



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1990

## 1990 CHAPTER 40

### PART IV

#### MISCELLANEOUS REFORMS

##### *Treatment of offenders*

- 61 Probation and community service orders and supervision and care of persons on probation or released from prison etc**
- (1) Sections 183 and 384 of the Criminal Procedure (Scotland) Act 1975 (probation) shall be amended as follows—
- (a) at the beginning of subsection (1) of each section there shall be inserted “Subject to subsection (1A) below,”;
  - (b) after subsection (1) of each section there shall be inserted the following subsection—

“(1A) A court shall not make a probation order under subsection (1) above unless it is satisfied that suitable arrangements for the supervision of the offender can be made by the local authority in whose area he resides or is to reside.”; and
  - (c) in subsection (4) of each section—
    - (i) for the words “necessary for” there shall be substituted “conducive to”; and
    - (ii) for the word “for” in the second place where it occurs there shall be substituted “to”.
- (2) In subsection (1) of each of sections 186 and 387 of that Act (failure to comply with probation order)—
- (a) after the word “from” there shall be inserted “(a)”; and
  - (b) after the word “probationer” where it first occurs there shall be inserted—

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*Status: This is the original version (as it was originally enacted).*

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- “(b) the director of social work of the local authority whose officer is supervising the probationer; or
  - (c) an officer appointed by the director of social work to act on his behalf for the purposes of this subsection.”.
- (3) In section 1(1) of the Community Service by Offenders (Scotland) Act 1978 (community service orders), for the words “dealing with him in any other way” there shall be substituted “imposing on him a sentence of, or including, imprisonment or any other form of detention”.
- (4) In section 27 of the Social Work (Scotland) Act 1968 (supervision and care of persons on probation or released from prison etc)—
- (a) at the end of subsection (1) there shall be added—
- “; and
- (c) the provision of advice, guidance and assistance for persons in their area who, within 12 months of their release from prison or any other form of detention, request such advice, guidance or assistance.”; and
- (b) after paragraph (a) of subsection (3) there shall be inserted the following paragraph—
- “(aa) the matters to be included in such a report.”.
- (5) In section 27A of that Act (grants in respect of community service facilities)—
- (a) at the beginning there shall be inserted “(1)”; and
  - (b) for the words from “for the purposes” to the end there shall be substituted—
- “(a) for the purposes mentioned in section 27(1) of this Act; and
  - (b) for such other similar purposes as the Secretary of State may prescribe.
- (2) Before exercising his power under subsection (1)(b) above the Secretary of State shall consult local authorities and such other bodies as he considers appropriate.”.
- (6) In section 27B of that Act (grants in respect of hostel accommodation for certain persons)—
- (a) at the beginning there shall be inserted “(1)”; and
  - (b) for the words from “sub-paragraphs (i) and (ii)” to the end there shall be substituted—
- “subsection (2) below.
- (2) The persons referred to in subsection (1) above are—
- (a) persons mentioned in section 27(1)(b)(i) and (ii) of this Act;
  - (b) persons who have been charged with an offence and are on bail;
  - (c) persons who have been released from prison or any other form of detention but do not fall within section 27(1)(b)(ii) of this Act; and
  - (d) such other classes of persons as the Secretary of State may prescribe.

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

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(3) Before exercising his power under subsection (2)(d) above the Secretary of State shall consult local authorities and such other persons as he considers appropriate.”.

(7) In section 94(1) of that Act (interpretation), in paragraph (c) of the definition of “prescribed”, after the word “sections” there shall be inserted “27A, 27B,”.

## **62 Supervised attendance orders as alternative to imprisonment on fine default**

(1) A court may make a supervised attendance order in the circumstances specified in subsection (3) below.

(2) A supervised attendance order is an order made by a court with the consent of an offender requiring him—

- (a) to attend a place of supervision for such time, being 10, 20, 30, 40, 50 or 60 hours, as is specified in the order; and
- (b) during that time, to carry out such instructions as may be given to him by the supervising officer.

(3) The circumstances are where—

- (a) the offender is of or over 16 years of age; and
- (b) having been convicted of an offence, he has had imposed on him a fine which (or any part or instalment of which) he has failed to pay and either of the following sub-paragraphs applies—
  - (i) the court, prior to the commencement of this section, has imposed on him a period of imprisonment under paragraph (a) of subsection (1) of section 407 of the Criminal Procedure (Scotland) Act 1975 (power of court, when imposing a fine, to impose also imprisonment on default) but he has not served any of that period of imprisonment;
  - (ii) the court, but for this section, would also have imposed on him a period of imprisonment under that paragraph or paragraph (b) of that subsection (power of court to impose imprisonment when a person fails to pay a fine or any part or instalment thereof); and
- (c) the court considers a supervised attendance order more appropriate than the serving of or, as the case may be, imposition of such a period of imprisonment.

(4) Where, in respect of an offender, a court makes a supervised attendance order in circumstances where sub-paragraph (i) of paragraph (b) of subsection (3) above applies, the making of that order shall have the effect of discharging the sentence of imprisonment imposed on the offender.

(5) Schedule 6 to this Act has effect for the purpose of making further and qualifying provision as to supervised attendance orders.

(6) In this section—

“local authority” means a regional or islands council;

“place of supervision” means such place as may be determined for the purposes of a supervised attendance order by the supervising officer; and

“supervising officer”, in relation to a supervised attendance order, means a person appointed or assigned under Schedule 6 to this Act by the local authority whose area includes the locality in which the offender resides or will be residing when the order comes into force.