



# Community Justice (Scotland) Act 2016

## 2016 asp 10

### *Meaning of “community justice”*

#### **1 Meaning of “community justice”**

- (1) In this Act, “community justice” means—
- (a) giving effect to bail conditions, community disposals and post-release control requirements,
  - (b) managing and supporting persons falling within subsection (3), (6) or (7) with a view to them not offending in future or, if that is not realistic, reducing future offending by them,
  - (c) arranging relevant general services in ways which facilitate persons falling within subsection (3), (6) or (7) accessing and using them,
  - (d) preparing persons who have been convicted of offences and sentenced to imprisonment or detention in penal institutions for release,
  - (e) facilitating the provision of relevant general services which persons mentioned in paragraph (d) are likely to need immediately following their release.
- (2) In subsection (1)(b), “supporting” includes—
- (a) advising and guiding,
  - (b) providing—
    - (i) opportunities to participate in activities designed to eliminate or reduce future offending,
    - (ii) emotional and practical support designed to eliminate or reduce future offending,
  - (c) helping—
    - (i) to access things falling with paragraph (b)(i) or (ii),
    - (ii) to access and make use of relevant general services.
- (3) A person falls within this subsection if the person—
- (a) has, whether before or after this section comes into force, been the subject of an act mentioned in subsection (4), and
  - (b) is not for the time being imprisoned or detained in a penal institution (whether in consequence of the act or otherwise).

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- (4) The acts referred to in subsection (3)(a) are—
- (a) conviction for an offence,
  - (b) the making, in respect of an offence, of a relevant finding (see section 2(2)(b)),
  - (c) being given an alternative to prosecution in respect of an offence,
  - (d) arrest on suspicion of having committed an offence by any person having power to do so in respect of the offence.
- (5) Subsection (4) includes acts occurring anywhere in the world.
- (6) A person falls within this subsection if the person is the subject of a recognised EU supervision measure.
- (7) A person falls within this subsection if the person—
- (a) is aged 16 or 17, and
  - (b) is subject to a compulsory supervision order made by virtue of the ground mentioned in section 67(2)(j) of the Children’s Hearings (Scotland) Act 2011.

## 2 Interpretation of section 1

- (1) In section 1—
- “bail conditions” means—
- (a) conditions imposed by courts in relation to grants of bail,
  - (b) recognised EU supervision measures,
- “community disposals” means—
- (a) requirements for people to be supervised under orders of courts made in exercise of their criminal jurisdiction by virtue of any enactment,
  - (b) community payback orders imposed under section 227A or 227M of the 1995 Act,
  - (c) supervision and treatment orders made under section 57(2)(d) of the 1995 Act,
- “relevant general services” means services and support provided to people generally in relation to—
- (a) housing,
  - (b) employment,
  - (c) education,
  - (d) children,
  - (e) physical or mental health (including, in particular, alcohol and drug treatment services),
  - (f) social welfare,
  - (g) any other matter which does or may affect the likelihood of future offending by persons falling within section 1(3), (6) or (7),
- “post-release control requirements” means requirements for persons, following release from imprisonment or detention in a penal institution in consequence of conviction of offences, to be under supervision—
- (a) under any enactment, or
  - (b) by the terms of—
    - (i) an order or licence of the Scottish Ministers, or
    - (ii) a condition or requirement imposed in pursuance of any enactment,

“recognised EU supervision measure” means a measure imposed in another member State of the European Union which is recognised in Scotland (with or without adaptation) under Schedule 2 to the Mutual Recognition of Supervision Measures in the European Union (Scotland) Regulations 2014 ([S.S.I. 2014/337](#)).

- (2) For the purposes of section 1(4)—
- (a) an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law,
  - (b) a person is the subject of the making, in respect of an offence, of a relevant finding, if the person—
    - (i) is acquitted by reason of the special defence set out in section 51A of the 1995 Act,
    - (ii) is acquitted by reason of insanity,
    - (iii) is found by a court to be unfit for trial under section 53F of the 1995 Act but to have done the act or made the omission constituting the offence,
    - (iv) is found by a court to be under a disability but to have done the act or made the omission constituting the offence, or
    - (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in subparagraphs (i) to (iv),
  - (c) a person is given an alternative to prosecution in respect of an offence if the person—
    - (i) accepts, or is deemed to have accepted, a conditional offer in respect of the offence under section 302 of the 1995 Act,
    - (ii) accepts, or is deemed to have accepted, a compensation offer issued in respect of the offence under section 302A of the 1995 Act,
    - (iii) has a work order made against the person in respect of the offence under section 303ZA of the 1995 Act,
    - (iv) has accepted an offer made by the procurator fiscal in respect of the offence to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution, or
    - (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in subparagraphs (i) to (iv).
- (3) In this section, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995.

### *Community Justice Scotland*

#### **3 Establishment**

- (1) Community Justice Scotland (in Gaelic, Ceartas Coimhearsnachd Alba) is established.
- (2) Schedule 1 makes further provision about the constitution of Community Justice Scotland.

