
STATUTORY INSTRUMENTS

1991 No. 2035

PROBATION

The Probation (Amendment) Rules 1991

<i>Made</i>	- - - -	<i>9th September 1991</i>
<i>Laid before Parliament</i>		<i>16th September 1991</i>
<i>Coming into force</i>		
<i>For the purposes of Part I of the Schedule</i>		<i>14th October 1991</i>
<i>For all other purposes</i>		<i>31st October 1991</i>

In exercise of the powers conferred upon me by paragraphs 8 and 18(1)(a) 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 1991.
2. These Rules shall come into force for the purposes of Part I of the Schedule to these Rules on 14th October 1991 and for all other purposes on 31st October 1991.
3. The Probation Rules 1984(2) shall have effect subject to the amendments specified in the Schedule to these Rules.

Home Office
9th September 1991

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

(1) 1973 c. 62; paragraph 18(1) 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 and 1989/265.

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SCHEDULE

Rule 3

AMENDMENTS TO THE PROBATION RULES 1984

PART I

1. In Rule 2 after the word “1969” there shall be inserted the words “or section 31 of the Children Act 1989”(3).
2. In Rule 35—
 - (a) in paragraph (a) for the words from “1958” to the end of that paragraph there shall be substituted the words “1976(4) or undertake the supervision of a child who is subject to an order for his supervision made under section 26(1)(a) of that Act”;
 - (b) after paragraph (h) there shall be added the following paragraphs—
 - “(i) make a report to the court on matters relating to the welfare of a child under section 7 of the Children Act 1989;
 - (j) undertake the supervision of a child who is subject to a supervision order made under section 31 of the Children Act 1989;
 - (k) advise, assist and (where appropriate) befriend any person named in a family assistance order made under section 16 of the Children Act 1989.”.

PART II

- 3.—(1) For paragraphs (1) and (2) of rule 50 there shall be substituted the following paragraphs—
 - “(1) A probation committee, other than the probation committee for the inner London area or the City of London, shall send to each local authority which will be liable under paragraph 15 of Schedule 3 to the Powers of Criminal Courts Act 1973 to defray or contribute to the expenses of the committee, on or before a day in each year specified by the Secretary of State, an estimate of the expenses which the committee expects to incur during the ensuing financial year.
 - (2) The probation committee, other than a probation committee for 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, shall consult each local authority to whom an estimate is sent under paragraph (1) above, as to any such expenses which involve specified expenditure.
 - (2A) If a probation committee proposes to incur specified expenditure in excess of the estimate of expenses in relation to that expenditure sent under paragraph (1) above, it shall send a supplementary estimate relating to that proposed expenditure to each local authority which will be liable under the said paragraph 15, and in the case of a probation committee to which paragraph (2) above applies, consult each such local authority.
 - (2B) If a probation committee proposes to incur expenditure under paragraph 1(1) of Schedule 2 to these Rules in excess of the estimate of expenses in relation to that expenditure sent under paragraph (1) above, it shall send a supplementary estimate relating to that proposed expenditure to each local authority which will be so liable under the said paragraph 15.

(3) 1989 c. 41.

(4) 1976 c. 36.

(2C) If a local authority objects to any proposed specified expenditure, the local authority or probation committee may, in the case of expenditure included in an estimate sent under paragraph (1) above, 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 (2A) 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 after considering any observations by the local authority or probation committee.

(2D) In this rule—

“financial year” means a twelve month period commencing with the first day of April;
“specified expenditure” means the expenses of a probation committee which one or more local 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⁽⁵⁾);
- (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⁽⁶⁾ applies, under rule 20(4) of these Rules.”.

(2) In paragraph (3) of rule 50, for the words “such an estimate” there shall be substituted the words, “an estimate sent by the committee under paragraph (1) of this rule as in force on 30th October 1991”, and for the words “each such local authority” there shall be substituted the words “each such local authority to whom such an estimate was sent”.

(3) In paragraph (4) of rule 50, after the word “expenditure” there shall be inserted the words “in the financial year ending 31st March 1992”.

(4) Paragraph (5) of rule 50 shall be omitted.

4.—(1) Rule 50A(2) shall be omitted.

(2) In paragraph (3) of rule 50A for the words “such an estimate” there shall be substituted the words “an estimate sent by the committee under paragraph (2) of this rule as in force on 30th October 1991” and for the words “the said Schedule” there shall be substituted “Schedule 3 to the Powers of Criminal Courts Act 1973”.

(3) In paragraph (4) of rule 50A after the word “expenditure” in the first place in which it occurs, there shall be inserted the words “in the financial year ending 31st March 1992” and there shall be omitted the words from “, in the case of expenditure included in an estimate” to “of that estimate, and”.

(4) Paragraph (5) of rule 50A shall be omitted.

(5) 1989 c. 42.

(6) 1952 c. 52.

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Probation Rules 1984 to take account of 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 April 1992 and of changes in probation officers' duties introduced by the Children Act 1989.

Rule 3 and Part I of the Schedule to the Rules add to rule 35 of the 1984 Rules additional duties of probation officers in consequence of the Children Act 1989. These amendments come into force on 14th October 1991. The amendments in consequence of the cash limiting system come into force on 31st October 1991.

Rule 3 and Part II of the Schedule amend rule 50 of the 1984 Rules by requiring each probation committee, other than the committees for the Inner London Area and the City of London, to send an estimate of the committee's expenses for the following financial year to the local authority liable to defray these expenses by a date specified by the Secretary of State. A committee for a shire county must also consult the local authority in relation to any specified expenditure (defined in new rule 50(2D)) included in its estimate. New rule 50(2A) and (2B) require a committee to send a supplementary estimate where it proposes to incur specified expenditure or expenditure under paragraph 1(1) of Schedule 2 to the 1984 Rules which is not covered by its original estimate and, in the case of a committee for a shire county, to consult its local authority where the supplementary estimate relates to specified expenditure. Where a local authority objects to any specified expenditure included in an estimate or a supplementary estimate, new rule 50(2C) provides for the matter to be referred to the Secretary of State for determination.

Other amendments to rule 50, by paragraph 3 of the Schedule to these rules, and amendments to rule 50A, by paragraph 4 of that Schedule, amend the present arrangements for supplementary expenditure to limit their application to the remaining part of the current financial year only.