

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 - Sentencing

Section 24 - Effect of probation and absolute discharge

117. This section makes amendments to a number of statutory provisions in order to remove unnecessary references to probation orders and to ensure that probation orders and orders for absolute discharge are treated appropriately in the Licensing (Scotland) Act 2005 (“the 2005 Act”).
118. Subsection (1) amends section 1(4) of the Rehabilitation of Offenders Act 1974 to update references to statutory provisions which have now been consolidated twice. There is no change to the effect of the sections, and the amendment simply makes the section easier to read.
119. Subsections (2) and (3) remove redundant references to probation orders in sections 49(6) and 58(3) of the Civic Government (Scotland) Act 1982.
120. Subsection (4) inserts a new subsection (2A) into section 96 of the 2005 Act. This will ensure that the court can make an exclusion order when dealing with a person who has been convicted of a violent offence and placed on probation. It displaces section 247(1) of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), which would otherwise provide that the person would not be treated as having been convicted.
121. Subsection (5) inserts new subsections (5) and (6) into section 129 of the 2005 Act and specifies a number of provisions to which sections 247(1) and (2) of the 1995 Act do not apply. The purpose is to ensure that where a person has been found guilty of an offence and a probation order or order for absolute discharge has been imposed, the person is treated as having been convicted for the purposes of these provisions of the 2005 Act.