



Criminal Procedure (Scotland) Act 1995

1995 CHAPTER 46

PART XI

SENTENCING

[^{F1}Antisocial behaviour orders

^{F1} ^{F2}234B **Drug treatment and testing order.**

- (1) This section applies where a person of 16 years of age or more is convicted of an offence, other than one for which the sentence is fixed by law, committed on or after the date on which section 89 of the Crime and Disorder Act 1998 comes into force.
- (2) Subject to the provisions of this section, the court by or before which the offender is convicted may, if it is of the opinion that it is expedient to do so instead of sentencing him, make an order (a “drug treatment and testing order”) which shall—
 - (a) have effect for a period specified in the order of not less than six months nor more than three years (“the treatment and testing period”); and
 - (b) include the requirements and provisions mentioned in section 234C of this Act.
- (3) A court shall not make a drug treatment and testing order unless it—
 - (a) has been notified by the Secretary of State that arrangements for implementing such orders are available in the area of the local authority proposed to be specified in the order under section 234C(6) of this Act and the notice has not been withdrawn;
 - (b) has obtained a report by, and if necessary heard evidence from, an officer of the local authority in whose area the offender is resident about the offender and his circumstances; and
 - (c) is satisfied that—
 - (i) the offender is dependent on, or has a propensity to misuse, drugs;
 - (ii) his dependency or propensity is such as requires and is susceptible to treatment; and

Changes to legislation: *Criminal Procedure (Scotland) Act 1995, Section 234B is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (iii) he is a suitable person to be subject to such an order.
- (4) For the purpose of determining for the purposes of subsection (3)(c) above whether the offender has any drug in his body, the court may by order require him to provide samples of such description as it may specify.
- (5) A drug treatment and testing order or an order under subsection (4) above shall not be made unless the offender expresses his willingness to comply with its requirements.
- (6) The Secretary of State may by order—
- (a) amend paragraph (a) of subsection (2) above by substituting a different period for the minimum or the maximum period for the time being specified in that paragraph; and
 - (b) make such transitional provisions as appear to him necessary or expedient in connection with any such amendment.
- (7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (8) A drug treatment and testing order shall be as nearly as may be in the form prescribed by Act of Adjournal.]]

Textual Amendments

- F1** Ss. 234AA, 234AB and cross-heading inserted (28.10.2004) by [Antisocial Behaviour etc. \(Scotland\) Act 2004 \(asp 8\)](#), [ss. 118, 145\(2\)](#); S.S.I. 2004/420, [art. 3](#), Sch. 1
- F2** S. 234B inserted (30.9.1998) by [1998 c. 37, s. 89](#); S.I. 1998/2327, [art. 2\(1\)\(s\)](#) (subject to arts. 5-8)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5A inserted by [2010 asp 13 Sch. 7 para. 26](#)
- s. 13(1B)(1C) inserted by [2006 asp 10 s. 82\(2\)](#)
- s. 13(2)(aa) inserted by [2006 asp 10 s. 82\(3\)\(b\)](#)
- s. 13(3A) inserted by [2006 asp 10 s. 82\(4\)](#)
- s. 13(5)(ba) inserted by [2006 asp 10 s. 82\(5\)\(a\)](#)
- s. 13(6)(a)(iii) and word inserted by [2006 asp 10 s. 82\(6\)\(b\)](#)
- s. 13(8) inserted by [2006 asp 10 s. 82\(7\)](#)
- s. 22(5A) inserted by [2007 asp 6 s. 7\(2\)\(g\)](#)
- s. 22A(1A) inserted by [2023 asp 4 s. 1\(2\)](#)
- s. 23B(1)(1A) substituted for s. 23B(1) by [2023 asp 4 s. 2\(2\)\(a\)](#)
- s. 23B(6A) inserted by [2023 asp 4 s. 1\(3\)\(c\)](#)
- s. 23B(8)-(10) inserted by [2023 asp 4 s. 2\(2\)\(c\)](#)
- s. 23C(1A) inserted by [2023 asp 4 s. 2\(3\)\(b\)](#)
- s. 23C(3) inserted by [2023 asp 4 s. 2\(3\)\(c\)](#)
- s. 24(2C) inserted by [2023 asp 4 s. 4\(4\)](#)
- s. 24(2AA) inserted by [2023 asp 4 s. 4\(2\)](#)
- s. 73A inserted by [2004 asp 3 s. 2\(3\)](#)
- s. 167(7D)(7E) inserted by [2007 asp 17 sch. 4 para. 1\(3\)](#)
- s. 167(7D) words substituted by [2010 asp 13 Sch. 3 para. 16\(2\)](#)
- s. 167(7E) words substituted by [2010 asp 13 Sch. 3 para. 16\(3\)](#)
- s. 194ZA repealed by [2014 asp 18 sch. 3 para. 25](#)
- s. 200A inserted by [2016 asp 1 s. 85](#)
- s. 205A added by [1997 c. 48 s. 1\(1\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)
- s. 210ZA inserted by [2023 asp 4 s. 5](#)
- s. 249(4A)-(4D) inserted by [2014 asp 1 s. 24](#)
- s. 271D(4A) inserted by [2019 asp 8 s. 6\(4\)](#)
- s. 271F(2)(aa) inserted by [2019 asp 8 s. 10\(4\)](#)
- s. 271AA inserted by [2019 asp 8 s. 6\(2\)](#)
- s. 271BZD inserted by [2019 asp 8 s. 3\(2\)](#)
- s. 288AB288AC inserted by [2024 asp 1 s. 32\(3\)](#)
- Sch. 5A added by [1997 c. 48 s. 1\(2\)](#) (This amendment not applied to legislation.gov.uk. 1997 c. 48, s. 1 repealed (27.6.2003) without ever being in force by [2003 asp 7, s. 19\(3\)](#); S.S.I. 2003/288, art. 2, Sch.)