

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

EXPLANATORY NOTES

COMMENTARY

Part 3: Sentencing and punishment of offenders

Chapter 1: Sentencing

Community orders

Section 67: Breach of community order

378. **Section 67** amends Schedule 8 to the 1991 Act, which makes provision about breach of a requirement imposed as part of a community order and a court's powers in relation to such a breach.
379. **Schedule 8** already provides a court with the option of dealing with breach of an order by either varying the order to make its requirements more onerous (for example, by extending the duration of a requirement or adding a new one), or revoking the order and re-sentencing the offender as if the offender had just been convicted. There is currently no option to take no action.
380. **Schedule 8** provides that in dealing with an offender for breach the court must take into account the extent to which he has already complied with the order. If the offender has willfully and persistently failed to comply with a community order the court can re-sentence the offender to custody even if the original offence was not serious enough to justify a custodial sentence.
381. The section gives a court the option of taking no action in relation to a breach. It also gives a court a new power to fine an offender in relation to a breach (and in that case the order will continue in force).
382. **Subsection (2)** amends paragraph 9(1) of Schedule 8 in two ways: it provides a magistrates' court with the option of taking no action; and it provides the court with a new power to impose a fine on the offender of not more than £2,500 in relation to the breach.
383. **Subsection (5)** makes substantially the same provision as **subsection (2)**, but in relation to the Crown Court
384. **Subsection (7)** inserts a new provision giving the Secretary of State a power by order (subject to the negative Parliamentary procedure) to amend the maximum amount of a fine which may be imposed by the magistrates' court or Crown Court in relation to a breach of a community order. The power may only be exercised if it appears to the Secretary of State that there has been a change in the value of money. The power replicates the power of the courts in relation to breach of a youth rehabilitation order (see paragraph 10 of Schedule 2 to the 2008 Act).