



# Criminal Justice Act 1991

## 1991 CHAPTER 53

### PART I

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Probation and community service orders*

### 8 Probation orders

(1) For section 2 of the 1973 Act there shall be substituted the following section—

#### *“Probation*

##### **2 Probation orders**

- (1) Where a court by or before which a person of or over the age of sixteen years is convicted of an offence (not being an offence for which the sentence is fixed by law) is of the opinion that the supervision of the offender by a probation officer is desirable in the interests of—
- securing the rehabilitation of the offender; or
  - protecting the public from harm from him or preventing the commission by him of further offences,

the court may make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer for a period specified in the order of not less than six months nor more than three years.

For the purposes of this subsection the age of a person shall be deemed to be that which it appears to the court to be after considering any available evidence.

- (2) A probation order shall specify the petty sessions area in which the offender resides or will reside; and the offender shall, subject to paragraph 12 of Schedule 2 to the Criminal Justice Act 1991 (offenders who change their

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residence), be required to be under the supervision of a probation officer appointed for or assigned to that area.

- (3) Before making a probation order, the court shall explain to the offender in ordinary language—
    - (a) the effect of the order (including any additional requirements proposed to be included in the order in accordance with section 3 below);
    - (b) the consequences which may follow under Schedule 2 to the Criminal Justice Act 1991 if he fails to comply with any of the requirements of the order; and
    - (c) that the court has under that Schedule power to review the order on the application either of the offender or of the supervising officer,
 and the court shall not make the order unless he expresses his willingness to comply with its requirements.
  - (4) The court by which a probation order is made shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy—
    - (a) to the offender;
    - (b) to the probation officer responsible for the offender’s supervision; and
    - (c) to the person in charge of any institution in which the offender is required by the order to reside.
  - (5) The court by which such an order is made shall also, except where it itself acts for the petty sessions area specified in the order, send to the clerk to the justices for that area—
    - (a) a copy of the order; and
    - (b) such documents and information relating to the case as it considers likely to be of assistance to a court acting for that area in the exercise of its functions in relation to the order.
  - (6) An offender in respect of whom a probation order is made shall keep in touch with the probation officer responsible for his supervision in accordance with such instructions as he may from time to time be given by that officer and shall notify him of any change of address.
  - (7) The Secretary of State may by order direct that subsection (1) above shall be amended by substituting, for the minimum or maximum period specified in that subsection as originally enacted or as previously amended under this subsection, such period as may be specified in the order.
  - (8) An order under subsection (7) above may make in paragraph 13(2)(a)(i) of Schedule 2 to the Criminal Justice Act 1991 any amendment which the Secretary of State thinks necessary in consequence of any substitution made by the order.”
- (2) Section 13 of that Act (effect of probation and discharge) shall cease to have effect so far as relating to offenders placed on probation.
  - (3) For the purpose of rearranging Part I of that Act in consequence of the amendments made by subsections (1) and (2) above, that Part shall have effect subject to the following amendments, namely—
    - (a) after section 1 there shall be inserted as sections 1A to 1C the provisions set out in Part I of Schedule 1 to this Act;

- (b) sections 7 and 9 (which are re-enacted with minor modifications by sections 1A and 1B) shall cease to have effect;
- (c) sections 8 and 13 (which, so far as relating to discharged offenders, are re-enacted with minor modifications by sections 1B and 1C) shall cease to have effect so far as so relating; and
- (d) immediately before section 11 there shall be inserted the following cross heading—

*“Probation and discharge”.*

## **9 Additional requirements which may be included in such orders**

- (1) For sections 3 to 4B of the 1973 Act there shall be substituted the following section—

### **“3 Additional requirements which may be included in such orders**

- (1) Subject to subsection (2) below, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers desirable in the interests of—
    - (a) securing the rehabilitation of the offender; or
    - (b) protecting the public from harm from him or preventing the commission by him of further offences.
  - (2) Without prejudice to the power of the court under section 35 of this Act to make a compensation order, the payment of sums by way of damages for injury or compensation for loss shall not be included among the additional requirements of a probation order.
  - (3) Without prejudice to the generality of subsection (1) above, the additional requirements which may be included in a probation order shall include the requirements which are authorised by Schedule 1A to this Act.”
- (2) After Schedule 1 to that Act there shall be inserted as Schedule 1A the provisions set out in Part II of Schedule 1 to this Act.

## **10 Community service orders**

- (1) In subsection (1) of section 14 of the 1973 Act (community service orders in respect of offenders), the words “instead of dealing with him in any other way” shall cease to have effect.
- (2) In subsection (1A) of that section, for paragraph (b) there shall be substituted the following paragraph—

“(b) not more than 240.”
- (3) For subsections (2) and (2A) of that section there shall be substituted the following subsections—
  - “(2) A court shall not make a community service order in respect of any offender unless the offender consents and the court, after hearing (if the court thinks it necessary) a probation officer or social worker of a local authority social

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services department, is satisfied that the offender is a suitable person to perform work under such an order.

(2A) Subject to paragraphs 3 and 4 of Schedule 3 to the Criminal Justice Act 1991 (reciprocal enforcement of certain orders) a court shall not make a community service order in respect of an offender unless it is satisfied that provision for him to perform work under such an order can be made under the arrangements for persons to perform work under such orders which exist in the petty sessions area in which he resides or will reside.”

(4) In section 15(1) of that Act (obligations of persons subject to community service orders), for paragraph (a) there shall be substituted the following paragraph—

“(a) keep in touch with the relevant officer in accordance with such instructions as he may from time to time be given by that officer and notify him of any change of address;”.

## **11 Orders combining probation and community service**

(1) Where a court by or before which a person of or over the age of sixteen years is convicted of an offence punishable with imprisonment (not being an offence for which the sentence is fixed by law) is of the opinion mentioned in subsection (2) below, the court may make a combination order, that is to say, an order requiring him both—

- (a) to be under the supervision of a probation officer for a period specified in the order, being not less than twelve months nor more than three years; and
- (b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than 40 nor more than 100.

(2) The opinion referred to in subsection (1) above is that the making of a combination order is desirable in the interests of—

- (a) securing the rehabilitation of the offender; or
- (b) protecting the public from harm from him or preventing the commission by him of further offences.

(3) Subject to subsection (1) above, Part I of the 1973 Act shall apply in relation to combination orders—

- (a) in so far as they impose such a requirement as is mentioned in paragraph (a) of that subsection, as if they were probation orders; and
- (b) in so far as they impose such a requirement as is mentioned in paragraph (b) of that subsection, as if they were community service orders.