

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 2: Sentencing

Section 38: Imposition of unpaid work requirement for breach of community order

304. This section amends paragraphs 9 and 10 of Schedule 8 to the 2003 Act, which governs the way in which the courts deal with offenders who breach their community orders. One of the three ways in which a court must deal with such an offender is by amending the terms of the community order so as to impose more onerous requirements under paragraphs 9(1)(a) and 10(1)(a). Where the court deals with an offender in this way, this section reduces the minimum period of unpaid work that may be imposed for breach of a community order from 40 to 20 hours, where the community order does not already contain an unpaid work requirement. *Subsection (2)* gives this effect in the magistrates' courts and *subsection (3)* in the Crown Court.
305. The section does nothing to alter the position regarding breach of a community order that already contains an unpaid work requirement; in such a case there is no minimum amount by which the period of unpaid work may be increased. This section affects neither the 40 hour minimum period of unpaid work that may be imposed as a requirement of a community order at the point of sentence, nor the existing maximum of 300 hours that applies to unpaid work, whether imposed as a sentence or for breach.