



# 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 <sup>M1</sup>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—

*Status: Point in time view as at 01/04/1991.*

**Changes to legislation:** Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, Section 61 is up to date with all changes known to be in force on or before 18 March 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)

- “(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 <sup>M2</sup>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 <sup>M3</sup>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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(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, ”.

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**Commencement Information**

**I1** S. 61 wholly in force at 1.4.1991. See s. 75(2) and S.I. 1991/850, art. 3, Schedule.

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**Marginal Citations**

**M1** 1975 c. 21.

**M2** 1978 c. 49.

**M3** 1968 c. 49.

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