#### **4 Functions**

- (1) Community Justice Scotland’s main functions are—

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- (a) to promote the national strategy (see section 37(1)),
  - (b) to monitor, promote and support improvement in, and keep the Scottish Ministers informed about, performance in the provision of community justice (and in particular, performance in relation to the achievement of the nationally determined outcomes),
  - (c) to promote and support—
    - (i) improvement in the quality and range of provision of community justice (and in particular, improvement in meeting the needs of persons mentioned in subsection (2)),
    - (ii) making the best use of the facilities, people and other resources available to provide community justice,
  - (d) to promote public awareness of benefits arising from—
    - (i) persons who are convicted of offences being sentenced to community disposals rather than imprisonment or detention in penal institutions, and
    - (ii) managing and supporting persons falling within section 1(3), (6) or (7) with a view to them not offending in future or, if that is not realistic, reducing future offending by them.
- (2) The persons referred to in subsection (1)(c)(i) are persons who—
- (a) fall within section 1(3), (6) or (7), or
  - (b) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions.
- (3) In subsection (1)(d)(i), “community disposals” has the same meaning as in section 1.
- (4) Community Justice Scotland also has the other functions conferred on it by virtue of this or any other enactment.
- (5) The Scottish Ministers may by regulations—
- (a) confer additional functions in relation to community justice on Community Justice Scotland,
  - (b) transfer functions in relation to community justice from another person to Community Justice Scotland,
  - (c) make changes to functions of Community Justice Scotland (but only if the changed function is a function in relation to community justice),
  - (d) remove from Community Justice Scotland functions conferred by virtue of paragraph (a),
  - (e) transfer to another person functions transferred to Community Justice Scotland by virtue of paragraph (b).
- (6) Regulations under subsection (5) may modify this or any other enactment.
- (7) Before making regulations under subsection (5), the Scottish Ministers must consult—
- (a) Community Justice Scotland,
  - (b) each of the other community justice partners (see section 13(1)), and
  - (c) such other persons as they consider appropriate.
- (8) Regulations under subsection (5) are subject to the affirmative procedure.

## **5 General powers**

Community Justice Scotland may do anything which appears to it—

- (a) to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions,
- (b) to be otherwise conducive to the exercise of its functions.

## **6 Provision of information, advice and assistance**

A community justice partner (other than the Scottish Ministers) must comply with any reasonable request from Community Justice Scotland to provide information, advice or assistance to it for the purposes of, or in any connection with, any of its functions.

## **7 Funding**

- (1) The Scottish Ministers may make grants to Community Justice Scotland.
- (2) Such a grant may be—
  - (a) for the general purpose of enabling Community Justice Scotland to exercise its functions, or
  - (b) for a particular purpose in connection with any of those functions.
- (3) A grant under this section is subject to such conditions (including as to repayment) as the Scottish Ministers may determine.

## **8 Directions and guidance**

- (1) Community Justice Scotland must—
  - (a) comply with any general or specific direction issued by the Scottish Ministers about the exercise of its functions,
  - (b) have regard to any guidance issued by the Scottish Ministers about the exercise of its functions.
- (2) The Scottish Ministers must—
  - (a) lay a copy of any such direction or guidance before the Scottish Parliament, and
  - (b) publish it.
- (3) The Scottish Ministers may vary or revoke a direction or guidance issued under this section.
- (4) Subsections (1) to (3) apply to a direction or guidance which has been varied under subsection (3) as they apply to the original direction or guidance.

## **9 Governance and accountability**

Community Justice Scotland must, so far as reasonably practicable, operate in a way which—

- (a) is proportionate, transparent and accountable, and
- (b) is consistent with any other principle of good governance which appears to it to constitute best practice.

## 10 Corporate plan

- (1) Community Justice Scotland must prepare for approval by the Scottish Ministers a plan setting out how it intends to exercise its functions.
- (2) The plan must include information on how Community Justice Scotland intends to comply with section 9.
- (3) In preparing the plan, Community Justice Scotland must—
  - (a) have regard to the national strategy, and
  - (b) consult—
    - (i) each of the community justice partners,
    - (ii) such third sector bodies involved in community justice (see section 14(1)) as it considers appropriate, and
    - (iii) such other persons as it considers appropriate.
- (4) The plan must be submitted to the Scottish Ministers as soon as reasonably practicable after the establishment of Community Justice Scotland.
- (5) The Scottish Ministers must—
  - (a) approve the plan, or
  - (b) approve the plan with such modifications as they consider appropriate.
- (6) Before approving the plan with modifications the Scottish Ministers must consult Community Justice Scotland.
- (7) As soon as reasonably practicable after the plan is approved (with or without modifications), the Scottish Ministers must lay a copy of the plan before the Scottish Parliament.
- (8) Community Justice Scotland must publish the plan as soon as reasonably practicable after a copy of it has been laid before the Scottish Parliament under subsection (7).
- (9) Community Justice Scotland—
  - (a) must review the plan as soon as reasonably practicable after the publication of a revised strategy under section 16, and
  - (b) may review the plan at any other time.
- (10) Community Justice Scotland may, in consequence of such a review, prepare and submit to the Scottish Ministers for approval a revised plan.
- (11) Subsections (2), (3) and (5) to (10) apply to a revised plan as they apply to the original plan.

