

2008 No. 504 (C. 18)

PROBATION, ENGLAND AND WALES

PRISONS, ENGLAND AND WALES

**The Offender Management Act 2007 (Commencement No. 2
and Transitional Provision) Order 2008**

Made - - - -

25th February 2008

The Secretary of State, in exercise of the powers conferred by section 41 of the Offender Management Act 2007(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Offender Management Act 2007 (Commencement No.2 and Transitional Provision) Order 2008.

(2) In this Order “the Act” means the Offender Management Act 2007.

Provisions coming into force in England and Wales on 1st March 2008

2. The day appointed for the coming into force of the following provisions of the Act is 1st March 2008—

- (a) section 5 (power to establish probation trusts) and Schedule 1 (probation trusts: further provisions); and
- (b) section 11(2) (transfer of property and staff etc) and Schedule 2 (transfers of property etc and staff in connection with probation services arrangements).

Provisions coming into force in England and Wales on 1st April 2008

3. The day appointed for the coming into force of the following provisions of the Act is 1st April 2008—

- (a) section 3(6) (power to make arrangements for the provision of probation services);
- (b) section 7(1) and (2) (national standards for the management of offenders);
- (c) section 9 (officers of providers of probation services);
- (d) section 12(1) and (2) (the inspectorate);
- (e) section 13 (approved premises);
- (f) section 14 (disclosure for offender management purposes);
- (g) section 21 (assisting a prisoner to escape);

- (h) section 22 (conveyance of prohibited articles into or out of prison);
- (i) section 23 (other offences relating to prison security);
- (j) section 24 (offences under sections 40B to 40D of the Prison Act 1952: extension of Crown Immunity);
- (k) section 39 (minor and consequential amendments, transitionals, and repeals) insofar as it relates to the entries in Schedules 3, 4 and 5 specified in paragraphs (l), (m) (n) and (o) of this article;
- (l) Part 1 (new arrangements for the provision of probation services) of Schedule 3 (minor and consequential amendments);
- (m) Parts 1 (provisions relating to Part 1) and 2 (provisions relating to Part 2) of Schedule 4 (transitional and transitory provisions and savings);
- (n) Part 1 (probation services) of Schedule 5 (repeals), the entries relating to—
 - (i) sections 6(1), 9 and 25 of the Criminal Justice and Court Services Act 2000(a); and
 - (ii) section 104(4) of the Local Government and Public Involvement in Health Act 2007(b); and
- (o) Part 2 (prisons) of Schedule 5 (repeals), the entry relating to section 41 of the Prison Act 1952(c).

Provisions coming into force in the specified areas on 1st April 2008 and transitional provision

4.—(1) The day specified for the coming into force of the following provisions of the Act in relation to the areas specified in paragraph (2) is 1st April 2008—

- (a) section 1 (meaning of “probation purposes”);
- (b) section 2 (responsibility for ensuring the provision of probation services);
- (c) section 3(1) to (5), and (7) (power to make arrangements for the provision of probation services);
- (d) section 4 (restriction on certain arrangements under section 3);
- (e) section 6 (power to make grants for probation purposes etc);
- (f) section 7(3) (national standards for the management of offenders);
- (g) section 8 (annual plans);
- (h) section 10 (national framework for qualifications of officers);
- (i) section 11(1) (abolition of local probation boards);
- (j) section 12(3) (the inspectorate);
- (k) section 15 (power to repeal section 4);
- (l) section 39 (minor and consequential amendments, transitionals, and repeals) insofar as it relates to the entries in Schedule 5 specified in sub-paragraph (m); and
- (m) Part 1 (probation services) of Schedule 5 (repeals), the entries relating to the following provisions of the Criminal Justice and Court Services Act 2000—
 - (i) sections 1 to 5;
 - (ii) section 8;
 - (iii) section 10;
 - (iv) section 18;

(a) 2000 c.43

(b) 2007 c.28. In Part 1 of Schedule 5 the entry relating to the Local Government and Public Involvement in Health Act 2007 (c.28) was amended by section 118(3) and (5)(a) and (b) of the Local Government and Public Involvement in Health Act 2007.

(c) 1952 c.52

- (v) section 20(2);
- (vi) section 21(5);
- (vii) section 22; and
- (viii) Schedule 1.

