

SCHEDULE 1

(introduced by section 16)

COURT ORDERS AND ELECTRONIC MONITORING

PART 1

ADDITIONAL PROVISIONS

Certain restrictive measures

- 1 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
 - (2) In section 209, after subsection (7A) there is inserted—
 - “(7B) A supervised release order made in relation to a person is to be taken to be of no effect if the person becomes a long-term prisoner, as defined in section 27(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, because of the treating of—
 - (a) a sentence in association with which the order is made, and
 - (b) any other sentence (whenever imposed on the person),together as a single term by virtue of section 27(5) of that Act.”.
- 2 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
 - (2) In section 227A, after paragraph (i) of subsection (2) there is inserted—
 - “(j) a restricted movement requirement.”.
 - (3) In section 227G—
 - (a) in subsection (2), in paragraph (b)—
 - (i) in sub-paragraph (iv), after the word “health” there is inserted “treatment”,
 - (ii) the word “or” immediately preceding sub-paragraph (vii) is repealed,
 - (iii) after sub-paragraph (vii) there is inserted “, or
(viii) a restricted movement requirement.”,
 - (b) in subsection (4), for the words “subsection (5) and section 227ZE(4)” there is substituted “subsections (4A) and (5)”,
 - (c) after subsection (4) there is inserted—
 - “(4A) Where an offender supervision requirement is imposed because of the imposition of a restricted movement requirement—
 - (a) the minimum period in subsection (3) does not apply,
 - (b) the court must ensure that the specified period does not expire before the expiry of the period during which the restricted movement requirement has effect by virtue of section 227ZF(5)(b).”.
 - (4) In section 227ZE—
 - (a) before subsection (1) there is inserted—
 - “(A1) Despite the generality of sections 227Z(2) and 227ZC(7)(d) for variation of a community payback order—

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- (a) a restricted movement requirement put or kept in the order must be accompanied in the order by an offender supervision requirement, and
 - (b) the court must ensure that the offender supervision requirement does not cease to have effect before the restricted movement requirement ceases to have effect.”
 - (b) subsections (1) to (4) are repealed,
 - (c) in subsection (5)—
 - (i) for the words “varies the order” there is substituted “makes or varies a community payback order”,
 - (ii) for the words “the order making the variation” there is substituted “the order imposing the requirement”.
- (5) In section 227ZF, in subsection (7)—
- (a) in the opening text, for the words from “in the case of” to “requirement of” there is substituted “as follows in relation to”,
 - (b) in paragraph (a), at the beginning there is inserted “in the case of any restricted movement requirement imposed by the order,”,
 - (c) in paragraph (b), for the words “where the only requirement” there is substituted “in the case of a restricted movement requirement imposed under section 227ZC(7)(d), where the only requirement (apart from the restricted movement requirement)”.
- 3 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 234AZA, in paragraph (a) of subsection (4), after the word “consider” there is inserted “the question of”.

Notification, reports and addresses

- 4 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After section 245D there is inserted—

“245DA Further provision about multiple orders

- (1) Subsection (2) applies where the court—
 - (a) makes any of the listed orders in relation to an offender, and
 - (b) knows that the offender is already subject to another of the listed orders.
- (2) The clerk of court must send a copy of whichever of the listed orders is then made to—
 - (a) any person responsible for monitoring the offender’s compliance with whichever of the other listed orders the offender is already subject to (so far as the person’s identity can reasonably be ascertained), and
 - (b) the local authority within whose area the offender resides.
- (3) The listed orders are—
 - (a) a restriction of liberty order,
 - (b) a community payback order,

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- (c) a drug treatment and testing order.
- (4) In the listed orders, the reference to a community payback order does not include such an order if imposed under section 227M(2).”.
- 5 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 227ZG, in subsection (2)—
- (a) in the opening text, before the word “report” there is inserted “written”,
- (b) after paragraph (a) there is inserted—
- “(aa) the suitability of the place (particularly with a view to maximising the prospect of the offender’s compliance with the requirement and minimising the risk of reoffending by the offender),”.
- (3) In section 227ZH, in subsection (2)—
- (a) in the opening text, before the word “report” there is inserted “written”,
- (b) after paragraph (a) there is inserted—
- “(aa) the suitability of the new place (particularly with a view to maximising the prospect of the offender’s compliance with the requirement and minimising the risk of reoffending by the offender),”.
- (4) In section 245A, in paragraph (a) of subsection (6)—
- (a) in the opening text, before the word “report” there is inserted “written”,
- (b) after sub-paragraph (i) there is inserted—
- “(ia) the suitability of what is proposed (particularly with a view to maximising the prospect of the offender’s compliance with the order and minimising the risk of reoffending by the offender);”.
- (5) In section 245E—
- (a) in paragraph (a) of subsection (4A)—
- (i) in the opening text, before the word “report” there is inserted “written”,
- (ii) after sub-paragraph (i) there is inserted—
- “(ia) the suitability of what is proposed (particularly with a view to maximising the prospect of the offender’s compliance with the order and minimising the risk of reoffending by the offender);”.
- (b) in sub-paragraph (i) of paragraph (a) of subsection (6), for the words from “the place” to the end there is substituted “the same matters as are to be included in a report under subsection (4A)(a);”.

PART 2

CONSEQUENTIAL PROVISIONS

- 6 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.
- (2) In section 12AB, subsections (3) to (7) are repealed.

