EXPLANATORY MEMORANDUM TO

THE SENTENCING ACT 2020 (SPECIAL PROCEDURES FOR COMMUNITY AND SUSPENDED SENTENCE ORDERS) REGULATIONS 2026

2026 No. 993

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 Minister McKinnell, Minster 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 Harriet Braithwaite at the Ministry of Justice can be contacted by email at the following address with any queries regarding the instrument: Harriet.Braithwaite@justice.gov.uk

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) Regulations 2026 provide the courts specified in regulation 4 with the power to make Community Orders and Suspended Sentence Orders for eligible offenders subject to special procedures during the pilot period (5th October 2026 – 5th April 2028). The Regulations stipulate the pilot period, the pilot location, eligibility criteria for pilot participants, and which offences are excluded. These special procedures are known as a "problem-solving" approach and the initiative as "Intensive Supervision Courts" (ISCs).

4.2 In effect, these Regulations will launch three additional ISC sites for female offenders across Leeds and Wakefield, Merseyside, and Northumbria at four sentencing courts; Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates' Court and South Tyneside Magistrates Court. The Northumbria site will have two sentencing courts at North and South Tyneside as requested by the Judiciary to accommodate their unique geographical location.

Where does the legislation extend to, and apply?

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

4.4 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 (MoJ) launched the ISC pilot on 26th 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 approach was first implemented at three locations: Liverpool Crown Court, Teesside Crown Court and Birmingham Magistrates' Court. Liverpool and Teesside both focus on substance misuse while Birmingham focuses on female offenders. A fourth site, which focuses on substance misuse, operates in Bristol and was launched in 2024.

5.2 The model tests a "problem-solving" approach, by targeting the complex needs of offenders to address the root causes of their offending. Offenders are required to attend regular judicial reviews, alongside enhanced probation supervision, and expected to engage with a range of services who work in partnership to provide robust, tailored support. This approach is based on international evidence which has demonstrated effectiveness at reducing reoffending rates. For example, evidence from the USA[1] and New Zealand[2] has shown problem solving approaches can reduce reoffending by around a third. ISC sentencing courts 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.

5.3 Since launch, two process evaluation reports have been published. Evidence from the process evaluation is encouraging; for example, there is early evidence of offenders reporting a desire to stop reoffending and improvements in wellbeing.[3] Data indicates strong compliance with ISC orders: as of March 2026, 65% of the Female Offender cohort had not breached their order.[4] While these findings are encouraging, long term reoffending rates will not be known until the impact evaluation is completed.

5.4 The positive early evidence, together with recommendations from the Independent Sentencing Review and Women's Justice Board, has supported the Government's decision to expand the availability of the ISCs ahead of completion of the impact and economic evaluations. In May 2025, the Independent Sentencing Review, led by Sir David Gauke, recommended to expand the availability of the ISC pilot, recognising its potential to improve outcomes for prolific offenders. The Government accepted this recommendation and, drawing on emerging evidence from the pilot, extended the operation of existing sites until March 2029, in line with the current Spending Review period, and committed to a programme of expansion. In March 2026, the Women's Justice Board further reinforced the case for expansion by recommending further ISCs as a means of reducing women's imprisonment.

5.5 The existing pilot sites are currently subject to impact and economic evaluations. Long-term reoffending outcomes will not be available until these evaluations conclude in 2028, with publication expected in late 2028 or early 2029. Consequently, the additional sites established through these regulations will not form part of these evaluations, as there would be insufficient time to measure reoffending outcomes ahead of this publication. However, operational and outcome data from all sites will

[1] https://link.springer.com/article/10.1007/s11292-019-09382-1
[2] https://www.justice.govt.nz/assets/Documents/Publications/AODTC-Summary-Evaluation-Report-June-2019.pdf
[3] https://assets.publishing.service.gov.uk/media/691c4c0ee39a085bda43eeab/intensive-supervision-courts-pilot-process-evaluation.pdf
[4] https://www.gov.uk/government/publications/intensive-supervision-courts-statistics-july-2023-to-march-2026

continue to be collected and monitored. Further detail on this is included in the Monitoring and Review section of this Explanatory Memorandum.

