

OFFENDER REHABILITATION ACT 2014

EXPLANATORY NOTES

COMMENTARY

Community orders and suspended sentence orders

Section 18: Duty to obtain permission before changing residence

123. **Section 18** inserts a new section 220A into the 2003 Act to require an offender subject to a community order or suspended sentence order (which does not include a residence requirement under section 206 of the 2003 Act) to seek the permission of the responsible officer or the court before changing their place of residence.
124. New section 220A(1) provides that an offender subject to a community order or suspended sentence order must not change residence without permission of their responsible officer or a court. Subsection (2) provides that the offender may apply to the court to reconsider a decision by the responsible officer to refuse permission. Subsection (3) provides that the court may grant permission when it is considering whether an offender has breached his or her order, or whether to amend or revoke an order, under Schedule 8 (for community orders) or Schedule 12 (for suspended sentence orders) to the 2003 Act.
125. Subsection (4) of new section 220A sets out that the grounds for refusing an application to change residence are that the change is likely to prevent the offender from complying with a requirement of the order or that it would hinder the offender's rehabilitation. Subsection (5) provides that the requirement to seek permission for a change in residence is enforceable as if it were a requirement imposed by the order. As such, an unreasonable failure to seek permission may be treated as a breach of the order. Subsection (6) disapplies the duty to seek permission for a change in residence in cases where the offender is subject to a residence requirement imposed by the court under section 206 of the 2003 Act.
126. Subsection (3) of section 18 omits the obligation in section 220(1)(b) of the 2003 Act for the offender to notify the responsible officer of any change of address, on the basis that this will no longer be relevant once the new duty to seek permission to change residence is in force.
127. Subsections (4) to (6) of section 18 simplify paragraph 16 of Schedule 8 to the 2003 Act, under which the court may (and in certain circumstances must) amend a community order where it is satisfied that the offender proposes to change, or has changed, his or her residence from the local justice area specified in the order to another local justice area. Where an offender has been allowed to change residence under section 220A the court must amend the order to specify the new local justice area in which the offender now resides. If the change of residence was agreed by the responsible officer rather than the court the responsible officer must apply to the court to have the order amended and the court must make that amendment.

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

128. Subsections (7) to (9) of section 18 make similar changes to those made to Schedule 8 to Schedule 12 to the 2003 Act, which deals with breach, revocation and amendment of suspended sentence orders.
129. Subsections (10) and (11) of section 18 disapply the new duty to seek permission to change residence from the regime governing breach of a default order (under which unpaid work, curfew or an attendance centre requirement may be imposed in lieu of a distress warrant for unpaid fines). They amend Schedule 31 to the 2003 Act to provide that the new section 220A will not apply in the context of default orders and to provide a power for the court to amend a default order where the person subject to the order moves out of the local justice area specified in the order. Subsection (12) amends Schedule A1 to the Children Act 1989 to disapply the new duty to seek permission to change residence from the regime governing enforcement orders (under which unpaid work can be imposed in respect of breach of a contact order under the Children Act 1989).