



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

*[<sup>F1</sup>Community payback orders: review, variation etc.]*

#### **[<sup>F1</sup>227Z] Variation of community payback orders: further provision**

- (1) This section applies where a court is considering varying a community payback order imposed on an offender.
- (2) The court must not make the variation unless it has obtained, and taken account of, a report from the responsible officer containing information about the offender and the offender's circumstances.
- (3) An Act of Adjournal may prescribe—
  - (a) the form of a report under subsection (2), and
  - (b) the particular information to be contained in it.
- (4) Subsection (2) does not apply where the court is considering varying a community payback order—
  - (a) so that it imposes only a level 1 unpaid work or other activity requirement, or
  - (b) imposed under section 227M(2).
- (5) The clerk of the court must give a copy of any report obtained under subsection (2) to—
  - (a) the offender,
  - (b) the offender's solicitor (if any).
- (6) Before making the variation, 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 as proposed to be varied,

*Status: Point in time view as at 16/08/2013.*

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 227ZA is up to date with all changes known to be in force on or before 11 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)*

- (b) the consequences which may follow if the offender fails to comply with any of the requirements imposed by the order as proposed to be varied, and
  - (c) where the court proposes to include in the order as proposed to be varied provision for a progress review under section 227X, or to vary any such provision already included in the order, the arrangements for such a review.
- (7) The court must not make the variation 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 as proposed to be amended.
- (8) Where the variation would impose a new requirement—
- (a) the court must not make the variation if the new requirement is not a requirement that could have been imposed by the order when it was imposed,
  - (b) if the new requirement is one which could have been so imposed, the court must, before making the variation take whatever steps the court would have been required to take before imposing the requirement had it been imposed by the order when it was imposed.
- (9) Subsection (8)(a) does not prevent the imposition of a restricted movement requirement under section 227ZC(7)(d).
- (10) In determining for the purpose of subsection (8)(a) whether an unpaid work or other activity requirement is a requirement that could have been imposed by the order when the order was imposed, the effect of section 227N(7) is to be ignored.
- (11) Where the variation would vary any requirement imposed by the order, the court must not make the variation if the requirement as proposed to be varied could not have been imposed, or imposed in that way, by the order when it was imposed.
- (12) Subsections (4) and (5) of section 227D apply, with the necessary modifications, where a community payback order is varied as they apply where such an order is imposed.]

#### **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:**

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

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 227ZA is up to date with all changes known to be in force on or before 11 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.