5.6 To support expansion, the MoJ released an Expression of Interest (EoI) process to identify future areas for ISC delivery. Following this process, seven sites were selected due to the strength of their applications. These include five female offender sites at Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates' Court and South Tyneside Magistrates' Court, Swansea Magistrates' Court and London Thames Magistrates' Court, one prolific offender site at Inner London Crown Court and one substance misuse site at Cambridge Crown Court.

5.7 This legislation is for the first tranche of these sites and will include three female offender sites at Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates' Court and South Tyneside Magistrates' Court.

What was the previous policy, how is this different?

5.8 Before the implementation of the Female Offender ISC pilot at Birmingham Magistrates' Court, female offenders were sentenced through existing sentencing powers, which included Community Orders, Suspended Sentence Orders, and custodial sentences. The introduction of the Female Offender ISC in Birmingham provided the judiciary with an additional sentencing option, enabling them to apply the enhanced features of the ISC specifically to female offenders in the area. Evidence from the process evaluation indicates that the model adopts a gender-responsive approach, with support tailored to the distinct and often complex needs of female offenders. Data also shows that a high proportion of women have identified criminogenic needs, with 64% of the female cohort receiving a Mental Health Treatment Requirement (MHTR) as part of their order.[5] These findings have informed the Ministry of Justice's consideration of opportunities to replicate the approach in other parts of England and Wales.

5.9 The Female Offender ISC has been operating at Birmingham Magistrates' Court since 2023. As of March 2026, there were 127 active cases. It is currently the only female-only model to test key "problem-solving" components.[6]

5.10 The three new Female Offender ISCs that are due to be launched using this legislation will build on the lessons learned at the Birmingham ISC. The new sites will follow the ISC model, which includes intensive supervision, commitment from the judiciary, and partnership working as core principles.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 395A of the Sentencing Act 2020 (as inserted by Schedule 14 to the Police, Crime, Sentencing and Courts Act 2022) gives the Secretary of State the power to specify by way of regulations which community and suspended sentences orders qualify for special procedures ("ISC disposals").

6.2 Schedule 14 to the 2022 Act was brought into force on 28th June 2022. In May 2023, regulations[7] were laid pursuant to section 395A to establish certain ISC sites for an initial period of 18 months - two Substance Misuse ISCs in Liverpool and Teesside Crown Courts, and a third ISC in Birmingham Magistrates Court for female offenders with complex needs. A further SI was laid in May 2024[8] to launch a further site at

[5] https://www.gov.uk/government/publications/intensive-supervision-courts-statistics-july-2023-to-march-2026
[6] https://www.gov.uk/government/publications/intensive-supervision-courts-statistics-july-2023-to-march-2026
[7] https://www.legislation.gov.uk/uksi/2023/559/contents
[8] https://www.legislation.gov.uk/uksi/2024/654/contents

Bristol Crown Court, followed by a further SI laid in November 2024[9] to extend the pilot period for Birmingham, Liverpool and Teesside to December 2025. Finally, in December 2025[10], a SI was laid to extend all four pilot sites for an additional three years until and including 31 March 2029.

6.3 These 2026 Regulations will launch three new ISC sites at four new courts. These Regulations provide that orders qualifying for special procedures can be made within a period beginning with 5th October 2026 and ending 5th April 2028. This will satisfy 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. These Regulations will launch the pilot sites at Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates and South Tyneside Magistrates Court.

Why was this approach taken to change the law?

6.4 Section 395A of the Sentencing Act 2020 provides for the Secretary of State to make regulations specifying the circumstances in which community and suspended sentence orders can be made subject to the special ISC procedures. Per subsection (3), this can be specified by reference to certain courts, offenders, and/or offences, amongst other matters. As such, secondary legislation is required to allow us to launch the ISC pilot for female offenders at Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates and South Tyneside Magistrates Court.

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 the expansion of the pilot. Operational details of how the pilots will operate are not matters which lend themselves to public consultation.

