



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

[^{F1}Enforcement of fines etc.: fines enforcement officers

[^{F1}226B Enforcement orders

- (1) When a court grants time to pay (or further time to pay) a relevant penalty (or an instalment of it) under section 214 or 215 of this Act, the court shall make an enforcement order under this subsection in relation to payment of the penalty.
- (2) Despite subsection (1) above, a court need not make an enforcement order where it considers that it would not be appropriate to do so in the circumstances of the case.
- (3) Where, by virtue of subsection (2) above, a court does not make an enforcement order under subsection (1) above, it may subsequently make an enforcement order under that subsection in relation to payment of the penalty.
- (4) Where—
 - (a) a person has accepted (or is deemed to have accepted)—
 - (i) a fixed penalty offer under section 302(1) of this Act; or
 - (ii) a compensation offer under section 302A(1) of this Act; and
 - (b) payment (or payment of an instalment) has not been made as required by the offer,the relevant court may make an enforcement order under this subsection in relation to the payment due.
- (5) Where—
 - (a) a person is liable to pay—
 - (i) a fixed penalty notice given under section 54 (giving notices for fixed penalty offences), or section 62 (fixing notices to vehicles) of the

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Road Traffic Offenders Act 1988 (c. 53), which has been registered under section 71 of that Act; or

(ii) by virtue of section 131(5) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), a fixed penalty notice given under section 129 (fixed penalty notices) of that Act; and

(b) payment (or payment of an instalment) has not been made as required by the penalty,

the relevant court may make an enforcement order under this subsection in relation to the payment due.

(6) Where there is transferred to a court in Scotland a fine—

(a) imposed by a court in England and Wales; and

(b) in relation to which a collection order (within the meaning of Part 4 of Schedule 5 to the Courts Act 2003 (c. 39)) has been made,

the relevant court may make an enforcement order under this subsection in relation to payment of the fine.

[Where—

^{F2}(6A) (a) a certificate requesting enforcement under the Framework Decision on financial penalties and a decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates has been referred to the competent authority for Scotland by virtue of section 223H(2) of this Act; and

(b) by virtue of section 223I(1) the competent authority for Scotland is satisfied that none of the grounds for refusal to enforce the financial penalty as specified in Schedule 12 to this Act apply,

the relevant court may make an enforcement order under this subsection in relation to payment of the financial penalty (which, for the purposes of this subsection, is deemed to be a relevant penalty).]

(7) An enforcement order under subsection (4), (5) [^{F3}, (6) or (6A)] above may be made—

(a) on the oral or written application of the clerk of court; and

(b) without the offender being present.

(8) An enforcement order shall—

(a) state the amount of the relevant penalty;

(b) require payment of the relevant penalty in accordance with—

(i) such arrangements as to the amount of the instalments by which the relevant penalty should be paid and as to the intervals at which such instalments should be paid;

(ii) such other arrangements,

as the order may specify;

(c) provide contact details for the FEO dealing with the enforcement order;

(d) explain the effect of the enforcement order.

(9) Where a court makes (or is to make) an enforcement order in relation to a fine—

(a) a court may not impose imprisonment—

(i) under section 214(4) of this Act; or

(ii) under section 219(1) of this Act,

in respect of the fine;

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- (b) a court may not—
 - (i) allow further time for payment under subsection (9)(a) of section 214 of this Act; or
 - (ii) make an order under subsection (9)(b) of that section, in respect of the fine;
 - (c) the offender may not make an application under section 215(1) of this Act in respect of the fine.
- (10) Paragraphs (a) to (c) of subsection (9) above apply for so long as the enforcement order continues to have effect.
- (11) An enforcement order ceases to have effect if—
- (a) the relevant penalty is paid (including by application of any proceeds of enforcement action); or
 - (b) it is revoked under section 226G(9)(a) of this Act.]

Textual Amendments

- F1** Ss. 226A-226I and preceding cross-heading inserted (10.3.2008 for certain purposes and otherwise prosp.) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 55, 84**; S.I. 2008/42, **art. 3, Sch.**
- F2** S. 226B(6A) inserted (12.10.2009) by The Mutual Recognition of Criminal Financial Penalties in the [European Union \(Scotland\) Order 2009 \(S.S.I. 2009/342\)](#), **art. 5(a)** (with **art. 2**)
- F3** Words in s. 226B(7) substituted (12.10.2009) by The Mutual Recognition of Criminal Financial Penalties in the [European Union \(Scotland\) Order 2009 \(S.S.I. 2009/342\)](#), **art. 5(b)** (with **art. 2**)

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