

2011 No. 21

HIGH COURT OF JUSTICIARY

SHERIFF COURT

JUSTICE OF THE PEACE COURT

**Act of Adjournal (Criminal Procedure Rules Amendment)
(Community Payback Orders) 2011**

Made - - - - - *18th January 2011*

Coming into force - - - - - *31st January 2011*

The Lord Justice General, the Lord Justice Clerk and the Lords Commissioners of Justiciary, under and by virtue of the powers conferred on them by section 305 of the Criminal Procedure (Scotland) Act 1995(a), and of all other powers enabling them in that behalf do hereby enact and declare:

Citation, commencement etc.

1.—(1) This Act of Adjournal may be cited as the Act of Adjournal (Criminal Procedure Rules Amendment) (Community Payback Orders) 2011.

(2) It shall come into force on 31st January 2011.

(3) A certified copy of this Act of Adjournal is to be inserted in the Books of Adjournal.

Community payback orders

2.—(1) The Act of Adjournal (Criminal Procedure Rules Amendment No.4) (Miscellaneous) 2010(b) is amended in accordance with the following subparagraphs.

(2) In paragraph 2(1)(b), after inserted subparagraph (i) insert—

“(j) rule 20.22(5) (community payback orders: hearing of applications to vary, revoke and discharge community payback orders) shall be in Form 2.6-EJ.”.

(3) In paragraph 2(2)—

(a) after “Form 2.6-EH” omit “and”;

(b) after “Form 2.6-EI” insert “and Form 2.6-EJ”.

(a) 1995 c.46.
(b) S.S.I. 2010/418.

- (4) After paragraph 2(5) insert—
- “(5A) In rule 20.17 (use of certified copy documents in certain proceedings)(a) in paragraph (1)—
- (a) at the end of subparagraph (a) insert “; or”;
- (b) for subparagraphs (b) to (e) substitute—
- “(f) a community payback order.”
- (5) In paragraph 2(6), in inserted rule 20.22—
- (a) in paragraph (1), after “227A” insert “or 227M”;
- (b) after paragraph (4) insert—
- “(5) The citation of an offender to appear before a court under section 227Z(13) (hearing of applications to vary, revoke and discharge community payback orders) shall be in Form 20.22-E.”
- (6) In paragraph 2(7)—
- (a) omit “and”;
- (b) after “Form 20.22-D” insert “and Form 20.22-E”.
- (7) In paragraph 2(8), for “13 December 2011” substitute “1st February 2011”.
- (8) In Part 1 of the Schedule—
- (a) at the end insert Form 2.6-EJ and Form 20.22-E set out in Part 1 of the Schedule to this Act of Adjournal;
- (b) for Form 20.22-A substitute Form 20.22-A set out in Part 2 of the Schedule to this Act of Adjournal.

A. C. HAMILTON
Lord Justice General
I.P.D.

Edinburgh
18th January 2011

(a) Rule 20.17, last amended by S.S.I. 2005/160.

SCHEDULE

Paragraph 2(8)

PART 1

Paragraph 2(8)(a)

Form 2.6-EJ

Rule 2.6(5)(j)

Form of execution of citation of offender under section 227Z(13) of the Criminal Procedure (Scotland) Act 1995

EXECUTION OF CITATION

I, (*name and designation*), on (*date*) lawfully cited (*name and address of offender*) to appear before the High Court of Justiciary [*or Sheriff or Justice of the Peace*] Court at (*address*) on (*date*) at (*time*) for the purpose of determining an application under section 227Y(1) (applications to vary, revoke and discharge community payback orders) of the Act of 1995.

This I did by posting on (*date*) a citation in Form 20.22-E to the offender at the address shown above, by the recorded delivery service [*or by (specify method by which citation effected)*].

(*Signed*)
Clerk of Court
[*or Officer of Law*]

Form 20.22-E

Rule 20.22(5)

Form of citation of offender under section 227Z(13) of the Criminal Procedure
(Scotland) Act 1995

IN THE HIGH COURT OF JUSTICIARY
[or IN THE SHERIFF [or JUSTICE OF THE PEACE] COURT]
AT (*place*)

CITATION

To: (*name and address of offender*)

Date of citation: (*date of citation or, if citation by post, the day after the date of posting*)

YOU ARE HEREBY CITED to appear on (*date*) at (*time*) in the High Court of Justiciary [or Sheriff [or Justice of the Peace] Court] at (*address*) for the purpose of determining an application under section 227Y(1) (applications to vary, revoke and discharge community payback orders) of the Act of 1995.

IF YOU DO NOT ATTEND COURT WITHOUT A LAWFUL EXCUSE THE COURT MAY ORDER THAT YOU BE APPREHENDED AND PUNISHED.

(*Signed*)

Clerk of Court

Form 20.22-A

Rule 20.22(1)

Form of community payback order under section 227A [or 227M] of the Criminal Procedure (Scotland) Act 1995

COMMUNITY PAYBACK ORDER

under section 227A [or 227M] of the Criminal Procedure (Scotland) Act 1995

Court:
Date:
Offender:
Address:
Date of birth:
Offence(s):

THE COURT, having convicted the offender of an offence(s) in respect of which a community payback order may be imposed and considering it appropriate to impose such an order in respect of that (or those) offence(s);

[or THE COURT, having imposed a fine upon the offender which the offender has failed to pay in terms of section 227M(1) and (2) of the Act of 1995]

AND the court having explained to the offender, in ordinary language, the purpose and effect of each of the requirements to be imposed by the order and the consequences which may follow if he or she fails to comply with any of those requirements [*and* where provision is made under section 227X of the Act of 1995 for it to be reviewed, the arrangements for such a review];

AND the offender, having confirmed that he or she understands those matters [*and* where the order is made under section 227A, being willing to comply with each of the requirements to be imposed by the order];

MAKES a community payback order imposing the following requirements on the offender, namely—

(*specify*);

AND requires the local authority in which the offender resides [*or is to reside*] for the duration of the order, namely (*specify*), to nominate, within two days of it receiving a copy of this order, a responsible officer for the purposes of the order under section 227C of the Act of 1995;

AND requires the offender to comply with any instructions given by the responsible officer in that capacity; and to notify the responsible officer of any change of address and the times, if any, at which the offender usually works (or carries out voluntary work) or attends school or any other educational establishment.

(*Signed*)
Clerk of Court

copy: Offender
Local Authority
[Clerk of appropriate court]

Note: (*Name of responsible officer*) of (*name of local authority*) has been nominated responsible officer in this case.

I confirm that I understand the conditions of the community payback order.

Signature of offender:

Signature of responsible officer:

EXPLANATORY NOTE

(This note is not part of the Act of Adjournal)

This Act of Adjournal amends the Act of Adjournal (Criminal Procedure Rules Amendment No.4) (Miscellaneous) 2010, which amends the Criminal Procedure Rules 1996 in consequence of the introduction, by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010, of community payback orders.

This Act of Adjournal amends the 2010 Act of Adjournal before or comes into force because some further provisions are necessary to make the rules on community payback orders complete.

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