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SCHEDULE 4 JUSTICE

PART 6

COMMUNITY ORDERS

Community payback orders: extension of unpaid work or other activity requirements

- 12 (1) Sub-paragraph (2) applies to a community payback order—
- (a) imposed on or before the day of Royal Assent,
 - (b) which imposes an unpaid work or other activity requirement (regardless of whether or not it also imposes any other requirement), and
 - (c) where the specified period to complete the requirement ends after that day.
- (2) The order is to be read as if the specified period were extended by 12 months.
- (3) The Scottish Ministers may by regulations provide that, in relation to a community payback order to which sub-paragraph (4) applies, the order is to be read as if the specified period to complete the unpaid work or other activity requirement (read in accordance with sub-paragraph (2) if it applies to the order) were extended by the amount of time specified in the regulations.
- (4) This sub-paragraph applies to a community payback order—
- (a) imposed on or before the day on which the regulations come into force,
 - (b) which imposes an unpaid work or other activity requirement (regardless of whether or not it also imposes any other requirement), and
 - (c) where the specified period to complete the requirement (read in accordance with sub-paragraph (2) if it applies to the order) ends after that day.
- (5) Regulations under sub-paragraph (3) may be made only if the Scottish Ministers are satisfied that—
- (a) if the regulations were not made, it is likely that there will be a failure to comply with an unpaid work or other activity requirement in one or more community payback orders as a result of coronavirus, or
 - (b) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.
- (6) Regulations under sub-paragraph (3) are subject to the affirmative procedure.
- (7) The relevant local authority in relation to a community payback order to which sub-paragraph (2) or regulations made under sub-paragraph (3) applies must inform the offender of the effect of sub-paragraph (2) or, as the case may be, the regulations on the order.

Community payback orders: time limit for completion of unpaid work or other activity

- 13 (1) Section 227L of the Criminal Procedure (Scotland) Act 1995 (time limit for completion of unpaid work or other activity) applies in accordance with the modifications in this paragraph.
- (2) Subsection (2)(a) has effect as if for “3 months” there were substituted “12 months”.

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- (3) Subsection (2)(b) has effect as if for “6 months” there were substituted “ 12 months”.

Community orders: postponement

- 14 (1) The Scottish Ministers may by regulations postpone the effect of community payback orders and drug treatment and testing orders.
- (2) The regulations—
- (a) may make different provision for different descriptions of—
 - (i) order,
 - (ii) requirement imposed under an order,
 - (iii) offender in respect of whom the order is imposed,
 - (iv) offence the offender is convicted of,
 - (b) may provide for all requirements imposed by an order to be postponed or for specified requirements to be postponed,
 - (c) may not postpone unpaid work or other activity requirements,
 - (d) must specify—
 - (i) the day on which the requirements imposed by the orders are suspended, and
 - (ii) the day on which the requirements resume effect (which day must be no later than 6 months after the day specified by virtue of sub-paragraph (i)),
 - (e) may be made in relation to orders and requirements imposed by orders that have previously been postponed by virtue of regulations made under sub-paragraph (1).
- (3) The period during which a requirement is suspended by virtue of regulations under sub-paragraph (1) does not count as elapsed time in relation to any period specified as part of the requirement and any references in an order to periods or dates is to be read accordingly.
- (4) During a period in which a requirement is suspended by virtue of regulations under sub-paragraph (1), the offender on whom the requirement was imposed does not need to comply with the requirement (and therefore section 227ZC of the Criminal Procedure (Scotland) Act 1995 does not apply).
- (5) Regulations under sub-paragraph (1) may be made only if the Scottish Ministers are satisfied that—
- (a) if the regulations were not made, it is likely that there will be a failure to comply with a requirement imposed by one or more of the orders to which the regulations apply as a result of coronavirus, or
 - (b) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.
- (6) Regulations under sub-paragraph (1) are subject to the affirmative procedure.
- (7) The relevant local authority in relation to a community payback order or drug treatment and testing order to which regulations made under sub-paragraph (1) applies must inform the offender of the effect of the regulations on the order.

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Community orders: variation

- 15 (1) The Scottish Ministers may by regulations vary requirements imposed in community payback orders and drug treatment and testing orders.
- (2) Regulations under sub-paragraph (1) may—
- (a) make different provision for different descriptions of—
 - (i) order,
 - (ii) requirement imposed under an order,
 - (iii) offender in respect of whom the order is imposed,
 - (iv) offence the offender is convicted of,
 - (b) revoke orders,
 - (c) revoke requirements.
- (3) Regulations under sub-paragraph (1) may not—
- (a) modify the amount of compensation required to be paid under a compensation requirement,
 - (b) increase the total amount of hours specified in an unpaid work or other activity requirement,
 - (c) increase or extend the period for which a requirement is imposed,
 - (d) increase the period during which an offender must be at a specified place or not be at a specified place or class of place under a restricted movement requirement.
- (4) Regulations under sub-paragraph (1) may be made only if the Scottish Ministers are satisfied that—
- (a) the variations will not make the orders to which the regulations apply more onerous to comply with, and
 - (b) either—
 - (i) if the regulations were not made, it is likely that there will be a failure to comply with a requirement imposed by one or more of the orders to which the regulations apply as a result of coronavirus, or
 - (ii) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.
- (5) Regulations under sub-paragraph (1) are subject to the affirmative procedure.
- (6) The relevant local authority in relation to a community payback order or drug treatment and testing order to which regulations made under sub-paragraph (1) apply must inform the offender of the effect of the regulations on the order.

Community orders: interpretation

- 16 In paragraphs 12, 14 and 15—
- “community payback order” means a community payback order imposed under section 227A(1) or (4) or 227M(2) of the Criminal Procedure (Scotland) Act 1995,
 - “compensation requirement” has the meaning given in section 227H(1) of that Act,
 - “drug treatment and testing order” has the meaning given in section 234B(2) of that Act,

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“relevant local authority” means—

- (a) in relation to a community payback order, the local authority in whose area is situated the locality specified in the order by virtue of section 227C(2)(a) of that Act,
- (b) in relation to a drug treatment and testing order, the local authority specified by virtue of section 234C(6) of that Act,

“restricted movement requirement” has the meaning given in section 227ZF(1) of that Act,

“specified period”, in relation to an unpaid work or other activity requirement, has the meaning given in section 227L(2) of that Act,

“unpaid work or other activity requirement” has the meaning given in section 227I(1) of that Act.

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