



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *[<sup>F1</sup>Restriction of liberty orders]*

##### **[<sup>F1</sup>245J <sup>F1</sup>Breach of certain orders: adjourning hearing and remanding in custody etc.]**

- (1) Where [<sup>F2</sup>an] offender appears before the court in respect of his apparent failure to comply with a requirement of, as the case may be, a [<sup>F3</sup>community payback order], drug treatment and testing order, <sup>F4</sup> . . . or restriction of liberty order the court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with him, adjourn the hearing.
  - (2) Where, under subsection (1) above, the court adjourns a hearing it shall remand the <sup>F5</sup> . . . offender in custody or on bail or ordain him to appear at the adjourned hearing.
  - (3) [<sup>F6</sup>The court may adjourn a hearing under subsection (1) for such period as it considers appropriate.]
  - (4) [<sup>F7</sup>An] offender remanded under this section may appeal against the refusal of bail, or against the conditions imposed, within 24 hours of his remand.
  - (5) Any such appeal shall be [<sup>F8</sup>to the [<sup>F9</sup>appropriate Appeal Court] by note of appeal, and the [<sup>F9</sup>appropriate Appeal Court]], either in court or in chambers, may after hearing <sup>F10</sup> . . . the appellant—
    - (a) review the order appealed against and either grant bail on such conditions as it thinks fit or ordain the appellant to appear at the adjourned hearing; or
    - (b) confirm the order.
- [ A note of appeal under subsection (5) above is to be—
- <sup>F11</sup>(6) (a) lodged with the clerk of the court from which the appeal is to be taken; and
  - (b) sent without delay by that clerk (where not the [<sup>F12</sup>clerk of the appropriate Appeal Court]) to the [<sup>F12</sup>clerk of the appropriate Appeal Court].]

**Changes to legislation:** Criminal Procedure (Scotland) Act 1995, Section 245J is up to date with all changes known to be in force on or before 20 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

[ In this section—

- <sup>F13</sup>(7) “appropriate Appeal Court” means—
- (a) in the case of an appeal under subsection (4) against a decision of the High Court, that Court;
  - (b) in the case of an appeal under subsection (4) against a decision of a sheriff (whether in solemn or summary proceedings) or a JP court, the Sheriff Appeal Court; and
- “the clerk of the appropriate Appeal Court” means—
- (a) in a case where the High Court is the appropriate Appeal Court, the Clerk of Justiciary;
  - (b) in a case where the Sheriff Appeal Court is the appropriate Appeal Court, the Clerk of that Court.]]

#### Textual Amendments

- F1** S. 245J inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 48, 89**; S.S.I. 2003/288, **art. 2, Sch.**
- F2** Words in s. 245J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(i)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F3** Words in s. 245J(1) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(ii)**; S.S.I. 2010/413, **art. 2, Sch.** (with arts. 3-8)
- F4** Words in s. 245J(1) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(a)(iii)**; S.S.I. 2010/413, **art. 2, Sch.** (with arts. 3-8)
- F5** Words in s. 245J(2) repealed (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(b)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F6** S. 245J(3) substituted (temp.) (27.5.2020) by virtue of Coronavirus (Scotland) (No.2) Act 2020 (asp 10), s. 16(1), **sch. 2 para. 1(5)** (with s. 9)
- F7** Words in s. 245J(4) substituted (1.2.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 14(2), 206(1), Sch. 2 para. 24(c)**; S.S.I. 2010/413, **art. 2, Sch.** (with art. 3)
- F8** Words in s. 245J(5) substituted (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(6)(a), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F9** Words in s. 245J(5) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(8)(a)** (with art. 4)
- F10** Words in s. 245J(5) repealed (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 80, 84, Sch. para. 21**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F11** S. 245J(6) added (10.12.2007) by Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **ss. 6(6)(b), 84**; S.S.I. 2007/479, **art. 3(1)**, Sch. (as amended by S.S.I. 2007/527)
- F12** Words in s. 245J(6)(b) substituted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(8)(b)** (with art. 4)
- F13** S. 245J(7) inserted (22.9.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (S.S.I. 2015/338), art. 1, **sch. 2 para. 5(8)(c)** (with art. 4)

**Changes to legislation:**

Criminal Procedure (Scotland) Act 1995, Section 245J is up to date with all changes known to be in force on or before 20 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.)