

EXPLANATORY NOTES

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

INTRODUCTION

THE ACT

PART 1 – PROTECTION OF THE PUBLIC AT LARGE

Risk assessment and order for lifelong restriction; Disposal in case of insanity

Sections 1 and 2 and schedule 1 – Risk assessment and order for lifelong restriction; Disposal of case where accused found to be insane

Section 2 – Disposal of case where accused found to be insane

The Risk Management Authority

Sections 3 to 13 and schedule 2 – The Risk Management Authority

Section 3 – The Risk Management Authority

Section 4 – Policy and research

Section 5 – Guidelines and standards

Sections 6 to 9 – Risk management plans: preparation, further provision, implementation and review

Section 10 – Grants to local authorities in connection with risk management plans

Section 11 - Accreditation, education and training

Section 12 – Functions: supplementary

Section 13 – Accounts and annual reports

PART 2 – VICTIMS' RIGHTS

Section 14 – Victim statements

Section 15: Prohibition of personal conduct of defence in proofs ordered in relation to victim statements in cases of certain sexual offences

Section 16: Victim's right to receive information concerning release etc. of offender

These notes relate to the Criminal Justice (Scotland) Act 2003 (asp 7)

Section 17: Release on licence: right of victim to receive information and make representations

Section 18: Disclosure of certain information relating to victims of crime

PART 3 – SEXUAL OFFENCES ETC.

Section 19 – Amendments in relation to certain serious and sexual offences

Section 20 – Extended sentences

Section 21 – Sexual and certain other offences: reports

Section 22 – Traffic in prostitution

PART 4 – PRISONERS

Custody and temporary detention

Section 23 – Remand and committal of children and young persons

Section 24 - Legal custody

Section 25 – Temporary detention of person being returned to prison in England and Wales etc.

Consecutive sentences

Section 26 – Consecutive sentences: life prisoners etc.

Release of prisoners

Section 27 – Release on licence etc. under 1989 Act

Section 28 – Release on licence etc. under 1993 Act

Section 29 – Release on licence: life prisoners

Section 30 - Release on licence: certain consecutive sentences

Section 31 - Release: Prisoners serving extended sentences

Section 32 – Release etc. under 1993 Act of prisoner serving consecutive or concurrent offence and non-offence terms

Section 33 – Prisoners repatriated to Scotland

Section 34 – Suspension of conditions and revocation of licences under 1989 Act

Section 35 – Suspension of licence conditions under 1993 Act

Section 36 – Revocation of licences under 1993 Act

Section 37 – Extended sentences: recall to prison and revocation of licences

Section 38 – Special provision in relation to children

These notes relate to the Criminal Justice (Scotland) Act 2003 (asp 7)

Section 39 - Convention rights of certain life prisoners

Monitoring on release

Section 40 – Remote monitoring of released prisoners

Parole Board to have regard to risk management plans

Section 41 – Parole Board to have regard to risk management plans

PART 5 – DRUGS COURTS

Section 42 – Drugs courts

PART 6 – NON-CUSTODIAL PUNISHMENTS

Section 43 – Restriction of liberty orders

Section 44 – Interim anti-social behaviour orders

Section 45 - Application by registered social landlord for anti-social behaviour order

Sections 46 and 47 – Requirement for remote monitoring in probation order and requirement for remote monitoring in drug treatment and testing order

Section 48 – Breach of certain orders: adjourning hearing and remanding in custody etc

Section 49 – Power of arrest where breach of non-harassment order

Section 50 – Amendments in relation to certain non-custodial sentences

PART 7 – CHILDREN

Section 51 – Physical punishment of children

Section 52 – Prohibition of publication of proceedings at children’s hearings etc

Section 53 – Provision by Principal Reporter of information to victims

PART 8 – EVIDENTIAL, JURISDICTIONAL AND PROCEDURAL MATTERS

Section 54 – Certificates relating to physical data: sufficiency of evidence

Section 55 – Taking samples by swabbing

Section 56 – Retaining samples or relevant physical data where given voluntarily

Section 57 - Convictions in other Member States of the European Union

Section 58 – Transfer of sheriff court proceedings

Section 59 – Competence of the justice’s acting outwith jurisdiction

Section 60 – Unified citation provisions

Section 61 – Citation other than by service of indictment or complaint

These notes relate to the Criminal Justice (Scotland) Act 2003 (asp 7)

Section 62 - Leave to appeal: extension of time limit for application under section 107(4) of 1995 Act

Section 63 – Adjourment at first diet in summary proceedings

Section 64 – Review hearing of drug treatment and testing order

Section 65 - Transcript of record

Section 66 - Bail and Related matters

Section 67 – Adjourment of case before sentence

PART 9 – BRIBERY AND CORRUPTION

Sections 68 and 69 – Bribery and corruption: foreign officers etc.; Bribery and corruption committed outwith the UK

PART 10 – CRIMINAL RECORDS

Section 70 – Registration for criminal record purposes

PART 11 – LOCAL AUTHORITY FUNCTIONS

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

PART 12 – MISCELLANEOUS AND GENERAL

Miscellaneous

Section 73 – Public defence

Section 74 – Offences aggravated by religious prejudice

Section 75 – Reintroduction of ranks of deputy chief constable and chief superintendent

Section 76 – Police custody and security officers

Section 77, schedule 3 and that part of schedule 5 relating to the Wildlife and Countryside Act 1981: Wildlife Offences

Schedule 5

Section 78 – Disqualification from jury service

Section 79 – Separation of jury after retiral

Section 80 – Television link from court to prison or other place of detention

Section 81 – Warrants issued in Northern Ireland for search of premises in Scotland

Section 82 - Use of electronic communication or electronic storage in connection with warrants to search

These notes relate to the Criminal Justice (Scotland) Act 2003 (asp 7)

Section 83 – Anti-Social Behaviour Strategies