



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *Fines*

#### 211 Fines.

- (1) Where an accused who is convicted on indictment of any offence (whether triable only on indictment or triable either on indictment or summarily other than by virtue of section 292(6) of this Act) would apart from this subsection be liable to a fine of or not exceeding a specified amount, he shall by virtue of this subsection be liable to a fine of any amount.
- (2) Where any Act confers a power by subordinate instrument to make a person liable on conviction on indictment of any offence mentioned in subsection (1) above to a fine or a maximum fine of a specified amount, or which shall not exceed a specified amount, the fine which may be imposed in the exercise of that power shall by virtue of this subsection be a fine of an unlimited amount.
- (3) Any sentence or decree for any fine or expenses pronounced by a sheriff court or [F<sup>1</sup>JP court] may be enforced against the person or effects of any party against whom the sentence or decree was awarded—
  - (a) in the district where the sentence or decree was pronounced; or
  - (b) in any other such district.
- (4) A fine imposed by the High Court shall be remitted for enforcement to, and shall be enforceable as if it had been imposed by—
  - (a) where the person upon whom the fine was imposed resides in Scotland, the sheriff for the district where that person resides; and
  - (b) where that person resides outwith Scotland, the sheriff before whom he was brought for examination in relation to the offence for which the fine was imposed.

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- (5) <sup>F2</sup> .....
- (6) [<sup>F3</sup>All] fines and expenses imposed in <sup>F4</sup> . . . proceedings under this Act shall be paid to the [<sup>F5</sup>clerk of any court, or to any other person (or class of person) authorised by the Scottish Ministers for the purpose,] to be accounted for <sup>F6</sup> . . . to the person entitled to such fines and expenses, and it shall not be necessary to specify in any sentence the person entitled to payment of such fines or expenses unless it is necessary to provide for the division of the penalty.
- (7) A court in determining the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as known to the court.

#### Textual Amendments

- F1** Words in s. 211(3) substituted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 26\(j\)](#); S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F2** S. 211(5) repealed (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(1\)\(a\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F3** Word in s. 211(6) substituted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), regs. 1(3), [3\(2\)](#)
- F4** Word in s. 211(6) repealed (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(1\)\(b\)\(i\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F5** Words in s. 211(6) substituted (10.3.2008 for certain purposes and otherwise prosp.) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(1\)\(b\)\(ii\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F6** Words in s. 211(6) repealed (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(1\)\(b\)\(iii\)](#); S.S.I. 2008/42, [art. 3](#), Sch.

#### Modifications etc. (not altering text)

- C1** S. 211(3)-(6) applied (1.4.1996) by 1995 c. 43, ss. 14(1), 34, 50(2), [Sch. 1 para. 4\(4\)](#)  
S. 211(3)-(6) applied (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 118\(1\)\(2\)\(a\)](#), 458; S.S.I. 2003/210, [art. 2](#) (subject to transitional provisions in [arts. 3-7](#))

## 212 Fines in summary proceedings.

- (1) Where a court of summary jurisdiction imposes a fine on an offender, the court may order him to be searched, and any money found on him on apprehension or when so searched or when taken to prison or to a young offenders institution in default of payment of the fine, may, unless the court otherwise directs and subject to subsection (2) below, be applied towards payment of the fine, and the surplus if any shall be returned to him.
- (2) Money shall not be applied as mentioned in subsection (1) above if the court is satisfied that it does not belong to the person on whom it was found or that the loss of the money will be more injurious to his family than his imprisonment or detention.
- (3) When a court of summary jurisdiction, which has adjudged that a sum of money shall be paid by an offender, considers that any money found on the offender on apprehension, or after he has been searched by order of the court, should not be applied

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towards payment of such sum, the court, shall make a direction in writing to that effect which shall be written on the extract of the sentence which imposes the fine before it is issued by the clerk of the court.

- (4) An accused may make an application to such a court either orally or in writing, through the governor of the prison in whose custody he may be at that time, that any sum of money which has been found on his person should not be applied in payment of the fine adjudged to be paid by him.
- (5) A person who alleges that any money found on the person of an offender is not the property of the offender, but belongs to that person, may apply to such court either orally or in writing for a direction that the money should not be applied in payment of the fine adjudged to be paid, and the court after enquiry may so direct.
- (6) A court of summary jurisdiction, which has adjudged that a sum of money shall be paid by an offender, may order the attendance in court of the offender, if he is in prison, for the purpose of ascertaining the ownership of money which has been found on his person.
- (7) A notice in the form prescribed by Act of Adjournal, or as nearly as may be in such form, addressed to the governor of the prison in whose custody an offender may be at the time, signed by the judge of a court of summary jurisdiction shall be a sufficient warrant to the governor of such prison for conveying the offender to the court.

