



# Criminal Justice (Scotland) Act 2003

2003 asp 7

## CRIMINAL JUSTICE (SCOTLAND) ACT 2003

### PART 1

#### PROTECTION OF THE PUBLIC AT LARGE

##### *Risk assessment and order for lifelong restriction*

- 1 Risk assessment and order for lifelong restriction

##### *Disposal in case of insanity*

- 2 Disposal of case where accused found to be insane

##### *The Risk Management Authority*

- 3 The Risk Management Authority
- 4 Policy and research
- 5 Guidelines and standards
- 6 Risk management plans
- 7 Preparation of risk management plans
- 8 Preparation of risk management plans: further provision
- 9 Implementation and review of risk management plans
- 10 Grants to local authorities in connection with risk management plans
- 11 Accreditation, education and training
- 12 Functions: supplementary
- 13 Accounts and annual reports

### PART 2

#### VICTIMS' RIGHTS

- 14 Victim statements
- 15 Prohibition of personal conduct of defence in proofs ordered in relation to victim statements in cases of certain sexual offences
- 16 Victim's right to receive information concerning release etc. of offender

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- 17 Release on licence: right of victim to receive information and make representations
- 18 Disclosure of certain information relating to victims of crime

### **PART 3**

#### SEXUAL OFFENCES ETC.

- 19 Amendments in relation to certain serious and sexual offences
- 20 Extended sentences
- 21 Sexual and certain other offences: reports
- 22 Traffic in prostitution etc.

### **PART 4**

#### PRISONERS ETC.

##### *Custody and temporary detention*

- 23 Remand and committal of children and young persons
- 24 Legal custody
- 25 Temporary detention of person being returned to prison in England and Wales etc.

##### *Consecutive sentences*

- 26 Consecutive sentences: life prisoners etc.

##### *Release of prisoners*

- 27 Release on licence etc. under 1989 Act
- 28 Release on licence etc. under 1993 Act
- 29 Release on licence: life prisoners
- 30 Release on licence: certain consecutive sentences
- 31 Release: prisoners serving extended sentences
- 32 Release etc. under 1993 Act of prisoner serving consecutive or concurrent offence and non-offence terms
- 33 Prisoners repatriated to Scotland
- 34 Suspension of conditions and revocation of licences under 1989 Act
- 35 Suspension of licence conditions under 1993 Act
- 36 Revocation of licences under 1993 Act
- 37 Extended sentences: recall to prison and revocation of licences
- 38 Special provision in relation to children

##### *Special provision as regards certain life prisoners*

- 39 Convention rights of certain life prisoners

##### *Monitoring on release*

- 40 Remote monitoring of released prisoners

##### *Parole Board to have regard to risk management plans*

- 41 Parole Board to have regard to risk management plans

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## **PART 5**

### DRUGS COURTS

- 42 Drugs courts

## **PART 6**

### NON-CUSTODIAL PUNISHMENTS

- 43 Restriction of liberty orders
- 44 Interim anti-social behaviour orders
- 45 Application by registered social landlord for anti-social behaviour order
- 46 Requirement for remote monitoring in probation order
- 47 Requirement for remote monitoring in drug treatment and testing order
- 48 Breach of certain orders: adjourning hearing and remanding in custody etc.
- 49 Power of arrest where breach of non-harassment order
- 50 Amendments in relation to certain non-custodial sentences

## **PART 7**

### CHILDREN

- 51 Physical punishment of children
- 52 Prohibition of publication of proceedings at children's hearing etc.
- 53 Provision by Principal Reporter of information to victims

## **PART 8**

### EVIDENTIAL, JURISDICTIONAL AND PROCEDURAL MATTERS

#### *Evidential matters*

- 54 Certificates relating to physical data: sufficiency of evidence
- 55 Taking samples by swabbing
- 56 Retaining sample or relevant physical data where given voluntarily
- 57 Convictions in other member States of the European Union

#### *Jurisdictional matters*

- 58 Transfer of sheriff court proceedings
- 59 Competence of justice's actings outwith jurisdiction

#### *Procedural matters*

- 60 Unified citation provisions
- 61 Citation other than by service of indictment or complaint
- 62 Leave to appeal: extension of time limit for application under section 107(4) of 1995 Act
- 63 Adjournment at first diet in summary proceedings
- 64 Review hearing of drug treatment and testing order
- 65 Transcript of record
- 66 Bail and related matters
- 67 Adjournment of case before sentence

