Sentencing Act 2026: Significant Changes Now in Force

The Sentencing Act 2026, which received royal assent on 22 January 2026, marks one of the most consequential shifts in sentencing and bail law for a generation. For defendants in financial crime and serious crime proceedings — and for those advising them — the changes open significant new strategic territory that demands immediate attention.

The Act's aims are clear and far-reaching: to increase the availability of suspended sentence orders, to introduce a presumption against short periods of immediate imprisonment, and to amend the Bail Act 1976 so as to reduce the number of accused persons and convicted offenders held in custody. These are not peripheral adjustments. The Act reconfigures the starting point for sentencing analysis across a broad range of offending.

The following sections are now in force as of 22 March 2026:
s.1, s.2, s.4, s.5, ss.7–9, s.11, s.19, s.20, s.40, s.41, s.43, s.44, s.45, Sch.1, Sch.2

Further provisions will come into force later in 2026. Practitioners should monitor commencement orders closely, as the Act's remaining sections may affect ancillary orders and related proceedings currently in progress.

Changes to Sentencing

The Act introduces four principal sentencing reforms, each with immediate practical consequences across the spectrum of financial and serious criminal cases.

01. Suspension Threshold Raised to 3 Years

Periods of imprisonment of up to **3 YEARS** are now capable of being suspended — increased from the previous ceiling of 2 years. This is a material change for cases in the upper sentencing ranges. Many serious fraud, money laundering, bribery and tax evasion sentences fall in the 2–3 year bracket: defendants who would previously have faced inevitable immediate custody now become candidates for suspension for the first time.

02. Presumption of Suspension for Sentences of 12 Months or Less

Section 1 introduces a statutory presumption that sentences of **12 MONTHS OR LESS WILL BE SUSPENDED**, subject to exceptional circumstances and the specific factors set out in the legislation. The burden has shifted decisively: a court must now positively justify imposing immediate custody for a shorter sentence, rather than treating custody as the default position. This is a structural change — not merely a shift in emphasis.

03. Deferral of Sentencing Extended to 12 Months

Sentencing may now be deferred for up to **12 MONTHS** — double the previous maximum of 6 months. For defendants in financial crime cases engaged in voluntary restitution, asset recovery, regulatory cooperation or compliance remediation, this creates meaningful new scope to place concrete evidence of rehabilitation before the court before sentence is finally imposed. Strategic deployment of extended deferral will be an important tool in complex cases.

04. Purposes of Sentencing — Protection of Victims

The statutory purposes of sentencing have been updated to make explicit that the protection of the public **INCLUDES THE PROTECTION OF VICTIMS OF CRIME**. While this does not fundamentally alter the sentencing calculus, it reinforces the weight courts must give to victim-centred harm assessment — a factor that carries particular force in fraud and financial crime, where victim harm can be diffuse, cumulative and psychologically severe even where direct financial loss is repaid.

Application of the New Regime

These changes apply to defendants **convicted on or after 22 March 2026**. The date of the offence is irrelevant; it is the date of conviction that determines whether the new provisions apply.

For defendants in serious fraud, money laundering, bribery, market manipulation and related financial crime cases, the changes are immediately significant. Sentences in the 2–3 year range — common in this category — are now capable of suspension for the first time. Courts sentencing at or below 12 months must begin from the presumption of suspension.

Instructing specialist counsel early enables defendants and advisers to develop a sentencing strategy that fully engages with these new provisions — including the strategic use of extended deferral to build a compelling case for suspension.

Amended Sentencing Guidelines

In response to the legislative changes, the Sentencing Council has amended the following guidelines, all of which now apply where relevant:

- **Imposition of Community and Custodial Sentences** guideline
- **Custodial Sentences** drop-down within offence-specific guidelines
- **General Guideline: Overarching Principles**
- **Sentencing Children and Young People**

The amendments to the Imposition guideline are especially significant. The step-by-step process a court must follow before imposing custody has been recalibrated to embed the new statutory presumption at or below 12 months.

Advocates should address the amended guideline explicitly, both in written sentencing notes and oral submissions.

The presumption of suspension for sentences of 12 months or less is a genuine and structural shift in English sentencing law. Immediate custody for shorter sentences is no longer the default — it now requires affirmative justification from the court. For defendants in financial crime cases, this changes the conversation fundamentally.

Bail: A Recalibrated Test

The expansion of suspended sentences has transformed the bail landscape.

Previous Test

“No real prospect of a custodial sentence”
Under the former test, a real prospect of any custodial sentence — suspended or immediate — could justify withholding bail.

New Test (From 22 March 2026)

“No real prospect of immediate custody”
This test is materially narrower. A defendant likely to receive a suspended sentence (but not immediate custody) now has a significantly stronger claim to bail. Existing remand decisions should be reviewed in light of the new threshold.

Expanded Electronic Monitoring

Electronic monitoring can now be imposed where there is a **real prospect of a suspended sentence** and **no real prospect of immediate custody**, provided conditions in new **s.3AAB of the Bail Act 1976** are satisfied. This reflects the reduced availability of immediate custody as a justification for withholding bail.

New Bail Factors

Courts must now consider whether a defendant:
• is pregnant
• is a primary caregiver
• has been a victim of domestic abuse

These are not automatic bars to remand but must form part of the structured assessment.

Whole Life Orders: Extended Scope

For offences committed **on or after 22 March 2026**, the Act extends the starting point of a whole life order to include:

- Murder of a probation officer in the course of duty (current police and prison officers already included)
- Murder of a former police officer, prison officer or probation officer, where the offence was motivated wholly or partly by something done by the victim in the course of duty

Here, the **date of the offence** — not conviction — is determinative.

Deportation of Foreign Nationals

The Act makes significant amendments to the deportation regime.

Suspended sentence exceptions within the **UK Borders Act 2007** and the **Nationality, Immigration and Asylum Act 2002** have been removed.

Previously, some suspended sentences fell outside automatic deportation. This is no longer the case.

A foreign national receiving a suspended sentence of the relevant length is now treated identically to one receiving immediate custody for deportation purposes — a potentially serious collateral consequence. This necessitates early and integrated immigration advice.

Looking Ahead

Further provisions of the Act will come into force later in 2026, and the Sentencing Council will continue updating guidelines accordingly. Practitioners should monitor these developments closely.

For defendants under investigation, the **timing of conviction** may now carry real strategic weight. For foreign nationals, the removal of suspended-sentence exceptions heightens the need for early specialist advice.

Members of 33 Chancery Lane are available to advise on all aspects of the new framework across financial and serious crime sentencing, confiscation and related ancillary matters.