

# **ANTISOCIAL BEHAVIOUR ETC. (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 10 – Further Criminal Measures**

##### ***Section 120 – Community reparation orders***

264. **Section 120** inserts a new section 245K into the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), to make available a new sentence to be known as a community reparation order. The new order will be confined to summary proceedings, where the offender is aged at least 12 and where the offence contains an element of antisocial behaviour as defined in subsection (3). An order will require the offender to carry out such tasks as the supervising officer, who will be appointed by a local authority, may direct for a specified number of hours (between 10 and 100 hours). Courts will require to explain in ordinary language the purpose and effect of the order, including the consequences of non-compliance. The supervising officer will require to ensure that the offender’s religious beliefs and employment (including any voluntary work) or educational needs are not prejudiced. Tasks undertaken by offenders subject to an order fall into two categories. These are activities designed to enable reparation to be made for antisocial behaviour or activities designed to reduce the future likelihood of persons engaging in antisocial behaviour. The regulations under subsections (5) and (6) are subject to negative resolution procedure.
265. New section 245L sets out the arrangements for notification to the offender and the local authority of details of the order. New section 245M makes provision for continuation of the order where it has not been completed within the normal 12 months period. New section 245N gives courts powers, where it appears that non-compliance has occurred, to cite the offender to appear in court or to order a warrant for his or her arrest. New section 245P sets out the power of courts in relation to extending, varying or revoking the order. The court will have the ability to extend the normal period of 12 months for completion of the order, to vary the number of hours specified, to revoke the order or to sentence the offender in any manner which would have been available to the court at the time of imposing the order. Schedule 4 of the Act makes amendments to the Social Work (Scotland) Act 1968, amongst other matters, it provides powers for the Scottish Ministers to make regulations requiring local authorities to consult on the nature of community reparation order schemes. These regulations are subject to negative resolution procedure.