
STATUTORY INSTRUMENTS

1992 No. 2077

PROBATION

The Probation (Amendment) (No. 2) Rules 1992

Made - - - - - *28th August 1992*
Laid before Parliament *8th September 1992*
Coming into force - - *1st October 1992*

In exercise of the powers conferred upon me by paragraphs 8 and 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) (No. 2) Rules 1992, and shall come into force on 1st October 1992.
2. The Probation Rules 1984(2) shall have effect subject to the amendments specified in the Schedule to these Rules.

Home Office
28th August 1992

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

(1) 1973 c. 62; relevant amendments are made by the Criminal Justice Act 1982 (c. 48), section 65 and Schedules 11 and 16; and the Criminal Justice Act 1991 (c. 53), Schedule 11.
(2) S.I. 1984/647, amended by S.I. 1985/1506, 1989/265, 1991/2035, 1992/349.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 2

AMENDMENTS TO THE PROBATION RULES 1984

1. In rule 2—
 - (a) at the beginning there shall be inserted “(1)”;
 - (b) before the definition of “elected member” there shall be inserted the following definition—

““appropriate court” has the meaning given by rule 38(3) of these Rules;”
 - (c) after the definition of “elected member” there shall be inserted the following definition—

““Inspector of probation” means an inspector of probation appointed by the Secretary of State under section 73 of the Criminal Justice Act 1991(3);”;

and
 - (d) at the end there shall be added the following paragraph—

“(2) These Rules shall apply in relation to combination orders made under section 11 of the Criminal Justice Act 1991—

 - (a) in so far as they impose such a requirement as is mentioned in section 11(1)(a) of that Act, as if they were probation orders; and
 - (b) in so far as they impose such a requirement as is mentioned in section 11(1)(b) of that Act, as if they were community service orders.”.
- 2.—(1) For paragraph (1) of rule 5 there shall be substituted the following paragraph—

“(1) An elected member of a probation liaison committee shall, without prejudice to any re-appointment, be appointed to hold office for such term, not exceeding three years, as the justices acting for the petty sessions area concerned may from time to time determine.”.

(2) Paragraph (3) of rule 5 shall be re-numbered paragraph (2).
3. In rule 20(3) for “rule 2(2) of the Matrimonial Causes Rules 1977(4)” there shall be substituted “rule 1.2(1) of the Family Proceedings Rules 1991(5)”.
4. In rules 22(3) and 31(2), for “a probation inspector appointed by the Secretary of State” there shall be substituted, “an inspector of probation”.
5. For rule 23 there shall be substituted the following rule—

“**23.** A probation committee shall ensure that an inspector of probation is allowed access to accommodation provided by the committee or by the Receiver, or a local authority, under paragraph 17 of Schedule 3 to the Powers of Criminal Courts Act 1973(6) and shall take all reasonable steps to afford to such inspector other assistance for the conduct of an inspection on the probation service for the committee’s area or of the activities carried out by or on behalf of that service including all such other assistance as the inspector seeks.”.
6. In rule 33(c) for “, 15 and 17” there shall be substituted “and 15”.
7. In rule 35 at the end there shall be added the following paragraph—

“(1) at the request of the court, assist the parties in family proceedings under Part II of the Children Act 1989(7) in the resolution of disputes concerning the welfare of a child.”.

(3) 1991 c. 53.

(4) S.I. 1977/344.

(5) S.I. 1991/1247.

(6) Paragraph 17 was amended by section 65 of the Criminal Justice Act 1982 (c. 48) and section 75(6) of the Criminal Justice Act 1991.

(7) 1989 c. 41.

8. In rule 38—

- (a) in paragraphs (1) and (2) there shall be substituted “appropriate court” for “supervising court” in each place in which the words appear except for the second place in which they appear in paragraph (1) and in that paragraph “not being the supervising court” shall be omitted; and
- (b) after paragraph (2) there shall be added the following paragraph—

“(3) In this rule and rule 39 below “the appropriate court”, in the case of a person subject to a probation or community service order, is a magistrates' court acting for the petty sessions area specified in the order and, in the case of a person subject to a supervision order, is a relevant court, within the meaning of section 15(11) of the Children and Young Persons Act 1969⁽⁸⁾, acting for the petty sessions area named in the order.”

