

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Paragraph 13 is up to date with all changes known to be in force on or before 15 May 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) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 13

TRANSFER OF COMMUNITY PAYBACK ORDERS TO ENGLAND AND WALES OR NORTHERN IRELAND

Textual Amendments

- F1** Sch. 13 inserted (16.9.2011) by [The Criminal Justice and Licensing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2011 \(S.I. 2011/2298\)](#), art. 1, **Sch. para. 6** (with art. 4(4))

PART 2

NORTHERN IRELAND

13. (1) This paragraph applies where the court has—
- (a) imposed a community payback order by virtue of paragraph 8, or
 - (b) varied a community payback order by virtue of paragraph 9.
- (2) The order has effect in Northern Ireland as if it were a corresponding order made by a court in that jurisdiction.
- (3) The home court may exercise in relation to the order any power under the legislation relating to the corresponding order that the home court could exercise, other than—
- (a) a power to discharge or revoke the order (other than in circumstances where the offender is convicted of a further offence and the court imposes a custodial sentence),
 - (b) a power to deal with the offender in respect of the offence in relation to which the order was imposed as the offender could have been dealt with had the order not been imposed,
 - (c) where the order imposes an unpaid work or other activity requirement, a power to vary the order by substituting for the number of hours of work specified in it a greater number than the court which imposed the order could have specified,
 - (d) where the order imposed a restricted movement requirement, a power to vary the order by substituting for the period specified in it a longer period than the court which imposed it could have specified.
- (4) Sub-paragraph (5) applies where it appears to the home court—
- (a) on information from the responsible officer, that the offender has failed to comply with any of the requirements of the order, or
 - (b) on the application of the offender or the responsible officer, that it would be in the interests of justice to—
 - (i) discharge the order, or

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- (ii) revoke the order and deal with the offender as mentioned in sub-paragraph (3)(b).
- (5) The home court may—
 - (a) refer the matter to the appropriate Scottish court, and
 - (b) require the offender to appear before that court.
- (6) Where the matter is referred under sub-paragraph (5) to the appropriate Scottish court, that court may—
 - (a) if the offender fails to appear as required under sub-paragraph (5)(b), issue a warrant for the offender’s arrest, and
 - (b) deal with the matter—
 - (i) where it is referred by virtue of sub-paragraph (4)(a), in accordance with section 227ZC of this Act, or
 - (ii) where it is referred by virtue of sub-paragraph (4)(b), as if it were an application under section 227Y of this Act to vary, revoke or discharge the order.
- (7) Where the matter is referred by virtue of sub-paragraph (4)(a), the home court must also send to the appropriate Scottish court—
 - (a) a certificate signed by the clerk of the home court certifying that the offender has failed to comply with such requirements of the order as are specified in the certificate, and
 - (b) such other documents and information relating to the case as may be useful.
- (8) The certificate mentioned in sub-paragraph (7)(a) is, for the purposes of any proceedings before the appropriate Scottish court, sufficient evidence of the failure mentioned in the certificate.
- (9) Where, in dealing with the matter by virtue of sub-paragraph (6)(b), the appropriate Scottish court is considering varying the order (or has varied the order) the provisions of this Part apply in relation to the proposed variation (or the order as varied) as they apply where the court is considering imposing a community payback order (or has imposed a community payback order) by virtue of paragraph 1.
- (10) Section 227G(3) of this Act does not apply where the appropriate Scottish court is considering imposing a restricted movement requirement by virtue of sub-paragraph (6)(b)(i).]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)