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**PART 9**

## BRIBERY AND CORRUPTION

- 68 Bribery and corruption: foreign officers etc.
- 69 Bribery and corruption committed outwith UK

**PART 10**

## CRIMINAL RECORDS

- 70 Registration for criminal records purposes

**PART 11**

## LOCAL AUTHORITY FUNCTIONS

- 71 Advice, guidance and assistance to persons arrested or on whom sentence deferred
- 72 Grants to local authorities discharging certain functions jointly

**PART 12**

## MISCELLANEOUS AND GENERAL

*Miscellaneous*

- 73 Public defence
- 74 Offences aggravated by religious prejudice
- 75 Reintroduction of ranks of deputy chief constable and chief superintendent
- 76 Police custody and security officers
- 77 Wildlife offences
- 78 Disqualification from jury service
- 79 Separation of jury after retiral
- 80 Television link from court to prison or other place of detention
- 81 Warrants issued in Northern Ireland for search of premises in Scotland
- 82 Use of electronic communications or electronic storage in connection with warrants to search
- 83 Anti-social behaviour strategies

*General*

- 84 Transitional provisions etc.
- 85 Minor and consequential amendments
- 86 Repeals
- 87 Interpretation
- 88 Orders
- 89 Short title and commencement

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SCHEDULE 1 — Order for lifelong restriction: modification of enactments

- 1 (1) The 1993 Act is amended in accordance with this...
- 2 (1) The 1995 Act is amended in accordance with this...

SCHEDULE 2 — Constitution etc. of the Risk Management Authority

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- 1 Status
- 2 The Authority— (a) is not a servant or agent of...
- 3 (1) The Authority consists of such members (including a convener)...
- 4 (1) The Authority may regulate its own procedure (including any...
- 5 (1) The Authority may, with the approval of the Scottish...
- 6 (1) The Authority may, with the approval of the Scottish...

#### SCHEDULE 3 — Wildlife offences

- 1 The Wildlife and Countryside Act 1981 (c. 69) is amended...
- 2 In each of sections 6(8) (regulations as to dealing in...
- 3 In section 7(4) (offence relating to disposal etc. of certain...
- 4 In section 19 (enforcement)— (a) in subsection (1)(c), the words...
- 5 In section 20 (summary prosecutions)— (a) subsection (1) is repealed;...
- 6 In section 21 (penalties, forfeitures etc.)— (a) for subsection (1)...

#### SCHEDULE 4 — Minor and consequential amendments

- 1 Section 42 of the 1989 Act (exercise of powers to...
- 2 (1) The 1993 Act is amended as follows.
- 3 (1) The 1995 Act is amended as follows.
- 4 In Schedule 1 to the Crime and Punishment (Scotland) Act...
- 5 In the schedule to the Convention Rights (Compliance) (Scotland) Act...

