

## SCHEDULE 2 COMMUNITY PAYBACK ORDERS: CONSEQUENTIAL MODIFICATIONS

### PART 2

#### OTHER ENACTMENTS

##### *The Firearms Act 1968 (c.27)*

- 30 (1) The Firearms Act 1968 is amended as follows.
- (2) In section 21(3ZA) (possession of firearms by persons previously convicted of crime), for paragraph (b) substitute—
- “(b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46).”.
- (3) In section 52(1A) (forfeiture and disposal of firearms: cancellation of certificate by convicting court), for paragraph (b) substitute—
- “(b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46).”.

##### *The Social Work (Scotland) Act 1968 (c.49)*

- 31 (1) The Social Work (Scotland) Act 1968 is amended as follows.
- (2) In section 27 (supervision and care of persons put on probation or released from prisons etc.), in subsection (1)(b)—
- (a) in paragraph (iii), for the words from “community service order” to the end substitute “community payback order imposed under section 227A or 227M of the Criminal Procedure (Scotland) Act 1995 imposing an unpaid work or other activity requirement”, and
- (b) sub-paragraphs (iv) and (va) are repealed.
- (3) In section 86(3) (adjustments between authority providing accommodation etc. and authority of area of residence), after “supervision order” insert “, community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995,”.

##### *The Rehabilitation of Offenders Act 1974 (c.53)*

- 32 (1) The Rehabilitation of Offenders Act 1974 is amended as follows.
- (2) In section 5(4A) (rehabilitation periods for particular sentences), the words “a probation order or” are repealed.
- (3) In section 6(3) (the rehabilitation period applicable to a conviction), the following are repealed—
- (a) the words “or a probation order was made”,
- (b) the words “or a breach of the order”, and
- (c) the words “or probation order”.

*The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55)*

- 33 In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, in Part 2 (ineligibility for and disqualification and excusal from jury service), in paragraph (bb)—
- (a) for sub-paragraph (i) substitute—
    - “(i) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46);”, and
  - (b) sub-paragraph (iii) is repealed.

*The Local Government and Planning (Scotland) Act 1982 (c.43)*

- 34 In section 24 of the Local Government and Planning (Scotland) Act 1982 (councils’ functions in relation to the provision of gardening assistance for the disabled and the elderly), in subsection (3), for the words from “instruction” to “that Act” substitute “determination that may be made or instruction that may be given, for the purposes of an unpaid work or other activity requirement imposed in a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46), by the responsible officer in relation to the order,”.

*The 1982 Act*

- 35 (1) The 1982 Act is amended as follows.
- (2) In section 49(6) (dangerous and annoying creatures), the words “or makes a probation order in relation to him” are repealed.
  - (3) In section 58(3) (convicted thief in possession)—
    - (a) the words “or makes a probation order in relation to him” are repealed, and
    - (b) for the words from “discharged absolutely,” to the end substitute “discharged absolutely.”.

*The Foster Children (Scotland) Act 1984 (c.56)*

- 36 In section 2 of the Foster Children (Scotland) Act 1984 (exceptions to section 1), in subsection (3), for “probation order” substitute “community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46)”.

*The Road Traffic Offenders Act 1988 (c.53)*

- 37 In section 46(3)(b) of the Road Traffic Offenders Act 1988 (combination of disqualification and endorsement with probation orders and orders for discharge), the words “section 228 (probation) or” are repealed.

*The Jobseekers Act 1995 (c.18)*

- 38 In section 20D(5) of the Jobseekers Act 1995 (as inserted by section 25(2) of the Welfare Reform Act 2009 (c.24) (jobseeker’s allowance: sanctions for violent conduct etc. in connection with claim)), the words “or a court in Scotland makes a probation order” are repealed.

*The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)*

- 39 In Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (transitional provisions, transitory modifications and savings), in Part 2, paragraph 13 is repealed.

*The Proceeds of Crime (Scotland) Act 1995 (c.43)*

- 40 (1) The Proceeds of Crime (Scotland) Act 1995 is amended as follows.
- (2) In section 25(9) (recall or variation of suspended forfeiture order), the words “probation order or” are repealed.
- (3) In section 26(9) (property wrongly forfeited: return or compensation), the words “probation order or” are repealed.

*The Crime and Punishment (Scotland) Act 1997 (c.48)*

- 41 In the Crime and Punishment (Scotland) Act 1997, the following provisions are repealed—
- (a) section 26 (evidence concerning certain orders), and
- (b) in Schedule 1 (minor and consequential amendments), in paragraph 21, subparagraphs (27) to (29).

*The Crime and Disorder Act 1998 (c.37)*

- 42 In the Crime and Disorder Act 1998, in Schedule 6 (drug treatment and testing orders: amendment of the 1995 Act), in Part 1, paragraphs 1 and 2 are repealed.

*The Powers of Criminal Courts (Sentencing) Act 2000 (c.6)*

- 43 In Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (consequential amendments), paragraphs 176 to 178 are repealed.

