

# CRIMINAL JUSTICE (SCOTLAND) ACT 2003

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## EXPLANATORY NOTES

### THE ACT THE ACT IS IN 12 PARTS.

#### Part 12 – Miscellaneous and General

##### Miscellaneous

##### *Section 78 – Disqualification from jury service*

436. **Section 78** amends Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 to disqualify for a specified period offenders subject to certain community disposals from serving on juries. These disposals are probation orders, drug treatment and testing orders (DTTOs), community service orders (CSOs) and restriction of liberty orders (RLOs).
437. Both probation orders and DTTOs may be imposed by the court where it is of the opinion it is expedient to do so. Both CSOs and RLOs are imposed by the court as a direct alternative to a custodial sentence.
438. The section also provides for disqualification from jury service in Scotland of those persons who receive equivalent English and Northern Irish community orders and DTTOs. Persons who are convicted and receive a community disposal in England and Wales or in Northern Ireland are disqualified from jury service in these jurisdictions. If these persons move to Scotland, this section provides that they will also be disqualified from jury service in Scotland.
439. **Section 1(1)(d)** of, and Part II of Schedule 1 to the 1980 Act list individuals who are disqualified from jury service.
440. Subsection (1) inserts a new paragraph into Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 to add to the list of those disqualified from jury service. It provides that persons who have been convicted of an offence and as a result were given one or more specified community disposals will be disqualified from serving on a jury. So that a disqualification in respect of probation orders would be effective, it also disapplies section 247 of the 1995 in relation to such orders.
441. Subsection (1) applies except where the persons who have received a relevant order are rehabilitated persons for the purposes of the Rehabilitation of Offenders Act 1974. The 1974 Act provides for a rehabilitative period after which the conviction imposed is treated as spent. Section 5 of the 1974 Act specifies the rehabilitation periods in respect of specific disposals.
442. Subsection (2) provides, that subject to subsection (3), the provisions in subsection (1) will apply even if the community disposal was made before that subsection is brought into force. Consequently any person who is subject to a relevant order (and is not yet rehabilitated in accordance with the 1975 Act) will be disqualified from serving on a jury from the date on which the provision is brought into force. Subsection (3) provides that a person who has been cited for jury service or was serving on a jury

*These notes relate to the Criminal Justice (Scotland) Act  
2003 (asp 7) which received Royal Assent on 26 March 2003*

and who would otherwise be disqualified from jury service on the coming into force of that subsection would not be excused or disqualified from jury service. The effect of the two subsections is that subsection (2) retrospectively disqualifies individuals who are subject to the provisions in subsection (1) from serving on a jury, unless (under subsection (3)) the individual has already been cited to appear as a juror.