

2009 No. 240 (C. 20)

CRIMINAL LAW

**The Management of Offenders etc. (Scotland) Act 2005
(Commencement No. 6) Order 2009**

Made - - - -

10th June 2009

The Scottish Ministers make the following Order in exercise of the powers conferred by section 24(2) and (3) of the Management of Offenders etc. (Scotland) Act 2005(a).

Citation

1. This Order may be cited as the Management of Offenders etc. (Scotland) Act 2005 (Commencement No. 6) Order 2009.

Commencement

2. Section 10(1)(e) of the Management of Offenders etc. (Scotland) Act 2005 in so far as it relates to persons subject to—

- (a) the order referred to in section 10(11)(b) of that Act; and
- (b) the directions referred to in section 10(11)(c) and (d) of that Act,

comes into force on 26th June 2009.

S ROBISON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
10th June 2009

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings partially into force certain provisions of the Management of Offenders etc. (Scotland) Act 2005 (“the 2005 Act”).

Section 10(1) of the 2005 Act places a duty on the responsible authorities, as defined in section 10(7), to put in place, in each local authority area, arrangements for the assessment and management of the risks posed by persons falling into the categories set out in section 10(1). Section 10(7)(c) includes a Health Board or Special Health Board for an area any part of which is comprised within the area of the local authority as one of the “responsible authorities” for that local authority area.

Section 10(1) is subject to section 10(11). Section 10(11) provides that the duties imposed on Health Boards or Special Health Board by section 10(1) extend only to making arrangements for persons subject to certain orders and directions set out in section 10(11) (a) to (d).

Section 10(1) has already been commenced in respect of a person mentioned in:–

- section 10(1)(a), namely a person who is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c.42).
- section 10(1)(c), namely a person who in proceedings on indictment for an offence inferring personal violence, has been acquitted of that offence on grounds of insanity and in respect of whom a restriction order has been made by the court under section 59 of the Criminal Procedure (Scotland) Act 1995 (c.46) (“the 1995 Act”); or
- in section 10(1)(d), namely a person who in proceedings on indictment for an offence inferring personal violence but has been found by the court to be insane in bar of trial under section 54(1) of the 1995 Act. That commencement was however limited so that it is only commenced in relation to such persons who have also been made subject to a restriction order under section 57(2)(b) of the 1995 Act.

This Order commences section 10(1)(e) of the 2005 Act but only in respect of certain persons. In terms of section 10(1)(e) responsible authorities must make arrangements for any person who by reason of the offence of which they have been convicted, the responsible authorities consider to be a person who may cause serious harm to the public at large. This Order commences that section but only in respect of persons subject to a restriction order under section 59 of the 1995 Act, a hospital direction under section 59A of the 1995 Act or a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003, which are the order and directions set out in section 10(11)(b) to (d) of the 2005 Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2005 Act have been brought into force by commencement order made before the date of this Order:–

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 3(1), (3), (4), (11), (12), (23), (24) and (25), 12, 15(1) to (3), (7), (10) (partially) and (14), 16, 18, 21(1)(a)(ii), (1)(b) and (c), (4), (5), (8) and (10)	8th February 2006	2006/48

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 1, 2, 3(2), (5)(a), (d), (f) to (h), (8), (9), (13) to (17), (20)(b), (21) and (22), 4, 5(1)(a), (2) to (4), 6 to 9, 21(1)(a)(i), (2), (3), (7), (9), (11) and (12)	3rd April 2006	2006/48
Sections 14 and 19	20th June 2006	2006/331
Section 15(4) to (6) (partially) and (8) to (13) (partially)	3rd July 2006	2006/331
Sections 10(3) (partially) and 21(13)	1st December 2006	2006/545
Sections 3 and 5 (in so far as not already commenced), 10(1)(a), (2)(a), (3) (in so far as not already commenced), (4) to (10), (11)(c) and (d) and (12) to (14), 11 and 21(6)	2nd April 2007	2006/545
Section 15(5) and (10) (partially)	11th February 2008	2008/21
Section 15(4) to (6) (in so far as not already commenced) and (8) to (13) (in so far as not already commenced)	21st March 2008	2008/21
Section 10(1)(c), 10(1)(d) (partially), 10(2)(c), 10(11)(a) and (b)	30th April 2008	2008/149

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