#### SCHEDULE 5 — Repeals

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 1 text amended by S.S.I. 2005/465 Sch. 1 para. 34(2)
- s. 3(2)(b) text amended by 2010 asp 13 Sch. 7 para. 71
- s. 7(2) text amended by S.S.I. 2005/465 Sch. 2
- s. 7(2)(a) text amended by S.S.I. 2005/465 Sch. 1 para. 34(3)(a)(i)
- s. 7(2)(c) substituted by S.S.I. 2005/465 Sch. 1 para. 34(3)(a)(ii)
- s. 7(2)(d) text amended by S.S.I. 2005/465 Sch. 1 para. 34(3)(a)(iii)
- s. 7(4) text amended by S.S.I. 2005/465 Sch. 1 para. 34(3)(b)
- s. 11(1A) inserted by 2005 asp 14 s. 13(2)
- s. 13(1)(b) transitional provisions for effects of SSI 2003/439 art. 2 Sch. 1 by S.S.I. 2003/438 art. 2(a)
- s. 13(2) transitional provisions for effects of SSI 2003/439 art. 2 Sch. 1 by S.S.I. 2003/438 art. 2(b)
- s. 14(6)(a)(ii) text amended by S.S.I. 2011/211 Sch. 1 para. 12(a)
- s. 14(10)(a) text amended by 2004 c. 33 Sch. 28 para. 67(1)(2)
- s. 14(11) substituted by 2004 c. 33 Sch. 28 para. 67(1)(3)
- s. 16(1)(a) text amended by S.S.I. 2008/185 art. 2(a)
- s. 16(3)(d) text amended by S.S.I. 2008/185 art. 2(b)(i)
- s. 16(3)(f) and word inserted by S.S.I. 2008/185 art. 2(b)(ii)
- s. 16(5)(b)(ii) text amended by 2007 asp 6 s. 36(a)
- s. 16(7)(8) added by 2007 asp 6 s. 36(b)
- s. 16(8) text amended by S.S.I. 2011/211 Sch. 1 para. 12(b)
- s. 19(2)(c) repealed by 2009 asp 9 Sch. 6
- s. 21(2)(b) text amended by S.I. 2009/1182 Sch. 5 para. 11
- s. 21(9) words substituted by 2003 c. 42 Sch. 6 para. 49
- s. 22(1)(a) text amended by 2010 asp 13 s. 46(1)(a)
- s. 22(1A) inserted by 2010 asp 13 s. 46(1)(b)
- s. 22(2) text amended by 2010 asp 13 s. 46(1)(c)
- s. 22(4) substituted by 2010 asp 13 s. 46(1)(d)
- s. 22(5) substituted by 2010 asp 13 s. 46(1)(e)
- s. 22(6) text amended by 2010 asp 13 s. 46(1)(f)(i)
- s. 22(6)(g)(h) inserted by 2010 asp 13 s. 46(1)(f)(ii)
- s. 23(6)(7) repealed by 2010 asp 13 s. 64(4)
- s. 40(1) text amended by 2005 asp 14 s. 21(13)
- s. 40(1)(b) text amended by 2007 asp 17 Sch. 4 para. 4(2)
- s. 40(3) text amended by 2007 asp 17 Sch. 4 para. 4(3)
- s. 40(8)(a)(b) substituted by 2007 asp 17 Sch. 4 para. 4(4)
- s. 42(2)(b) text amended by 2007 asp 6 Sch. para. 30(a)
- s. 42(4) text amended by 2010 asp 13 Sch. 2 para. 47(2)(a)(i)(iii)
- s. 42(4)(b) text amended by 2010 asp 13 Sch. 2 para. 47(2)(a)(ii)
- s. 42(6)(b) substituted by 2010 asp 13 Sch. 2 para. 47(2)(b)
- s. 42(7) text amended by 2010 asp 13 Sch. 2 para. 47(2)(c)
- s. 42(9) substituted by 2010 asp 13 Sch. 2 para. 47(2)(d)
- s. 42(10) text amended by 2010 asp 13 Sch. 2 para. 47(2)(e)
- s. 42(11)(a)(b) repealed by 2010 asp 13 Sch. 2 para. 47(2)(f)
- s. 44 repealed by 2004 asp 8 Sch. 5
- s. 45 repealed by 2004 asp 8 Sch. 5
- s. 46 repealed by 2010 asp 13 Sch. 2 para. 47(3)
- s. 50(1) repealed by 2010 asp 13 Sch. 2 para. 47(4)
- s. 50(2) repealed by 2010 asp 13 Sch. 2 para. 47(4)
- s. 50(4) repealed by 2010 asp 13 Sch. 2 para. 47(4)
- s. 56(1) text amended by 2010 asp 13 s. 82(2)(a)

- s. 56(2) text amended by 2010 asp 13 s. 82(2)(b)
- s. 56(2)(a) word omitted by S.I. 2011/2298 Sch. para. 2(a)(i)
- s. 56(2)(c)-(d) inserted by S.I. 2011/2298 Sch. para. 2(a)(ii)
- s. 56(3) text amended by 2010 asp 13 s. 82(2)(c)
- s. 56(5)(b) text amended by 2010 asp 13 s. 82(2)(d)
- s. 56(6)(a) text amended by 2010 asp 13 s. 82(2)(e)
- s. 56(7)(a) text amended by 2010 asp 13 s. 82(2)(f)
- s. 56(7A) inserted by 2010 asp 13 s. 82(2)(g)
- s. 56(8) word omitted by S.I. 2011/2298 Sch. para. 2(b)(i)
- s. 56(8) words inserted by S.I. 2011/2298 Sch. para. 2(b)(ii)
- s. 59 repealed by 2007 asp 6 Sch. para. 30(b)
- s. 60(1)(a) repealed by 2010 asp 13 Sch. 2 para. 47(5)(a)
- s. 60(1)(b) repealed by 2010 asp 13 Sch. 2 para. 47(5)(a)
- s. 60(1)(e) repealed by 2010 asp 13 Sch. 2 para. 47(5)(a)
- s. 60(1)(f) repealed by 2010 asp 13 Sch. 2 para. 47(5)(a)
- s. 60(3) repealed by 2010 asp 13 Sch. 2 para. 47(5)(b)
- s. 60(4) repealed by 2010 asp 13 Sch. 2 para. 47(5)(b)
- s. 68 69 repealed by 2010 c. 23 Sch. 2
- s. 70(3) repealed by 2005 c. 15 Sch. 17 Pt. 2
- s. 73(b) repealed by 2010 asp 13 s. 112(2)
- s. 74(2A) inserted by 2010 asp 13 s. 25(2)(a)
- s. 74(3)(4) repealed by 2010 asp 13 s. 25(2)(b)
- s. 74(4A) inserted by 2010 asp 13 s. 25(2)(c)
- s. 83 repealed by 2004 asp 8 Sch. 5
- Sch. 2 para. 4(1)-(1B) substituted for Sch. 2 para. 4(1) by 2005 asp 14 s. 13(3)(a)
- Sch. 2 para. 4(2) text amended by 2005 asp 14 s. 13(3)(b)

