

POLICY NOTE

THE MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) ACT 2005 (COMMENCEMENT NO. 8) ORDER 2015

SSI 2015/429 (C. 57)

1. The above instrument is made by Scottish Ministers in exercise of the powers conferred by section 24(2) and (3) of the Management of Offenders etc. (Scotland) Act 2005. It is not subject to any Parliamentary procedure.

Policy Objectives

2. Section 10 of the Management of Offenders etc. (Scotland) Act 2005 (the 2005 Act), requires the Police, Local Authorities, Health Boards and the Scottish Prison Service as the Responsible Authorities to establish multi-agency arrangements to assess and manage the risk posed by certain categories of offender. Commencement of relevant sections has taken place in respect of registered sex offenders and mentally disordered restricted patients.

3. The Multi-Agency Public Protection Arrangements (MAPPA) provide these arrangements through guidance issued by Ministers under section 10(6) of the 2005 Act. The purpose of MAPPA is public protection and the reduction of serious harm. MAPPA aims to achieve this by providing a framework for agencies to share information, jointly assess risk and apply resources proportionately to manage the risk of serious harm posed to the public by relevant offenders.

4. The purpose of this Order is to allow the extension of MAPPA beyond registered sex offenders and restricted patients by providing the responsible authorities with the ability to include in the arrangements certain high risk offenders managed in the community, where they assess that a risk of serious harm to the public exists which requires an active multi-agency response.

5. This Order will achieve this objective by commencing section 10(1)(e) and 10(2)(b) of the 2005 Act, insofar as they are not already in force, and in respect of the latter for the purposes of section 10(1)(e) only. This applies the duty to cooperate on the responsible authorities in respect of any person who has been convicted of an offence if, by reason of that conviction, the person is considered by them to be a person who may cause serious harm to the public. Section 10(2)(b) provides that it is immaterial where the offence considered under section 10(1)(e) was committed.

6. The Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Amendment Order 2015 has been laid alongside this Order. This makes an amendment to the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007 to ensure that those providing services to the responsible authorities share information with them in the assessment and management of relevant offenders under section 10(1)(e) of the 2005 Act.

Consultation

7. The then Scottish Executive's public consultation *Reduce, Rehabilitate and Reform – A Consultation on Reducing Reoffending in Scotland*, ran from 2 March – 25 May 2004, the conclusions of which informed development of these provisions within the 2005 Act.

8. In addition, an advisory group comprising representatives of the responsible authorities (Police Service of Scotland, Scottish Prison Service, Social Work Scotland) was established in spring 2014 under a remit to advise the Scottish Government on options to extend MAPPA to further offenders posing a risk of serious harm, and to support planning for future implementation subject to parliamentary approval of the relevant provisions. The Risk Management Authority, COSLA, MAPPA coordinators and NHS mental health practitioners were also represented.

9. Regular meetings of the advisory group took place over 2014 and early 2015 to discuss how the MAPPA extension could be applied through guidance to ensure that application would be focused proportionately to those posing a risk of serious harm to the public. The group also contributed to the development of new guidance to be issued under section 10(6) of the 2005 Act.

10. Meetings also sought to support the responsible authorities in considering the impacts of the policy, what preparations could be required to ensure that practitioners would be ready to apply the new MAPPA category and to help partners plan for its implementation. Similar discussions also took place within the Justice Tripartite Group representing the responsible authorities, MAPPA National Strategy Group and MAPPA Coordinators Group.

11. A number of meetings were also held with MAPPA partners from across Scotland, in particular members of local MAPPA Strategic Oversight Groups comprising criminal justice social work managers, MAPPA coordinators and local Police representatives. Input was also sought over the engagement period from the national Violence Reduction Unit, Care Inspectorate, Strathclyde University Centre for Youth Justice and members of the NHS Scotland Forensic Network.

Impact Assessment and Financial Effects

12. A Business and Regulatory Impact Assessment has been completed in respect of this instrument and the policy to extend MAPPA. No significant negative financial impacts were identified on the Scottish Government, businesses or the public sector.

13. An Equality Impact Assessment has also been completed in respect of this policy. No significant negative impacts were identified on any persons with protected characteristics.

Scottish Government
Safer Communities Division
15 December 2015