

**Chapter 7**

**Breaches of  
sentencing orders**

## Breaches of Sentencing Orders

Many sentencing orders imposed by the courts require the defendant to comply with conditions specified in the order during the period that the order remains in force. Orders that may have such conditions attached to them include combined custody and treatment orders, intensive correction orders, suspended sentences of imprisonment, community based orders and adjourned undertakings. All of these orders require that the defendant commit no further offences during the life of the order. In addition, defendants may be required to report to Community Correctional Services for supervision or unpaid community work, be assessed for or undertake treatment for drug or alcohol dependence, a mental disorder or medical condition, attend programs designed to address offending-related behaviour, or a wide range of other requirements. In the event that the defendant fails to comply with these conditions, the order may be breached and the defendant returned to court for re-sentencing.

A key issue in interpreting statistics on breaches of sentencing orders is that a breach may occur months or years after the date on which the original order was made. In the statistics presented here, breaches and breach rates are counted in relation to the financial year when the original order was given. However, many orders may still be active especially orders made in the last financial year (2005/06), and may be the subject of breach proceedings after the production of this report.

## Breaches of Sentencing Orders, continued

### Original Orders

Of the sentencing orders which can be breached, suspended sentences make up the largest category of orders of this type. There were between 502 and 754 partially or wholly suspended sentences of imprisonment made in the Higher Courts each year. Community based orders were the second most frequently made order, followed by adjourned undertakings and intensive correction orders. The least frequently used order was the combined custody and treatment order, with a total of only 19 orders made over the five years.

**Table 7.1**  
**Number of original orders made<sup>5</sup>, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Combined custody and treatment order	7	2	3	2	5
Intensive correction order	52	38	77	50	48
Suspended sentence	502	596	736	754	653
Community based order	173	211	222	212	179
Adjourned undertaking	73	59	73	55	82
<i>Total</i>	<i>807</i>	<i>906</i>	<i>1111</i>	<i>1073</i>	<i>967</i>

<sup>5</sup>Any defendant receives only one order of any given category, irrespective of the number of offences found guilty.

## Breaches of Sentencing Orders, continued

### Number of orders breached

The largest numbers of breaches were made in relation to community based orders and suspended sentences of imprisonment. However, this is partly a reflection of the large numbers of these types of orders that are made by the courts. The number of orders breached varies from year to year regardless of the original sentence type.

Table 7.2

### Number of original orders breached, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Breach - Combined Custody and Treatment Order	3	-	-	-	-
Breach - Intensive Corrections Order	20	10	21	13	4
Breach - Suspended sentence	28	30	17	10	3
Breach - Community Based Order	69	43	55	42	17
Breach - Adjourned Undertaking	1	3	4	1	1
<i>Total</i>	<i>121</i>	<i>86</i>	<i>97</i>	<i>66</i>	<i>25</i>

## Breaches of Sentencing Orders, continued

### Proportion of orders breached

Across the four years to 2004/05, intensive correction orders had the highest breach rate, with between 26.0% and 38.5% of all orders made ultimately resulting in a breach. In 2005/06 community based orders had the highest breach rate of 9.5%.

Combined custody and treatment orders had the highest breach rate in any individual year being 2001/02 (that is, the proportion of orders made that are breached), with 42.9% of all orders made resulting in a breach.

**Table 7.3**

**Proportion of original orders breached, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
Breach - Combined Custody and Treatment Order	42.9%	-	-	-	-
Breach - Intensive Corrections Order	38.5%	26.3%	27.3%	26.0%	8.3%
Breach - Suspended sentence	5.6%	5.0%	2.3%	1.3%	0.5%
Breach - Community Based Order	39.9%	20.4%	24.8%	19.8%	9.5%
Breach - Adjourned Undertaking	1.4%	5.1%	5.5%	1.8%	1.2%

## Breaches of Sentencing Orders, continued

### Outcome of orders breached

The outcome of the breach will differ depending on the original sentencing order. The most frequent response to a breach of an intensive corrections order was to cancel the original order and direct the unexpired portion of imprisonment be served in custody. Similarly with a breach of a suspended sentence where the original term of imprisonment would be wholly restored. For a community based order the most common response was to cancel the original order and impose a new sentence.

