



Criminal Justice (Scotland) Act 1949

1949 CHAPTER 94

PART I

POWERS AND PROCEEDINGS OF COURTS

Probation

5 Failure to comply with requirement of probation orders

- (1) If on information on oath from the probation officer named in a probation order it appears to the court by which the order was made or to the appropriate court that the probationer has failed to comply with any of the requirements of the order, that court may issue a warrant for the arrest of the probationer, or may, if it thinks fit, instead of issuing such a warrant in the first instance, issue a citation requiring the probationer to appear before the court at such time as may be specified in the citation.
- (2) If it is proved to the satisfaction of the court before which a probationer appears or is brought in pursuance of the last foregoing subsection that he has failed to comply with any of the requirements of the probation order, the court may—
 - (a) without prejudice to the continuance in force of the probation order, impose a fine not exceeding ten pounds; or
 - (b)
 - (i) where the probationer has been convicted for the offence for which the order was made, sentence him for that offence;
 - (ii) where the probationer has not been so convicted, convict him and sentence him as aforesaid; or
 - (c) vary any of the requirements of the probation order, so however that any extension of the probation period shall terminate not later than three years from the date of the probation order.
- (3) Where a court imposes a fine under this section, it shall, if the probationer is a child, and may, if the probationer is a young person, order that the fine be paid by the parent or guardian of the child or young person.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (4) A fine imposed under this section in respect of a failure to comply with the requirements of a probation order shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by or in respect of a conviction or a penalty imposed on a person summarily convicted.
- (5) A probationer who is required by a probation order to submit to treatment for his mental condition shall not be deemed for the purpose of this section to have failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.
- (6) Without prejudice to the provisions of section six of this Act, a probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be dealt with under this section for failing to comply with any requirement of the probation order.