

**Changes to legislation:** Community Justice (Scotland) Act 2016 is up to date with all changes known to be in force on or before 19 September 2023. 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

## SCHEDULE 1 **S**

(introduced by section 3)

### COMMUNITY JUSTICE SCOTLAND

#### *Corporate status*

1 Community Justice Scotland is a body corporate.

#### **Commencement Information**

- I1** Sch. 1 para. 1 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I2** Sch. 1 para. 1 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

#### *Exclusion of Crown status*

- 2 (1) Community Justice Scotland—  
(a) is not a servant or agent of the Crown, and  
(b) does not enjoy any status, immunity or privilege of the Crown.  
(2) Community Justice Scotland's property is not property of, or property held on behalf of, the Crown.

#### **Commencement Information**

- I3** Sch. 1 para. 2 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I4** Sch. 1 para. 2 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

#### *Membership*

- 3 (1) Community Justice Scotland is to consist of—  
(a) a member appointed by the Scottish Ministers to chair Community Justice Scotland, and  
(b) at least 5 but no more than 8 other members appointed by the Scottish Ministers.  
(2) The Scottish Ministers may not appoint a person as a member if the person is—  
(a) a member of the Scottish Parliament,  
(b) a member of the House of Commons,  
(c) a member of the House of Lords,  
(d) a member of the European Parliament.  
(3) The Scottish Ministers must make appointments of members of Community Justice Scotland in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements.  
(4) In sub-paragraph (3), “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998.

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- (5) The Scottish Ministers may by regulations modify sub-paragraph (1)(b) by substituting for the minimum or maximum number of members for the time being specified there such other number as they consider appropriate.
- (6) Regulations under sub-paragraph (5) are subject to the negative procedure.
- (7) The members of Community Justice Scotland may elect from their number a member to—
  - (a) deputise for the person appointed under sub-paragraph (1)(a),
  - (b) act during any period when there is no person appointed under that sub-paragraph.

#### Commencement Information

- I5** Sch. 1 para. 3 in force at 1.10.2016 for specified purposes by [S.S.I. 2016/262, reg. 2, sch.](#)
- I6** Sch. 1 para. 3 in force at 1.4.2017 in so far as not already in force by [S.S.I. 2017/33, reg. 2\(3\)](#)

#### *Tenure etc.*

- 4 (1) A member is appointed for such period not exceeding 3 years as the Scottish Ministers determine.
- (2) A person who has been a member may be reappointed.
- (3) But a person must not hold office as a member for a period exceeding 8 years (whether in consecutive or non-consecutive appointments).
- (4) A member holds and vacates office on such terms and conditions as the Scottish Ministers may determine (in relation to matters not covered by this schedule).
- (5) A member may resign by informing the Scottish Ministers in writing to that effect.

#### Commencement Information

- I7** Sch. 1 para. 4 in force at 1.10.2016 for specified purposes by [S.S.I. 2016/262, reg. 2, sch.](#)
- I8** Sch. 1 para. 4 in force at 1.4.2017 in so far as not already in force by [S.S.I. 2017/33, reg. 2\(3\)](#)

#### *Events which automatically end membership*

- 5 A person's membership of Community Justice Scotland ends if the person becomes—
  - (a) a member of the Scottish Parliament,
  - (b) a member of the House of Commons,
  - (c) a member of the House of Lords,
  - (d) a member of the European Parliament.

#### Commencement Information

- I9** Sch. 1 para. 5 in force at 1.10.2016 for specified purposes by [S.S.I. 2016/262, reg. 2, sch.](#)
- I10** Sch. 1 para. 5 in force at 1.4.2017 in so far as not already in force by [S.S.I. 2017/33, reg. 2\(3\)](#)

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### *Power to end membership*

- 6 (1) The Scottish Ministers may end a person's membership of Community Justice Scotland if—
- (a) the person becomes an undischarged bankrupt, or
  - (b) the Scottish Ministers are satisfied that the person—
    - (i) has, without reasonable excuse, been absent from 3 consecutive meetings of Community Justice Scotland,
    - (ii) is unable to perform the functions of a member, or
    - (iii) is unsuitable to continue as a member.
- (2) In sub-paragraph (1)(a), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
  - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors and has not been discharged in respect of it,
  - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986,
  - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts,
  - (e) who has been adjudged bankrupt and has not been discharged, or
  - (f) who is subject to any other kind of arrangement or undertaking, anywhere in the world, which is analogous to those described in paragraphs (a) to (d).

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#### **Commencement Information**

**I11** Sch. 1 para. 6 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.

**I12** Sch. 1 para. 6 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

### *Remuneration and allowances of members*

- 7 Community Justice Scotland must pay each member such remuneration and allowances as the Scottish Ministers may determine.

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#### **Commencement Information**

**I13** Sch. 1 para. 7 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.

**I14** Sch. 1 para. 7 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

### *Chief executive and other staff*

- 8 (1) Community Justice Scotland is to have, as a member of staff, a chief executive.
- (2) The Scottish Ministers are to appoint the first chief executive on such terms and conditions as they determine.
- (3) Community Justice Scotland is to appoint each subsequent chief executive with the approval of the Scottish Ministers.
- (4) Community Justice Scotland may appoint other members of staff.

