

# **CRIMINAL JUSTICE (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

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

#### **Part 6 – Non-Custodial Punishments**

##### ***Section 48 – Breach of certain orders: adjourning hearing and remanding in custody etc***

246. **Section 48** amends the Criminal Procedure (Scotland) Act 1995 by insertion of a new section 245J to provide clarification of the powers of courts to remand to custody (or release on bail) offenders, who are appearing before the court in relation to an apparent breach of a community disposal.
247. New subsection 245J(1) provides for the court in dealing with an offender, who is alleged to be in breach of a community disposal previously imposed by the court, to adjourn the hearing to allow further enquiries to be made. It sets out the community disposals to be dealt with under this sub-section i.e. probation orders, drug treatment and testing orders, supervised attendance orders, community service orders or restriction of liberty orders.
248. An offender who is remanded to custody under this section has the right of appeal within 24 hours under new subsection 245J(4) to contest the refusal of bail or against the conditions of the bail order. Subsection 245J(5) requires a note of appeal to be presented to the High Court, who can consider the case either in court or in chambers. In reaching its decision after hearing the prosecutor and the appellant the High Court can confirm the order or grant bail on such conditions as it sees fit or alternatively ordain the appellant to appear at the adjourned hearing.