



Management of Offenders etc. (Scotland) Act 2005

2005 asp 14

Miscellaneous

19 Objection to content or finding of risk assessment report: conduct of proceedings

After section 210E of the Criminal Procedure (Scotland) Act 1995 (c. 46) insert—

“210EA Application of certain sections of this Act to proceedings under section 210C(7)

- (1) Sections 271 to 271M, 274 to 275C and 288C to 288F of this Act (in this section referred to as the “applied sections”) apply in relation to proceedings under section 210C(7) of this Act as they apply in relation to proceedings in or for the purposes of a trial, references in the applied sections to the “trial” and to the “trial diet” being construed accordingly.
- (2) But for the purposes of this section the references—
 - (a) in sections 271(1)(a) and 271B(1)(b) to the date of commencement of the proceedings in which the trial is being held or is to be held; and
 - (b) in section 288E(2)(b) to the date of commencement of the proceedings,are to be construed as references to the date of commencement of the proceedings in which the person was convicted of the offence in respect of which sentence falls to be imposed (such proceedings being in this section referred to as the “original proceedings”).
- (3) And for the purposes of this section any reference in the applied sections to—
 - (a) an “accused” (or to a person charged with an offence) is to be construed as a reference to the convicted person except that the reference in section 271(2)(e)(iii) to an accused is to be disregarded;
 - (b) an “alleged” offence is to be construed as a reference to any or all of the following—
 - (i) the offence in respect of which sentence falls to be imposed;

Status: This is the original version (as it was originally enacted).

- (ii) any other offence of which the convicted person has been convicted;
 - (iii) any alleged criminal behaviour of the convicted person; and
 - (c) a “complainer” is to be construed as a reference to any or all of the following—
 - (i) the person who was the complainer in the original proceedings;
 - (ii) in the case of any such offence as is mentioned in paragraph (b) (ii) above, the person who was the complainer in the proceedings relating to that offence;
 - (iii) in the case of alleged criminal behaviour if it was alleged behaviour directed against a person, the person in question.
- (4) Where—
- (a) any person who is giving or is to give evidence at an examination under section 210C(7) of this Act gave evidence at the trial in the original proceedings; and
 - (b) a special measure or combination of special measures was used by virtue of section 271A, 271C or 271D of this Act for the purpose of taking the person’s evidence at that trial,
- that special measure or, as the case may be, combination of special measures is to be treated as having been authorised, by virtue of the same section, to be used for the purpose of taking the person’s evidence at or for the purposes of the examination.
- (5) Subsection (4) above does not affect the operation, by virtue of subsection (1) above, of section 271D of this Act.”