



Offender Management Act 2007

2007 CHAPTER 21

PART 1

NEW ARRANGEMENTS FOR THE PROVISION OF PROBATION SERVICES

Probation purposes

1 Meaning of “the probation purposes”

- (1) In this Part “the probation purposes” means the purposes of providing for—
 - (a) courts to be given assistance in determining the appropriate sentences to pass, and making other decisions, in respect of persons charged with or convicted of offences;
 - (b) authorised persons to be given assistance in determining whether conditional cautions should be given and which conditions to attach to conditional cautions;
 - (c) the supervision and rehabilitation of persons charged with or convicted of offences;
 - (d) the giving of assistance to persons remanded on bail;
 - (e) the supervision and rehabilitation of persons to whom conditional cautions are given;
 - (f) the giving of information to victims of persons charged with or convicted of offences.
- (2) The purpose set out in subsection (1)(c) includes (in particular)—
 - (a) giving effect to community orders and suspended sentence orders (or, in the case of persons mentioned in subsection (3), any corresponding sentence which is to be carried out in England and Wales);
 - (b) assisting in the rehabilitation of offenders who are being held in prison;
 - (c) supervising persons released from prison on licence;
 - (d) providing accommodation in approved premises.
- (3) That purpose also applies in relation to persons who—

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- (a) are convicted of an offence under the law of a country outside England and Wales, and
- (b) receive a sentence which is to any extent to be served or carried out in England and Wales,

as it applies in relation to persons convicted of offences.

(4) In this section—

“authorised person” and “conditional caution” have the same meaning as in Part 3 of the Criminal Justice Act 2003 (c. 44);

“community order” means—

- (a) a community order within the meaning of the Criminal Justice Act 2003 (see section 177 of that Act);
- (b) a community order within the meaning of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (as it applies to offences committed before 4th April 2005);

“prison” includes a young offender institution and a secure training centre;

“suspended sentence order” has the same meaning as in the Criminal Justice Act 2003 (see section 189 of that Act); and

“victim” includes a person claiming to be a victim of a person charged with or convicted of an offence.

(5) Regulations made by the Secretary of State may extend the purposes mentioned in subsection (1) to include other purposes relating to persons charged with or convicted of offences or persons to whom conditional cautions are given.

Functions of the Secretary of State

2 Responsibility for ensuring the provision of probation services

(1) It is the function of the Secretary of State to ensure that sufficient provision is made throughout England and Wales—

- (a) for the probation purposes;
- (b) for enabling functions conferred by any enactment (whenever passed or made) on providers of probation services, or on officers of a provider of probation services, to be performed; and
- (c) for the performance of any function of the Secretary of State under any enactment (whenever passed or made) which is expressed to be a function to which this paragraph applies;

and any provision which the Secretary of State considers should be made for a purpose mentioned above is referred to in this Part as “probation provision”.

(2) The Secretary of State shall discharge his function under subsection (1) in relation to any probation provision by making and carrying out arrangements under section 3.

(3) The Secretary of State must have regard to the aims mentioned in subsection (4) in the exercise of his functions under subsections (1) and (2) (so far as they may be exercised for any of the probation purposes).

(4) Those aims are—

- (a) the protection of the public;
- (b) the reduction of re-offending;

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- (c) the proper punishment of offenders;
 - (d) ensuring offenders' awareness of the effects of crime on the victims of crimes and the public; and
 - (e) the rehabilitation of offenders.
- (5) The Secretary of State is not required by subsections (1) and (2) to take any action in relation to the making of provision for a purpose mentioned in subsection (1) if it appears to him that appropriate provision is being or will be made by any person acting otherwise than in pursuance of arrangements under section 3.
- (6) In this section “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

