



Antisocial Behaviour etc. (Scotland) Act 2004

2004 asp 8

PART 10

FURTHER CRIMINAL MEASURES

Community reparation orders

120 Community reparation orders

After section 245J of the Criminal Procedure (Scotland) Act 1995 (c. 46) there shall be inserted—

“Community reparation orders

245K Community reparation orders

- (1) Where subsection (2) below applies, the court may, instead of imposing any sentence which, but for this subsection, it could impose, make a community reparation order in respect of a person (“the offender”).
- (2) This subsection applies where—
 - (a) the offender is convicted in summary proceedings of an offence;
 - (b) at the time when he committed the offence, he was at least 12 years old;
 - (c) he committed the offence by engaging to any extent in antisocial behaviour; and
 - (d) in relation to the local authority that would be specified in the order, the Scottish Ministers have notified the court that the authority has made arrangements that would enable an order to be complied with.
- (3) For the purposes of subsection (2)(c) above, a person engages in antisocial behaviour if he—
 - (a) acts in a manner that causes or is likely to cause alarm or distress; or

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- (b) pursues a course of conduct that causes or is likely to cause alarm or distress,
to at least one person who is not of the same household as him.
- (4) A community reparation order is an order—
- (a) requiring the specified local authority to appoint a supervising officer for the purposes of—
- (i) determining which prescribed activities the offender should undertake for the specified number of hours (being at least 10 and not exceeding 100) during the period of 12 months beginning with the day on which the order is made;
 - (ii) determining at what times and in which localities he should undertake those activities; and
 - (iii) giving the offender directions during that period to undertake activities in accordance with determinations under subparagraphs (i) and (ii) above; and
- (b) requiring the offender, during that period, to comply with those directions.
- (5) In subsection (4) above—
- “prescribed activities” means activities designed—
- (a) to enable reparation to be made (whether to a particular person or to a group of persons and whether such a person, or any person in the group, has been affected by the antisocial behaviour or otherwise) by persons who have engaged in antisocial behaviour; or
 - (b) to reduce the likelihood of persons engaging in such behaviour, which are of such description as the Scottish Ministers may by regulations prescribe; and
- “specified” means specified in the order.
- (6) The Scottish Ministers may by regulations make provision about determinations made, and directions given, by virtue of paragraph (a) of subsection (4) above.
- (7) In giving directions by virtue of subsection (4)(a)(iii) above, a supervising officer shall, as far as practicable, avoid—
- (a) any conflict with the offender’s religious beliefs;
 - (b) any interference with the times at which the offender normally works (or carries out voluntary work) or attends an educational establishment.
- (8) Before making a community reparation order in respect of an offender, the court shall explain to him in ordinary language—
- (a) the purpose and effect of the order;
 - (b) the consequences of failure to comply with the order; and
 - (c) the powers the court has under section 245P of this Act.
- (9) For the purposes of any appeal or review, a community reparation order is a sentence.

- (10) Regulations under subsections (5) and (6) above shall be made by statutory instrument; and any such instrument shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

245L Community reparation order: notification

Where the court makes a community reparation order it shall intimate the making of the order to—

- (a) the offender;
- (b) the chief social work officer of the local authority specified in the order; and
- (c) where it is not the appropriate court, the clerk of the appropriate court.

245M Failure to comply with community reparation order: extension of 12 month period

Subject to sections 245N(4) and 245P(2)(c) and (d) of this Act, if—

- (a) a community reparation order is made in respect of an offender; and
- (b) the offender fails to comply with a direction given by the supervising officer appointed by virtue of the order,

then the order shall, notwithstanding section 245K(4)(a)(i), remain in force until the offender has complied with the direction.

245N Failure to comply with community reparation order: powers of court

- (1) Subsection (2) below applies where—
 - (a) a community reparation order is made in respect of an offender; and
 - (b) on information from the offender's supervising officer, it appears to the appropriate court that the offender has failed to comply with the order or any direction given under it.
- (2) The court may issue—
 - (a) a warrant for the arrest of the offender; or
 - (b) a citation requiring the offender to appear before the court at such time as may be specified in the citation.
- (3) The unified citation provisions shall apply in relation to a citation under this section as they apply in relation to a citation under section 216(3)(a) of this Act.
- (4) If it is proved to the satisfaction of the court before which the offender is brought or appears in pursuance of subsection (2) above that the offender has failed without reasonable excuse to comply with the order or any direction given under it, the court may revoke the order and deal with the offender in any manner in which he could have been dealt with for the original offence if the order had not been made.
- (5) The evidence of one witness shall, for the purposes of subsection (4) above, be sufficient evidence.

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245P Extension, variation and revocation of order

- (1) Subsection (2) below applies where a community reparation order is made in respect of an offender.
- (2) On the application of the offender or the offender’s supervising officer, the appropriate court may, if it appears to it that it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made—
 - (a) extend, in relation to the order, the period of 12 months specified in section 245K(4)(a)(i) of this Act;
 - (b) vary the numbers of hours specified in the order;
 - (c) revoke the order; or
 - (d) revoke the order and deal with the offender in any manner in which he could have been dealt with for the original offence if the order had not been made.
- (3) If the court proposes to exercise its powers under subsection (2)(a), (b) or (d) above otherwise than on the application of the offender, it shall issue a citation requiring the offender to appear before the court at such time as may be specified in the citation and, if he fails to appear, may issue a warrant for his arrest.
- (4) The unified citation provisions shall apply in relation to a citation under this section as they apply in relation to a citation under section 216(3)(a) of this Act.

245Q Sections 245L, 245N and 245P: meaning of “appropriate court”

In sections 245L, 245N and 245P of this Act, “appropriate court”, in relation to a community reparation order, means the court having jurisdiction in the area of the local authority specified in the order, being a sheriff or district court according to whether the order is made by a sheriff or district court (except that, in the case where an order is made by a district court and there is no district court in that area, it means the sheriff).”.