



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 6

#### NON-CUSTODIAL PUNISHMENTS

#### **47 Requirement for remote monitoring in drug treatment and testing order**

- (1) The 1995 Act is amended as follows.
- (2) After section 234C there is inserted—

#### **“234CA Requirement for remote monitoring in drug treatment and testing order**

- (1) A drug treatment and testing order may include a requirement that during such period as may be specified in the requirement, being a period not exceeding twelve months, the offender 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 drug treatment and testing order which includes such a requirement to be sent to the person who is to be responsible for monitoring the offender's compliance with the requirement.
- (3) If, within the period last specified by virtue of subsection (1) above or (6) (d) below, it appears to the person so responsible that the offender has failed to comply with the requirement the person shall so inform the supervising officer appointed by virtue of section 234C(6) of this Act, who shall report the matter to the court.
- (4) Section 245H shall apply in relation to proceedings under section 234G of this Act as respects a drug treatment and testing order which includes such a requirement as it applies in relation to proceedings under section 245F of this Act.

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- (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 drug treatment and testing order 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 drug testing order which includes such a requirement, section 234E of this Act shall apply with the following modifications—
- (a) the persons who may make an application under subsection (1) of that section shall include the person responsible for monitoring the offender’s compliance with the requirement, but only in so far as the application relates to the requirement;
  - (b) the reference in subsection (2) of that section to the supervising officer shall be construed as a reference to either that officer or the person so responsible;
  - (c) where an application is made under subsection (1) of that section and relates to the requirement, the persons to be heard under subsection (3) of that section shall include the person so responsible;
  - (d) the ways of varying the order which are mentioned in subsection (3) (a) of that section shall include increasing or decreasing the period specified by virtue of subsection (1) above (or last specified by virtue of this paragraph) but not so as to increase that period above the maximum mentioned in subsection (1) above; and
  - (e) the reference in subsection (5) of that section—
    - (i) to the supervising officer shall be construed as a reference to either that officer or the person so responsible; and
    - (ii) to sections 234B(5) and 234D(1) shall be construed as including a reference to section 245A(6) and (11).
- (7) Where under section 234E or 234G(2)(b) of this Act the court varies such a requirement, the clerk of court shall cause a copy of the amended drug treatment and testing order to be sent—
- (a) to the person responsible for monitoring the offender’s compliance with the requirement; 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 234E (amendment of drug treatment and testing order), at the end there is added—

“(7) This section is subject to section 234CA(6) of this Act.”.

(4) In section 234G (breach of drug treatment and testing order)—

    - (a) in subsection (2)(b), at the end there is added “so however that any extension of the period of a requirement imposed by virtue of section 234CA 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 (b) of subsection (2) above, of a

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requirement imposed as is mentioned in that paragraph as they apply to the making of a restriction of liberty order.”.