3 Power to make arrangements for the provision of probation services

- (1) This section applies to any probation provision which the Secretary of State considers ought to be made for any of the purposes mentioned in section 2(1).
- (2) The Secretary of State may make contractual or other arrangements with any other person for the making of the probation provision.
- (3) Arrangements under subsection (2) may in particular authorise or require that other person—
- (a) to co-operate with other providers of probation services or persons who are concerned with the prevention or reduction of crime or with giving assistance to the victims of crime;
 - (b) to authorise individuals under section 9(2) to act as officers of a provider of probation services;
 - (c) to make contractual or other arrangements with third parties for purposes connected with the probation provision to be made, including in particular contractual or other arrangements—
 - (i) for provision to be made, or for activities to be carried out, by third parties on behalf of that other person; or
 - (ii) for individuals who are not members of that other person’s staff to act as officers of a provider of probation services.
- (4) The Secretary of State may make provision for the performance of any function to which section 2(1)(c) applies by making arrangements under subsection (2) above providing for the delegation of that function to the other person.
- (5) If instead of making arrangements under subsection (2) the Secretary of State considers it appropriate to make any probation provision himself, he shall make arrangements for the making of that probation provision (and for the avoidance of doubt the members of staff through whom he may act in making and carrying out those arrangements include prison officers or other persons employed at a prison).
- (6) In this Part “provider of probation services” means—
- (a) a person with whom the Secretary of State has made arrangements that are in force under subsection (2); or
 - (b) the Secretary of State (in relation to probation provision which is the subject of arrangements that are in force under subsection (5)).
- (7) In carrying out functions under this Part in relation to arrangements under subsection (2) with another person (“the provider”), the Secretary of State shall have

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regard to the need to take reasonable steps to avoid (so far as practicable) the risk that—

- (a) the provision, in pursuance of the arrangements, of assistance to a court or to the Parole Board for England and Wales, and
- (b) the carrying out, in pursuance of the arrangements, of any other activities, might be adversely affected by any potential conflict between the provider's obligations in relation to those activities and the financial interests of the provider.

4 Restriction on certain arrangements under section 3

- (1) Arrangements under section 3(2) relating to restricted probation provision may only be made with a probation trust or other public body.
- (2) In this section “restricted probation provision” means probation provision which—
 - (a) is made for a purpose mentioned in section 2(1)(a) or (b); and
 - (b) relates to the giving of assistance to any court in determining the appropriate sentence to pass, or making any other decision, in respect of a person charged with or convicted of an offence.

5 Power to establish probation trusts

- (1) The Secretary of State may by order—
 - (a) establish a probation trust for purposes specified in the order;
 - (b) alter the name or purposes of a probation trust;
 - (c) dissolve a probation trust.
- (2) The purposes of a probation trust must consist of or include the making or performance by the trust of contracts with the Secretary of State under section 3(2).
- (3) The purposes of a probation trust may include all or any of the following purposes—
 - (a) the making or performance by the trust of contracts with another probation trust or any other person which provide for the carrying out by the trust of activities which contribute to the achievement of any purpose mentioned in section 2(1);
 - (b) the making or performance by the trust of contracts with the Secretary of State for the carrying out by the trust of activities anywhere in the world which—
 - (i) are to be carried out in connection with persons who are or have been subject to proceedings in service courts; and
 - (ii) correspond to activities which, if carried out in connection with persons charged with or convicted of offences, would contribute to the achievement of any purpose mentioned in section 2(1);
 - (c) any other purpose specified for the purposes of this section by regulations made by the Secretary of State.
- (4) A purpose specified for a probation trust under subsection (1)(a) may be expressed in more specific terms than those used in subsection (2) or (3)(a) or (b) or in regulations under subsection (3)(c).
- (5) A purpose so specified which relates to the making or performance of contracts includes the carrying out of any activities relating to a contract of a relevant kind (including activities taking place before it is made or after it is terminated).

(6) Schedule 1 (which contains other provision relating to probation trusts) has effect.

6 Power to make grants for probation purposes etc

- (1) The Secretary of State may make payments (other than payments falling to be made in pursuance of arrangements under section 3(2))—
 - (a) to a probation trust; or
 - (b) towards expenditure incurred by any other person for any purpose falling within the probation purposes.
- (2) Payments under this section may be made on conditions (which may require repayment in specified circumstances).

7 National standards for the management of offenders

- (1) The Secretary of State shall continue to publish national standards for the management of offenders.
- (2) The national standards may in particular include standards relating to the management of offenders held in custody.
- (3) In exercising his powers under section 3(2), the Secretary of State shall have regard to the need to secure, so far as practicable, that the arrangements in force from time to time provide for the national standards to have the same effect in relation to every provider of probation services carrying out the activities to which the standards apply.