**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. 15A inserted by 2004 asp 3 s. 3
- s. 15A text amended by 2010 asp 13 s. 89
- specified provision(s) and purposes Appointed Day(s) by S.S.I. 2003/439 art. 2 3 Sch. (This SSI is revoked by SSI 2003/475)
- specified provision(s) and purposes Appointed Day(s) by S.S.I. 2003/475 art. 2 3 Sch. (This SSI revokes SSI 2003/439)

**Commencement Orders yet to be applied to the Criminal Justice (Scotland) Act 2003:**

Commencement Orders bringing provisions within this Act into force:

- S.S.I. 2003/288 art. 2 Sch. commences (2003 asp 7)
- S.S.I. 2004/240 art. 2 commences (2003 asp 7)
- S.S.I. 2004/451 art. 2 commences (2003 asp 7)
- S.S.I. 2005/433 art. 2 commences (2003 asp 7)
- S.S.I. 2006/85 art. 1 commences (2003 asp 7)
- S.S.I. 2006/168 art. 2 commences (2003 asp 7)
- S.S.I. 2006/332 art. 2 commences (2003 asp 7)

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2009/1357 art. 2 commences (S.I. 2009/1182)
- S.I. 2011/1418 art. 2 commences (2010 c. 23)
- S.S.I. 2004/420 art. 2 3 commences (2004 asp 8)
- S.S.I. 2005/168 art. 2 Sch. commences (2004 asp 3)
- S.S.I. 2005/553 art. 2 amendment to earlier commencing SSI 2004/420

- S.S.I. 2005/590 art. 2 commences (2004 asp 3)
- S.S.I. 2005/604 art. 2-4 commences (2004 c. 33)
- S.S.I. 2006/59 art. 2 Sch. commences (2004 asp 3)
- S.S.I. 2006/104 art. 2 amendment to earlier commencing SSI 2004/420 art. 2
- S.S.I. 2006/166 art. 2 commences (2005 c. 15)
- S.S.I. 2006/545 art. 2 commences (2005 asp 14)
- S.S.I. 2007/101 art. 2 Sch. commences (2004 asp 3)
- S.S.I. 2007/250 art. 3 commences (2007 asp 6)
- S.S.I. 2007/329 art. 2 Sch. commences (2004 asp 3)
- S.S.I. 2008/42 art. 3 commences (2007 asp 6)
- S.S.I. 2008/57 art. 2 commences (2004 asp 3)
- S.S.I. 2008/192 art. 3 Sch. commences (2007 asp 6)
- S.S.I. 2008/329 art. 3 Sch. commences (2007 asp 6)
- S.S.I. 2008/362 art. 3 Sch. commences (2007 asp 6)
- S.S.I. 2009/116 art. 3 Sch. commences (2007 asp 6)
- S.S.I. 2009/238 art. 1 revocation of earlier commencing SSI 2009/116
- S.S.I. 2009/432 art. 3 Sch. 1 2 commences (2007 asp 6)
- S.S.I. 2010/357 art. 2 commences (2009 asp 9)
- S.S.I. 2010/413 art. 2 Sch. commences (2010 asp 13)
- S.S.I. 2011/178 art. 2 commences (2010 asp 13)