

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 66: Duration of community order

373. **Section 66** makes provision about when a community order comes to an end.
374. Currently a community order must specify a date by which all the requirements in the order must have been complied with. This date may not be more than three years after the date of the order. However, there is no express provision about when the order itself comes to an end.
375. *Subsections (1) and (2)* amend section 177(5) of the 1991 Act and insert new subsections (5A) and (5B). These amendments provide that a community order comes to an end on the date specified under section 177(5). (This is subject to specific provision in relation to an unpaid work requirement, where the order continues in force until the requirement is complied with.) Where an order imposes two or more requirements, a court may specify end dates for each of those requirements, and where it does so, the last of those end dates must be the same as the date specified under section 177(5) (that is, the date at which the order comes to an end).
376. *Subsections (3) and (4)* allow magistrates' courts and the Crown Court respectively to extend the duration of an order by up to 6 months where the offender has breached a requirement in an order.
377. *Subsection (5)* allows magistrates' courts and the Crown Court to extend the duration of an order otherwise than for breach of the order.

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.

These notes refer to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) which received Royal Assent on 1 May 2012

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).