## 11 Annual reports on exercise of functions

- (1) Community Justice Scotland must, as soon as reasonably practicable after the end of each financial year—
  - (a) prepare a report on the exercise of its functions during that financial year, and
  - (b) send a copy of the report to the Scottish Ministers.
- (2) Community Justice Scotland may include in a report such other information about its operation as it considers appropriate.
- (3) In preparing a report, Community Justice Scotland must consult—

- (a) each of the community justice partners,
  - (b) such third sector bodies involved in community justice as it considers appropriate, and
  - (c) such other persons as it considers appropriate.
- (4) The Scottish Ministers must lay a copy of each report before the Scottish Parliament.
- (5) As soon as practicable after a copy of a report has been laid before the Scottish Parliament under subsection (4), Community Justice Scotland must publish the report.

## **12 Accounts**

- (1) Community Justice Scotland must—
- (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) A statement of accounts prepared under subsection (1)(b) must be in such form, contain such information and be prepared in accordance with such methods or principles, as the Scottish Ministers may direct.
- (3) Community Justice Scotland must send a copy of each statement of accounts to the Scottish Ministers as soon as reasonably practicable after the end of each financial year.
- (4) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.

### *Community justice partners*

## **13 Community justice partners**

- (1) The following persons are “community justice partners” for the purposes of this Act—
- (a) each local authority,
  - (b) each health board,
  - (c) the chief constable of the Police Service of Scotland,
  - (d) the Scottish Fire and Rescue Service,
  - (e) Skills Development Scotland,
  - (f) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (g) the Scottish Courts and Tribunals Service, and
  - (h) the Scottish Ministers.
- (2) References in this Act to the community justice partners for the area of a local authority are references to the following persons, acting jointly—
- (a) the local authority for the area,
  - (b) the health board for the area, or within whose area the area of the local authority falls,
  - (c) the chief constable of the Police Service of Scotland,
  - (d) the Scottish Fire and Rescue Service,
  - (e) Skills Development Scotland,

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- (f) any integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 for the area, or within whose area the area of the local authority falls,
  - (g) the Scottish Courts and Tribunals Service, and
  - (h) the Scottish Ministers.
- (3) The Scottish Ministers may by regulations modify subsection (1) or (2).
- (4) Regulations under subsection (3) are subject to the affirmative procedure.

*Third sector bodies involved in community justice*

**14 Third sector bodies involved in community justice**

- (1) A third sector body is involved in community justice for the purposes of this Act if it—
- (a) provides a service falling within subsection (2), or
  - (b) represents or promotes the interests of—
    - (i) persons mentioned in subsection (4), or
    - (ii) other persons who are or may be affected by community justice (see subsection (5)).
- (2) A service falls within this subsection if the service—
- (a) is provided to persons falling within section 1(3), (6) or (7) and involves managing or supporting them with a view to eliminating or reducing future offending by them, or
  - (b) is provided to persons who are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions, and involves preparing them for that release.
- (3) In subsection (2)(a), “supporting” has the same meaning as in section 1(1)(b).
- (4) The persons referred to in subsection (1)(b)(i) are persons who—
- (a) fall within section 1(3), (6) or (7), or
  - (b) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions.
- (5) The persons referred to in subsection (1)(b)(ii) include, in particular—
- (a) families of persons mentioned in subsection (4),
  - (b) victims and families of victims.
- (6) In subsection (5)(b), “victims” means persons who are, or appear to be, victims of offences or alleged offences.
- (7) A third sector body is involved in community justice in relation to the area of a local authority for the purposes of this Act if it does a thing mentioned in subsection (1) in, or in relation to, the area.



### *National strategy and performance framework*

#### **15 National strategy in relation to community justice**

- (1) The Scottish Ministers must, no later than one year after this section comes into force, publish a strategy in relation to community justice in Scotland.
- (2) The strategy may contain such material in relation to community justice as the Scottish Ministers consider appropriate, including in particular—
  - (a) a statement of the aims of community justice,
  - (b) action that the Scottish Ministers propose to take, or consider that others should take, to achieve, or support the achievement of, those aims,
  - (c) action that the Scottish Ministers consider that others should take to facilitate access to relevant general services by persons who have been convicted of an offence following the release of such persons from imprisonment or detention in a penal institution.
- (3) In subsection (2)(c), “relevant general services” has the same meaning as in section 1.
- (4) In preparing the strategy, the Scottish Ministers must consult—
  - (a) each of the other community justice partners,
  - (b) such third sector bodies involved in community justice as they consider appropriate, and
  - (c) such other persons as they consider appropriate.
- (5) Subsection (4) is complied with even if the consultation has been undertaken, or initiated, before this section comes into force.
- (6) As soon as reasonably practicable after the strategy has been published under subsection (1), the Scottish Ministers must lay a copy of it before the Scottish Parliament.