### **213 Remission of fines.**

- (1) A fine may at any time be remitted in whole or in part by—
  - (a) in a case where a transfer of fine order under section 222 of this Act is effective and the court by which payment is enforceable is, in terms of the order, a court of summary jurisdiction in Scotland, that court; or
  - (b) in any other case, the court which imposed the fine or, where that court was the High Court, by which payment was first enforceable.
- (2) Where the court remits the whole or part of a fine after imprisonment has been imposed under section 214(2) or (4) of this Act, it shall also remit the whole period of imprisonment or, as the case may be, reduce the period by an amount which bears the same proportion to the whole period as the amount remitted bears to the whole fine.
- (3) The power conferred by subsection (1) above shall be exercisable without requiring the attendance of the accused.

### **214 Fines: time for payment and payment by instalments.**

- (1) Where a court has imposed a fine on an offender or ordered him to find caution the court shall, subject to subsection (2) below, allow him at least seven days to pay the fine or the first instalment thereof or, as the case may be, to find caution; and any reference in this section and section 216 of this Act to a failure to pay a fine or other like expression shall include a reference to a failure to find caution.
- (2) If on the occasion of the imposition of a fine—
  - (a) the offender appears to the court to possess sufficient means to enable him to pay the fine forthwith; or
  - (b) on being asked by the court whether he wishes to have time for payment, he does not ask for time; or

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- (c) he fails to satisfy the court that he has a fixed abode; or
- (d) the court is satisfied for any other special reason that no time should be allowed for payment,

the court may refuse him time to pay the fine and, if the offender fails to pay, may exercise its power to impose imprisonment and, if it does so, shall state the special reason for its decision.

- (3) In all cases where time is not allowed by a court for payment of a fine, the reasons of the court for not so allowing time shall be stated in the extract of the finding and sentence as well as in the finding and sentence itself.
- (4) Where time is allowed for payment of a fine or payment by instalments is ordered, the court shall not, on the occasion of the imposition of a fine, impose imprisonment in the event of a future default in paying the fine or an instalment thereof unless the offender is before it and the court determines that, having regard to the gravity of the offence or to the character of the offender, or to other special reason, it is expedient that he should be imprisoned without further inquiry in default of payment; and where a court so determines, it shall state the special reason for its decision.
- (5) Where a court has imposed imprisonment in accordance with subsection (4) above, then, if at any time the offender asks the court to commit him to prison, the court may do so notwithstanding subsection (1) of this section.
- (6) Nothing in the foregoing provisions of this section shall affect any power of the court to order a fine to be recovered by civil diligence.
- (7) Where time has been allowed for payment of a fine imposed by the court, it may, on an application by or on behalf of the offender, and after giving the prosecutor an opportunity of being heard, allow further time for payment.
- (8) Without prejudice to subsection (2) above, where a court has imposed a fine on an offender, the court may, of its own accord or on the application of the offender, order payment of that fine by instalments of such amounts and at such time as it may think fit.
- (9) Where the court has ordered payment of a fine by instalments it may—
  - (a) allow further time for payment of any instalment thereof;
  - (b) order payment thereof by instalments of lesser amounts, or at longer intervals, than those originally fixed,
 and the powers conferred by this subsection shall be exercisable without requiring the attendance of the accused.

**Modifications etc. (not altering text)**

- C2** S. 214 applied (with modifications) (1.4.1996) by 1995 c. 43, ss. 14(2)(a), 50(2)
- C3** S. 214(2) modified (1.4.1996) by 1995 c. 43, ss. 15(2), 50(2)
- C4** S. 214(4)-(6) applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 118(1)(2)(b), 458; S.S.I. 2003/210, art. 2 (with transitional provisions in arts. 3-7)

**215 Application for further time to pay fine.**

- (1) An application by an offender for further time in which to pay a fine imposed on him by a court, or of instalments thereof, shall be made, subject to subsection (2) below, to that court.

