



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *[<sup>F1</sup>Antisocial behaviour orders]*

#### <sup>F1</sup>[234J Concurrent drug treatment and testing and probation orders.

- (1) Notwithstanding [<sup>F2</sup>section] 234B(2) of this Act, where the court considers it expedient that the offender should be subject to a drug treatment and testing order and to a [<sup>F3</sup>community payback order], it may make both such orders in respect of the offender.
- (2) In deciding whether it is expedient for it to exercise the power conferred by subsection (1) above, the court shall have regard to the circumstances, including the nature of the offence and the character of the offender and to the report submitted to it under section 234B(3)(b) of this Act.
- (3) Where the court makes both a drug treatment and testing order and a [<sup>F4</sup>community payback order] by virtue of subsection (1) above, the clerk of the court shall send a copy of each of the orders to the following—
  - (a) the treatment provider within the meaning of section 234C(1);
  - <sup>F5</sup>(ba) the local authority within whose area the offender will reside for the duration of each order.]
- (4) Where the offender by an act or omission fails to comply with a requirement of an order made by virtue of subsection (1) above—
  - (a) if the failure relates to a requirement contained in a [<sup>F6</sup>community payback order and is dealt with under section 227ZC(7)(d)] of this Act, the court may, in addition, exercise the power conferred by section 234G(2)(b) of this Act in relation to the drug treatment and testing order; and
  - (b) if the failure relates to a requirement contained in a drug treatment and testing order and is dealt with under section 234G(2)(b) of this Act, the court may, in

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addition, exercise the power conferred by section [F7227ZC(7)(d) of this Act in relation to the community payback order].

- (5) Where an offender by an act or omission fails to comply with both a requirement contained in a drug treatment and testing order and in a [F8community payback order] to which he is subject by virtue of subsection (1) above, he may, without prejudice to subsection (4) above, be dealt with as respects that act or omission either under section [F9227ZC(7)] of this Act or under section 234G(2) of this Act but he shall not be liable to be otherwise dealt with in respect of that act or omission.]

#### Textual Amendments

- F1** S. 234J inserted "after s. 234H" (30.9.1998) by virtue of 1998 c. 37, s. 94(1); S.I. 1998/2327, art. 2(1)(s) (subject to arts. 5-8)
- F2** Words in s. 234J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(2)(a); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F3** Words in s. 234J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(2)(b); S.S.I. 2010/413, art. 2, Sch. (with arts. 3-8)
- F4** Words in s. 234J(3) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(3)(a); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F5** S. 234J(3)(ba) substituted (1.2.2011) for s. 234J(3)(b)(c) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(3)(b); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F6** Words in s. 234J(4)(a) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(4)(a); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F7** Words in s. 234J(4)(b) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(4)(b); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F8** Words in s. 234J(5) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(5)(a); S.S.I. 2010/413, art. 2, Sch. (with art. 3)
- F9** Words in s. 234J(5) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), ss. 14(2), 206(1), Sch. 2 para. 19(5)(b); S.S.I. 2010/413, art. 2, Sch. (with art. 3)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 234J is up to date with all changes known to be in force on or before 16 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.

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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.)