8 Annual plans

- (1) The Secretary of State shall at least once in every year consult the Welsh Ministers, and such other persons as he thinks fit, about the provision that should be made for the purposes mentioned in section 2(1) for the following year.
- (2) The Secretary of State shall, before the end of each year, publish an annual plan for the following year which sets out the way in which the Secretary of State proposes to—
 - (a) discharge his functions under section 2(1) and (2) during that year; and
 - (b) carry out any arrangements which he expects to be in force under section 3(5) for that year.
- (3) The Secretary of State shall have regard to the annual plan published under subsection (2) for any year—
 - (a) in discharging his functions under section 2(1) and (2) during that year; and
 - (b) in making or carrying out arrangements under section 3(5) for that year.
- (4) Arrangements made by the Secretary of State under section 3(2) with a probation trust shall require the trust to publish an annual plan for each year in which it expects to carry out any specified activities.
- (5) Arrangements made by the Secretary of State under section 3(2) with a person other than a probation trust shall, if the Secretary of State thinks fit, require that person to publish an annual plan for each year in which it expects to carry out any specified activities.
- (6) In subsections (4) and (5)—

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“annual plan” means a plan setting out the way in which the probation trust or other person (as the case may be) proposes to carry out any specified activities during the year to which the plan relates;

“specified activities”, in relation to a probation trust or other person with whom arrangements under section 3(2) are made, means activities of a description specified in those arrangements for the purposes of subsection (4) or (5) above (as the case may be).

(7) In this section “year” means a period of 12 months ending with 31st March.

Miscellaneous

9 Officers of providers of probation services

- (1) In this Part “officer of a provider of probation services” means an individual who is for the time being authorised under subsection (2) (and “officer”, in relation to a particular provider of probation services, means a person so authorised to act as an officer of that provider).
- (2) An individual may be authorised to act as an officer of a particular provider of probation services (“the relevant provider”) by—
 - (a) the Secretary of State; or
 - (b) a provider of probation services (whether the relevant provider or any other provider) who is authorised to do so by the Secretary of State.
- (3) If the relevant provider is the Secretary of State, subsection (2) has effect with the omission of paragraph (b).

10 National framework for qualifications of officers

- (1) The Secretary of State may publish guidelines about any qualifications, experience or training required to perform the work of an officer of a provider of probation services.
- (2) The Secretary of State must publish guidelines under subsection (1) in relation to work involving the supervision of offenders and other work requiring direct contact with offenders (including offenders held in custody).
- (3) Guidelines under this section may make different provision for different purposes.
- (4) In exercising his powers under sections 3(2) and (5) and 9, the Secretary of State shall have regard to the need to secure, so far as practicable, that guidelines published under this section have the same effect in relation to every provider of probation services whose officers perform work to which they relate.

11 Abolition of local probation boards and transfers of property etc and staff

- (1) In consequence of the provisions of this Part, the local probation boards constituted under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43) are abolished.
- (2) Schedule 2 (which contains provisions relating to transfers of property etc or staff in connection with the abolition of local probation boards or the implementation or termination of arrangements under section 3) has effect.

12 The inspectorate

- (1) Her Majesty’s Inspectorate of the National Probation Service for England and Wales is renamed “Her Majesty’s Inspectorate of Probation for England and Wales” and Her Majesty’s Chief Inspector of the National Probation Service for England and Wales is renamed “Her Majesty’s Chief Inspector of Probation for England and Wales”.
- (2) In section 6 of the Criminal Justice and Court Services Act 2000 (the inspectorate)—
 - (a) in subsection (1), the words from “but” to the end are omitted; and
 - (b) in subsection (4), for “the National Probation Service” (in both places) there is substituted “Probation”.
- (3) In section 7 of that Act (functions of the inspectorate)—
 - (a) in subsection (1), for “each local probation board under section 5” there is substituted “the Secretary of State under section 3 of the Offender Management Act 2007 (power to make arrangements for the provision of probation services)”; and
 - (b) in subsection (6), after “section 1” there is inserted “of the Offender Management Act 2007”.

