



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *[<sup>F1</sup>Restriction of liberty orders]*

##### **[<sup>F1</sup>245D Combination of restriction of liberty order with other orders.**

- (1) Subsection (3) applies where the court—
  - (a) intends to make a restriction of liberty order under section 245A(1) of this Act; and
  - (b) considers it expedient that the offender should also be subject to
    - [ in the case of an offender who is under 16 years of age,] a<sup>F2</sup>(i) [<sup>F3</sup>community payback order imposed under section 227A(1)] of this Act
    - [<sup>F4</sup>(ii) in the case of an offender who is 16 years of age or more, a [<sup>F5</sup>community payback order imposed under section 227A(1) of this Act or]] a drug treatment and testing order made under section 234B(2) of this Act<sup>F6</sup> . . . .
- (2) In deciding whether it is expedient to make a [<sup>F7</sup>community payback order] or a drug treatment and testing order by virtue of paragraph (b) of subsection (1) above, the court shall—
  - (a) have regard to the circumstances, including the nature of the offence and the character of the offender; and
  - (b) obtain a report as to the circumstances and character of the offender.
- (3) Where this subsection applies, the court, notwithstanding sections<sup>F8</sup> . . . 234B(2) and 245A(1) of this Act, may make a restriction of liberty order and
  - [ in the case of an offender who is under 16 years of age, a [<sup>F10</sup>community payback order];<sup>F9</sup>(a)

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Section 245D is up to date with all changes known to be in force on or before 14 April 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) View outstanding changes*

- (b) in the case of an offender who is 16 years of age or more, <sup>F11</sup>either a community payback order or] a drug treatment and testing order.
- (4) Where the court makes a restriction of liberty order and a <sup>F12</sup>community payback order] by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—
  - (a) any person responsible for monitoring the offender’s compliance with the restriction of liberty order; and
  - <sup>F13</sup>(b) the local authority within whose area the offender will reside for the duration of each order.]
- (5) Where the court makes a restriction of liberty order and a drug treatment and testing order by virtue of subsection (3) above, the clerk of the court shall send a copy of each order to—
  - (a) any person responsible for monitoring the offender’s compliance with the restriction of liberty order;
  - (b) the treatment provider, within the meaning of section 234C(1) of this Act; and
  - (c) the officer of the local authority who is appointed or assigned to be the supervising officer under section 234C(6) of this Act.
- (6) <sup>F14</sup> . . . . .
- (7) Where the offender by an act or omission fails to comply with a requirement of an order made by virtue of subsection (3) above—
  - (a) if the failure relates to a requirement <sup>F15</sup>imposed by a community payback order and is dealt with under section 227ZC(7)(d)] of this Act, the court may, in addition, exercise the powers conferred by section <sup>F16</sup>. . . 245F(2) of this Act in relation to the restriction of liberty order;
  - (b) if the failure relates to a requirement contained in a drug treatment and testing order and is dealt with under section <sup>F17</sup>. . . 245F(2)(b) of this Act in relation to the restriction of liberty order; and
  - (c) if the failure relates to a requirement contained in a restriction of liberty order and is dealt with under section 245F(2)(b) of this Act, the court may, in addition, exercise the powers conferred by section <sup>F18</sup>227ZC(7)(d) of this Act in relation to a community payback order] and by section 234G(2)(b) of this Act in relation to a drug treatment and testing order to which, in either case, the offender is subject by virtue of subsection (3) above.
- (8) In any case to which this subsection applies, the offender may, without prejudice to subsection (7) above, be dealt with as respects that case under section <sup>F19</sup>227ZC] or, as the case may be, section 234G or section 245F(2) of this Act but he shall not be liable to be otherwise dealt with as respects that case.
- (9) Subsection (8) applies in a case where—
  - (a) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a <sup>F20</sup>community payback order] to which he is subject by virtue of subsection (3) above;
  - (b) the offender by an act or omission fails to comply with both a requirement contained in a restriction of liberty order and in a drug treatment and testing order to which he is subject by virtue of subsection (3) above;
  - (c) <sup>F21</sup> . . . . .]

**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 245D is up to date with all changes known to be in force on or before 14 April 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) View outstanding changes

### Textual Amendments

- F1** S. 245D substituted (30.9.1998) by 1998 c. 37, s. 94(2), **Sch. 6 Pt. I para. 3**; S.I. 1998/2327, **art. 2(1)(s)**
- F2** Words in s. 245D(1)(b) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(7)(a)(i)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F3** Words in s. 245D(1)(b)(i) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(2)(a)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F4** Words in s. 245D(1)(b) substituted (4.4.2005) for words by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(7)(a)(ii)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F5** Words in s. 245D(1)(b)(ii) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(2)(b)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F6** Words in s. 245D(1)(b)(ii) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(2)(b)(ii)**; S.S.I. 2010/413, **art. 2**, Sch. (with arts. 3-8)
- F7** Words in s. 245D(2) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(3)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F8** Words in s. 245D(3) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(4)(a)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F9** Words in s. 245D(3) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(7)(b)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F10** Words in s. 245D(3)(a) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(4)(b)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F11** Words in s. 245D(3)(b) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(4)(c)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F12** Words in s. 245D(4) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(5)(a)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F13** S. 245D(4)(b) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(5)(b)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F14** S. 245D(6) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(6)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F15** Words in s. 245D(7)(a) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(7)(a)(i)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F16** Words in s. 245D(7)(a) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(7)(a)(ii)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F17** Words in s. 245D(7)(b) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(7)(b)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F18** Words in s. 245D(7)(c) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(7)(c)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F19** Words in s. 245D(8) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(8)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F20** Words in s. 245D(9)(a) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(9)(a)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)
- F21** S. 245D(9)(c) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), **Sch. 2 para. 22(9)(b)**; S.S.I. 2010/413, **art. 2**, Sch. (with art. 3)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 245D is up to date with all changes known to be in force on or before 14 April 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)