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- (5) An appointment under sub-paragraph (3) or (4) is to be on such terms and conditions as Community Justice Scotland, with the approval of the Scottish Ministers, determines.

**Commencement Information**

- I15** Sch. 1 para. 8 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I16** Sch. 1 para. 8 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Pensions, allowances and gratuities*

- 9 (1) Community Justice Scotland may, with the approval of the Scottish Ministers, make provision for such pensions, allowances or gratuities in respect of any person who is or has been a member of staff of Community Justice Scotland as it may determine.
- (2) That provision may take the form of—
- (a) payment (or making arrangements for the payment) of,
  - (b) payments or contributions towards the provision of,
  - (c) providing and maintaining schemes (whether contributory or not) for the payment of,
- such pensions, allowances or gratuities.
- (3) Those pensions, allowances or gratuities may include pensions, allowances or gratuities by way of compensation for loss of office.

**Commencement Information**

- I17** Sch. 1 para. 9 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I18** Sch. 1 para. 9 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Procedure*

- 10 Community Justice Scotland may regulate its own procedure (including quorum).

**Commencement Information**

- I19** Sch. 1 para. 10 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I20** Sch. 1 para. 10 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Committees*

- 11 (1) Community Justice Scotland may establish committees and sub-committees.
- (2) The membership of a committee or sub-committee may include (but may not consist entirely of) persons who are not members of Community Justice Scotland, but those persons are not entitled to vote at meetings.
- (3) Community Justice Scotland may pay such remuneration and allowances as it may determine to each member of a committee or sub-committee who is not a member of, or member of staff of, Community Justice Scotland.

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- (4) A committee or sub-committee must comply with any direction given to it by Community Justice Scotland.
- (5) Community Justice Scotland may regulate the procedure (including quorum) of any of its committees or sub-committees.

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**Commencement Information**

- I21** Sch. 1 para. 11 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I22** Sch. 1 para. 11 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Validity of things done*

- 12 The validity of anything done by Community Justice Scotland, or its committees or sub-committees, is not affected by—
- (a) a vacancy in membership,
  - (b) a defect in the appointment of a member,
  - (c) a person's membership having ended under paragraph 5.

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**Commencement Information**

- I23** Sch. 1 para. 12 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch. (with reg. 3)  
**I24** Sch. 1 para. 12 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Authority to exercise functions*

- 13 (1) Community Justice Scotland may authorise the exercise of any of its functions by—
- (a) one (or some) of its members,
  - (b) a member of its staff, or
  - (c) any of its committees or sub-committees.
- (2) Authorisation for the purpose of sub-paragraph (1) may be general or limited to the exercise of the function in specific circumstances.
- (3) This paragraph does not affect the responsibility of Community Justice Scotland for the exercise of its functions.

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**Commencement Information**

- I25** Sch. 1 para. 13 in force at 1.10.2016 for specified purposes by S.S.I. 2016/262, reg. 2, sch.  
**I26** Sch. 1 para. 13 in force at 1.4.2017 in so far as not already in force by S.S.I. 2017/33, reg. 2(3)

*Legislation relating to public bodies*

- 14 (1) In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3, before the entry for Creative Scotland insert— “ Community Justice Scotland ”.
- (2) In the Scottish Public Services Ombudsman Act 2002, in schedule 2, before paragraph 21ZC insert—

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“21ZZC Community Justice Scotland.”

- (3) In the Freedom of Information (Scotland) Act 2002, in schedule 1, before paragraph 62ZC insert—

“62ZZC Community Justice Scotland.”

- (4) In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2, after the entry relating to Children's Hearings Scotland insert— “ Community Justice Scotland ”.

- (5) In the Public Services Reform (Scotland) Act 2010, in schedule 8, after the entry for the Common Services Agency for the Scottish Health Service insert— “ Community Justice Scotland ”.

- (6) In the Public Records (Scotland) Act 2011, in the schedule, after the entry for the Common Services Agency for the Scottish Health Service insert— “ Community Justice Scotland ”.

- (7) In the Procurement Reform (Scotland) Act 2014, in the schedule, after paragraph 28 insert—

“28A Community Justice Scotland”.