Status: This is the original version (as it was originally enacted).

- 7 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) These sections are repealed—
- (a) section 227ZI,
 - (b) section 227ZK,
 - (c) section 245B,
 - (d) section 245C,
 - (e) section 245H.
- (3) In addition—
- (a) in the title of section 227ZE, the word “: rules” is added at the end,
 - (b) in section 234CA, in subsection (5)—
 - (i) for the word “Sections” there is substituted “Section”,
 - (ii) the words “, 245B and 245C” are repealed”,
 - (c) in the title of section 234CA, the word “remote” is repealed,
 - (d) in section 245A, in paragraph (a) of subsection (4), the words from “, including” to the end are repealed.
- 8 (1) The Crime and Punishment (Scotland) Act 1997 is amended as follows.
- (2) In section 63, paragraph (a)(i) of subsection (1) is repealed.
- 9 (1) The Criminal Justice (Scotland) Act 2003 is amended as follows.
- (2) Section 40 is repealed.
- 10 (1) The Custodial Sentences and Weapons (Scotland) Act 2007 is amended as follows.
- (2) Section 49 is repealed.

SCHEDULE 2

(introduced by section 38)

REHABILITATION OF OFFENDERS ACT 1974

- 1 (1) The 1974 Act is amended as follows.
- (2) In section 1—
- (a) in subsection (2), for the word “rehabilitated” in both places where it occurs there is substituted “protected”,
 - (b) in subsection (3), after paragraph (za) there is inserted—
 - “(zb) a hospital direction under section 59A of the Criminal Procedure (Scotland) Act 1995;
 - (zc) a victim surcharge imposed under section 253F of the Criminal Procedure (Scotland) Act 1995;”,
 - (c) in subsection (4), for the word “rehabilitated” there is substituted “protected”,
 - (d) after subsection (4) there is inserted—
 - “(4A) In this Act, an “excluded sentence” is a sentence listed in section 5(1).”.
- (3) In the title of section 1, for the word “Rehabilitated” there is substituted “Protected”.

Status: This is the original version (as it was originally enacted).

- (4) In the title of section 2, the words “Rehabilitation of” are repealed.
- (5) In the title of section 3, the words “under the Social Work (Scotland) Act 1968” are repealed.
- (6) In section 4, in subsection (1), for the word “rehabilitated” there is substituted “protected”.
- (7) In the title of section 4, for the word “rehabilitation” there is substituted “becoming a protected person”.
- (8) In section 5—
 - (a) in subsection (1)—
 - (i) for the words “excluded from rehabilitation under” there is substituted “which are excluded sentences for the purposes of”,
 - (ii) for the words “sentence subject to rehabilitation under this Act” there is substituted “disclosable sentence”,
 - (b) after subsection (1A) there is inserted—

“(1B) In subsection (1), “disclosable sentence” means a sentence imposed in relation to a conviction in respect of which a person may, under this Act, become a protected person.”.
- (9) In the title of section 5, for the word “Rehabilitation” there is substituted “Disclosure”.
- (10) In section 6—
 - (a) in subsection (1)—
 - (i) the words from “(not” to “Act)” are repealed,
 - (ii) for the word “rehabilitation” in the second place where it occurs there is substituted “disclosure”,
 - (b) in subsection (2)—
 - (i) the words from “and” to “Act,” are repealed,
 - (ii) for “rehabilitation” in the second place where it occurs there is substituted “disclosure”,
 - (c) after subsection (2) there is inserted—

“(2A) In subsections (1) and (2), the references to sentences do not include excluded sentences.”,
 - (d) in subsection (3A)—
 - (i) for the word “rehabilitation” in each place where it occurs there is substituted “disclosure”,
 - (ii) for the word “rehabilitated” there is substituted “protected”.
- (11) In the title of section 6, for the word “rehabilitation” there is substituted “disclosure”.
- (12) In section 7, in subsection (1)(d)—
 - (a) for the words “or other penalty” there is substituted “requirement, restriction or other way of regulating the person’s behaviour”,
 - (b) for the word “rehabilitation” there is substituted “disclosure”.
- (13) In the title of section 7, for the words “rehabilitation under this Act, etc.” there is substituted “protection under section 4(1)”.

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- (14) In section 8, in subsection (1), for the word “rehabilitated” there is substituted “protected”.
- (15) In section 9—
- (a) in subsection (1), for the words “rehabilitated living person” there is substituted “living protected person”,
 - (b) in subsection (3)—
 - (i) in paragraph (a), for the word “rehabilitated” in both places where it occurs there is substituted “protected”,
 - (ii) in paragraph (b), for the word “rehabilitated” in both places where it occurs there is substituted “protected”.
- (16) In schedule 1, in paragraph 1, for the words “period of rehabilitation” there is substituted “disclosure period”.
- (17) In schedule 2—
- (a) in paragraph 1(3)(a) and (b), for the word “rehabilitation” in each place where it occurs there is substituted “disclosure”,
 - (b) in paragraph 5(b), for the word “rehabilitation” there is substituted “disclosure”.
- (18) In schedule 3, in paragraph 1—
- (a) in sub-paragraph (5), for the word “rehabilitation” in both places where it occurs there is substituted “disclosure”,
 - (b) in sub-paragraph (6), for the word “rehabilitation” in both places where it occurs there is substituted “disclosure”.