#### **16 Review of national strategy**

- (1) The Scottish Ministers must review the strategy published under section 15(1)—
  - (a) no later than 5 years after the strategy is published, and
  - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, the Scottish Ministers must either—
  - (a) publish a revised strategy, or
  - (b) publish a statement indicating that they consider that the strategy should not be revised.
- (3) Subsection (2) of section 15 applies to a revised strategy as it applies to the strategy published under subsection (1) that section.
- (4) In reviewing, and in revising, the strategy, the Scottish Ministers must consult—
  - (a) Community Justice Scotland,
  - (b) each of the other community justice partners,
  - (c) such third sector bodies involved in community justice as they consider appropriate, and
  - (d) such other persons as they consider appropriate.

- (5) As soon as reasonably practicable after a revised strategy has been published under subsection (2)(a), the Scottish Ministers must lay a copy of it before the Scottish Parliament.
- (6) Where a revised strategy is published under subsection (2)(a), this section—
  - (a) ceases to apply in relation to the previous strategy, and
  - (b) applies instead in relation to the revised strategy (as it applied in relation to the strategy published under section 15(1)).

## **17 National performance framework in relation to community justice**

- (1) The Scottish Ministers must, no later than one year after this section comes into force, publish a performance framework in relation to community justice in Scotland.
- (2) The framework is to set out—
  - (a) outcomes in relation to community justice which are to be achieved in the area of each local authority (called “nationally determined outcomes”), and
  - (b) indicators to be used to measure performance in achieving the outcomes (called “national indicators”).
- (3) The framework may contain such other material concerning performance in relation to community justice as the Scottish Ministers consider appropriate, including in particular—
  - (a) other indicators which may be used to measure performance in relation to community justice, including indicators in relation to access to and use of relevant general services,
  - (b) advice or guidance in relation to—
    - (i) anything in the framework,
    - (ii) achieving improvement in performance in relation to community justice more generally.
- (4) In subsection (3)(a), “relevant general services” has the same meaning as in section 1.
- (5) In preparing the framework, the Scottish Ministers must consult—
  - (a) each of the other community justice partners,
  - (b) such third sector bodies involved in community justice as they consider appropriate, and
  - (c) such other persons as they consider appropriate.
- (6) Subsection (5) is complied with even if the consultation has been undertaken, or initiated, before this section comes into force.

## **18 Review of national performance framework**

- (1) Community Justice Scotland must review the framework published under section 17(1)—
  - (a) no later than 5 years after the framework is published, and
  - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, Community Justice Scotland must either—
  - (a) make proposals to the Scottish Ministers for the revision of the framework, or

- (b) publish a statement indicating that they consider that the framework should not be revised.
- (3) In reviewing the framework, and in developing proposals for revision of it, Community Justice Scotland must—
  - (a) have regard to the national strategy, and
  - (b) consult—
    - (i) each of the community justice partners (other than the Scottish Ministers),
    - (ii) such third sector bodies involved in community justice as it considers appropriate, and
    - (iii) such other persons as it considers appropriate.
- (4) The Scottish Ministers must consider any proposals made to them under subsection (2) and then either—
  - (a) publish a revised framework reflecting them, with such modifications as they consider appropriate, or
  - (b) publish a statement indicating that they consider that the framework should not be revised.
- (5) The Scottish Ministers must consult Community Justice Scotland before—
  - (a) publishing a revised framework under subsection (4)(a) containing modifications, or
  - (b) publishing a statement under subsection (4)(b).
- (6) Subsections (2) and (3) of section 17 apply to a revised framework as they apply to the framework published under subsection (1) of that section.
- (7) Where a revised framework is published under subsection (4)(a), this section—
  - (a) ceases to apply in relation to the previous framework, and
  - (b) applies instead in relation to the revised framework (as it applied in relation to the framework published under section 17(1)).

*Community justice outcomes improvement planning and reporting*

**19 Community justice outcomes improvement plan**

- (1) The community justice partners for the area of a local authority must, in accordance with such provision as to timing as the Scottish Ministers make by regulations, publish a plan in relation to community justice for the area.
- (2) The plan is to set out, in relation to each of the nationally determined outcomes—
  - (a) the assessment of the community justice partners as to—
    - (i) whether the outcome is being achieved in the area, and
    - (ii) if not, how near the outcome is to being achieved,
  - (b) in light of that assessment, whether the outcome requires to be a priority for action,
  - (c) the action they intend to take (individually or jointly) to achieve or, as the case may be, maintain achievement of, the outcome.
- (3) In making an assessment for the purpose of subsection (2)(a), the community justice partners must use the national indicators.

- (4) The plan may contain such other material in relation to community justice as the community justice partners consider appropriate.
- (5) In particular, the plan may set out other outcomes in relation to community justice (being outcomes that are consistent with the nationally determined outcomes) that the community justice partners consider should be achieved in the area (called “locally determined outcomes”).
- (6) In relation to any such outcome, the plan must set out—
  - (a) the indicators the community justice partners intend to use to measure performance in achieving the outcome, and
  - (b) the action the community justice partners intend to take (individually or jointly) to achieve the outcome or, as the case may be, maintain the achievement of the outcome.
- (7) The community justice partners must, as soon as reasonably practicable after the plan has been published under subsection (1), send a copy to Community Justice Scotland.
- (8) Regulations under subsection (1) are subject to the negative procedure.