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- (2) Where a transfer of fine order has been made under section 222 of this Act, section 90 of the <sup>M1</sup>Magistrates' Courts Act 1980 or Article 95 of the <sup>M2</sup>Magistrates' Courts (Northern Ireland) Order 1981, an application under subsection (1) above shall be made to the court specified in the transfer order, or to the court specified in the last transfer order where there is more than one transfer.
- (3) A court to which an application is made under this section shall allow further time for payment of the fine or of instalments thereof, unless it is satisfied that the failure of the offender to make payment has been wilful or that the offender has no reasonable prospect of being able to pay if further time is allowed.
- (4) An application made under this section may be made orally or in writing.

**Modifications etc. (not altering text)**

C5 S. 215 applied (with modifications) (1.4.1996) by 1995 c. 43, ss. 14(2)(b), 50(2)

**Marginal Citations**

M1 1980 c.43.

M2 S.I. 1981/1675 (N.I. 26)

**216 Fines: restriction on imprisonment for default.**

- (1) Where a court has imposed a fine or ordered the finding of caution without imposing imprisonment in default of payment, subject to subsection (2) below, it shall not impose imprisonment on an offender for failing to make payment of the fine or, as the case may be, to find caution, unless on an occasion subsequent to that sentence the court has enquired into in his presence the reason why the fine has not been paid or, as the case may be, caution has not been found.
- (2) Subsection (1) above shall not apply where the offender is in prison.
- (3) A court may, for the purpose of enabling enquiry to be made under this section—
  - (a) issue a citation requiring the offender to appear before the court at a time and place appointed in the citation; or
  - (b) issue a warrant of apprehension.
- (4) On the failure of the offender to appear before the court in response to a citation under this section, the court may issue a warrant of apprehension.
- (5) The citation of an offender to appear before a court in terms of subsection (3)(a) above shall be effected in like manner, *mutatis mutandis*, as the citation of an accused to a sitting or diet of the court under section 141 of this Act, and—
  - (a) the citation shall be signed by the clerk of the court before which the offender is required to appear, instead of by the prosecutor; and
  - (b) the forms relating to the citation of an accused shall not apply to such citation.
- (6) The following matters shall be, or as nearly as may be, in such form as is prescribed by Act of Adjournal—
  - (a) the citation of an offender under this section;
  - (b) if the citation of the offender is effected by an officer of law, the written execution, if any, of that officer of law;

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- (c) a warrant of apprehension issued by a court under subsection (4) above; and
  - (d) the minute of procedure in relation to an enquiry into the means of an offender under this section.
- (7) Where a child would, if he were an adult, be liable to be imprisoned in default of payment of any fine the court may, if it considers that none of the other methods by which the case may legally be dealt with is suitable, order that the child be detained for such period, not exceeding one month, as may be specified in the order in a place chosen by the local authority in whose area the court is situated.

**Modifications etc. (not altering text)**

- C6** S. 216 applied (with modifications) (1.4.1996) by 1995 c. 43, **ss. 14(2)(c), 50(2)**  
 S. 216 applied (with modifications) (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), **ss. 118(1)(2)(c), 458; S.S.I. 2003/210, art. 2** (with transitional provisions in arts. 3-7)
- C7** S. 216(7) modified (1.4.1997) by S.I. 1996/3255, **reg. 14(1)**

**217 Fines: supervision pending payment.**

- (1) Where an offender has been allowed time for payment of a fine, the court may, either on the occasion of the imposition of the fine or on a subsequent occasion, order that he be placed under the supervision of such person, in this section referred to as the “supervising officer”, as the court may from time to time appoint for the purpose of assisting and advising the offender in regard to payment of the fine.
- (2) An order made in pursuance of subsection (1) above shall remain in force so long as the offender to whom it relates remains liable to pay the fine or any part of it unless the order ceases to have effect or is discharged under subsection (3) below.
- (3) An order under this section shall cease to have effect on the making of a transfer of fine order under section 222 of this Act in respect of the fine or may be discharged by the court that made it without prejudice, in either case, to the making of a new order.
- (4) Where an offender under 21 years of age has been allowed time for payment of a fine, the court shall not order the form of detention appropriate to him in default of payment of the fine unless—
  - (a) he has been placed under supervision in respect of the fine; or
  - (b) the court is satisfied that it is impracticable to place him under supervision.
- (5) Where a court, on being satisfied as mentioned in subsection (4)(b) above, orders the detention of a person under 21 years of age without an order under this section having been made, the court shall state the grounds on which it is so satisfied.
- (6) Where an order under this section is in force in respect of an offender, the court shall not impose imprisonment in default of the payment of the fine unless before doing so it has—
  - (a) taken such steps as may be reasonably practicable to obtain from the supervising officer a report, which may be oral, on the offender’s conduct and means, and has considered any such report; and
  - (b) in a case where an enquiry is required by section 216 of this Act, considered such enquiry.