#### Commencement Information

**I27** Sch. 1 para. 14 in force at 1.4.2017 by [S.S.I. 2017/33](#), [reg. 2\(3\)](#)

## SCHEDULE 2 S

*(introduced by section 38)*

### MINOR AND CONSEQUENTIAL MODIFICATIONS

#### PART 1 S

#### PRIMARY LEGISLATION

##### *The Social Work (Scotland) Act 1968*

- 1 (1) The Social Work (Scotland) Act 1968 is modified as follows.
- (2) In section 27(1), for “Subject to any order or determination under section 8 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14), it” substitute “ It ”.
- (3) In section 27A—
- (a) for subsection (1), substitute—
- “(1) The Scottish Ministers may make a grant to a local authority of such amount as the Scottish Ministers may determine in respect of expenditure incurred by that local authority in providing a relevant service.”,
- (b) in subsection (1A)—

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- (i) in paragraph (a), after “27(1)” insert “ or 27ZA ”,
  - (ii) paragraph (b) is repealed,
  - (c) in subsection (2), for “(1)(c)” substitute “ (1A)(c) ”.
- (4) In section 27B—
- (a) for subsection (1), substitute—
    - “(1) The Scottish Ministers may make a grant to a local authority of such amount as the Scottish Ministers may determine in respect of relevant expenditure.”,
  - (b) in subsection (1A), the words “as the case may be, those local authorities or” are repealed.

**Commencement Information**

**I28** Sch. 2 para. 1 in force at 31.3.2017 by S.S.I. 2017/33, reg. 2(1)(2), sch.

*The Criminal Procedure (Scotland) Act 1995*

- 2 In section 227ZM of the Criminal Procedure (Scotland) Act 1995—
- (a) in subsection (1), for “the Scottish Ministers” substitute “ Community Justice Scotland ”,
  - (b) in subsection (3)—
    - (i) for “The Scottish Ministers” substitute “ Community Justice Scotland ”,
    - (ii) for “as soon as practicable after the end of” substitute “ in relation to ”,
  - (c) after subsection (3) insert—
    - “(3A) A report under subsection (3) must be laid before the Parliament, and published, together with, or as part of, the corresponding report under section 27 of the Community Justice (Scotland) Act 2016.
    - (3B) The reference in subsection (3A) to the corresponding report under section 27 of the Community Justice (Scotland) Act 2016 is, in relation to a report under subsection (3) for a particular reporting year, a reference to the report under that section which requires to be published as soon as reasonably practicable after that 31 March.”,
  - (d) for subsection (4), substitute—
    - “(4) In this section, “reporting year” means a year ending with 31 March.”.

**Commencement Information**

**I29** Sch. 2 para. 2 in force at 1.4.2017 by S.S.I. 2017/33, reg. 2(3)

*The Ethical Standards in Public Life etc. (Scotland) Act 2000*

- 3 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000, the entry for a community justice authority is repealed.

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**Commencement Information**

**I30** Sch. 2 para. 3 in force at 31.3.2017 by S.S.I. 2017/33, reg. 2(1)(2), sch.

*The Freedom of Information (Scotland) Act 2002*

- 4 In schedule 1 to the Freedom of Information (Scotland) Act 2002, paragraph 62A is repealed.

**Commencement Information**

**I31** Sch. 2 para. 4 in force at 31.3.2017 by S.S.I. 2017/33, reg. 2(1)(2), sch.

*The Management of Offenders etc. (Scotland) Act 2005*

- 5 (1) The Management of Offenders etc. (Scotland) Act 2005 is modified as follows.
- (2) In section 1—
- (a) in subsection (1), the words “community justice authorities” are repealed,
  - (b) in subsection (2)(b)(i)—
    - (i) the words “(or, by virtue of section 8, by a community justice authority)” are repealed,
    - (ii) the words “(or a community justice authority)” are repealed.
- (3) In section 11—
- (a) in subsection (2), paragraph (c) is repealed,
  - (b) after subsection (3), insert—
    - “(4) Publication, for the purposes of subsection (2)(b), must be in such 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.
    - (5) The reference in subsection (4) to “the other community justice partners for the area of the local authority” is to the persons—
      - (a) who are community justice partners for the area of the local authority, but
      - (b) who are not responsible authorities for the area of the local authority.
    - (6) The reference in subsection (5)(a) to “community justice partners for the area of the local authority” has the same meaning as in the Community Justice (Scotland) Act 2016 (see section 13(2) of that Act).”.
- (4) Sections 21(9), (11) and (12) are repealed.
- (5) In section 23, the definition of “community justice authority” is repealed.



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**Commencement Information**

**I32** Sch. 2 para. 5 in force at 31.3.2017 by S.S.I. 2017/33, reg. 2(1)(2), sch.

**PART 2 S**

SECONDARY LEGISLATION

*Orders to do with community justice authorities*

- 6 The following orders are revoked—
- (a) the Management of Offenders etc. (Scotland) Act 2005 (Designation of Partner Bodies) Order 2006 (S.S.I. 2006/63),
  - (b) the Management of Offenders etc. (Scotland) Act 2005 (Supplementary Provisions) Order 2006 (S.S.I. 2006/389),
  - (c) the Management of Offenders etc. (Scotland) Act 2005 (Members' Remuneration and Supplementary Provisions) Order 2008 (S.S.I. 2008/30).

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**Commencement Information**

**I33** Sch. 2 para. 6 in force at 31.3.2017 by S.S.I. 2017/33, reg. 2(1)(2), sch.

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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. 34A34B and cross-heading inserted by [2023 asp 4 s. 12\(2\)](#)
- s. 34C34D and cross-heading inserted by [2023 asp 4 s. 13\(2\)](#)