



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

[^{F1}Antisocial behaviour orders

[^{F1}234AA] Antisocial behaviour orders

- (1) Where subsection (2) below applies, the court may, instead of or in addition to imposing any sentence which it could impose, make an antisocial behaviour order in respect of a person (the “offender”).
- (2) This subsection applies where—
 - (a) the offender is convicted of an offence;
 - ^{F2}(b)
 - (c) in committing the offence, he engaged in antisocial behaviour; and
 - (d) the court is satisfied, on a balance of probabilities, that the making of an antisocial behaviour order is necessary for the purpose of protecting other persons from further antisocial behaviour by the offender.
- (3) For the purposes of subsection (2)(c) above, a person engages in antisocial behaviour if he—
 - (a) acts in a manner that causes or is likely to cause alarm or distress; or
 - (b) pursues a course of conduct that causes or is likely to cause alarm or distress, to at least one person who is not of the same household as him.
- (4) Subject to subsection (5) below, an antisocial behaviour order is an order which prohibits, indefinitely or for such period as may be specified in the order, the offender from doing anything described in the order.
- (5) The prohibitions that may be imposed by an antisocial behaviour order are those necessary for the purpose of protecting other persons from further antisocial behaviour by the offender.

Status: Point in time view as at 25/01/2018.

Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 234AA is up to date with all changes known to be in force on or before 10 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)

- (6) Before making an antisocial behaviour order, the court shall explain to the offender in ordinary language—
- (a) the effect of the order and the prohibitions proposed to be included in it;
 - (b) the consequences of failing to comply with the order;
 - (c) the powers the court has under subsection (8) below; and
 - (d) the entitlement of the offender to appeal against the making of the order.
- (7) Failure to comply with subsection (6) shall not affect the validity of the order.
- (8) On the application of the offender in respect of whom an antisocial behaviour order is made under this section, the court which made the order may, if satisfied on a balance of probabilities that it is appropriate to do so—
- (a) revoke the order; or
 - (b) subject to subsection (9) below, vary it in such manner as it thinks fit.
- (9) Where an antisocial behaviour order specifies a period, the court may not, under subsection (8)(b) above, vary the order by extending the period.
- (10) An antisocial behaviour order made under this section, and any revocation or variation of such an order under subsection (8) above, shall be taken to be a sentence for the purposes of an appeal.
- (11) [^{F3}Section 9 (breach of orders) of the Antisocial Behaviour etc. (Scotland) Act 2004 applies in relation to antisocial behaviour orders made under this section as that section applies] in relation to antisocial behaviour orders made under section 4 of that Act.
- (12) In this section, “conduct” includes speech; and a course of conduct must involve conduct on at least two occasions.]

Textual Amendments

- F1** Ss. 234AA, 234AB and cross-heading inserted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), **ss. 118**, 145(2); S.S.I. 2004/420, **art. 3**, Sch. 1
- F2** S. 234AA(2)(b) repealed (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 52(4)**, 206(1); S.S.I. 2011/178, **art. 2**, sch.
- F3** Words in s. 234AA(11) substituted (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 3(2)**; S.S.I. 2017/345, **art. 3**, sch.

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