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- (7) When a court appoints a different supervising officer under subsection (1) above, a notice shall be sent by the clerk of the court to the offender in such form, as nearly as may be, as is prescribed by Act of Adjournal.
- (8) The supervising officer shall communicate with the offender with a view to assisting and advising him in regard to payment of the fine, and unless the fine or any instalment thereof is paid to the clerk of the court within the time allowed by the court for payment, the supervising officer shall report to the court without delay after the expiry of such time, as to the conduct and means of the offender.
- [<sup>F7</sup>(9) Where an enforcement order has been made under section 226B of this Act in relation to payment of the fine, the supervising officer shall, instead of reporting under subsection (8) above to the court, report under that subsection to the fines enforcement officer dealing with the order.]

#### Textual Amendments

- F7** S. 217(9) inserted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(2\)](#); S.S.I. 2008/42, [art. 3](#), Sch.

#### Modifications etc. (not altering text)

- C8** S. 217 applied (with modifications) (1.4.1996) by [1995 c. 43](#), [ss. 14\(2\)\(d\)](#), 50(2)  
S. 217 applied (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 118\(1\)\(2\)\(d\)](#), 458; S.S.I. 2003/210, [art. 2](#) (with transitional provisions in [arts 3-7](#))

## 218 Fines: supplementary provisions as to payment.

- (1) Where under the provisions of section 214 or 217 of this Act a court is required to state a special reason for its decision or the grounds on which it is satisfied that it is undesirable or impracticable to place an offender under supervision, the reason or, as the case may be, the grounds shall be entered in the record of the proceedings along with the finding and sentence.
- (2) Any reference in the said sections 214 and 217 to imprisonment shall be construed, in the case of an offender on whom by reason of his age imprisonment may not lawfully be imposed, as a reference to the lawful form of detention in default of payment of a fine appropriate to that person, and any reference to prison shall be construed accordingly.
- (3) Where a warrant has been issued for the apprehension of an offender for non-payment of a fine, the offender may, notwithstanding section 211(6) of this Act, pay such fine in full to a constable; and the warrant shall not then be enforced and the constable shall remit the fine to the clerk of court.

#### Modifications etc. (not altering text)

- C9** S. 218(2)(3) applied (with modifications) (1.4.1996) by [1995 c. 43](#), [ss. 14\(2\)\(e\)](#), 50(2)  
S. 218(2)(3) applied (24.3.2006) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 118\(1\)\(2\)\(e\)](#), 458; S.S.I. 2003/210, [art. 2](#) (with transitional provisions in [arts. 3-7](#))

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## 219 Fines: periods of imprisonment for non-payment.

- (1) Subject to sections 214 to 218 of this Act [<sup>F8</sup>and subsection (1A) below]—
- (a) a court may, when imposing a fine, impose a period of imprisonment in default of payment; or
  - (b) where no order has been made under paragraph (a) above and a person fails to pay a fine, or any part or instalment of a fine, by the time ordered by the court (or, where section 214(2) of this Act applies, immediately) the court may, subject to section 235(1) of this Act, impose a period of imprisonment for such failure either with immediate effect or to take effect in the event of the person failing to pay the fine or any part or instalment of it by such further time as the court may order,

whether or not the fine is imposed under an enactment which makes provision for its enforcement or recovery.

[<sup>F9</sup>(1A) Subsection (1) shall not apply to a fine imposed for an offence under section 107 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).]