## Breaches of Sentencing Orders, continued

Table 7.4

## Outcome of orders breached, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Combined custody and treatment order</b>					
CCTO - community component to be served in custody	3	-	-	-	-
Original order confirmed	-	-	-	-	-
No order made	-	-	-	-	-
<i>Total</i>	<i>3</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
<b>Intensive correction order</b>					
ICO - Cancel original order - To serve unexpired portion of ICO	6	5	8	6	4
No order made	-	1	1	2	-
Original Order Cancelled - New sentence imposed	2	1	2	3	-
Original Order cancelled - no further order made	2	-	-	1	-
Original order confirmed	5	1	2	2	-
Original order varied	5	2	8	2	-
<i>Total</i>	<i>20</i>	<i>10</i>	<i>21</i>	<i>16</i>	<i>4</i>
<b>Suspended sentence</b>					
No order made	6	11	5	5	1
Original Order Cancelled - New sentence imposed	3	2	-	-	-
Original order confirmed	-	1	-	-	-
Original order varied	-	-	-	2	-
Partially restore suspended sentence	2	1	1	1	-
Section 20(1)(b) revoked - serve time in custody	1	-	-	-	-
Suspended Sentence - Original Order extended	2	3	3	3	-
Wholly restore suspended sentence	15	14	14	8	2
<i>Total</i>	<i>29</i>	<i>32</i>	<i>23</i>	<i>19</i>	<i>3</i>
<b>Community based order</b>					
No order made	5	2	1	6	1
Original Order Cancelled - New sentence imposed	35	26	48	38	13
Original Order cancelled - no further order made	2	1	2	-	-
Original order confirmed	15	7	8	14	3
Original order varied	12	8	12	13	-
<i>Total</i>	<i>69</i>	<i>44</i>	<i>71</i>	<i>71</i>	<i>17</i>
<b>Adjourned undertaking</b>					
No order made	-	-	1	-	-
Original Order Cancelled - New sentence imposed	-	-	3	-	-
Original order confirmed	-	1	-	2	-
Original order varied	1	2	-	-	-
<i>Total</i>	<i>1</i>	<i>3</i>	<i>4</i>	<i>2</i>	<i>-</i>

## Breaches of Sentencing Orders, continued

Table 7.4 (cont)

## Outcome of orders breached, 2001/02-2005/06

	2000-01	2001-02	2002-03	2003-04	2004-05
	<i>Percent</i>				
<b>Combined custody and treatment order</b>					
CCTO - community component to be served in custody	100.0%	-	-	-	-
Original order confirmed	-	-	-	-	-
No order made	-	-	-	-	-
<i>Total</i>	<i>100.0%</i>	<i>-</i>	<i>-</i>	<i>-</i>	<i>-</i>
<b>Intensive correction order</b>					
ICO - Cancel original order - To serve unexpired portion of ICO	30.0%	50.0%	38.1%	37.5%	100.0%
No order made	-	10.0%	4.8%	12.5%	-
Original Order Cancelled - New sentence imposed	10.0%	10.0%	9.5%	18.8%	-
Original Order cancelled - no further order made	10.0%	-	-	6.3%	-
Original order confirmed	25.0%	10.0%	9.5%	12.5%	-
Original order varied	25.0%	20.0%	38.1%	12.5%	-
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>-</i>
<b>Suspended sentence</b>					
No order made	20.7%	34.4%	21.7%	26.3%	33.3%
Original Order Cancelled - New sentence imposed	10.3%	6.3%	-	-	-
Original order confirmed	-	3.1%	-	-	-
Original order varied	-	-	-	10.5%	-
Partially restore suspended sentence	6.9%	3.1%	4.3%	5.3%	-
Section 20(1)(b) revoked - serve time in custody	3.4%	-	-	-	-
Suspended Sentence - Original Order extended	6.9%	9.4%	13.0%	15.8%	-
Wholly restore suspended sentence	51.7%	43.8%	60.9%	42.1%	66.7%
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>
<b>Community based order</b>					
No order made	7.2%	4.5%	1.4%	8.5%	5.9%
Original Order Cancelled - New sentence imposed	50.7%	59.1%	67.6%	53.5%	76.5%
Original Order cancelled - no further order made	2.9%	2.3%	2.8%	-	-
Original order confirmed	21.7%	15.9%	11.3%	19.7%	17.6%
Original order varied	17.4%	18.2%	16.9%	18.3%	-
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>
<b>Adjourned undertaking</b>					
No order made	-	-	25.0%	-	-
Original Order Cancelled - New sentence imposed	-	-	75.0%	-	-
Original order confirmed	-	33.3%	-	100.0%	-
Original order varied	100.0%	66.7%	-	-	-
<i>Total</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>100.0%</i>	<i>-</i>