



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

*[<sup>F1</sup>Order for lifelong restriction etc.]*

#### Textual Amendments

**F1** Ss. 210B-210H and cross-headings inserted (19.6.2006 for specified purposes) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 1, 89](#) (as amended with regards to ss. 210B, 210D and 210G (27.9.2005) by [S.S.I. 2005/465, art. 2, Sch. 1 para. 34\(2\)](#)); [S.S.I. 2006/332, art. 2](#)

#### **210F** [<sup>F2</sup>Order for lifelong restriction or compulsion order]

(1) The High Court, at its own instance or on the motion of the prosecutor, if it is satisfied, having regard to—

- (a) [<sup>F3</sup>any] risk assessment report submitted under section 210C(4) or (5) of this Act;
- (b) any report submitted by virtue of section 210D of this Act;
- (c) any evidence given under section 210C(7) of this Act; and
- (d) any other information before it,

that, on a balance of probabilities, the risk criteria are met, shall [<sup>F4</sup>, in a case where it may make a compulsion order in respect of the convicted person under section 57A of this Act, either make such an order or make an order for lifelong restriction in respect of that person and in any other case make an order for lifelong restriction in respect of that person.]

(2) An order for lifelong restriction constitutes a sentence of imprisonment, or as the case may be detention, for an indeterminate period.

*Status: Point in time view as at 16/08/2013.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: Order for lifelong restriction etc. is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The prosecutor may, on the grounds that on a balance of probabilities the risk criteria are met, appeal against any refusal of the court to make an order for lifelong restriction.

#### Textual Amendments

- F2** S. 210F title substituted (20.6.2006 for specified purposes) by virtue of [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#) {ss. 14(3)}, 24; [S.S.I. 2006/331](#), [art. 3\(1\)](#) (subject to [art. 3\(2\)](#))
- F3** Word in s. 210F(1)(a) substituted (20.6.2006 for specified purposes) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 14\(2\)\(a\)](#), 24; [S.S.I. 2006/331](#), [art. 3\(1\)](#) (subject to [art. 3\(2\)](#))
- F4** Words in s. 210F(1) substituted (20.6.2006 for specified purposes) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#), [ss. 14\(2\)\(b\)](#), 24; [S.S.I. 2006/331](#), [art. 3\(1\)](#) (subject to [art. 3\(2\)](#))  
[Editorial Note: the word "shall" immediately preceding the substituted text is treated as not having been removed despite the wording of the amending section, by virtue of the decision of the Appeal Court, High Court of Justiciary, in the case of *Brian Johnstone v HM Advocate* 5 July 2011 [2011] HCJAC 66]

### 210G Disposal of case where certain orders not made

- (1) Where, in respect of a convicted person—
- (a) a risk assessment order is not made under section 210B(2) of this Act, or (as the case may be) an interim compulsion order is not made by virtue of section 210D(1) of this Act, because the court does not consider that the risk criteria may be met; or
  - (b) the court considers that the risk criteria may be met but a risk assessment order, or (as the case may be) an interim compulsion order, is not so made because the person is subject to an order for lifelong restriction previously imposed, the court shall dispose of the case as it considers appropriate.
- (2) Where, in respect of a convicted person, an order for lifelong restriction is not made under section 210F of this Act because the court is not satisfied (in accordance with subsection (1) of that section) that the risk criteria are met, the court, in disposing of the case, shall not impose on the person a sentence of imprisonment for life, detention for life or detention without limit of time.]

**Status:**

Point in time view as at 16/08/2013.

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Cross Heading: Order for lifelong restriction etc. is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.