

*These notes relate to the Police, Public Order and
Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

EXPLANATORY NOTES

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

INTRODUCTION

THE ACT

COMMENTARY ON SECTIONS

PART 1: POLICE

Chapter 1: the Scottish Police Services Authority

The Scottish Police Services Authority

Section 1 – Establishment of the Scottish Police Services Authority

Section 2 – Duty to establish and maintain the Agency

Section 3 – Duty to provide the police support services

Section 4 – Strategic priorities of the Authority

Section 5 – Objectives of the Authority

Section 6 – Annual plans of the Authority

Section 7 – Annual reports of the Authority

Section 8 – Provision of information to the Scottish Ministers

Section 9 – Liability for wrongful acts of certain persons seconded to the Authority

Section 10 – Grants

Section 11 – Charges by the Authority and other receipts

The Scottish Crime and Drug Enforcement Agency

Section 12 – Members of the Agency

Section 13 – Strategic priorities of the Agency

Section 14 – Annual plans of the Agency

These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)

Section 15 – Annual reports of the Agency

Section 16 – General functions of Director General of the Agency

Section 17 – Powers of the Agency

Section 18 – Scottish Ministers’ power to modify section 17

Section 19 – Disclosure of information by the Agency

Section 20 – Disclosure of information to the Agency

Section 21 – Direction by Director General of Agency

Section 22 – Liability for wrongful acts of police members of the Agency

Section 23 – Regulations relating to the Agency

The police support services

Section 24 – The police support services: modification by order

Section 25 – Use of the police support services

Inspections

Section 26 – Inspections of the Authority’s services and the Agency

Section 27 – Inspections of the Authority at request of the Scottish Ministers

Section 28 – Reports on inspections: powers of the Scottish Ministers

Section 29 – Revision of inadequate action plan

Miscellaneous and general

Section 30 – Directions

Section 31 – Transfer of staff, property etc.

Section 32 – Interpretation of Chapter 1

Chapter 2: Complaints and Misconduct

The Police Complaints Commissioner for Scotland

Section 33 – The Police Complaints Commissioner for Scotland

Supervision of complaints

Section 34 – “Relevant complaint” and “person serving with the police”

Section 35 – Examination of manner of handling of complaint

Section 36 – Duty of Commissioner not to proceed with certain complaint handling reviews

These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)

Section 37 – Appointment of person to reconsider complaint

Section 38 – Reconsideration of complaint: duties to keep persons informed

Section 39 – Power of Commissioner to discontinue reconsideration

Section 40 – Final reports on reconsideration

Section 41 – Appropriate authority in relation to a complaint

Other functions

Section 42 – General functions of the Commissioner

Section 43 – Reports to the Scottish Ministers

Section 44 – Provision of information to the Commissioner

Section 45 – Power of Commissioner to issue guidance

Section 46 – Disclosure of information by and to the Commissioner

Supplementary

Section 47 – Interpretation of Chapter 2

Chapter 3: Other Provisions

Section 48 – Allowances payable to special constables

Section 49 – Appointments of assistant inspectors of constabulary and staff officers

Section 50 – Constables engaged on service outside their force

PART 2: PUBLIC ORDER ETC.

Chapter 1: Football Banning Orders

Making and content of orders

Section 51 – Making of order on conviction of a football-related offence

Section 52 – Making of order on application to the sheriff

Section 53 – Content of order

Section 54 – Section 53: supplementary

Section 55 – “Football matches” and “regulated football matches”

Section 56 – “Violence” and “disorder”

Variation, termination, information and appeals

Section 57 – Variation of certain requirements of order

These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)

Section 58 – Termination of order

Section 59 – Information about making, varying or terminating order etc.

Section 60 – Appeals

Enforcement of order in relation to foreign matches

Section 61 – Foreign matches: reporting and other requirements

Section 62 – Notices under section 61(4): further provision

Section 63 – Sections 61 and 62: guidance

Section 64 – Exemption from notice served under section 61(4)

Section 65 – Section 64: supplementary

Section 66 – Suspension of reporting requirements

Miscellaneous and general

Section 67 – Service of documents

Section 68 – Offences under this Chapter

Section 69 – Interpretation of Chapter 1

Chapter Two: Public Processions

Section 70 – Notification of public processions

Section 71 – Powers and duties of local authorities

Section 72 – Minor amendments of 1982 Act

Chapter Three: Other Provisions

Offensive Weapons

Section 73 – Increase in maximum term of imprisonment for certain offences

Section 74 – Amendment of requirements for exercise of certain powers of arrest

Section 75 – Sale of knives and articles with blade or point to young persons

Fireworks

Section 76 – Possession of prohibited fireworks: powers of search and arrest

Control of Sex Offenders

Section 77 – Powers to take data and samples from persons subject to notification requirements

Section 78 – Sex offender notification requirements

Section 79 – Information about release: power to require giving of specified information

Section 80 – Police powers of entry to and examination of relevant offender's home address

PART THREE: CRIMINAL JUSTICE

Powers in relation to suspects and witnesses

Section 81 – Power to require giving of certain information in addition to name and address

Section 82 – Power to take fingerprints to establish identity of suspect

Retention of samples etc.: prosecutions for sexual and violent offences

Section 83 – Retention of samples etc.: prosecutions for sexual and violent offences

Arrested persons: drug testing and reference for assessment

Section 84 – Testing of arrested persons for Class A drugs

Section 85 – Assessment following positive test under section 20A of the 1995 Act

Section 86 – Requirements under section 85: supplementary

Section 87 – Date, time and place of assessment

Section 88 – Failure to comply with requirements under sections 85 and 86

Section 89 – Guidance for the purposes of sections 85 to 88

Section 90 – Interpretation of sections 85 to 88

Offenders assisting investigations and prosecutions

Section 91 – Assistance by offender: reduction in sentence

Section 92 – Assistance by offender: review of sentence

Section 93 – Proceedings under section 92: exclusion of public

Section 94 – Section 92: further provision

Section 95 – Sentencing: consideration of undisclosed information

Section 96 – Appeals etc.: undisclosed information

These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)

Conditional immunity from prosecution

Section 97 – Investigation and prosecution of crime: conditional immunity from prosecution

Enforcement of Sea Fisheries (Shellfish) Act 1967

Section 98 – Enforcement of Sea Fisheries (Shellfish) Act 1967

PART FOUR: GENERAL

Section 100 – Equal opportunities

Section 103 – Subordinate legislation

Schedule 1: the Scottish Police Services Authority

Schedule 2: Membership of the Scottish Crime and Drug Enforcement Agency

Schedule 3: Transfers of Staff and Property

Schedule 4: the Police Complaints Commissioner for Scotland

Schedule 5: Section 53(2)(B): Relevant Events Etc.

Schedule 6: Modifications of Enactments

PARLIAMENTARY HISTORY

ANNEX A PART 5 OF THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (C.45)

ANNEX B SECTIONS 13 AND 14 OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995 (C.46)