



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

#### *[<sup>F1</sup>Antisocial behaviour orders]*

#### **234CA Requirement for <sup>F1</sup>... monitoring in drug treatment and testing order**

- (1) A drug treatment and testing order may include a requirement that during such period as may be specified in the requirement, being a period not exceeding twelve months, the offender comply with such restrictions as to his movements as the court thinks fit; and paragraphs (a) and (b) of subsection (2) of section 245A of this Act (with the qualification of paragraph (a) which that subsection contains) shall apply in relation to any such requirement as they apply in relation to a restriction of liberty order.
- (2) The clerk of the court shall cause a copy of a drug treatment and testing order which includes such a requirement to be sent to the person who is to be responsible for monitoring the offender's compliance with the requirement.
- (3) If, within the period last specified by virtue of subsection (1) above or (6)(d) below, it appears to the person so responsible that the offender has failed to comply with the requirement the person shall so inform the supervising officer appointed by virtue of section 234C(6) of this Act, who shall report the matter to the court.
- (4) Section 245H shall apply in relation to proceedings under section 234G of this Act as respects a drug treatment and testing order which includes such a requirement as it applies in relation to proceedings under section 245F of this Act.
- (5) [<sup>F2</sup>Section] 245A(6) and (8) to (11)<sup>F3</sup>... of this Act shall apply in relation to the imposition of, or as the case may be compliance with, requirements included by virtue of subsection (1) above in a drug treatment and testing order as those sections apply in relation to the making of, or as the case may be compliance with, a restriction of liberty order.

**Changes to legislation:** *Criminal Procedure (Scotland) Act 1995, Section 234CA is up to date with all changes known to be in force on or before 26 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) View outstanding changes*

- (6) In relation to a drug testing order which includes such a requirement, section 234E of this Act shall apply with the following modifications—
- (a) the persons who may make an application under subsection (1) of that section shall include the person responsible for monitoring the offender’s compliance with the requirement, but only in so far as the application relates to the requirement;
  - (b) the reference in subsection (2) of that section to the supervising officer shall be construed as a reference to either that officer or the person so responsible;
  - (c) where an application is made under subsection (1) of that section and relates to the requirement, the persons to be heard under subsection (3) of that section shall include the person so responsible;
  - (d) the ways of varying the order which are mentioned in subsection (3)(a) of that section shall include increasing or decreasing the period specified by virtue of subsection (1) above (or last specified by virtue of this paragraph) but not so as to increase that period above the maximum mentioned in subsection (1) above; and
  - (e) the reference in subsection (5) of that section—
    - (i) to the supervising officer shall be construed as a reference to either that officer or the person so responsible; and
    - (ii) to sections 234B(5) and 234D(1) shall be construed as including a reference to section 245A(6) and (11).
- (7) Where under section 234E or 234G(2)(b) of this Act the court varies such a requirement, the clerk of court shall cause a copy of the amended drug treatment and testing order to be sent—
- (a) to the person responsible for monitoring the offender’s compliance with the requirement; and
  - (b) where the variation comprises a change in who is designated for the purposes of such monitoring, to the person who, immediately before the order was varied, was so responsible.

#### Textual Amendments

- F1** Word in s. 234CA title repealed (17.5.2022) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), [sch. 1 para. 7\(3\)\(c\)](#); S.S.I. 2022/94, reg. 2(2)(l) (with regs. 1(2), 3(4))
- F2** Word in s. 234CA(5) substituted (17.5.2022) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), [sch. 1 para. 7\(3\)\(b\)\(i\)](#); S.S.I. 2022/94, reg. 2(2)(l) (with regs. 1(2), 3(4))
- F3** Words in s. 234CA(5) repealed (17.5.2022) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), s. 63(2), [sch. 1 para. 7\(3\)\(b\)\(ii\)](#); S.S.I. 2022/94, reg. 2(2)(l) (with regs. 1(2), 3(4))

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 234CA is up to date with all changes known to be in force on or before 26 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.

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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.)