



# Criminal Procedure (Scotland) Act 1975

## 1975 CHAPTER 21

### PART II

#### SUMMARY PROCEDURE

#### CONVICTION AND SENTENCE

##### *Probation*

#### **390 Further provisions as to probation orders**

- (1) Where the court by which a probation order is made under section 384 of this Act or subsection (6) of this section is satisfied that the person to whom the order relates is under the age of 17 years and resides or will reside in England, subsection (2) of the said section 384 shall not apply to the order but the order shall name the petty sessions area in which that person resides or will reside and the court shall send notification of the order to the clerk to the justices for that area.
- (2) Where a probation order has been made under section 384 of this Act or subsection (6) of this section, and the court which made the order or the appropriate court is satisfied that the person to whom the order relates is under the age of 17 years and proposes to reside or is residing in England, the power of that court to amend the order under Schedule 5 to this Act shall include power, without summoning him and without his consent, to insert in the order the name of the petty sessions area aforesaid; and where the court exercises the power conferred on it by virtue of this subsection it shall send notification of the order to the clerk aforesaid.
- (3) A court which sends a notification to a clerk in pursuance of the foregoing provisions of this section shall send to him with it three copies of the probation order in question and such other documents and information relating to the case as it considers likely to be of assistance to the juvenile court mentioned in the following subsection.
- (4) It shall be the duty of the clerk to whom a notification is sent in pursuance of the foregoing provisions of this section to refer the notification to a juvenile court acting for the petty sessions area named in the order, and on such a reference the court—

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*Status: This is the original version (as it was originally enacted).*

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- (a) may make a supervision order under the Children and Young Persons Act 1969 in respect of a person to whom the notification relates ; and
  - (b) if it does not make such an order, shall dismiss the case.
- (5) A supervision order made by virtue of the last foregoing subsection shall not include a requirement authorised by section 12 of the said Act of 1969 unless the supervised person is before the court when the supervision order is made, and in relation to a supervision order made by virtue of that subsection—
  - (a) section 15 of that Act shall have effect as if, in subsection (4), paragraph (b) and the words following it were omitted; and
  - (b) section 17(a) of that Act shall have effect as if the second reference to the supervision order were a reference to the probation order in consequence of which the supervision order is made;and when a juvenile court disposes of a case referred to it in pursuance of the last foregoing subsection, the probation order in consequence of which the reference was made shall cease to have effect.
- (6) The court which, in pursuance of subsection (1) of section 73 of the Social Work (Scotland) Act 1968, considers a case referred to it in consequence of a notification under paragraph (b) of that subsection (which relates to a case in which a person subject to a supervision order made by virtue of this section moves to Scotland)—
  - (a) may, if it is of opinion that the person to whom the notification relates should continue to be under supervision, make a probation order in respect of him for a period specified in the order ; and
  - (b) if it does not make such an order, shall dismiss the case;and when the court disposes of a case in pursuance of this subsection the supervision order aforesaid shall cease to have effect.
- (7) Notwithstanding any provision to the contrary in section 384 of this Act, a probation order made by virtue of the last foregoing subsection which includes only requirements having the like effect as any requirement or provision of the supervision order to which the notification relates may be made without summoning the person to whom the notification relates and without his consent, and shall specify a period of supervision which shall expire not later than the date on which that supervision order would have ceased to have effect by the effluxion of time; and, except as aforesaid, the provisions of this Act shall apply to that probation order.
- (8) In this and the last foregoing section, " petty sessions area " has the same meaning as in the said Act of 1969.