



Offender Management Act 2007

2007 CHAPTER 21

PART 1

NEW ARRANGEMENTS FOR THE PROVISION OF PROBATION SERVICES

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;
 - (c) the proper punishment of offenders;

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- (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

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.