- (2) Subject to the following subsections of this section, the maximum period of imprisonment which may be imposed under subsection (1) above or for failure to find caution, shall be as follows—

Amount of Fine or Caution	Maximum Period of Imprisonment
Not exceeding £200.....	7 days
Exceeding £200 but not exceeding £500.....	14 days
Exceeding £500 but not exceeding £1,000.....	28 days
Exceeding £1,000 but not exceeding £2,500.....	45 days
Exceeding £2,500 but not exceeding £5,000.....	3 months
Exceeding £5,000 but not exceeding £10,000.....	6 months
Exceeding £10,000 but not exceeding £20,000.....	12 months
Exceeding £20,000 but not exceeding £50,000.....	18 months
Exceeding £50,000 but not exceeding £100,000.....	2 years
Exceeding £100,000 but not exceeding £250,000.....	3 years
Exceeding £250,000 but not exceeding £1 Million.....	5 years
Exceeding £1 Million.....	10 years



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- (3) Where an offender is fined on the same day before the same court for offences charged in the same indictment or complaint or in separate indictments or complaints, the amount of the fine shall, for the purposes of this section, be taken to be the total of the fines imposed.
- (4) Where a court has imposed a period of imprisonment in default of payment of a fine, and—
- (a) an instalment of the fine is not paid at the time ordered; or
  - (b) part only of the fine has been paid within the time allowed for payment,
- the offender shall be liable to imprisonment for a period which bears to the period so imposed the same proportion, as nearly as may be, as the amount outstanding at the time when warrant is issued for imprisonment of the offender in default bears to the original fine.
- (5) Where no period of imprisonment in default of payment of a fine has been imposed and—
- (a) an instalment of the fine is not paid at the time ordered; or
  - (b) part only of the fine has been paid within the time allowed for payment,
- the offender shall be liable to imprisonment for a maximum period which bears, as nearly as may be, the same proportion to the maximum period of imprisonment which could have been imposed by virtue of the Table in subsection (2) above in default of payment of the original fine as the amount outstanding at the time when he appears before the court bears to the original fine.
- (6) If in any sentence or extract sentence the period of imprisonment inserted in default of payment of a fine or on failure to find caution is in excess of that competent under this Part of this Act, such period of imprisonment shall be reduced to the maximum period under this Part of this Act applicable to such default or failure, and the judge who pronounced the sentence shall have power to order the sentence or extract to be corrected accordingly.
- (7) The provisions of this section shall be without prejudice to the operation of section 220 of this Act.
- (8) Where in any case—
- (a) the sheriff considers that the imposition of imprisonment for the number of years for the time being specified in section 3(3) of this Act would be inadequate; and
  - (b) the maximum period of imprisonment which may be imposed under subsection (1) above (or under that subsection as read with either or both of sections 252(2) of this Act and section [F10]118(2) [F11], (2A) and (2B)] of the Proceeds of Crime Act 2002] exceeds that number of years,
- he shall remit the case to the High Court for sentence.

#### Textual Amendments

- F8** Words in s. 219(1) inserted (4.4.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), ss. 144(1), 145(2), [Sch. 4 para. 5\(4\)\(a\)](#); S.S.I. 2004/420, [art. 3](#), Sch. 5
- F9** S. 219(1A) inserted (4.4.2005) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), ss. 144(1), 145(2), [Sch. 4 para. 5\(4\)\(b\)](#); S.S.I. 2004/420, [art. 3](#), Sch. 5
- F10** Words in s. 219(8)(b) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458, [Sch. 11 para. 29\(4\)](#); S.S.I. 2003/210, [art. 2](#), Sch. (subject to arts. 3-7)

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**F11** Words in s. 219(8)(b) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 19(3)**, 88(2)(a); S.S.I. 2016/11, [reg. 2\(d\)](#) (with [reg. 3](#))

#### Modifications etc. (not altering text)

- C10** S. 219 applied (with modifications) (1.4.1996) by [1995 c. 43](#), **ss. 14(2)(f)**, 50(2)  
S. 219 applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), **ss. 118(1)(2)(f)(5)**, 458; S.S.I. 2003/210, **art. 2** (subject to [arts. 3-7](#))
- C11** S. 219(2)(2A): power to amend conferred by 2002 c. 29, s. 118(2B)(a)(b) (as inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 19(1)(b)**, 88(2)(a); S.S.I. 2016/11, [reg. 2\(d\)](#) (with [reg. 3](#)))
- C12** S. 219(2) modified by 2002 c. 29, s. 118(2A) (as inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 19(1)(b)**, 88(2)(a); S.S.I. 2016/11, [reg. 2\(d\)](#) (with [reg. 3](#)))

