



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

[^{F1}Community payback orders: review, variation etc.]

VALID FROM 01/02/2011

[^{F1}227Z Variation, revocation and discharge: court's powers

- (1) This section applies where a court is considering varying, revoking or discharging a community payback order imposed on an offender.
- (2) The court may vary, revoke or discharge the order only if satisfied that it is in the interests of justice to do so having regard to circumstances which have arisen since the order was imposed.
- (3) Subsection (2) does not apply where the court is considering varying the order under section 227ZC(7)(d).
- (4) In varying an order, the court may, in particular—
 - (a) add to the requirements imposed by the order,
 - (b) revoke or discharge any requirement imposed by the order,
 - (c) vary any requirement imposed by the order,
 - (d) include provision for progress reviews under section 227X,
 - (e) where the order already includes such provision, vary that provision.
- (5) In varying a requirement imposed by the order, the court may, in particular—
 - (a) extend or shorten any period or other time limit specified in the requirement,
 - (b) in the case of an unpaid work or other activity requirement, increase or decrease the number of hours specified in the requirement,

Status: Point in time view as at 10/03/2008. This version of this provision is not valid for this point in time.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 227Z is up to date with all changes known to be in force on or before 11 September 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)

- (c) in the case of a compensation requirement, vary the amount of compensation or any instalment.
- (6) The court may not, under subsection (5)(b), increase the number of hours beyond the appropriate maximum.
- (7) The appropriate maximum is the number of hours specified in section 227I(4)(b) at the time the unpaid work or other activity requirement being varied was imposed less the aggregate of the number of hours of unpaid work or other activity still to be completed under each other unpaid work or other activity requirement (if any) in effect in respect of the offender at the time of the variation (a “current requirement”).
- (8) In calculating that aggregate, if any current requirement is concurrent with another (by virtue of a direction under section 227N(2)), hours that count for the purposes of compliance with both (or, as the case may be, all) are to be counted only once.
- (9) The court may not, under subsection (5)(c), increase the amount of compensation beyond the maximum that could have been awarded at the time the requirement was imposed.
- (10) Where the court varies a restricted movement requirement imposed by a community payback order, the court must give a copy of the order making the variation to the person responsible for monitoring the offender's compliance with the requirement.
- (11) Where the court revokes a community payback order, the court may deal with the offender in respect of the offence in relation to which the order was imposed as it could have dealt with the offender had the order not been imposed.
- (12) Subsection (11) applies in relation to a community payback order imposed under section 227M(2) as if the reference to the offence in relation to which the order was imposed were a reference to the failure to pay in respect of which the order was imposed.
- (13) Where the court is considering varying, revoking or discharging the order otherwise than on the application of the offender, the court must issue a citation to the offender requiring the offender to appear before the court (except where the offender is required to appear by section 227X(6)) or 227ZC(2)(b).
- (14) If the offender fails to appear as required by the citation, the court may issue a warrant for the arrest of the offender.
- (15) The unified citation provisions apply in relation to a citation under subsection (13) as they apply in relation to a citation under section 216(3)(a) of this Act.]

Textual Amendments

- F1** Ss. 227A-227ZN and cross-headings inserted (1.2.2011 except for the insertion of s. 227ZM, 1.4.2011 in so far as not already in force) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [14\(1\)](#), [206\(1\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))

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