

*These notes relate to the Criminal Justice and Licensing (Scotland)  
Act 2010 (asp 13) which received Royal Assent on 6 August 2010*

# **CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 - Sentencing**

##### ***Section 17 – Presumption against short periods of imprisonment***

80. Section 204 of the Criminal Procedure (Scotland) Act 1995 deals with restrictions on passing sentences of imprisonment or detention. Section 17 inserts at subsection (3A) of section 204 a presumption against the courts passing sentences of imprisonment of 3 months or less unless the court considers that no other method of dealing with the person is appropriate. Subsection (3B)) provides that where a court imposes a sentence of 3 months or less it must give its reasons for the opinion that no other method of dealing with the offender is appropriate and that those reasons are to be entered in the record of proceedings. Provision is made at subsection (3C) for the number of months specified in subsection (3A) to be changed by Scottish Ministers. Subsection (3D) specifies that the number of months cannot be changed unless a draft of the Scottish Statutory Instrument is laid before and approved by the Scottish Parliament.