9. For rule 39 there shall be substituted the following rule—

“**39.**—(1) Subject to paragraph (3) below, paragraph (2) of this rule applies where a probation officer under any of the duties mentioned in rule 33 above in respect of a probation, community service or supervision order, becomes aware that the person subject to any such order proposes to change or has changed his residence from the petty sessions area specified in the order, to another petty sessions area in England and Wales or to Scotland or Northern Ireland save where such person is subject to a combination order and proposes to change or has changed his residence to Northern Ireland.

(2) Where this paragraph applies, the probation officer concerned shall apply to the appropriate court, in the case of a person subject to a probation or community service order, to amend the order in accordance with Schedule 2 or Schedules 2 and 3 to the Criminal Justice Act 1991, as appropriate, or, in the case of a person subject to a supervision order, to amend the order in pursuance of section 15 of the Children and Young Persons Act 1969 or for the order to be dealt with under section 73(1) of the Social Work (Scotland) Act 1968⁽⁹⁾.

(3) Paragraph (2) above shall not apply where the person subject to the order proposes to change or has changed his residence from one petty sessions area to another in England and Wales if—

- (a) the probation officer has reason to believe that that person is unlikely to reside there for a reasonable time; or
- (b) the probation officer has ascertained from the appropriate court that that court and the court acting for the petty sessions area where the person proposes to reside or is residing are satisfied that, having regard to the special circumstances of the case, it is desirable that the person should remain under his supervision.

(4) Where it appears to a probation officer that an application can properly be made for the revocation, discharge or amendment (otherwise than as provided by paragraph (1) of this rule) of a probation, community service or supervision order in respect of which he is subject to any of the duties mentioned in rule 33 above, he shall make such application unless the person subject to the order, or any other person entitled to do so, makes the application.”

10. In rule 40 for “his mental condition as a voluntary or resident” there shall be substituted “his mental condition or his drug or alcohol dependency as a resident or non-resident”.

⁽⁸⁾ 1969 c. 54; section 15 is as substituted by section 66 of, and Schedule 7 to, the Criminal Justice Act 1991.

⁽⁹⁾ 1968 c. 49.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules further amend the Probation Rules 1984. Paragraphs 1, 4, 6, 8, 9 and 10 of the Schedule to these Rules take account of miscellaneous provisions of the Criminal Justice Act 1991 (c. 53) which take effect on 1st October 1992. Paragraph 1 provides that references to probation orders and community service orders in the 1984 Rules are to include references to the probation and community service elements respectively of the new combination order introduced by section 11 of the 1991 Act. This paragraph provides a definition of inspector of probation reflecting the creation of the Inspectorate of Probation in section 73 of the 1991 Act and paragraph 4 makes consequential drafting amendments to the Rules. Paragraph 5 substitutes a new rule 23 ensuring that the inspector of probation has access to accommodation and other assistance for the purpose of inspecting the probation service. Paragraph 9 substitutes a new rule 39 which makes provision with regard to applications to court for the amendment, revocation or discharge of probation, community service, combination and supervision orders. Paragraphs 6, 8 and 10 contain further amendments consequential to the 1991 Act's provisions on community sentences.

Paragraph 2 amends rule 5 which concerns the length of appointments of members of probation liaison committees.

Paragraph 3 makes an amendment consequential to the substitution of the Matrimonial Causes Rules 1977 by the Family Proceedings Rules 1991. Paragraph 7 introduces a new duty for probation officers to assist in the resolution of disputes between the parties in family proceedings under Part II of the Children Act 1989 concerning the welfare of a child.

These Rules come into force on 1st October 1992.