## 220 Fines: part payment by prisoners.

- (1) Where a person committed to prison or otherwise detained for failure to pay a fine imposed by a court pays to the governor of the prison, under conditions prescribed by rules made under the <sup>M3</sup>Prisons (Scotland) Act 1989, any sum in part satisfaction of the fine, the term of imprisonment [<sup>F12</sup>imposed under section 219 of this Act in respect of the fine] shall be reduced (or as the case may be further reduced) by a number of days bearing as nearly as possible the same proportion to such term as the sum so paid bears to the amount of the fine outstanding at the commencement of the imprisonment.
- (2) The day on which any sum is paid as mentioned in subsection (1) above shall not be regarded as a day served by the prisoner as part of the said term of imprisonment.
- (3) All sums paid under this section shall be handed over on receipt by the governor of the prison to the clerk of the court in which the conviction was obtained, and thereafter paid and applied *pro tanto* in the same manner and for the same purposes as sums adjudged to be paid by the conviction and sentence of the court, and paid and recovered in terms thereof, are lawfully paid and applied.
- (4) In this section references to a prison and to the governor thereof shall include respectively references to any other place in which a person may be lawfully detained in default of payment of a fine, and to an officer in charge thereof.

#### Textual Amendments

**F12** Words in s. 220(1) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 85**, 89, **Sch. 4 para. 3(3)**; S.S.I. 2003/288, **art. 2**, Sch.

#### Modifications etc. (not altering text)

**C13** S. 220 applied (with modifications) (1.4.1996) by [1995 c. 43](#), **ss. 14(2)(g)**, 50(2)  
S. 220 applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), **ss. 118(1)(2)(g)**, 458; S.S.I. 2003/210, **art. 2** (with transitional provisions in [arts. 3-7](#))

#### Marginal Citations

**M3** [1989 c.45](#).

## 221 Fines: recovery by civil diligence.

- (1) Where any fine falls to be recovered by civil diligence in pursuance of this Act or in any case in which a court may think it expedient to order a fine to be recovered by

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civil diligence, there shall be added to the finding of the court imposing the fine a warrant for civil diligence in a form prescribed by Act of Adjournal which shall have the effect of authorising—

(a) the charging of the person who has been fined to pay the fine within the period specified in the charge and, in the event of failure to make such payment within that period,

[<sup>F13</sup>(i) the execution of an arrestment;

(ii) the attachment of articles belonging to him; and

(iii) the execution of a money attachment ,]

and, if necessary for the purpose of executing the [<sup>F14</sup>attachment][<sup>F15</sup> or the money attachment], the opening of shut and lockfast places;

(b) an arrestment other than an arrestment of earnings in the hands of his employer,

and such diligence, whatever the amount of the fine imposed, may be executed in the same manner as if the proceedings were on an extract decree of the sheriff in a summary cause.

(2) Subject to subsection (3) below, proceedings by civil diligence under this section may be taken at any time after the imposition of the fine to which they relate.

(3) No such proceedings shall be authorised after the offender has been imprisoned in consequence of his having defaulted in payment of the fine.

(4) Where proceedings by civil diligence for the recovery of a fine or caution are taken, imprisonment for non-payment of the fine or for failure to find such caution shall remain competent and such proceedings may be authorised after the court has imposed imprisonment for, or in the event of, the non-payment or the failure but before imprisonment has followed such imposition.

#### Textual Amendments

**F13** S. 221(1)(a)(i)-(iii) substituted for words (23.11.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227, **Sch. 5 para. 23(a)** (with s. 223); S.S.I. 2009/369, **art. 3(2)(3)**, Sch. 1

**F14** Words in s. 221(1)(a) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), s. 61, **Sch. 3 Pt. 1 para. 25** (with s. 63)

**F15** Words in s. 221(1)(a) inserted (23.11.2009) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227, **Sch. 5 para. 23(b)** (with s. 223); S.S.I. 2009/369, **art. 3(2)(3)**, Sch. 1

#### Modifications etc. (not altering text)

**C14** S. 221 applied (with modifications) (1.4.1996) by 1995 c. 43, **ss. 14(2)(h)**, 50(2)

S. 221 applied (1.1.2003) by [Fur Farming \(Prohibition\) \(Scotland\) Act 2002 \(asp 10\)](#), **s. 3(2)**; S.S.I. 2002/519, **art. 2**

**C15** S. 221 applied (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), **ss. 118(1)(2)(h)**, 458; S.S.I. 2003/210, **art. 2** (with transitional provisions in arts. 3-7) (as amended (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 19(1)(a)**, 88(2)(a); S.S.I. 2016/11, reg. 2(d) (with reg. 3))