## **20 Preparation of community justice outcomes improvement plan**

- (1) This section applies in relation to preparing the plan for the area of a local authority under section 19.
- (2) The community justice partners for the area must have regard to—
  - (a) the national strategy,
  - (b) the national performance framework, and
  - (c) the local outcomes improvement plan in relation to the area.
- (3) The reference in subsection (2)(c) to the local outcomes improvement plan in relation to the area is to—
  - (a) the plan prepared and published in relation to the area under section 6(1) of the Community Empowerment (Scotland) Act 2015, or
  - (b) if that plan has been revised under section 7(2)(b) of that Act, the revised plan (or most recent revised plan, as the case may be).
- (4) The community justice partners for the area must—
  - (a) consider which bodies falling within subsection (5) are likely to be able to contribute to the preparation of the plan for the area under section 19,
  - (b) make all reasonable efforts to secure the participation of such bodies in the preparation of the plan, and
  - (c) where such a body wishes to participate in the preparation of the plan to any extent, take such steps as are reasonable to enable it to do so to that extent.
- (5) A body falls within this subsection if it is—
  - (a) a third sector body involved in community justice in relation to the area, or
  - (b) a community body in relation to the area.
- (6) The community justice partners for the area must consult—
  - (a) Community Justice Scotland,
  - (b) each body falling within subsection (5) which is not participating in the preparation of the plan by virtue of subsection (4), and

- (c) such other persons as they consider appropriate.

## **21 Community justice outcomes improvement plan: participation statement**

- (1) The community justice partners for the area of a local authority must prepare a statement setting out, in relation to their plan under section 19—
  - (a) the action which they took in pursuance of section 20(4), and
  - (b) which bodies falling within section 20(5) participated in the preparation of the plan by virtue of section 20(4).
- (2) A statement under subsection (1) may be incorporated in the plan under section 19 to which it relates.
- (3) If the statement is not so incorporated, the community justice partners for the area must, as soon as reasonably practicable after the plan under section 19 to which it relates is published, publish the statement and then send a copy to Community Justice Scotland.

## **22 Review of community justice outcomes improvement plan**

- (1) The community justice partners for the area of a local authority must review the plan for that area published under section 19(1)—
  - (a) as soon as reasonably practicable after the occurrence of an event mentioned in subsection (2), and
  - (b) otherwise, from time to time.
- (2) The events referred to in subsection (1)(a) are—
  - (a) the publication of a revised strategy under section 16(2),
  - (b) the publication of a revised framework under section 18(4)(a),
  - (c) the publication of a revised local outcomes improvement plan in relation to the area under section 7(5) of the Community Empowerment (Scotland) Act 2015.
- (3) Following such a review, the community justice partners for the area of a local authority must either—
  - (a) publish a revised plan, or
  - (b) publish a statement indicating that they consider that the plan should not be revised.
- (4) Subsections (2) to (7) of section 19 apply to a revised plan as they apply to a plan published under subsection (1) of that section.
- (5) Section 20 applies to reviewing, and revising, a plan under this section as it applies to preparing a plan.
- (6) Section 21 applies in relation to a revised plan as it applies to a plan under section 19.
- (7) Where a revised plan is published under subsection (3)(a), this section—
  - (a) ceases to apply in relation to the previous plan, and
  - (b) applies instead in relation to the revised plan (as it applied in relation to the plan published under section 19(1)).

**23 Reports on performance in relation to community justice outcomes**

- (1) The community justice partners for the area of a local authority must, as soon as reasonably practicable after—
  - (a) a first period specified by the Scottish Ministers by regulations, and
  - (b) each subsequent period of one year,publish a report setting out, in relation to each nationally determined outcome and each locally determined outcome (if any), the matters mentioned in subsection (2).
- (2) Those matters are—
  - (a) the action taken by the community justice partners (individually or jointly) in the period concerned to achieve the outcome or, as the case may be, maintain the achievement of the outcome, and
  - (b) the community justice partners' assessment of—
    - (i) whether, at the end of the period concerned, the outcome was being achieved in the area, and
    - (ii) in so far as it was not being achieved, progress in the period concerned towards its achievement.
- (3) In making an assessment as mentioned in subsection (2)(b), the community justice partners must use the relevant indicators.
- (4) In preparing a report under subsection (1), the community justice partners for the area of a local authority must consult—
  - (a) each third sector body involved in community justice in relation to the area,
  - (b) such community bodies in relation to the area as they consider appropriate, and
  - (c) such other persons as they consider appropriate.
- (5) The community justice partners must, as soon as reasonably practicable after publishing a report under subsection (1), send a copy to Community Justice Scotland.
- (6) In this section, “relevant indicators” means—
  - (a) in relation to a nationally determined outcome, the national indicators,
  - (b) in relation to a locally determined outcome, the indicators set out in the community justice outcomes improvement plan for the area in relation to the outcome by virtue of section 19(6)(a).
- (7) Regulations under subsection (1)(a) are subject to the negative procedure.