*The Criminal Justice and Court Services Act 2000 (c.43)*

- 44 (1) Schedule 7 to the Criminal Justice and Court Services Act 2000 (minor and consequential amendments) is amended as follows.
- (2) In paragraph 4(2), in the entry relating to the Criminal Procedure (Scotland) Act 1995, for “sections 209(3)(a) and 234(1)(a)” substitute “section 209(3)(a)”.
- (3) Paragraphs 122 to 125 are repealed.

*The Social Security Fraud Act 2001 (c.11)*

- 45 (1) The Social Security Fraud Act 2001 is amended as follows.
- (2) In section 6C(5)(b)(i) (provisions supplementary to section 6B), the words “or a court in Scotland makes a probation order” are repealed.
- (3) In section 7(9)(b) (loss of benefit for commission of benefit offences), the words “or a court in Scotland makes a probation order” are repealed.

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

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*The Justice (Northern Ireland) Act 2002 (c.26)*

- 46 In Schedule 4 to the Justice (Northern Ireland) Act 2002 (functions of justices of the peace), paragraph 37 is repealed.

*The Criminal Justice (Scotland) Act 2003 (asp 7)*

- 47 (1) The Criminal Justice (Scotland) Act 2003 is amended as follows.
- (2) In section 42 (drugs courts)—
- (a) in subsection (4)—
- (i) for “probationer with the requirements of a probation order” substitute “community payback order”,
- (ii) in paragraph (b), for the words from “make” to “work” substitute “in the case of a failure to comply with the requirements of a drug treatment and testing order, make a community payback order imposing a level 1 unpaid work or other activity requirement, so however that the total hours of unpaid work or other activity”, and
- (iii) for “probation order” where those words second occur substitute “community payback order”,
- (b) in subsection (6), for paragraph (b) substitute—
- “(b) alleged at—
- (i) a progress review carried out by such a court in relation to a community payback order; or
- (ii) a diet of such a court to which an offender has been cited under section 227ZC(2) of that Act (breach of community payback order),
- that the offender has failed to comply with a requirement imposed by a community payback order,”,
- (c) in subsection (7)—
- (i) the words “or probationer” are repealed, and
- (ii) for “232” substitute “227ZC”,
- (d) for subsection (9) substitute—
- “(9) If a community payback order is revoked under section 227ZC(7) (b) of the 1995 Act, the court (whether or not a drugs court) must, in dealing with the offender by virtue of that section, take into account any sentence which has been imposed under paragraph (a) of subsection (4) of this section in relation to a failure to comply with the community payback order.”,
- (e) in subsection (10)—
- (i) insert at the appropriate places—
- ““community payback order” means an order imposed under section 227A of the 1995 Act;”
- ““level 1 unpaid work or other activity requirement” has the meaning given in section 227I(5) of the 1995 Act;”, and
- (ii) the definition of “probation order” is repealed, and
- (f) in subsection (11), paragraphs (a) and (b) are repealed.
- (3) Section 46 (requirement for remote monitoring in probation order) is repealed.

- (4) In section 50 (amendments in relation to certain non-custodial sentences), subsections (1), (2) and (4) are repealed.
- (5) In section 60 (unified citation provisions)—
  - (a) in subsection (1), paragraphs (a), (b), (e) and (f) are repealed, and
  - (b) subsections (3) and (4) are repealed.

*The Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)*

- 48 In the Mental Health (Care and Treatment) (Scotland) Act 2003, the following provisions are repealed—
- (a) section 135 (amendment of 1995 Act: probation for treatment of mental disorder), and
  - (b) in schedule 4 (minor and consequential amendments), in paragraph 8, sub-paragraph (15).

*The Criminal Justice Act 2003 (c.44)*

- 49 In Schedule 32 to the Criminal Justice Act 2003 (amendments relating to sentencing), paragraphs 69 to 72 are repealed.

*The Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*

- 50 In the Antisocial Behaviour etc. (Scotland) Act 2004, the following provisions are repealed—
- (a) section 120 (community reparation orders), and
  - (b) in schedule 4 (minor and consequential amendments), in paragraph 5, sub-paragraphs (3), (5), (6) and (11).

*The Management of Offenders etc. (Scotland) Act 2005 (asp 14)*

- 51 (1) The Management of Offenders etc. (Scotland) Act 2005 is amended as follows.
- (2) In section 10 (arrangements for assessing and managing risks posed by certain offenders), in subsection (1)(b), for sub-paragraph (i) substitute—
- “(i) is subject to a community payback order imposed under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46) imposing an offender supervision requirement (within the meaning given by section 227G(1) of that Act) whether alone or along with any other requirement, or”.
- (3) Section 12 (probation progress review) is repealed.

*The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*

- 52 In the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, the following provisions are repealed—
- (a) in section 49 (compensation orders), subsection (4),
  - (b) section 57 (probation and community service orders), and
  - (c) in paragraph 26 of the schedule (modification of enactments), sub-paragraphs (l) and (n).

*The Criminal Justice and Immigration Act 2008 (c.4)*

- 53        In Part 1 of Schedule 4 to the Criminal Justice and Immigration Act 2008 (youth rehabilitation orders: consequential amendments), paragraphs 43 to 46 are repealed.