

**Changes to legislation:** *Antisocial Behaviour etc. (Scotland) Act 2004, Paragraph 5 is up to date with all changes known to be in force on or before 19 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*

SCHEDULE 4  
MINOR AND CONSEQUENTIAL AMENDMENTS

- 5 (1) The Criminal Procedure (Scotland) Act 1995 shall be amended as follows.
- (2) In subsection (2)(b)(ii) of section 79 (preliminary pleas and preliminary issues), after “Act” there shall be inserted “ section 9(6) of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8) or that section of that Act as applied by section 234AA(11) of this Act ”.
- <sup>F1</sup>(3) .....
- (4) In section 219 (imprisonment for non-payment of fines)—
- (a) in subsection (1), after “Act” there shall be inserted “ and subsection (1A) below ”; and
- (b) after subsection (1) there shall be inserted—
- “(1A) Subsection (1) shall not apply to a fine imposed for an offence under section 107 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8).”.
- <sup>F2</sup>(5) .....
- <sup>F2</sup>(6) .....
- (7) In section 245D (combination of restriction of liberty order with probation order or drug treatment and testing order)—
- (a) in subsection (1)(b)—
- (i) after “to”, where it first occurs, there shall be inserted—
- “(i) in the case of an offender who is under 16 years of age,”;
- (ii) for “or to”, where those words first occur, there shall be substituted—
- “(ii) in the case of an offender who is 16 years of age or more, a probation order made under section 228(1) of this Act,”; and
- (iii) the word “to”, where it thirdly occurs, is repealed; and
- (b) in subsection (3), after “and”, where it secondly occurs, there shall be inserted—
- “(a) in the case of an offender who is under 16 years of age, a probation order;
- (b) in the case of an offender who is 16 years of age or more,”.
- (8) In subsection (1)(b) of section 245E (variation of restriction of liberty orders), after “court”, where it first occurs, there shall be inserted “ apply ”.
- (9) In subsection (2) of section 245G (disposal on revocation of restriction of liberty order), after “disposing” there shall be inserted “ of ”.
- (10) In subsection (1)(b) of section 245H (documentary evidence in proceedings under section 245F), for “person subject to the order” there shall be substituted “ offender ”.
- <sup>F3</sup>(11) .....

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- (12) In Schedule 9 (certificates as to proof of certain routine matters), at the end there shall be inserted the following entry—

“The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), section 45(1).	An officer of a local authority within the meaning of that Act authorised to do so by the authority.	That a level of noise specified in the certificate was measured at a time and in a place specified in the certificate using an approved device within the meaning of that Act.”
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#### Textual Amendments

- F1** Sch. 4 para. 5(3) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 50\(b\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F2** Sch. 4 para. 5(5)(6) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 50\(b\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F3** Sch. 4 para. 5(11) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [sch. 2 para. 50\(b\)](#); S.S.I. 2010/413, art. 2, sch. (with art. 3(1))

#### Commencement Information

- II** Sch. 4 para. 5 wholly in force at 4.4.2005; Sch. 4 not in force at Royal Assent see s. 145(2); para 5(1)-(3)(6)(11) in force at 28.10.2004, para 5(12) in force at 1.1.2004, and para. 5(4)(5)(7)-(10) in force at 4.4.2005 by [S.S.I. 2004/420](#), [art. 3](#), [Schs. 1, 3, 5](#)

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**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. 85B inserted by [2014 asp 14 s. 21\(1\)](#)