

Draft Order laid before the Scottish Parliament under sections 3(25)(a) and 22(4) of the Management of Offenders etc. (Scotland) Act 2005, for approval by resolution of the Scottish Parliament

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2008 No.

CRIMINAL LAW

**The Management of Offenders etc. (Scotland)
Act 2005 (Members' Remuneration and
Supplementary Provisions) Order 2008**

Made - - - -

Coming into force - - *31st March 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1), 22(1) and 22(2) of the Management of Offenders etc. (Scotland) Act 2005⁽¹⁾ and all other powers enabling them to do so.

In accordance with sections 3(25)(a) and 22(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement and interpretation

1.—(1) This Order may be cited as the Management of Offenders etc. (Scotland) Act 2005 (Members' Remuneration and Supplementary Provisions) Order 2008 and comes into force on 31st March 2008.

(2) In this Order—

“financial year” means the period beginning with the date on which the Community Justice Authority is established and ending with 31st March next following that date and each successive period of 12 months ending with 31st March;

“Joint Board” means a body corporate, constituted for the purposes of a combination of local authorities under the Local Government (Scotland) Act 1973⁽²⁾ or by or under any other enactment, consisting exclusively of persons appointed by those local authorities;

“the 2005 Act” means the Management of Offenders etc. (Scotland) Act 2005.

(1) 2005 asp 14.
(2) 1973 c. 65.

Auditing of Community Justice Authorities' Accounts

2.—(1) Each Community Justice Authority must—

- (a) keep proper accounts and accounting records in respect of—
 - (i) amounts allocated under section 3(5)(e) of the 2005 Act;
 - (ii) payments made and received by it under subsections (4), (5) and (6) of section 4 of the 2005 Act; and
 - (iii) all other income and expenditure.
- (b) prepare annual accounts in respect of each financial year;
- (c) subject to paragraphs (3) and (4) below, send a copy of the annual accounts to the Scottish Ministers by 31st October following the end of the financial year to which the accounts relate.

(2) The Scottish Ministers must, subject to paragraph (4) below, send a copy of the annual accounts to the Auditor General for Scotland for auditing, by 31st December following the end of the financial year to which the accounts relate.

(3) For the financial year ending 31st March 2007, each Community Justice Authority must send a copy of the annual accounts to the Scottish Ministers by 31st March 2008.

(4) For the financial year ending 31st March 2007, the Scottish Ministers must send a copy of the annual accounts to the Auditor General for Scotland for auditing by 31st December 2008.

Members' remuneration, allowances and expenses

3. For article 10(1) of the Community Justice Authorities (Establishment, Constitution and Proceedings) (Scotland) Order 2006(3) substitute—

“(1) The provisions of regulations 4 and 5 of, and Schedule 2 to, the Local Government (Allowances and Expenses) (Scotland) Regulations 2007(4) shall apply in respect of the allowances and expenses payable to members of an authority by the authority as if—

- (a) such members are members of a local authority;
- (b) the authority is a local authority; and
- (c) for the purpose of determining the allowance payable for meals, the provisions of paragraphs (b), (c) or (d) of Schedule 2 apply irrespective of the electoral ward that the member represents.

(1A) Subject to the provisions of paragraph (1C), the convener of an authority shall be paid by that authority a total yearly amount equal to the yearly amount payable to a convener of a joint board under regulation 12(8) of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007(5), under deduction of the amount payable to a Councillor under regulation 10 of those Regulations.

(1B) Subject to the provisions of paragraph (1C), the deputy convener of an authority shall be paid a total yearly amount equal to the yearly amount payable to a vice-convenor of a joint board under regulation 12(9) of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007, under deduction of the amount payable to a Councillor under regulation 10 of those Regulations.

(1C) No remuneration shall be payable in terms of paragraphs (1A) and (1B) where the convener or deputy convener is in receipt of remuneration as a Senior Councillor under

(3) S.S.I. 2006/182.

(4) S.S.I. 2007/108.

(5) S.S.I. 2007/183.

regulation 9 or as a convenor or vice-convenor of a joint board under regulation 12 of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007.”.

St Andrew’s House,
Edinburgh
2008

A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes new provision under section 3 and supplementary provision under section 22 of the Management of Offenders etc. (Scotland) Act 2005 in relation to Community Justice Authorities.

Article 2 requires each Community Justice Authority to keep proper accounts and accounting records in respect of its income and expenditure, and to prepare annual accounts in respect of each financial year. Each Community Justice Authority must send a copy of its annual accounts to the Scottish Ministers, who must then submit them to the Auditor General for Scotland for auditing.

Article 3 substitutes a new article 10(1) into the Community Justice Authorities (Establishment, Constitution and Proceedings) (Scotland) Order 2006. This provision applies regulations 4 and 5 of, and Schedule 2 to, the Local Government (Allowances and Expenses) (Scotland) Regulations 2007 in relation to the allowances and expenses of Community Justice Authority members.

Article 3 also inserts a new article 10(1A) and (1B) which sets the level of remuneration payable to conveners and deputy conveners of Community Justice Authorities. Conveners and deputy conveners of Community Justice Authorities will be paid the same amount as is paid to a conenor or vice-conenor of a joint board, which is not a joint fire and rescue board or a joint police board, under regulation 12(8) and (9) of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007.