
STATUTORY INSTRUMENTS

1992 No. 349

PROBATION

The Probation (Amendment) Rules 1992

Made - - - - - *21st February 1992*
Laid before Parliament *2nd March 1992*
Coming into force - - *1st April 1992*

In exercise of the powers conferred upon me by paragraphs 18(1)(a), (b) and (c) of Schedule 3 to the Powers of Criminal Courts Act 1973(1), I hereby make the following Rules:

1. These Rules may be cited as the Probation (Amendment) Rules 1992 and shall come into force on 1st April 1992.
2. The Probation Rules 1984(2) shall have effect subject to the amendments specified in the Schedule to these Rules.

Home Office
21st February 1992

Kenneth Baker
One of Her Majesty's Principal Secretaries of
State

(1) 1973 c. 62; paragraph 18(1)(a) of Schedule 3 was amended by the Criminal Justice Act 1982 (c. 48), section 65 and Schedules 11 and 16.
(2) S.I. 1984/647 amended by S.I. 1985/1506, 1989/265 and 1991/2035.

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SCHEDULE

AMENDMENTS TO THE PROBATION RULES 1984

1. In this Schedule, any reference to a rule shall be construed as a reference to a rule contained in the Probation Rules 1984.
2. In each place in which the words “inner London area” occur in the Probation Rules 1984, there shall be substituted the words “inner London probation area”.
3. In rule 4(2) the words “for a probation area comprising more than one petty sessions area” shall be omitted.
4. In rule 5—
 - (a) paragraph (2) shall be omitted;
 - (b) in paragraph (1) the words “probation committee for a probation area constituted by one petty sessions area or a” and “for a probation area which comprises more than one petty sessions area” shall be omitted; and
 - (c) in paragraph (3) the words “probation committee for a probation area constituted by one petty sessions area or a” shall be omitted.
5. Paragraph (1) of rules 10 and 12 shall be omitted.
6. In rule 20(1) the words “for a probation area which comprises more than one petty sessions area” shall be omitted.
7. In rule 28 the words “which comprises more than one petty sessions area” shall be omitted.
8. In rule 29—
 - (a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A probation committee may appoint such number of persons to the rank of Deputy Chief Probation Officer as the Secretary of State may approve.”;
 - (b) after paragraph (1) there shall be inserted the following—

“(1A) Subject to paragraph 3(1)(a) of Schedule 3 to the Powers of Criminal Courts Act 1973(3), a probation committee may appoint such number of persons to the ranks of Assistant Chief Probation Officer and Senior Probation Officer as it considers necessary for the proper fulfilment of its duties under paragraph 3 of that Schedule and these Rules.”;
 - (c) in paragraph (2) the words “or Senior Probation Officer in charge of a probation area” shall be omitted; and
 - (d) in paragraph (3) for the words “professional” to the end of the paragraph there shall be substituted the words “educational and professional qualifications and details of his previous and present employment and in particular of any managerial experience.”.
9. In rule 41 the words “not exceeding an amount authorised by the Secretary of State” shall be omitted.
10. For rules 50 and 50A there shall be substituted the following rules—
 - “50. In this Part of these rules—

“responsible authority” means—

 - (a) in relation to a probation committee for a probation area other than the inner London probation area, the local authority in whose area that probation area is situated; and

(3) Paragraph 3(1)(a) was amended by section 94(2)(a) of the Criminal Justice Act 1991 (c. 53).

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- (b) in relation to the probation committee for the inner London probation area—
 - (i) the Receiver for the metropolitan police district; and
 - (ii) where that area includes one or more petty sessions areas outside the inner London area, the local authority or authorities in whose area or areas that petty sessions area or those petty sessions areas is or are situated;

“metropolitan probation area” means any probation area which is situated in the areas of two or more local authorities all of which are councils of metropolitan districts or outer London boroughs or any of which is the council of such a district or borough;

“financial year” means a twelve month period commencing with the first day of April;

“original estimate” means an estimate of expenses sent under rule 50A(1) below;

