

Status: Point in time view as at 30/11/2009.

Changes to legislation: Criminal Justice Act 2003, Cross Heading: Criminal Procedure (Scotland) Act 1995 (c. 46) is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 32

AMENDMENTS RELATING TO SENTENCING

PART 1

GENERAL

Criminal Procedure (Scotland) Act 1995 (c. 46)

69 The Criminal Procedure (Scotland) Act 1995 is amended as follows.

Commencement Information

- II** Sch. 32 para. 69 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(29) (subject to art. 2(2), Sch. 2)

70 (1) Section 234 (probation orders: persons residing in England and Wales) is amended as follows.

(2) In subsection (1), the words after paragraph (b) are omitted.

(3) For subsection (2) there is substituted—

“(2) Subsection (1) above applies to any probation order made under section 228 unless the order includes requirements which are more onerous than those which a court in England and Wales could impose on an offender under section 177 of the Criminal Justice Act 2003.”

(4) In subsection (3), the words from “or to vary” to “one hundred” are omitted.

(5) In subsection (4)—

(a) [F¹in paragraph (a)—

(i) for “paragraph 5(3) of Schedule 2 to the 2000 Act” there is substituted “section 207(2) of the Criminal Justice Act 2003”,

(ii) for “or, as the case may be, community rehabilitation orders” there is substituted “or, as the case may be, community orders under Part 12 of that Act”, and

(iii) for “paragraph 5 of the said Schedule 2” there is substituted “section 207 of the Criminal Justice Act 2003”, and]

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(b) in paragraph (b), for “sub-paragraphs (5) to (7) of the said paragraph 5” there is substituted “ sections 207(4) and 208(1) and (2) of the Criminal Justice Act 2003 ”.

(6) After subsection (4) there is inserted—

“(4A) A probation order made or amended under this section must specify as the corresponding requirements for the purposes of this section requirements which could be included in a community order made under section 177 of the Criminal Justice Act 2003.”

(7) ^{F2}

(8) For subsection (6) there is substituted—

“(6) In its application to a probation order made or amended under this section, Schedule 8 to the Criminal Justice Act 2003 has effect subject to the following modifications—

- (a) any reference to the responsible officer has effect as a reference to the person appointed or assigned under subsection (1)(a) above,
- (b) in paragraph 9—
 - (i) paragraphs (b) and (c) of sub-paragraph (1) are omitted,
 - (ii) in sub-paragraph (6), the first reference to the Crown Court has effect as a reference to a court in Scotland, and
 - (iii) any other reference in sub-paragraphs (6) or (7) to the Crown Court has effect as a reference to the court in Scotland, and
- (c) Parts 3 and 5 are omitted.”

(9) In subsection (10)—

- (a) for the words from “paragraph 6” to “community rehabilitation orders” there is substituted “ paragraph 8 of Schedule 9 (which relates to community orders ”, and
- (b) for “an order made under section 41” there is substituted “ a community order made under Part 12 ”.

Textual Amendments

- F1** Sch. 32 para. 70(5)(a) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)
- F2** Sch. 32 para. 70(7) repealed (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 1](#); S.I. 2009/3074, [art. 2\(u\)\(xxxi\)](#)

Commencement Information

- I2** Sch. 32 para. 70 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 42\(29\)](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

71 In section 242 (community service orders: persons residing in England and Wales)

- (a) in subsection (1)—

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- (i) in paragraph (a)(ii), for “a community punishment order” there is substituted “an unpaid work requirement imposed by a community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”, and
- (ii) in paragraph (a)(iii), for “community punishment orders made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “unpaid work requirements imposed by community orders made under section 177 of the Criminal Justice Act 2003”,
- (b) in subsection (2)(b), for “community punishment orders made under section 46 of the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “unpaid work requirements imposed by community orders made under section 177 of the Criminal Justice Act 2003”, and
- (c) in subsection (3)(b), for “in respect of community punishment orders conferred on responsible officers by the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “conferred on responsible officers by Part 12 of the Criminal Justice Act 2003 in respect of unpaid work requirements imposed by community orders (within the meaning of that Part)”.

Commencement Information

- I3** Sch. 32 para. 71 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, art. 2(1), Sch. 1 para. 42(29) (subject to art. 2(2), Sch. 2)

- 72 In section 244 (community service orders: provisions relating to persons living in England and Wales or Northern Ireland)—
- (a) in subsection (3)(a)—
 - (i) for “community punishment order” there is substituted “community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”, and
 - (ii) for “community punishment orders” there is substituted “such community orders”,
 - (b) in subsection (4)(a), for “community punishment orders” there is substituted “community orders (within the meaning of Part 12 of the Criminal Justice Act 2003)”,
 - (c) in subsection (5), for “community punishment order” there is substituted “a community order (within the meaning of Part 12 of the Criminal Justice Act 2003)”, and
 - (d) in subsection (6)—
 - (i) for “community punishment orders”, where first occurring, there is substituted “community orders (within the meaning of Part 12 of the Criminal Justice Act 2003)”, and
 - (ii) in paragraph (b)(ii), for “the Powers of Criminal Courts (Sentencing) Act 2000” there is substituted “Part 12 of the Criminal Justice Act 2003”.

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Commencement Information

- I4** Sch. 32 para. 72 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 42(29) (subject to **art. 2(2)**, Sch. 2)

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