



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *Probation*

#### **229 Probation orders: additional requirements**

- (1) Subject to section 230 of this Act, a probation order may require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers—
  - (a) conducive to securing the good conduct of the offender or for preventing a repetition by him of the offence or the commission of other offences; or
  - (b) where the probation order is to include such a requirement as is mentioned in subsection (4) or (6) below, conducive to securing or, as the case may be, preventing the matters mentioned in paragraph (a) above.
- (2) Without prejudice to the generality of subsection (1) above, a probation order may, subject to subsection (3) below, include requirements relating to the residence of the offender.
- (3) In relation to a probation order including a requirement such as is mentioned in subsection (2) above—
  - (a) before making the order, the court shall consider the home surroundings of the offender; and
  - (b) if the order requires the offender to reside in any institution or place, the name of the institution or place and the period for which he is so required to reside shall be specified in the order, and that period shall not extend beyond 12 months from the date of the requirement or beyond the date when the order expires.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Without prejudice to the generality of subsection (1) above, where an offender has been convicted of an offence punishable by imprisonment and a court which is considering making a probation order—
- (a) is satisfied that the offender is of or over 16 years of age and that the conditions specified in paragraphs (a) and (c) of section 238(2) of this Act for the making of a community service order have been met;
  - (b) has been notified by the Secretary of State that arrangements exist for persons who reside in the locality where the offender resides, or will be residing when the probation order comes into force, to perform unpaid work as a requirement of a probation order; and
  - (c) is satisfied that provision can be made under the arrangements mentioned in paragraph (b) above for the offender to perform unpaid work under the probation order,
- it may include in the probation order, in addition to any other requirement, a requirement that the offender shall perform unpaid work for such number of hours (being in total not less than 40 nor more than 240) as may be specified in the probation order.
- (5) Sections 238 (except subsections (1), (2)(b) and (d) and (4)(b)), 239(1) to (3), and 240 of this Act shall apply, subject to any necessary modifications, to a probation order including a requirement such as is mentioned in subsection (4) above as they apply to a community service order, and in the application of subsection (5) of the said section 238 for the words “subsection (1) above” there shall be substituted the words “subsection (4) of section 229 of this Act”.
- (6) Without prejudice to the generality of subsection (1) above, where a court is considering making a probation order it may include in the probation order, in addition to any other requirement, a requirement that the offender shall pay compensation either in a lump sum or by instalments for any personal injury, loss or damage caused (whether directly or indirectly) by the acts which constituted the offence; and the following provisions of this Act shall apply to such a requirement as if any reference in them to a compensation order included a reference to a requirement to pay compensation under this subsection—
- section 249(3) to (5), (8) to (10);
  - section 250(2);
  - section 251(1) and (2)(b);
  - section 253.
- (7) Where the court imposes a requirement to pay compensation under subsection (6) above—
- (a) it shall be a condition of a probation order containing such a requirement that payment of the compensation shall be completed not more than 18 months after the making of the order or not later than two months before the end of the period of probation, whichever first occurs;
  - (b) the court, on the application of the offender or the officer of the local authority responsible for supervising the offender, may vary the terms of the requirement, including the amount of any instalments, in consequence of any change which may have occurred in the circumstances of the offender; and
  - (c) in any proceedings for breach of a probation order where the breach consists only in the failure to comply with a requirement to pay compensation, a document purporting to be a certificate signed by the clerk of the court for the

time being having jurisdiction in relation to the order that the compensation or, where payment by instalments has been allowed, any instalment has not been paid shall be sufficient evidence of such breach.