**C16** S. 221 applied (1.3.2007) by [The Sea Fishing \(Prohibition on the Removal of Shark Fins\) \(Scotland\) Order 2007 \(S.S.I. 2007/39\)](#), **art. 4(3)**

**C17** S. 221 applied (29.11.2012) by [Glasgow Commonwealth Games Act 2008 \(asp 4\)](#), **ss. 36(3)**, 49; S.S.I. 2012/261, **art. 2**, **sch.**

**C18** S. 221 applied (25.8.2020) by [Birmingham Commonwealth Games Act 2020 \(c. 10\)](#), **ss. 10(9)**, 33 (with **ss. 10(10)**, 33(4))

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## 222 Transfer of fine orders.

- (1) Where a court has imposed a fine on a person convicted of an offence and it appears to <sup>[F16]</sup>the clerk of court] that he is residing—
- (a) within the jurisdiction of another court in Scotland; or
  - (b) in any petty sessions area in England and Wales; or
  - (c) in any petty sessions district in Northern Ireland,

<sup>[F17]</sup>that clerk] may order that payment of the fine shall be enforceable by that other court or in that petty sessions area or petty sessions district as the case may be.

- <sup>[F18]</sup>(1A) Where a court has imposed a fine on a person convicted of an offence, and it appears to the clerk of court that there is a fine imposed by another court (of whatever kind) in the same sheriffdom, that clerk may order that payment of the fine is to be enforceable by that other court.]

- (2) An order under this section (in this section referred to as a “transfer of fine order”) shall specify the court by which or the petty sessions area or petty sessions district in which payment is to be enforceable and, where the court to be specified in a transfer of fine order is a court of summary jurisdiction, it shall, in any case where the order is made by <sup>[F19]</sup>the sheriff clerk], be a sheriff court.

- (3) Subject to subsections (4) and (5) below, where a transfer of fine order is made with respect to any fine under this section, any functions under any enactment relating to that sum which, if no such order had been made, would have been exercisable by the court which made the order or by the clerk of that court shall cease to be so exercisable.

- (4) Where <sup>[F20]</sup>, in relation to a transfer of fine order made under subsection (1)(a) above]—

- (a) the <sup>[F21]</sup>clerk of the court specified in the order] is satisfied, after inquiry, that the offender is not residing within the jurisdiction of that court; and
- (b) the clerk of that court, within 14 days of receiving the notice required by section 223(1) of this Act, sends to the clerk of the court which made the order notice to that effect,

the order shall cease to have effect.

- (5) Where a transfer of fine order ceases to have effect by virtue of subsection (4) above, the functions referred to in subsection (3) above shall again be exercisable by the court which made the order or, as the case may be, by the clerk of that court.

- (6) Where a transfer of fine order under this section, section 90 of the <sup>M4</sup>Magistrates’ Courts Act 1980 or Article 95 of the <sup>M5</sup>Magistrates’ Courts (Northern Ireland) Order 1981 specifies a court of summary jurisdiction in Scotland, that court and the clerk of that court shall have all the like functions under this Part of this Act in respect of the fine or the sum in respect of which that order was made (including the power to make any further order under this section) as if the fine or the sum were a fine imposed by that court and as if any order made under this section, the said Act of 1980 or the said Order of 1981 in respect of the fine or the sum before the making of the transfer of fine order had been made by that court.

- (7) The functions of the court to which subsection (6) above relates shall be deemed to include the court’s power to apply to the Secretary of State under any regulations made by him under section 24(1)(a) of the <sup>M6</sup>Criminal Justice Act 1991 (power to deduct fines etc from income support).

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- (8) Where a transfer of fine order under section 90 of the Magistrates' Courts Act 1980, Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981, or this section provides for the enforcement by a sheriff court in Scotland of a fine imposed by the Crown Court, the term of imprisonment which may be imposed under this Part of this Act shall be the term fixed in pursuance of [F<sup>22</sup>section 129 of the Sentencing Code] by the Crown Court or a term which bears the same proportion to the term so fixed as the amount of the fine remaining due bears to the amount of the fine imposed by that court, notwithstanding that the term exceeds the period applicable to the case under section 219 of this Act.

