



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 6

#### NON-CUSTODIAL PUNISHMENTS

#### 46 Requirement for remote monitoring in probation order

- (1) The 1995 Act is amended as follows.
- (2) After section 230 there is inserted—

##### **“230A Requirement for remote monitoring in probation order**

- (1) Without prejudice to section 245D of this Act, a probation order may include a requirement that during such period as may be specified in the requirement, being a period not exceeding twelve months, the probationer comply with such restrictions as to his movements as the court thinks fit; and paragraphs (a) and (b) of subsection (2) of section 245A of this Act (with the qualification of paragraph (a) which that subsection contains) shall apply in relation to any such requirement as they apply in relation to a restriction of liberty order.
- (2) The clerk of the court shall cause a copy of a probation order which includes such a requirement to be sent to the person who is to be responsible for monitoring the probationer’s compliance with the requirement.
- (3) If, within the period last specified by virtue of subsection (1) above or section 231(1) of this Act, it appears to the person so responsible that the probationer has failed to comply with the requirement the person shall so inform the supervising officer appointed by virtue of section 228(3) of this Act, who shall report the matter to the court.
- (4) Section 245H shall apply in relation to proceedings under section 232 of this Act as respects a probation order which includes such a requirement as it applies in relation to proceedings under section 245F of this Act.
- (5) Sections 245A(6) and (8) to (11), 245B and 245C of this Act shall apply in relation to the imposition of, or as the case may be compliance with, requirements included by virtue of subsection (1) above in a probation order

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*Status: Point in time view as at 01/12/2006. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Section 46. (See end of Document for details)*

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as those sections apply in relation to the making of, or as the case may be compliance with, a restriction of liberty order.

- (6) In relation to a probation order which includes such a requirement—
- (a) the persons who may make an application under paragraph 3(1) of Schedule 6 to this Act shall include the person responsible for monitoring the probationer’s compliance with the requirement, but only in so far as the application relates to the requirement; and
  - (b) a copy of any application under that paragraph by—
    - (i) the probationer or the supervising officer shall be sent by the applicant to the person so responsible; or
    - (ii) the person so responsible shall be sent by the applicant to the probationer and the supervising officer.
- (7) Where under section 232(2)(c) of, or Schedule 6 to, this Act the court varies such a requirement, the clerk of court shall cause a copy of the amended probation order to be sent—
- (a) to the person so responsible; and
  - (b) where the variation comprises a change in who is designated for the purposes of such monitoring, to the person who, immediately before the order was varied, was so responsible.”.

(3) In section 232 (probation orders: failure to comply with requirement)—

    - (a) in subsection (2)(c), at the end there is added “ and any extension to the period of a requirement imposed by virtue of section 230A of this Act shall not increase that period above the maximum mentioned in subsection (1) of that section ”; and
    - (b) after subsection (2) there is inserted—
 

“(2A) Subsections (6) and (11) of section 245A of this Act apply to the variation, under paragraph (c) of subsection (2) above, of a requirement such as is mentioned in that paragraph as they apply to the making of a restriction of liberty order.”.

(4) In Schedule 6 (discharge of and amendment to probation orders), in paragraph 3—

    - (a) in sub-paragraph (1), for the words “230” there is substituted “ 230A ”; and
    - (b) at the end there is added—
 

“(3) This paragraph is subject to section 230A(6)(a) of this Act.”.

**Status:**

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**Changes to legislation:**

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