“specified expenditure” means the expenses of a probation committee which one or more responsible authority is liable to defray under paragraph 15(1) of Schedule 3 to the Powers of Criminal Courts Act 1973, other than—

- (a) by way of payments under paragraph 1(1) of Schedule 2 to these Rules;
- (b) for capital purposes (construed in accordance with section 40 of the Local Government and Housing Act 1989⁽⁴⁾);
- (c) arising from the discharge of any liability of a local authority in respect of money borrowed to finance expenditure for capital purposes (as so construed) or a credit arrangement (within the meaning of section 48 of the Local Government and Housing Act 1989) entered into by a local authority;
- (d) arising from the assignment of probation officers to institutions to which the Prison Act 1952⁽⁵⁾ applies under rule 20(4) of these Rules.

50A.—(1) A probation committee shall send to its responsible authority and, in addition, in the case of the probation committee for the inner London probation area, to the Secretary of state, on or before a day in each year specified by him, an estimate of the expenses which the committee expects to incur during the ensuing financial year.

(2) The probation committee, other than a committee for a metropolitan probation area and the committee for the inner London probation area, shall, before incurring such expenditure, consult its responsible authority as to any such expenses which involve specified expenditure.

(3) If a probation committee, other than the committee for the inner London probation area, proposes to incur specified expenditure in excess of its original estimate as it relates to such expenditure, it shall, before incurring the proposed expenditure, send a supplementary estimate relating to the proposed expenditure to its responsible authority.

(4) A probation committee which sends a supplementary estimate under paragraph (3) above, other than a committee for a metropolitan probation area, shall, before incurring the proposed expenditure to which the estimate relates, consult its responsible authority.

(5) If a probation committee, other than the committee for the inner London probation area, proposes to incur expenditure under paragraph 1(1) of Schedule 2 to these Rules in excess of its original estimate as it relates to such expenditure, it shall, before incurring the proposed expenditure, send a supplementary estimate relating to the proposed expenditure to its responsible authority.

(6) If a responsible authority objects to any proposed specified expenditure, the probation committee or the responsible authority, other than the probation committee for the inner

(4) 1989 c. 42.

(5) 1952 c. 52.

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London probation area or its responsible authority, may, in the case of expenditure included in an original estimate, on or before a day in each year specified by the Secretary of State, and in the case of expenditure included in a supplementary estimate sent under paragraph (3) above, not later than one month after the date on which the supplementary estimate is sent, refer the matter to the Secretary of State for determination by him after considering any observations by the responsible authority or probation committee.

50B.—(1) This rule applies to a probation committee, other than the committee for the inner London probation area, whose specified expenditure in a financial year was less than each of—

- (a) its estimated specified expenditure for that year; and
 - (b) the amount which, in relation to that specified expenditure and that year, was determined by the Secretary of State under section 51(3A)(b) of the Powers of Criminal Courts Act 1973⁽⁶⁾ or, where he made more than one such determination in that year, the amount so determined on the last such occasion.
- (a) (2) Subject to sub-paragraph (b) below, the underspend, in relation to a financial year, of a probation committee to which this rule applies is the amount which is the determined percentage of the amount referred to in paragraph (1) (b) above for that year unless the estimated specified expenditure for that year is less than that amount in which case it is the amount which is the determined percentage of the estimated specified expenditure.
- (b) Sub-paragraph (a) above does not apply where the amount which is the determined percentage of the amount referred to in paragraph (1)(b) above or of the estimated specified expenditure is greater than each of the amounts computed under sub- paragraph (c) below.
- (c) The amounts computed under this sub-paragraph are (i) the difference between the committee’s estimated specified expenditure and its specified expenditure for that financial year and (ii) the difference between the amount referred to in paragraph (1)(b) above and the committee’s specified expenditure for that year.
- (d) Where sub-paragraph (a) above does not apply the underspend, in relation to that financial year, of a probation committee to which this rule applies is the difference between the amount referred to in paragraph (1)(b) above for that year and the committee’s specified expenditure unless that amount is greater than the estimated specified expenditure in which case it is the difference between its estimated specified expenditure and its specified expenditure for that year.
- (e) In this paragraph, “determined percentage” means the percentage which is for the time being determined by the Secretary of State.
- (f) (i) the “estimated specified expenditure”, in relation to any financial year, of a probation committee to which this rule applies means the amount of specified expenditure which, for the time being, it expects to incur in that year together with the amount of any underspend for the previous financial year of which the secretary of state was notified by that committee’s responsible authority;
- (ii) for the purposes of sub-paragraph (f)(i) above, the amount of specified expenditure which, for the time being the probation committee expects to incur, is the amount as estimated by that committee or, where its responsible authority objects to any such expenditure, as agreed between the committee and its responsible authority

