

SCHEDULE 4
MINOR AND CONSEQUENTIAL AMENDMENTS

The Criminal Procedure (Scotland) Act 1995 (c. 46)

- 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”.
- (3) In subsection (4) of section 193A (suspension of certain sentences pending determination of appeal), after paragraph (d) there shall be inserted—
“*(e) a community reparation order.*”.
- (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).*”.
- (5) In section 235 (supervised attendance orders)—
(a) in subsection (1), after “(4)” there shall be inserted “or (4A)”;
(b) after subsection (2), there shall be inserted—
“*(2A) In making a supervised attendance order where subsection (4A) below applies, a court shall take into consideration the best interests of any person under the age of 16 in respect of whom the offender has parental responsibilities within the meaning of Part I of the Children (Scotland) Act 1995 (c. 36).*”;
(c) after subsection (4), there shall be inserted—
“*(4A) This subsection applies where, having been convicted of an offence under section 107 of the Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), the offender has had imposed on him a fine which (or any part or instalment of which) he has failed to pay.*”; and
(d) in subsection (6)—
(i) the word “or”, where it first appears, is omitted; and
(ii) after “(4)(c)” there shall be inserted “or (4A)”.
- (6) In subsection (3) of section 239 (requirements of community service orders), after “works” there shall be inserted “(or carries out voluntary work)”.
- (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,*”;

Status: This is the original version (as it was originally enacted).

- (ii) for “or to”, where those words first occur, there shall be substituted—
- “(i) 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”.
- (11) In paragraph 3 of Schedule 7 (supervised attendance orders)—
- (a) in sub-paragraph (1), after “works” there shall be inserted “(or carries out voluntary work)”; and
- (b) in sub-paragraph (3), after “works” there shall be inserted “(or carries out voluntary work)”.
- (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.
---	--	--