**24 Guidance in relation to exercise of functions in sections 19 to 23**

- (1) The community justice partners for the area of a local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of the functions conferred on them by sections 19 to 23.
- (2) Such guidance may be—
  - (a) general or for particular purposes,
  - (b) different in relation to different persons, or otherwise for different purposes.
- (3) Before issuing such guidance (or revised guidance), the Scottish Ministers must consult—
  - (a) each person to whom it would relate, and

- (b) such other persons as they consider appropriate.
- (4) Subsection (3) is complied with even if the consultation has been undertaken, or initiated, before this section comes into force.
- (5) The Scottish Ministers must publish any such guidance (or revised guidance).

## **25 Duty to have regard to community justice outcomes improvement plan**

A community justice partner must, in exercising the partner's functions in relation to community justice in relation to the area of a particular local authority, have regard to the community justice outcomes improvement plan for the area.

### *Performance in relation to community justice outcomes*

## **26 Monitoring of performance in relation to community justice outcomes**

- (1) In pursuance of section 4(1)(b), Community Justice Scotland must in relation to the area of each local authority—
  - (a) monitor performance in the achievement of—
    - (i) the nationally determined outcomes, and
    - (ii) each locally determined outcome, and
  - (b) from time to time, report to the community justice partners for the area on its assessment of that performance.
- (2) In making an assessment for the purpose of subsection (1)(b), Community Justice Scotland must use the relevant indicators.
- (3) Community justice partners to whom a report has been made under subsection (1)(b) must comply with any direction issued by Community Justice Scotland—
  - (a) to arrange for the publication (in such manner as may be specified) of—
    - (i) the report, or
    - (ii) specified information in relation to the report, or
  - (b) to notify Community Justice Scotland (within such period as may be specified) of—
    - (i) the action the community justice partners have taken or propose to take in response to the report, or
    - (ii) their intention not to take any action in response to the report.
- (4) In this section—
  - “relevant indicators” has the same meaning as in section 23,
  - “specified” means specified in the direction.

## **27 Annual report on performance in relation to community justice outcomes**

- (1) In pursuance of section 4(1)(b), Community Justice Scotland must, as soon as reasonably practicable after 31 March in each year, publish a report setting out its assessment of performance in Scotland as a whole in relation to the achievement of the nationally determined outcomes.
- (2) In making an assessment for the purpose of subsection (1), Community Justice Scotland must use the national indicators.

- (3) In preparing a report under subsection (1), Community Justice Scotland must consult—
- (a) each of the community justice partners,
  - (b) such third sector bodies involved in community justice as it considers appropriate, and
  - (c) such other persons as it considers appropriate.
- (4) As soon as reasonably practicable after a report has been published under subsection (1), Community Justice Scotland must lay a copy of it before the Scottish Parliament.

## **28 Performance improvement activity**

- (1) The powers conferred on Community Justice Scotland by section 5 include, in particular, power to do any of the things mentioned in subsection (2) in pursuance of section 4(1)(b).
- (2) Those things are—
- (a) identifying, establishing or promoting good practice in relation to community justice outcomes improvement planning and reporting,
  - (b) providing advice, guidance or assistance to the community justice partners for the area of a local authority in relation to community justice outcomes improvement planning and reporting,
  - (c) identifying, establishing or promoting good practice in relation to the provision of community justice,
  - (d) providing advice, guidance or assistance to the community justice partners for the area of a local authority in relation to the provision of community justice,
  - (e) making local improvement recommendations (see section 29),
  - (f) making national improvement recommendations (see section 30).
- (3) In subsection (2), “community justice outcomes improvement planning and reporting” means the exercise of the functions conferred on the community justice partners for the areas of local authorities by sections 19 to 23.

## **29 Local improvement recommendations**

- (1) A local improvement recommendation is a recommendation addressed to the community justice partners for the area of a local authority which sets out action which Community Justice Scotland considers—
- (a) is necessary to enable the achievement of a nationally determined outcome or a locally determined outcome in the area of the authority, or
  - (b) would or might help to improve performance in achieving such an outcome in that area, or otherwise in relation to community justice in that area.
- (2) Community justice partners to whom a local improvement recommendation has been made must comply with any direction issued by Community Justice Scotland—
- (a) to arrange for the publication (in such manner as may be specified) of—
    - (i) the recommendation, or
    - (ii) specified information in relation to the recommendation, or
  - (b) to notify Community Justice Scotland (within such period as may be specified) of—



- (i) the action the community justice partners have taken or propose to take in response to the recommendation, or
- (ii) their intention not to take any action in response to the recommendation.

(3) In subsection (2), “specified” means specified in the direction.

### **30 National improvement recommendations**

- (1) A national improvement recommendation is a recommendation addressed to the Scottish Ministers which sets out action which Community Justice Scotland considers—
- (a) is necessary to enable the achievement of a nationally determined outcome in Scotland as a whole or in the area of a particular local authority, or
  - (b) would or might help to improve performance in achieving such an outcome in that area, or otherwise in relation to community justice, in Scotland as a whole or in the area of a particular local authority.
- (2) As soon as reasonably practicable after making a national improvement recommendation, Community Justice Scotland must publish it.