⁽⁶⁾ 1973 c. 62; section 51(3A)(b) was inserted by section 94(1) of the Criminal Justice Act 1991.

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or in default of agreement, where the matter has been referred to the Secretary of State, as determined by him.

(3) A probation committee to which this rule applies shall not be required under rule 50A(3) above to send a supplementary estimate in relation to proposed specified expenditure where—

- (a) the proposed expenditure is equal to or less than the underspend for the previous financial year of that committee, and
- (b) the Secretary of State has been notified of that underspend by the committee's responsible authority on or before a day, specified by the Secretary of State, in the year in which the proposed expenditure is to be incurred.

50C.—(1) This rule applies to a probation committee, other than the committee for the inner London probation area, which proposes to incur specified expenditure in any financial year, whereby, if incurred, the specified expenditure for that year would exceed the amount which, in relation to that specified expenditure and that year, is for the time being determined by the Secretary of State under section 51(3A)(b) of the Powers of Criminal Courts Act 1973.

(2) A probation committee to which this rule applies, shall, before incurring the proposed specified expenditure and before the end of the financial year in which it is to be incurred, obtain approval for such expenditure from its responsible authority.

(3) A probation committee to which this rule applies shall not be required under rule 50A(3) above to send a supplementary estimate in relation to the proposed specified expenditure where the responsible authority of that committee has given its approval for the said specified expenditure.”.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Probation Rules 1984 to make further provision in connection with the cash limit system introduced by section 94 of the Criminal Justice Act 1991 (c. 53) which is to apply to expenditure on the probation service from 1st April 1992. They also make amendments to reflect the combination of the petty sessions areas of inner London and the City of London into the one probation area, the inner London probation area, constituted by the Inner London Probation Area Order 1992 (S.I.1992/348) and in connection with senior appointments and payments to landlords.

Rule 2 and paragraph 2 of the Schedule amend all references in the 1984 Rules to the “inner London area” to references to the “inner London probation area”. Paragraphs 3 to 7 take account of the fact that once the City of London has been combined in the inner London probation area, all probation areas in England and Wales will be constituted by more than one petty sessions area.

Paragraph 8 makes changes in connection with senior appointments. It removes the requirement that the Secretary of State approve the appointments of Senior and Assistant Chief Probation Officers and widens the information required by him regarding appointments of Assistant Chief Probation Officers. Paragraph 9 amends rule 41 to remove the limit on the maximum payments which a committee can make to a landlord.

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Paragraph 10 builds on the system of budgets and estimates for probation committees introduced in the Probation (Amendment) Rules 1991 (S.I. [1991/2035](#)) to reflect the new cash limit system. The new rule 50A replaces the existing rules 50 and 50A and extends its provisions in part to cover the new probation committee for the inner London probation area. The new rule 50B applies to a probation committee whose specified expenditure (as defined in rule 50) in any year is less than its estimate for that expenditure (adjusted to reflect any underspend in the previous year) and the amount determined by the Secretary of State under section 51(3A)(b) of the Powers of Criminal Courts Act 1973. This rule enables the committee to incur some additional specified expenditure in the following financial year, without the need for a supplementary estimate. The new rule 50C provides that, with the approval of a committee's paying authority, specified expenditure above the amount determined by the Secretary of State may be incurred. Where such approval has been obtained, supplementary estimates are not required for proposed specified expenditure up to the higher amount.

These Rules come into force on 1st April 1992.