#### Textual Amendments

- F16** Words in s. 222(1) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(a\)\(i\)](#); S.S.I. 2008/42, art. 3, [Sch.](#)
- F17** Words in s. 222(1) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(a\)\(ii\)](#); S.S.I. 2008/42, art. 3, [Sch.](#)
- F18** S. 222(1A) inserted (10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009 and 14.12.2009 for certain purposes, otherwise 22.2.2010) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), [Sch.](#); S.S.I. 2008/192, [art. 3](#), [Sch.](#); S.S.I. 2008/329, [art. 3](#), [Sch.](#); S.S.I. 2008/362, [art. 3](#), [Sch.](#); S.S.I. 2009/432, [art. 3](#), Schs. 1, 2
- F19** Words in s. 222(2) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(c\)](#); S.S.I. 2008/42, art. 3, [Sch.](#)
- F20** Words in s. 222(2) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(d\)\(i\)](#); S.S.I. 2008/42, art. 3, [Sch.](#)
- F21** Words in s. 222(2) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(3\)\(d\)\(ii\)](#); S.S.I. 2008/42, art. 3, [Sch.](#)
- F22** Words in s. 222(8) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 132](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### Modifications etc. (not altering text)

- C19** S. 222 applied (with modifications) (1.4.1996) by [1995 c. 43](#), ss. [14\(2\)\(i\)](#), [50\(2\)](#)  
S. 222 applied (with modifications) (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. [118\(1\)\(2\)\(i\)](#), [458](#); S.S.I. 2003/210, [art. 2](#) (with transitional provisions in [arts. 3-7](#))
- C20** S. 222 applied (E.) (12.8.2009) by [The Sea Fishing \(Landing and Weighing of Herring, Mackerel and Horse Mackerel\) Order 2009 \(S.I. 2009/1850\)](#), [arts. 1](#), [10\(3\)](#)
- C21** S. 222(8) modified by [2002 c. 29](#), s. [118\(2C\)\(2D\)](#) (as inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), ss. [19\(1\)\(b\)](#), [88\(2\)\(a\)](#); S.S.I. 2016/11, reg. [2\(d\)](#) (with reg. [3](#)))

#### Marginal Citations

- M4** [1980 c.43](#).  
**M5** [S.I. 1981/1675](#)  
**M6** [1991 c.53](#).

## 223 Transfer of fines: procedure for clerk of court.

- (1) Where [F<sup>23</sup>the clerk of] a court makes a transfer of fine order under section 222 of this Act, [F<sup>24</sup>that clerk] shall send to the clerk of the court specified in the order—
- a notice in the form prescribed by Act of Adjournal, or as nearly as may be in such form;
  - a statement of the offence of which the offender was convicted; and
  - a statement of the steps, if any, taken to recover the fine,

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and shall give him such further information, if any, as, in his opinion, is likely to assist the court specified in the order in recovering the fine.

- (2) In the case of a further transfer of fine order, the clerk [<sup>F25</sup>of court who] made the order shall send to the clerk of the court by which the fine was imposed a copy of the notice sent to the clerk of the court specified in the order.
- (3) The clerk of court specified in a transfer of fine order shall, as soon as may be after he has received the notice mentioned in subsection (1)(a) above, send an intimation to the offender in the form prescribed by Act of Adjournal or as nearly as may be in such form.
- (4) The clerk of court specified in a transfer of fine order shall remit or otherwise account for any payment received in respect of [<sup>F26</sup>a fine imposed by a court outwith Scotland] to the clerk of the court by which the fine was imposed, and if the sentence has been enforced otherwise than by payment of the fine, he shall inform the clerk of court how the sentence was enforced.

#### Textual Amendments

- F23** Words in s. 223(1) inserted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(4\)\(a\)\(i\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F24** Words in s. 223(1) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(4\)\(a\)\(ii\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F25** Words in s. 223(2) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(4\)\(b\)](#); S.S.I. 2008/42, [art. 3](#), Sch.
- F26** Words in s. 223(4) substituted (10.3.2008) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), ss. 80, 84, [Sch. para. 20\(4\)\(c\)](#); S.S.I. 2008/42, [art. 3](#), Sch.

#### Modifications etc. (not altering text)

- C22** S. 223 applied (1.4.1996) by [1995 c. 43](#), [ss. 14\(2\)\(j\)](#), 50(2)
- S. 223 applied (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [ss. 118\(1\)\(2\)\(j\)](#), 458; S.S.I. 2003/210, [art. 2](#) (with transitional provisions in [arts. 3-7](#))

**Status:**

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**Changes to legislation:**

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