each ISC region, and a HMCTS-based Court Coordinator role. Wider costs associated with ISCs are dependent on extension of existing local commissioning arrangements, to ensure the department does not 'double fund' investment in interventions, including Commissioned Rehabilitative Services and Community Sentence Treatment Requirements. The Ministry of Justice will also incur costs for monitoring and evaluation and staffing for the project management of the initiative.

9.4 The ISC pilot is funded from within the HMPPS Drug and Alcohol Budget, which is currently in place until March 2026. These Regulations allow orders qualifying for special procedures to continue to be passed until and including 31 March 2029. Funding for beyond March 2026 will be subject to departmental allocations decisions for the 2026 - 2029 multi-year spending review period. These Regulations allow orders qualifying for special procedures to continue to be passed until and including 31 March 2029, and so in the event of a change in funding position for the 2026 – 2029 spending review period, further regulations could be made to bring the pilot to a close sooner.

9.5 The pilot removes some cases from 'business as usual' probation caseloads, and extension is expected to lead to a further reduction in the use of short custodial sentences, although these projected savings are not able to be reliably forecasted. It also anticipates reducing reoffending and improve health and wellbeing outcomes by providing improved access to rehabilitative services, thereby mitigating some long-term pressures on the probation service.

[2] Police, Crime, Sentencing and Courts Act 2022: overarching documents - GOV.UK (https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-overarching-documents).

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 These Regulations enable the ISC approach measures introduced by the PCSC Act 2022 to be piloted until, and including, 31 March 2029, making the overall pilot length five years, nine months and six days in total for Liverpool Crown Court, Teesside Crown Court and Birmingham Magistrates' Court. The overall pilot length for Bristol Crown Court is four years, nine months and 18 days in total. Should there be a need to extend the pilot again, further secondary legislation will be required.

10.2 The monitoring and evaluation programme consists of collecting monitoring data to record the numbers going through the ISC and other management information. An externally commissioned process evaluation has been completed which provides analysis of how the ISC pilots have been implemented to inform future changes. The interim process evaluation report was published in January 2025, and the final report will be published by the end of the year.

10.3 As mentioned in paragraph 5.3, in order to measure the impact of ISCs and the value for money that they offer, an impact and economic evaluation will be completed in 2028. The effectiveness of the evaluation in assessing impact on reduced reoffending is contingent upon a sufficient volume of ISC cases. This extension allows the Ministry of Justice to design and deliver a more robust impact evaluation to analyse outcomes for those sentenced under ISC.

10.4 The evaluation provides continuous learning for the Ministry of Justice, which can be used to inform future policy decisions on rehabilitative alternatives to custody.

10.5 These Regulations do not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 These Regulations are not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").