7.2 Consultation with stakeholders who completed an Expression of Interest was undertaken both at an operational and strategic level. The MoJ supported this by providing forecasted impact on agencies involved in delivery of the ISCs and invited feedback through the regional governance channels.

7.3 Consultation has taken place between the MoJ, HMCTS, HMPPS, the Senior Presiding Judge and Ministers to jointly agree the suitability of Leeds, Liverpool, North Tyneside, and South Tyneside Magistrates' courts.

8. Applicable Guidance

8.1 Operational guidance to support the implementation of the ISCs is being produced in conjunction with local colleagues at all new sites.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 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 [redacted]. This Impact Assessment, 'IA: Sentencing, Release, Probation and Youth Justice Measures' is available on the gov.uk website.

[9] https://www.legislation.gov.uk/uksi/2024/1220/contents/made
[10] https://www.legislation.gov.uk/uksi/2025/1207/contents/made

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. The (MoJ) and operational partners remain in regular communication to ensure that any unforeseen significant impact can be addressed and escalated through the necessary channels. Women's centres are included within the ISC partnership. These services receive funding from the MoJ to deliver support, including Commissioned Rehabilitative Services, and will receive appropriate additional funding to support any enhanced service provision required as a result of the ISCs.

9.3 These Regulations do not impact small or micro businesses.

9.4 The impact on the public sector is primarily on the MoJ and its agencies, which MoJ provides funding for. The allocated budget for the ISCs this financial year (26/27) is £7.2 million. This budget includes the continuous operation of the four existing ISC sites, the launch of the expansion sites and delivery of other initiatives related to problem-solving approaches.

9.5 MoJ funding enables the ISC to operate separately to business as usual Probation and Court operations in providing dedicated ISC probation teams and a HMCTS based Court Co-ordinator role. This ensures that the team is fully equipped to deliver the intensive supervision required by the model. Probation resource levels are calculated according to a reduced ISC caseload, in recognition that these community sentences are more intensive for Probation to deliver.

9.6 Otherwise, the ISCs utilise existing community requirement frameworks, and the delivery and funding of these services (e.g. drug and alcohol treatment) remains the responsibility of the respective government departments, and Local Authorities where applicable. Treatment providers, commissioners, and relevant government departments have been engaged at the earliest opportunity to support the planning and mobilisation of services.

9.7 The MoJ also incurs costs for monitoring, evaluation and staffing for the project management of the initiative.

9.8 These Regulations allow orders qualifying for special procedures to continue to be passed in relation to female offenders at the relevant sites until and including the 5th April 2028. If the funding position were to change, further regulations could be made to bring the pilot to a close sooner.

9.9 The pilot removes some cases from "business as usual" probation caseloads, and extension is expected to lead to a further reduction in in the use of short custodial sentences, although these projected savings cannot be reliably forecasted, and may be affected by other sentencing reforms or changes implemented during the period in which these powers remain in force. It also anticipates reducing reoffending and improving offender outcomes by providing access to rehabilitative services, thereby potentially mitigating some long-term pressures on the probation service.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 These Regulations enable ISC sites to be piloted at Leeds Magistrates' Court, Liverpool Magistrates' Court, North Tyneside Magistrates' Court and South Tyneside Magistrates' Court for 18 months. Should there be a need to extend the pilot, further secondary legislation will be required.

10.2 These sites are not being included in the formal pilot evaluation as the evaluation is already in progress and has been designed around the existing pilot sites (Liverpool,

Teesside, Bristol and Birmingham). Measuring reoffending outcomes can take a minimum of two years since sentences start: an initial 12 months for reoffences to occur in the follow-up period, six months for the court process and for data to appear on convictions, and six months for analysis and publication. Reoffending impact evaluations also require sufficiently large volumes of sentences to have been started in the courts which require time to accumulate following implementation. However, operational and outcome data from the additional sites will continue to be collected and monitored to track implementation, identify any challenges, and assess early indicators of effective delivery and positive outcomes. This data could also be used in further evaluation activity, should this be required in future.

10.3 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 This instrument is 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").