



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *[<sup>F1</sup>Community payback orders*

#### **[<sup>F1</sup>227B Community payback order: procedure prior to imposition**

- (1) This section applies where a court is considering imposing a community payback order on an offender.
- (2) The court must not impose the order unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant the imposition of such an order.
- (3) Before imposing a community payback order imposing two or more requirements, the court must consider whether, in the circumstances of the case, the requirements are compatible with each other.
- (4) The court must not impose the order unless it has obtained, and taken account of, a report from an officer of a local authority containing information about the offender and the offender's circumstances.
- (5) An Act of Adjournal may prescribe—
  - (a) the form of a report under subsection (4), and
  - (b) the particular information to be contained in it.
- (6) Subsection (4) does not apply where the court is considering imposing a community payback order—
  - (a) imposing only a level 1 unpaid work or other activity requirement, or
  - (b) under section 227M(2).
- (7) The clerk of the court must give a copy of any report obtained under subsection (4) to—

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*Status: Point in time view as at 16/08/2013.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 227B is up to date with all changes known to be in force on or before 07 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)*

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- (a) the offender,
  - (b) the offender's solicitor (if any), and
  - (c) the prosecutor.
- (8) Before imposing the order, the court must explain to the offender in ordinary language—
- (a) the purpose and effect of each of the requirements to be imposed by the order,
  - (b) the consequences which may follow if the offender fails to comply with any of the requirements imposed by the order, and
  - (c) where the court proposes to include in the order provision under section 227X for it to be reviewed, the arrangements for such a review.
- (9) The court must not impose the order unless the offender has, after the court has explained those matters, confirmed that the offender—
- (a) understands those matters, and
  - (b) is willing to comply with each of the requirements to be imposed by the order.
- (10) Subsection (9)(b) does not apply where the court is considering imposing a community payback order under section 227M(2).]

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#### **Textual Amendments**

- F1** Ss. 227A-227ZN and cross-headings inserted (1.2.2011 except for the insertion of s. 227ZM, 1.4.2011 in so far as not already in force) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), [ss. 14\(1\)](#), 206(1); [S.S.I. 2010/413](#), art. 2, sch. (with art. 3(1))

**Status:**

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