



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

Supervised attendance

235 Supervised attendance orders.

- (1) A court may make a supervised attendance order in the circumstances specified in subsection (3) below and shall, subject to paragraph 1 of Schedule 7 to this Act, make such an order where subsection (4) [^{F1}or (4A)] below applies.
- (2) A supervised attendance order is an order made by a court in respect of an offender requiring him—
 - (a) to attend a place of supervision for such period, being a period of not less than 10 hours and not more than—
 - (i) where the amount of the fine, part or instalment which the offender has failed to pay does not exceed level 1 on the standard scale, 50 hours; and
 - (ii) in any other case, 100 hours, as is specified in the order; and
 - (b) during that period, to carry out such instructions as may be given to him by the supervising officer.
- [^{F2}(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).]
- (3) The circumstances referred to in subsection (1) above are where—
 - (a) the offender is of or over [^{F3}16] years of age; and
 - (b) having been convicted of an offence, he has had imposed on him a fine which (or any part or instalment of which) he has failed to pay and the court, but for

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- this section, would also have imposed on him a period of imprisonment under subsection (1) of section 219 of this Act; and
- (c) the court considers a supervised attendance order more appropriate than the serving of or, as the case may be, imposition of such a period of imprisonment.
- (4) This subsection applies where—
- (a) the court is a court prescribed for the purposes of this subsection by order made by the Secretary of State;
- (b) the offender is of or over [^{F4}16] years of age and is not serving a sentence of imprisonment;
- (c) having been convicted of an offence, he has had imposed on him a fine which (or any part or instalment of which) he has failed to pay and the court, but for this section, would have imposed on him a period of imprisonment under section 219(1)(b) of this Act; and
- (d) the fine, or as the case may be, the part or instalment, is of an amount not exceeding level 2 on the standard scale.
- [^{F5}(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.]
- (5) An order under subsection (4)(a) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The coming into force of a supervised attendance order shall have the effect of discharging the fine referred to in subsection (3)(b),^{F6} . . . (4)(c) [^{F7} or (4A)] above or, as the case may be, section 236(3)(a) or 237(1) of this Act.
- (7) Schedule 7 to this Act has effect for the purpose of making further and qualifying provision as to supervised attendance orders.
- (8) In this section—
- “imprisonment” includes detention;
- “place of supervision” means such place as may be determined for the purposes of a supervised attendance order by the supervising officer; and
- “supervising officer”, in relation to a supervised attendance order, means a person appointed or assigned under Schedule 7 to this Act by the local authority whose area includes the locality in which the offender resides or will be residing when the order comes into force.

Textual Amendments

- F1** Words in s. 235(1) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(5)(a)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F2** S. 235(2A) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(5)(b)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F3** Word in s. 235(3)(a) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 50(1)(a)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F4** Word in s. 235(4)(b) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 50(1)(b)**, 89; S.S.I. 2003/288, **art. 2**, Sch.
- F5** S. 235(4A) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(5)(c)**; S.S.I. 2004/420, **art. 3**, Sch. 5

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- F6** Word in s. 235(6) omitted (4.4.2005) by virtue of Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(5)(d)(i)**; S.S.I. 2004/420, **art. 3**, Sch. 5
- F7** Words in s. 235(6) inserted (4.4.2005) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(1), 145(2), **Sch. 4 para. 5(5)(d)(ii)**; S.S.I. 2004/420, **art. 3**, Sch. 5

Modifications etc. (not altering text)

- C1** S. 235(3)(b) extended (1.4.1996) by 1995 c. 40, ss. 4, 7(2), **Sch. 3 Pt. II para. 13(1)**

236 Supervised attendance orders in place of fines for 16 and 17 year olds.

- (1) This section applies where a person of [^{F8}or over 16] years of age is convicted of an offence by a court of summary jurisdiction and the court considers that, but for this section, the appropriate sentence is a fine.
- (2) Where this section applies, the court shall determine the amount of the fine and shall consider whether the person is likely to pay a fine of that amount within 28 days.
- (3) If the court considers that the person is likely to pay the fine as mentioned in subsection (2) above, it shall—
 - (a) impose the fine; and
 - (b) subject to paragraph 1 of Schedule 7 to this Act, make a supervised attendance order in default of payment of the fine within 28 days.
- (4) A supervised attendance order made under subsection (3)(b) above—
 - (a) shall come into force on such date, not earlier than 28 days after the making of the order, as may be specified in the order, unless the person pays the fine within that period;
 - (b) shall, for the purposes of the said Schedule 7, be deemed to be made on the date when it comes into force.
- (5) Where, before the coming into force of a supervised attendance order made under subsection (3)(b) above, the person pays part of the fine, the period specified in the order shall be reduced by the proportion which the part of the fine paid bears to the whole fine, the resulting figure being rounded up or down to the nearest 10 hours; but this subsection shall not operate to reduce the period to less than 10 hours.
- (6) If the court considers that the person is not likely to pay the fine as mentioned in subsection (2) above, it shall
 - [^{F9}(a) if it considers that the person is likely to pay the fine within a reasonable period of more than 28 days, impose the fine;
 - (b) in any other case],subject to paragraph 1 of Schedule 7 to this Act, make a supervised attendance order in respect of that person.
- (7) Sections 211(3), 213, 214(1) to (7), 215, 216(1) to (6), 217 to 219, 222 and 223 of this Act shall not apply in respect of a person to whom this section applies.
- (8) For the purposes of any appeal or review, a supervised attendance order made under this section is a sentence.
- (9) In this section “supervised attendance order” means an order made in accordance with section 235(2), (7) and (8) of this Act.

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Textual Amendments

- F8** Words in s. 236(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 50\(2\)\(a\), 89; S.S.I. 2003/288, art. 2, Sch.](#)
- F9** [S. 236\(6\)\(a\)\(b\)](#) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 50\(2\)\(b\), 89; S.S.I. 2003/288, art. 2, Sch.](#)

237 Supervised attendance orders where court allows further time to pay fine.

- (1) Where a court, on an application to it under section 215(1) of this Act, allows a person further time for payment of a fine or instalments thereof it may, in addition, subject to paragraph 1 of Schedule 7 to this Act, impose a supervised attendance order in default of payment of the fine or any instalment of it on the due date.
- (2) A supervised attendance order made under subsection (1) above shall—
 - (a) if the person fails to pay the fine or any instalment of it on the due date, come into force on the day after the due date; and
 - (b) for the purposes of the said Schedule 7, be deemed to be made on the date when it comes into force.
- (3) Where, before the coming into force of a supervised attendance order under subsection (1) above, the person pays part of the fine, the period specified in the order shall be reduced by the proportion which the part of the fine paid bears to the whole fine, the resulting figure being rounded up or down to the nearest 10 hours; but this subsection shall not operate to reduce the period to less than 10 hours.
- (4) In this section “supervised attendance order” means an order made in accordance with section 235(2), (7) and (8) of this Act.

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