13 Approved premises

- (1) The Secretary of State may approve premises in which accommodation is provided—
 - (a) for persons granted bail in criminal proceedings (within the meaning of the Bail Act 1976 (c. 63)); or
 - (b) for, or in connection with, the supervision or rehabilitation of persons convicted of offences;and in this section “approved premises” means premises which are for the time being approved under this subsection.
- (2) The Secretary of State may make regulations for the regulation, management and inspection of approved premises.
- (3) The Secretary of State may make payments in connection with —
 - (a) the operation of approved premises, or
 - (b) constructing, enlarging or improving premises, if they are approved premises or the works are being carried out with a view to the premises becoming approved premises,to any person who incurs expenditure on the activities in question.
- (4) Payments under subsection (3) may be made on conditions (including conditions requiring repayment in specified circumstances).
- (5) The power to make payments under subsection (3) is without prejudice to the powers of the Secretary of State under sections 2 to 6.
- (6) References in any Act or subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) to an approved bail hostel or an approved probation hostel are to be read as a reference to approved premises.
- (7) In paragraph 2(7) of Schedule 2 to the Private Security Industry Act 2001 (c. 12) (activities not liable to control under the Act), after paragraph (1) there is inserted—

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“(m) activities of a person who is acting as a manager of any approved premises (within the meaning of section 13 of the Offender Management Act 2007).”

14 Disclosure for offender management purposes

- (1) This section applies to—
 - (a) the Secretary of State;
 - (b) a provider of probation services (other than the Secretary of State);
 - (c) an officer of a provider of probation services; and
 - (d) a person carrying out activities in pursuance of arrangements made by a provider of probation services as mentioned in section 3(3)(c).
- (2) In this section “listed person” means—
 - (a) a government department;
 - (b) a relevant local authority;
 - (c) the Youth Justice Board for England and Wales;
 - (d) the Parole Board for England and Wales;
 - (e) a relevant contractor;
 - (f) a chief officer of police;
 - (g) a person who is responsible for securing the electronic monitoring of an individual; and
 - (h) any other person specified or described in regulations made by the Secretary of State.
- (3) Information may be disclosed—
 - (a) by a person to whom this section applies—
 - (i) to another person to whom this section applies, or
 - (ii) to a listed person, or
 - (b) by a listed person to a person to whom this section applies,
but only if the disclosure is necessary or expedient for any of the purposes mentioned in subsection (4).
- (4) Those purposes are—
 - (a) the probation purposes;
 - (b) the performance of functions relating to prisons or prisoners of—
 - (i) the Secretary of State;
 - (ii) any other person to whom this section applies; or
 - (iii) any listed person; and
 - (c) any other purposes connected with the management of offenders (including the development or assessment of policies relating to matters connected with the management of offenders).
- (5) In subsection (4)(b)—
 - (a) the reference to prisons or prisoners includes a reference to—
 - (i) young offender institutions or persons detained in such institutions;
and
 - (ii) secure training centres or persons detained in such centres;

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- (b) the reference to functions, in relation to a listed person who is a relevant contractor, includes activities connected with the making or performance of a contract mentioned in subsection (9).
- (6) Nothing in this section—
- (a) affects any power to disclose information that exists apart from this section; or
 - (b) authorises the disclosure of any information in contravention of any provision contained in an enactment (whenever passed or made) which prevents disclosure of the information.
- (7) But the Secretary of State may by order amend or repeal any provision mentioned in subsection (6)(b) which is contained in an enactment passed or made before the end of the Session in which this Act is passed so as to enable disclosures that would otherwise be permitted under this section.
- (8) In this section “relevant local authority” means a county council in England, a Welsh county council or county borough council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly.
- (9) In this section “relevant contractor” means—
- (a) a person who has entered into a contract for the running of, or of part of—
 - (i) a prison or young offender institution under section 84 of the Criminal Justice Act 1991 (c. 53);
 - (ii) a secure training centre under section 7 of the Criminal Justice and Public Order Act 1994 (c. 33);or a sub-contractor of such a person (within the meaning of the section in question); or
 - (b) a person who has entered into a contract with the Secretary of State—
 - (i) under section 80 of the Criminal Justice Act 1991 for the purposes of prisoner escort arrangements (see subsection (2) of that section); or
 - (ii) under paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994 for the purposes of escort arrangements for offenders detained at secure training centres (see paragraph 1(3) of that Schedule).
- (10) In this section “enactment” includes any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

15 Power to repeal section 4

- (1) The Secretary of State may by order repeal section 4.
- (2) The power under this section includes power to provide for that section to cease to have effect for such purposes as may be specified in the order.