

# CRIMINAL JUSTICE (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### THE ACT THE ACT IS IN 12 PARTS.

#### **Part 6 – Non-Custodial Punishments**

##### *Section 50 – Amendments in relation to certain non-custodial sentences*

255. *Section 50* amends the Criminal Procedure (Scotland) Act 1995 in relation to the arrangements for supervised attendance orders (SAOs) and restriction of liberty orders (RLOs).
256. A SAO is an order available to criminal courts in Scotland, which requires an offender who has failed to pay a fine to undertake a programme of designated activities for a specified number of hours.
257. Section 235 of the 1995 Act makes provision that where an offender who is 18 years or over, fails to pay a fine and is liable for imprisonment for that failure, and the court believes that it is appropriate to do so, it may impose a SAO. Section 235 permits the court to impose a SAO of not less than 10 hours and up to a maximum of 50 hours (for a fine not exceeding level 1 on the standard scale) and up to 100 hours in any other case. Section 236 of the 1995 Act permits the court to impose a SAO on an offender aged 16 or 17 years where the offender is convicted of a summary offence and the court believes that a fine is the appropriate disposal. The court is required to consider whether the offender is likely to pay the fine within 28 days. If the offender is likely to pay within 28 days the court may impose the fine with the alternative of a fixed period of a SAO in default in payment. If the offender is unlikely to pay within 28 days the court may impose a SAO.
258. Subsection (1) amends section 235 in order that a court may exercise its powers of imposing a SAO for offenders aged 16 years and over who have defaulted in the payment of their fine. That is, it lowers the age limit to 16 years. Subsection (2) amends section 236 in order that the court may exercise its powers under section 236 for offenders aged 16 years and over, to consider whether the offender is likely to pay within 28 days and if so impose a fine with an alternative of a SAO or if the offender is unlikely to pay within 28 days, impose a SAO. That is, it extends section 236 to offenders aged 16 and over.
259. Paragraphs 4 and 5 of Schedule 7 to the 1995 Act provide that the court may impose a sentence of three months in the sheriff court and 60 days in the district court in respect of a revocation or failure to comply with a SAO. Subsection (4) amends the maximum periods of imprisonment for revocation of or failure to comply with a SAO to 30 days in the sheriff court and 20 days in the district court.
260. Restriction of liberty orders (RLOs) were introduced in Scotland by section 5 of the Crime and Punishment (Scotland) Act 1997, which resulted in the insertion of sections 245A to 245I in the 1995 Act. RLOs require an offender to be restricted to a specified place for up to 12 hours per day or from a specified place for up to 24 hours per day,

*These notes relate to the Criminal Justice (Scotland) Act  
2003 (asp 7) which received Royal Assent on 26 March 2003*

or both, for a maximum period of 12 months. Compliance with an RLO is monitored by remote monitoring equipment.

261. The amendments to section 245A of the Criminal Procedure (Scotland) Act 1995 (the 1995 Act) allow a court to impose a RLO made under that section as an alternative to imprisonment or any other form of detention.
262. Subsection (3) amends section 245A of the 1995 Act to make a RLO available to courts for offences (other than an offence for which the sentence is fixed by law) instead of imposing a sentence which includes a custodial element.