



# Management of Offenders etc. (Scotland) Act 2005

## 2005 asp 14

### *Community justice authorities*

#### **3 Community justice authorities**

- (1) The Scottish Ministers may by order made by statutory instrument establish, for an area specified in the order, a body corporate to be known as a community justice authority.
- (2) A community justice authority is not to be regarded as the servant or agent of the Crown or have any status, immunity or privilege of the Crown; nor are its members or employees to be regarded as civil servants.
- (3) Subject to subsection (4), an order under subsection (1) may include provision with regard to—
  - (a) the constitution and proceedings of the community justice authority;
  - (b) matters relating to the membership of that authority; and
  - (c) the supply of services or facilities by appropriate local authorities to that authority.
- (4) No person may be a member of the community justice authority who is not—
  - (a) a councillor of an appropriate local authority; and
  - (b) nominated for such membership by that authority.
- (5) The functions of a community justice authority are—
  - (a) at such intervals as the Scottish Ministers may determine—
    - (i) to prepare, in consultation with the partner bodies, the Scottish Ministers, the appropriate local authorities and such other bodies as the Scottish Ministers may specify, a plan for reducing re-offending by relevant persons; and
    - (ii) to submit that plan to the Scottish Ministers (the plan as approved under subsection (21) being referred to in this section and in section 5 as the community justice authority's “area plan”);
  - (b) to monitor the performance of—

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- (i) appropriate local authorities; and
    - (ii) the Scottish Ministers,

in complying with, and in co-operating with each other, the community justice authority and others to facilitate compliance with, the area plan;
  - (c) in so far as it considers such performance by—
    - (i) a local authority to be unsatisfactory, to issue such directions to that authority; or
    - (ii) the Scottish Ministers to be unsatisfactory, to make such recommendations to the Scottish Ministers,

as it thinks fit;
  - (d) to promote good practice in the management of the behaviour of relevant persons (“management” being management with a view to reducing re-offending by those persons);
  - (e) to allocate to the appropriate local authorities any amount paid to it under—
    - (i) section 27A(1) of the Social Work (Scotland) Act 1968 (c. 49) (grants in respect of community service facilities); or
    - (ii) section 27B(1) of that Act (grants in respect of hostel accommodation for persons under supervision);
  - (f) to arrange with the partner bodies that, so far as practicable, any information—
    - (i) relating to relevant persons; and
    - (ii) in the possession of any of those party to the arrangements,

is furnished or made available to the others party to them;
  - (g) as soon as practicable after the end of each financial year, to report to the Scottish Ministers on—
    - (i) its activities and performance during that year in discharging its functions under this section; and
    - (ii) the activities and performance during that year of appropriate local authorities, partner bodies and the Scottish Ministers in complying with, or facilitating compliance with, the area plan; and
  - (h) any function which it has by virtue of section 8 of this Act.
- (6) Any grant paid to a local authority by virtue of subsection (5)(e) is subject to such conditions as the community justice authority may determine.
- (7) But conditions determined under subsection (6) are subject to any conditions determined, as respects the grant in question, under section 27A(1B) or 27B(1B) of the Social Work (Scotland) Act 1968 by the Scottish Ministers.
- (8) In preparing a report under paragraph (g) of subsection (5), the community justice authority is to consult as mentioned in paragraph (a)(i) of that subsection.
- (9) A report made under paragraph (g) of subsection (5) must be published by the community justice authority in such manner as it considers appropriate.
- (10) A community justice authority is, on receiving a report submitted to it under section 11(2)(c), to send a copy of that report to the Scottish Ministers.
- (11) The Scottish Ministers may by order made by statutory instrument amend subsection (5) so as (either or both)—
- (a) to add to the functions for the time being described;
  - (b) to alter or omit any of those functions.

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- (12) Different provision may be made under subsection (11) for different community justice authorities.
- (13) The Scottish Ministers are from time to time to inspect and assess the arrangements set in place, and the services provided, by local authorities for complying with the area plan and to satisfy themselves as to the sufficiency of those arrangements and services.
- (14) The Scottish Ministers—
- (a) may from time to time issue to a community justice authority guidance as to—
    - (i) the exercise of its functions; or
    - (ii) its actings under section 4; and
  - (b) where they have issued such guidance but are satisfied that the authority—
    - (i) is not complying; and
    - (ii) is not likely to comply,with it, may issue directions to the authority as to the exercise or actings in question.
- (15) But before issuing directions under subsection (14)(b), the Scottish Ministers are—
- (a) to give written notice of at least 7 days to the community justice authority that they intend to issue the directions; and
  - (b) to consider any representations in that regard made to them, within those 7 days, by the authority.
- (16) The community justice authority may appeal to the sheriff, against any directions so issued, on the grounds (either or both)—
- (a) that the directions are unreasonable,
  - (b) that to issue them was unreasonable.
- (17) Within one month after issuing any such directions the Scottish Ministers are to lay a report before the Parliament containing a copy of the directions and a statement as to the reason for issuing them.
- (18) In carrying out—
- (a) their functions under section 27 of the Social Work (Scotland) Act 1968, an appropriate local authority are;
  - (b) by virtue of section 8 (of this Act), its functions, or functions on behalf of an appropriate local authority, under that section 27, a community justice authority is,
- so far as practicable, to comply with the area plan.
- (19) The Scottish Ministers are, so far as practicable, to comply with the area plan.
- (20) If directions are issued—
- (a) under subsection (5)(c)(i), the local authority receiving the directions;
  - (b) under subsection (14)(b), the community justice authority,
- must comply with them.
- (21) The Scottish Ministers, on receiving a plan by virtue of sub-paragraph (ii) of subsection (5)(a), may approve it or require the authority to revise the plan, in such manner as the Scottish Ministers may specify, and to re-submit it under that sub-paragraph.

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- (22) Subsection (21) applies in relation to a plan re-submitted as it applies to one submitted.
- (23) In this section—
- an “appropriate local authority” is a local authority the area of which is comprised within the area of the community justice authority; and
  - “partner bodies” means such persons as are for the time being designated as partner bodies for the purposes of this section by the Scottish Ministers by order made by statutory instrument.
- (24) The references in subsections (5)(b)(ii) and (g)(ii) and (19) to the Scottish Ministers are to the Scottish Ministers in exercise of their functions under the Prisons (Scotland) Act 1989 (c. 45) as is the first reference to the Scottish Ministers in each of paragraphs (a)(i) and (c)(ii) of subsection (5).
- (25) A statutory instrument containing an order under—
- (a) subsection (1) or (11) is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament;
  - (b) subsection (23) is subject to annulment in pursuance of a resolution of the Parliament.

#### **Commencement Information**

- II** S. 3 wholly in force at 2.4.2007; s. 3 not in force at Royal Assent, see s. 24; s. 3(1)(3)(4)(11)(12)(23)-(25) in force at 8.2.2006 and s. 3(2)(5)(a)(d)(f)-(h)(8)(9)(13)-(17)(20)(b)(21)(22) in force at 3.4.2006 by S.S.I. 2006/48, art. 3, Sch.; s. 3 in force so far as not already commenced at 2.4.2007 by S.S.I. 2006/545, art. 2

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