



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *[<sup>F1</sup>Restriction of liberty orders]*

##### **[<sup>F1</sup>245J <sup>F1</sup>Breach of certain orders: adjourning hearing and remanding in custody etc.]**

- (1) Where [<sup>F2</sup>an] offender appears before the court in respect of his apparent failure to comply with a requirement of, as the case may be, a [<sup>F3</sup>community payback order], drug treatment and testing order, <sup>F4</sup> . . . or restriction of liberty order the court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with him, adjourn the hearing.
- (2) Where, under subsection (1) above, the court adjourns a hearing it shall remand the <sup>F5</sup> . . . offender in custody or on bail or ordain him to appear at the adjourned hearing.
- (3) [<sup>F6</sup>The court may adjourn a hearing under subsection (1) for such period as it considers appropriate.]
- (4) [<sup>F7</sup>An] offender remanded under this section may appeal against the refusal of bail, or against the conditions imposed, within 24 hours of his remand.
- (5) Any such appeal shall be [<sup>F8</sup>to the [<sup>F9</sup>appropriate Appeal Court] by note of appeal, and the [<sup>F9</sup>appropriate Appeal Court]], either in court or in chambers, may after hearing <sup>F10</sup> . . . the appellant—
  - (a) review the order appealed against and either grant bail on such conditions as it thinks fit or ordain the appellant to appear at the adjourned hearing; or
  - (b) confirm the order.

[ A note of appeal under subsection (5) above is to be—

- <sup>F11</sup>(6) (a) lodged with the clerk of the court from which the appeal is to be taken; and
- (b) sent without delay by that clerk (where not the [<sup>F12</sup>clerk of the appropriate Appeal Court]) to the [<sup>F12</sup>clerk of the appropriate Appeal Court].]

*Status: Point in time view as at 27/05/2020.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 245J is up to date with all changes known to be in force on or before 09 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)*

[ In this section—

<sup>F13</sup>(7)

“appropriate Appeal Court” means—

- (a) in the case of an appeal under subsection (4) against a decision of the High Court, that Court;
- (b) in the case of an appeal under subsection (4) against a decision of a sheriff (whether in solemn or summary proceedings) or a JP court, the Sheriff Appeal Court; and

“the clerk of the appropriate Appeal Court” means—

- (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary;
- (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of that Court.]]

#### Textual Amendments

- F1** S. 245J inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 48, 89**; S.S.I. 2003/288, **art. 2, Sch.**
- F2** Words in s. 245J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(i)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F3** Words in s. 245J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(ii)**; S.S.I. 2010/413, **art. 2, Sch.** (with arts. 3-8)
- F4** Words in s. 245J(1) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(iii)**; S.S.I. 2010/413, **art. 2, Sch.** (with arts. 3-8)
- F5** Words in s. 245J(2) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(b)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F6** S. 245J(3) substituted (temp.) (27.5.2020) by virtue of Coronavirus (Scotland) (No.2) Act 2020 (asp 10), **s. 16(1), sch. 2 para. 1(5)** (with s. 9)
- F7** Words in s. 245J(4) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(c)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F8** Words in s. 245J(5) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(6)(a), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F9** Words in s. 245J(5) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), **art. 1, sch. 2 para. 5(8)(a)** (with art. 4)
- F10** Words in s. 245J(5) repealed (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80, 84, Sch. para. 21**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F11** S. 245J(6) added (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(6)(b), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F12** Words in s. 245J(6)(b) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), **art. 1, sch. 2 para. 5(8)(b)** (with art. 4)
- F13** S. 245J(7) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), **art. 1, sch. 2 para. 5(8)(c)** (with art. 4)

**Status:**

Point in time view as at 27/05/2020.

**Changes to legislation:**

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