*Community Justice Scotland: developing and arranging services*

### **31 Ability of Community Justice Scotland to develop and arrange services**

- (1) The powers conferred on Community Justice Scotland by section 5 include, in particular, power to do any of the things mentioned in subsection (2) in pursuance of section 4(1)(c).
- (2) Those things are—
- (a) identifying a desirable service falling within subsection (3),
  - (b) designing an appropriate model for the provision of such a service,
  - (c) making arrangements for the provision of such a service,
  - (d) encouraging or assisting, or acting in collaboration with, any of the community justice partners to do anything mentioned in paragraphs (a) to (c).
- (3) A service falls within this subsection if the service—
- (a) is provided to persons falling within section 1(3), (6) or (7) and involves managing or supporting them with a view to eliminating or reducing future offending by them, or
  - (b) is provided to persons who are being released, having been convicted of offences and sentenced to imprisonment or detention in penal institutions, and involves preparing them for that release.
- (4) In subsection (3)(a), “supporting” has the same meaning as in section 1(1)(b).
- (5) A service referred to in subsection (2) may be for—
- (a) all of Scotland, or
  - (b) the areas of particular local authorities.
- (6) Before exercising a power conferred by virtue of subsection (1), Community Justice Scotland must—

- (a) have regard to the desirability of—
    - (i) services in a particular area being best suited to the needs of that area, and
    - (ii) working in collaboration with others, where appropriate,
  - (b) consult—
    - (i) each of the community justice partners,
    - (ii) such third sector bodies involved in community justice as it considers appropriate, and
    - (iii) such other persons as it considers appropriate.
- (7) Subsection (6) does not apply where Community Justice Scotland is complying with a requirement under subsection (8).
- (8) Community Justice Scotland must comply with a requirement by the Scottish Ministers that it exercises a power conferred by virtue of subsection (1) in relation to a service of a particular description.
- (9) Before making a requirement under subsection (8), the Scottish Ministers must consult—
- (a) each of the other community justice partners,
  - (b) such third sector bodies involved in community justice as they consider appropriate, and
  - (c) such other persons as they consider appropriate.
- (10) Nothing in this section, or section 5, authorises Community Justice Scotland to provide a service falling within subsection (3) (either itself or in collaboration with others).
- (11) In this section—
- (a) the reference to identifying a service includes procuring and funding the identification of a service,
  - (b) the reference to designing a service includes procuring and funding the design of a service.

*Innovation, learning and development*

**32 Strategy for innovation, learning and development**

- (1) In pursuance of section 4(1)(c), Community Justice Scotland must, no later than one year after this section comes into force, publish a strategy for innovation, learning and development in relation to community justice.
- (2) The strategy may contain such material about innovation, learning and development in relation to community justice as Community Justice Scotland considers appropriate.
- (3) In preparing the strategy, Community Justice Scotland must—
  - (a) have regard to—
    - (i) the national strategy, and
    - (ii) the national performance framework,
  - (b) consult—
    - (i) each of the community justice partners,

- (ii) such third sector bodies involved in community justice as it considers appropriate, and
- (iii) such other persons as it considers appropriate.

### **33 Review of strategy for innovation, learning and development**

- (1) Community Justice Scotland must review the strategy published under section 32(1)—
  - (a) no later than 5 years after the strategy is published, and
  - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, Community Justice Scotland must either—
  - (a) publish a revised strategy, or
  - (b) publish a statement indicating that it considers that the strategy should not be revised.
- (3) Subsection (2) of section 32 applies to a revised strategy as it applies to the strategy published under subsection (1) of that section.
- (4) In reviewing, and in revising, the strategy, Community Justice Scotland must—
  - (a) have regard to—
    - (i) the national strategy, and
    - (ii) the national performance framework,
  - (b) consult—
    - (i) each of the community justice partners,
    - (ii) such third sector bodies involved in community justice as it considers appropriate, and
    - (iii) such other persons as it considers appropriate.
- (5) Where a revised strategy is published under subsection (2)(a), this section—
  - (a) ceases to apply in relation to the previous strategy, and
  - (b) applies instead in relation to the revised strategy (as it applied in relation to the strategy published under section 32(1)).

### **34 Innovation, learning and development activity**

- (1) The powers conferred on Community Justice Scotland by section 5 include, in particular, power to do any of the things mentioned in subsection (2)—
  - (a) in furtherance of the strategy for innovation, learning and development, or
  - (b) otherwise, in pursuance of section 4(1)(c).
- (2) Those things are—
  - (a) conducting, commissioning or co-ordinating research about—
    - (i) community justice, or
    - (ii) activity elsewhere in the world which corresponds with, or is reasonably similar to, community justice,
  - (b) identifying, establishing or promoting good practice in relation to community justice,
  - (c) developing or providing education or training in relation to community justice,
  - (d) requiring community justice partners (other than the Scottish Ministers) to do any of the things mentioned in paragraphs (a) to (c),

