

2009 No. 269 (C. 23)

CRIMINAL LAW

**The Management of Offenders etc. (Scotland) Act 2005
(Commencement No. 7) Order 2009**

Made - - - -

25th 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. 7) Order 2009.

Commencement

2. Section 10(2)(b) of the Management of Offenders etc. (Scotland) Act 2005 comes into force on 26th June 2009 but only for the purposes of section 10(1)(e) of that Act and in so far as section 10(1)(e) 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.

S ROBISON

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
25th June 2009

(a) 2005 asp 14.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force section 10(2)(b) for the purposes of section 10(1)(e) of the Management of Offenders etc. (Scotland) Act 2005 (“the 2005 Act”) in so far as that section relates to certain persons.

The persons covered by section 10(1)(e) of the 2005 Act are those who have been convicted of an offence if, by reason of that conviction, the person is considered to be someone who may cause serious harm to the public at large.

Section 10(1)(e) has been commenced to come into force on 26th June 2009. It is a limited commencement only in respect of persons subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995, a hospital direction under section 59A of that Act or a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003. These are the orders and directions which are set out in section 10(11)(b) to (d) of the 2005 Act which specifies the persons for whom Health Boards and Special Health Boards, as “responsible authorities”, have duties to make arrangements.

Section 10(2)(b) provides that for the purposes of section 10(1)(b) or (e), it is immaterial where the offence of which the person has been convicted was committed. This clarifies for the purpose of identifying which authorities are responsible for making the arrangements that it is immaterial where the offence was committed. The test for establishing such responsibility is whether the person poses a risk in the responsible authority’s area.

This Order commences section 10(2)(b) but only for the purposes of section 10(1)(e) and in so far as that section has been commenced. Section 10(1)(b) has not yet been commenced.

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.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
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
Section 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) and (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
Section 10(1)(e) (partially)	26th June 2009	2009/240

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