(2) The areas specified are the following police areas(a)—

- (a) Humberside(b);
- (b) Leicestershire;
- (c) Merseyside;
- (d) West Mercia;
- (e) Dyfed Powys; and
- (f) South Wales.

5. Until section 2(1) of the Act comes into force for the remaining areas in England and Wales, the reference in that subsection to “throughout England and Wales” is to be read as “in relation to the areas for which this subsection is in force”.

Signed by the authority of the Secretary of State

25th February 2008

David Hanson
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the second commencement order under the Offender Management Act 2007(c) (“the Act”). It brings into force the new offences relating to prison security in sections 21 to 24 and the new arrangements for the provision of probation services in Part 1 of the Act as described below.

Sections 21 to 24 of the Act which contain the provisions on the new offences relating to prison security are commenced by Article 3 of this Order on 1st April 2008 in relation to England and Wales.

The new arrangements for the provision of probation services in Part 1 of the Act are to be brought into force by geographical areas in phases, with the first phase being brought into force by this Order. Whilst there are a number of provisions in Part 1 which this Order commences in relation to England and Wales, the Order commences the other provisions in Part 1 in relation to 6 areas specified in Article 4(2).

Article 2 of this Order commences section 5 which gives the Secretary of State the power to establish probation trusts by order, Schedule 1 which contains further provisions on probation trusts, and section 11(2) and Schedule 2 of the Act which contain provisions on the transfer of property and staff, in relation to England and Wales on 1st March 2008.

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- (a) The term “police areas” has the meaning ascribed to it in section 101(1) of the Police Act 1996 (c.16) by virtue of Schedule 1 to the Interpretation Act 1978 (c.30). The police areas are listed in Schedule 1 to the Police Act 1996.
 - (b) The reference to “Humberside” is to be substituted by “Humber” by section 129(a) of the Police Act 1997 (c.50), from a date to be appointed.
 - (c) 2007 c.21

In addition to sections 21 to 24 of the Act, article 3 lists the provisions in Part 1 that come into force in England and Wales on 1st April 2008. These include the provisions on national standards for the management of offenders (section 7(1) and (2)), the Inspectorate (section 12(1) and (2)), approved premises (section 13) and section 14 (disclosure for offender management purposes).

Article 4(1) brings into force the other provisions in Part 1 of the Act on 1st April 2008 in relation to areas specified in article 4(2) of this Order. The specified areas are the police areas of Humberside, Leicestershire, Merseyside, West Mercia, Dyfed Powys and South Wales. The specified geographical areas are based on the probation areas under the current probation structure in Part 1 of the Criminal Justice and Court Services Act 2000(a) (“CJCSA 2000”) which are coterminous with police areas (section 4(5) of the CJCSA 2000). The current arrangements in Part 1 of the CJCSA 2000 remain in place in the remaining geographical areas until Part 1 is brought into force for those areas by a further commencement order(s).

This Order also contains a transitional provision in Article 5 in relation to section 2(1) of the Act. Section 2(1) provides that it is the function of the Secretary of State to ensure that sufficient provision of probation services is made throughout England and Wales. Until section 2(1) is commenced for the rest of England and Wales the words “throughout England and Wales” in that subsection are to be read as “in relation to the areas for which this subsection is in force”.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by a commencement order made before the date of this Order. Sections 31, 39 (partially) and Part 3 of Schedule 5 (for remaining purposes) will be brought into force on 1st May 2008 by a commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 16 to 20	1.11.2007	2007/3001
Sections 25 to 27	1.11.2007	2007/3001
Section 31	1.5.2008	2007/3001
Sections 32 to 38	1.11.2007	2007/3001
Section 39 (partially)	1.11.2007	2007/3001
Section 39 (partially)	1.5.2008	2007/3001
Section 40	1.11.2007	2007/3001
Schedule 3, Parts 2, 3 and 4	1.11.2007	2007/3001
Schedule 4, Part 3	1.11.2007	2007/3001
Schedule 5, Part 2 (partially)	1.11.2007	2007/3001
Schedule 5, Part 3 (partially)	1.11.2007	2007/3001
Schedule 5, Part 3 (for remaining purposes)	1.5.2008	2007/3001

(a) 2000 c.43

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