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- (e) encouraging or assisting community justice partners, or other persons, to do any of the things mentioned in paragraphs (a) to (c).
- (3) Community Justice Scotland must, so far as reasonably practicable, comply with a request by the Scottish Ministers that it—
  - (a) conducts or commissions research about a particular matter by virtue of subsection (1),
  - (b) identifies or establishes good practice in relation to a particular matter, or promotes particular good practice, by virtue of subsection (1),
  - (c) develops or provides particular education or training by virtue of subsection (1).
- (4) Community Justice Scotland may charge for any education or training developed or provided by it by virtue of subsection (1).
- (5) A community justice partner must comply with any requirement made of it as mentioned in subsection (2)(d).
- (6) In this section—
  - (a) the reference to the strategy for innovation, learning and development is to—
    - (i) the strategy published under section 32(1), or
    - (ii) if a revised strategy has been published under section 33(2)(a), the revised strategy (or most recent revised strategy, as the case may be),
  - (b) the references to developing education or training include procuring and funding the development of education or training,
  - (c) the references to providing education or training include procuring and funding the provision of education or training,
  - (d) the references to education include educational materials,
  - (e) the references to training include training materials.

*Co-operation in relation to community justice functions*

### **35 Duty of co-operation**

- (1) Each person or group of persons falling within subsection (2) must so far as reasonably practicable co-operate, in the exercise of their respective functions in relation to community justice, with each other person or group of persons falling within that subsection.
- (2) Those persons are—
  - (a) Community Justice Scotland,
  - (b) each of the community justice partners,
  - (c) the community justice partners for the area of each local authority.
- (3) Such co-operation may include—
  - (a) sharing information,
  - (b) providing advice and assistance,
  - (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
  - (d) funding activities together.

- (4) In complying with subsection (1), a person or group of persons must have regard to the desirability of community justice in a particular area being best suited to the needs of that area.

### *Abolition of community justice authorities*

## **36 Abolition of community justice authorities**

- (1) The community justice authorities established by article 2(1) of the Community Justice Authorities (Establishment, Constitution and Proceedings) (Scotland) Order 2006 (S.S.I. 2006/182) are dissolved.
- (2) That order is revoked.
- (3) Sections 3 to 9 of the Management of Offenders etc. (Scotland) Act 2005 (which provide for the establishment of community justice authorities and their functions) are repealed.

### *Interpretation*

## **37 Interpretation**

- (1) In this Act—
- “commencement regulations” means regulations under section 41(2),
- “community bodies”, in relation to the area of a local authority, means bodies (whether or not formally constituted) established for purposes which consist of, or include, promoting or improving the interests of any communities (however described) resident or otherwise present in the area,
- “community justice outcomes improvement plan”, in relation to the area of a local authority, means—
- (a) the plan for the area published under section 19(1), or
  - (b) if a revised plan has been published under section 22(3)(a), the revised plan (or the most recent revised plan, as the case may be),
- “health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
- “locally determined outcomes”, in relation to the area of a local authority, means outcomes set out in the community justice outcomes improvement plan for that area by virtue of section 19(5),
- “nationally determined outcomes” means outcomes set out in the national performance framework by virtue of section 17(2)(a),
- “national indicators” means indicators set out in the national performance framework by virtue of section 17(2)(b),
- “national performance framework” means—
- (a) the framework published under section 17(1), or
  - (b) if a revised framework has been published under section 18(4)(a), the revised framework (or most recent revised framework, as the case may be),
- “national strategy” means—
- (a) the strategy published under section 15(1), or

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(b) if a revised strategy has been published under section 16(2)(a), the revised strategy (or most recent revised strategy, as the case may be),

“penal institution” means any—

(a) prison (including a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989) other than a naval, military or air force prison,

(b) remand centre, within the meaning of section 19(1)(a) of the Prisons (Scotland) Act 1989,

(c) young offenders institution, within the meaning of section 19(1)(b) of that Act,

“publish” means make available to the public—

(a) on a website or by other electronic means, and

(b) in such other manner (if any) as the person publishing considers appropriate,

“Skills Development Scotland” means the company limited by guarantee registered in Scotland with company number SC202659,

“third sector body” means a body (whether or not formally constituted) established for purposes which consist of, or consist mainly of, providing benefits for society (but does not include a body established under an enactment).

(2) References in this Act to “community justice” (except in sections 4(1)(b), 15(1), 17(1) and 32(1)) include a reference to any aspect of community justice.

### *Supporting provisions*

## **38 Consequential and minor modifications**

Schedule 2 makes—

- (a) modifications of other enactments in consequence of provisions of this Act, and
- (b) other minor modifications of other enactments.

## **39 Regulations**

(1) Regulations under this Act may—

- (a) make different provision for different purposes,
- (b) include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.

(2) This section does not apply to commencement regulations.

## **40 Ancillary provision**

(1) The Scottish Ministers may by regulations make such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision made by this Act.

(2) Regulations under this section may modify this or any other enactment.

(3) Regulations under this section—

- (a) are subject to the affirmative procedure if they contain provision which adds to, or replaces or omits any part of, the text of this or any other Act,
- (b) otherwise, are subject to the negative procedure.

#### **41 Commencement**

- (1) Sections 1, 2, 13(1), 14(1) to (6), 15, 17, 37, 39, 40 and 42, and this section, come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Commencement regulations may—
  - (a) make different provision for different purposes,
  - (b) include transitional, transitory or saving provision.

#### **42 Short title**

The short title of this Act is the Community Justice (Scotland) Act 2016.