

OFFENDER REHABILITATION ACT 2014

EXPLANATORY NOTES

COMMENTARY

Community orders and suspended sentence orders

Section 14: Officers responsible for implementing orders

101. **Section 14** amends the 2003 Act to make changes to the meaning of “the responsible officer”, who is the officer responsible for implementing community orders and suspended sentence orders imposed by the court.
102. Subsection (1) of section 14 replaces section 197 of the 2003 Act. The new subsection (1) of section 197 defines the responsible officer as a person who is, for the time being, responsible for discharging the functions of the responsible officer in accordance with arrangements made by the Secretary of State. The new subsection (2) of section 197 provides that the responsible officer must be either an officer of a provider of probation services (which can be a public or a private sector provider) or a person responsible for monitoring an offender in accordance with an electronic monitoring requirement.
103. Subsection (2) of section 14 introduces Schedule 4 to the Act. Schedule 4 is in two parts.
104. **Part 1** provides that certain functions of responsible officers are confined to the public sector. Paragraphs 1 to 5 amend provisions which confer a function on the responsible officer to provide assistance to a court carrying out a review of a community order or suspended sentence order, or of the offender’s progress under a drug rehabilitation requirement under such an order. Such functions will in the future be carried out by officers of providers of probation services, rather than the responsible officer. Under section 4 of the Offender Management Act 2007 (the 2007 Act), the Secretary of State may not arrange for private sector providers to perform functions that involve helping courts to make decisions about people convicted of offences. These functions have to be performed by an officer of a public sector provider (i.e. the Secretary of State or a probation trust or some other public body).
105. The effect of the changes in paragraphs 1 to 5, coupled with section 4 of the 2007 Act, is that only public sector providers will in future be permitted to carry out the function of giving assistance to a court carrying out a review of a community order, a suspended sentence order or the offender’s progress under a drug rehabilitation requirement imposed under such an order. In some cases that public sector provider may be the responsible officer, but in those cases where the responsible officer is a private provider they will not be permitted to undertake these functions.
106. Paragraph 6 of Schedule 4 amends Schedule 8 to the 2003 Act – which deals with the breach, amendment or revocation of community orders – to add definitions of “enforcement officer” and “public sector provider”. Paragraphs 6(3) and 6(4) provide that if the responsible officer is of the opinion that the offender has failed without reasonable excuse to comply with any of the requirements of his community order he must refer the matter to an enforcement officer. Paragraph 6(2) inserts a new definition

*These notes refer to the Offender Rehabilitation Act 2014
(c.11) which received Royal Assent on 13 March 2014*

of “enforcement officer” at paragraph 1A of Schedule 8, and makes clear that the enforcement function can only be carried out by an officer of a provider of probation services that is a public sector provider. In other words, only an officer of a public sector provider, defined as a probation trust, other public body or the Secretary of State, can be the officer responsible for enforcement action under a community order.

107. Paragraph 6(5) provides that the role of the enforcement officer is to consider the case, and where, appropriate cause an information to be laid. In this way, the enforcement officer, who will be a public sector provider, will be responsible for the decision whether or not to bring cases to court for a breach hearing.
108. Paragraph 6(6) amends the various powers in Parts 3 to 6 of Schedule 8 that allow the court to revoke or vary a community order, to provide that in the future the function of applying to the court to exercise such powers will be undertaken by an officer of a provider of probation services rather than the responsible officer. The same analysis applies as in paragraphs 1 to 5 of Schedule 4, and the effect of the changes will be that only public sector providers will be able to make applications to the court to revoke or amend the order. Paragraph 8 of Schedule 4 makes consequential amendments to section 4 of the 2007 Act to ensure that these powers are reserved to the public sector.
109. Paragraph 7 of Schedule 4 makes similar changes to Schedule 12 to the 2003 Act in relation to suspended sentence orders.
110. Part 2 of Schedule 4 makes further consequential amendments.