

COMMUNITY JUSTICE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2 – Part 1

74. This schedule is introduced by section 38 and makes modifications to other pieces of legislation in consequence of the Act.

Paragraph 1

75. [Paragraph 1](#) amends section 27 of the Social Work (Scotland) Act 1968 and section 8 of the Management of Offenders etc. (Scotland) Act 2005 so that funding for the delivery of criminal justice social work services will flow direct from the Scottish Ministers to local authorities. At present, funding flows from Scottish Ministers to local authorities via community justice authorities, which are dis-established by the Act. Paragraph 1(3)(b)(i) reinstates a reference to section 27ZA of the Social Work (Scotland) Act 1968 into section 27A of that Act. This reference was removed by an earlier amendment and it is now considered appropriate to restore it. The effect is to revive the Scottish Ministers' power to provide grants to local authorities in order to provide advice, guidance or assistance to the persons prescribed in the said provision.

Paragraph 2

76. Section 227M of the Criminal Procedure (Scotland) Act 1995 sets out what is required of local authorities and the Scottish Ministers in the arrangements for annual reports on community payback orders. Paragraph 2 amends section 227M and inserts a number of sub-sections to alter the existing arrangements for the submission and timing of reports. The effect of the amendments to section 227M is to require local authorities to submit their report to Community Justice Scotland rather than to the Scottish Ministers, and for Community Justice Scotland to collate the local authority reports into one summarised report which it will lay before the Parliament. The timing of the community payback reports is now to be aligned with the timing requirement for submission of annual performance reports in section 27 of the Act. The amendments also allow Community Justice Scotland to produce the collated community payback order report alongside, or as part of, the report on performance under section 27 of the Act.

Paragraph 3

77. As the Act abolishes community justice authorities, the reference to them in schedule 3 of The Ethical Standards in Public Life etc. (Scotland) Act 2000 is to be deleted. Schedule 3 lists the devolved public bodies who are subject to that Act.

Paragraph 4

78. As the Act abolishes community justice authorities, the reference to them in paragraph 62A of schedule 1 to the Freedom of Information (Scotland) Act 2002 is to be deleted. Schedule 1 sets out a list of the bodies who are subject to that Act.

Paragraph 5

79. Sub-paragraphs (1) and (2) amend the Management of Offenders etc. (Scotland) Act 2005 to remove the references to community justice authorities in section 1 of that Act, in consequence of the abolition of those bodies.
80. Sub-paragraph (3) amends the arrangements for assessing and managing risks posed by certain offenders set out in section 11(2) of the Management of Offenders etc. (Scotland) Act 2005. It repeals section 11(2)(c) which requires reports to be submitted by the responsible authorities to the community justice authorities. It also inserts new subsections (4) to (6) into section 11 of the Management of Offenders (Scotland) Act 2005 which require the responsible authorities to publish their report on the discharge of their functions conferred by section 10 of that Act in such a manner as will ensure that the report is likely to come to the attention of the other community justice partners for the area of the local authority.
81. Sub-paragraph (4) repeals section 21(12) of the Management of Offenders etc. (Scotland) Act 2005 which inserts a reference to community justice authorities in Part 7 of schedule 1 to the Freedom of Information (Scotland) Act 2002.
82. Sub-paragraph (5) removes the reference to community justice authorities from the interpretation section of the Management of Offenders etc. (Scotland) Act 2005.