
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the provisions in the Management of Offenders etc. (Scotland) Act 2005 (“the Act”) specified in the Schedule to the Order. The provisions specified in Part 1 of the Schedule are brought into force on 8th February 2006 and the provisions specified in Part 2 of the Schedule are brought into force on 3rd April 2006.

Provisions commencing on 8th February 2006

Section 3(1) of the Act enables Scottish Ministers to establish community justice authorities (“CJAs”). Sections 3(3) and 3(4) make provision for the constitution and membership of CJAs. Sections 3(11) and 3(12) enable Scottish Ministers to amend the functions of CJAs by order.

Section 12 of the Act adds a new provision that enables a court, when making a probation order, to require the order to be reviewed and to set a probation progress review hearing for that purpose.

Section 15 of the Act makes a number of amendments to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9). Section 15(3) amends the arrangements for release of short term prisoners serving sentences for certain sex offences. Such offenders will be released on licence. Sections 15(7) and 15(14) make consequential changes to provisions in that Act and section 15(10) is brought into force for the purposes of enabling Scottish Ministers to prescribe “standard conditions” that will be attached to any licence that will be granted under section 3AA of that Act. Section 3AA will come into force when the provisions of section 15(5) of the Act are commenced.

Section 16 of the Act amends the Prisons (Scotland) Act 1989 (c. 45) to permit drug testing of prisoners by taking samples of saliva.

Section 18 of the Act amends the Sexual Offences Act 2003 (c. 42) to clarify which court has jurisdiction to deal with a failure to comply with the notification requirements of that Act.

Sections 21(1) and 21(4) of the Act make amendments to the Social Work (Scotland) Act 1968 (c. 49) consequential on the establishment of community justice authorities. Sections 21(5), 21(8) and 21(10) make consequential amendments to the Repatriation of Prisoners Act 1984 (c. 47), the Crime (Sentences) Act 1997 (c. 43) and the International Criminal Court (Scotland) Act 2001 (asp 13).

Provisions commencing on 3rd April 2006

Sections 1 and 2 of the Act impose new duties on specified bodies, and confers powers on statutory inspectorates, all concerned with the management of offenders, to co operate in the exercise of their functions.

Section 3(2) of the Act clarifies the status of CJAs, their members and employees. Section 3(5) lists the functions of CJAs. Sections 3(8) and 3(9) makes provisions regarding reports made by CJAs under section 3(5)(g). Sections 3(13) to 3(17) inclusive, 3(20)(b), 3(21) and 3(22) make provision regarding the role to be exercised by Scottish Ministers in supervising the work of CJAs.

Section 4 of the Act makes further provision as respects CJAs including their duty to each appoint a chief officer and power to appoint other staff. Provision is also made regarding funding of CJAs. Section 5 of the Act imposes specific duties on the chief officer of a CJA to submit reports to Scottish Ministers. Sections 6 and 7 of the Act give Scottish Ministers the power to require CJAs to act to remedy failures by the CJA or the local authorities funded by the CJA.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Section 8 of the Act makes provision for the delivery of certain functions by CJAs instead of, or on behalf of, local authorities, or Scottish Ministers exercising functions under the Prisons (Scotland) Act 1989 that relate to the preparation of offenders for release from imprisonment or detention in custody. Transfer of functions is undertaken by order and separate provision may be made for functions exercisable by Orkney Islands Council, Shetland Islands Council and Comhairle nan Eilean Siar. Section 9 of the Act makes provision for the transfer of property.

Sections 21(1)(a)(i), 21(2), 21(3), 21(9), 21(11) and 21(12) of the Act make amendments to other legislation consequential on the establishment of community justice authorities. Section 21(7) makes a consequential amendment to section 27(4A) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.