

Draft Order laid before Parliament under section 115 of, and paragraphs 1, 2 and 3 of Schedule 7 to, the Scotland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND
CRIMINAL LAW**

**The Management of Offenders etc. (Scotland) Act
2005 (Consequential Modifications) Order 2006**

Made - - - - 2006
Coming into force - - 2006

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113 of the Scotland Act 1998(1);

In accordance with section 115 of, and paragraphs 1, 2 and 3 of Schedule 7 to, that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Management of Offenders etc. (Scotland) Act 2005 (Consequential Modifications) Order 2006 and shall come into force on the day after the day on which it is made.

(2) Subject to paragraph (3) this Order extends to the whole of the United Kingdom.

(3) Article 3 does not extend to Scotland.

Modification of the Crime (Sentences) Act 1997

2. Paragraph 8 of Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands)(2) is amended as follows—

(1) 1998 c. 46.
(2) 1997 c43; paragraph 8 was amended by the Crime (Sentences) Act 1997 (c. 43), Schedule 5, paragraph 9; the Crime and Disorder Act 1998 (c. 37), Schedule 8, paragraph 1998/2327; the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Schedule 9, paragraph 186; the Criminal Justice and Court Services Act 2000 (c. 43), Schedule 7, paragraph 143; the Criminal Justice Act 2003 (c. 44), Schedule 32, paragraph 85; and the Domestic Violence, Crime and Victims Act 2004 (c. 28), Schedule 10, paragraph 46.

- (a) in sub paragraph (2)(a)(3), for the words “247 to 252 and 254 to 264A” substitute “246 to 264A”; and
- (b) in sub paragraph (4)(a), for the words “, 249 to 252 and 254” substitute “and 249”.

Management of Offenders etc. (Scotland) Act 2005

3. Section 21(8) of the Management of Offenders etc. (Scotland) Act 2005 (amendment of Schedule 1 to the Crime (Sentences) Act 1997)(4) extends to England and Wales and Northern Ireland, as well as to Scotland.

Modification of the House of Commons Disqualification Act 1975

4. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualification of certain offices)(5) at the appropriate place insert–

“Chief Officer of a community justice authority appointed under section 4(2) of the Management of Offenders etc. (Scotland) Act 2005.”.

Dover House,
London
2006

Parliamentary Under Secretary of State Scotland
Office,
Department for Constitutional Affairs

(3) References to certain provisions of the Criminal Justice Act 1991 (c. 53) which formerly appeared in paragraph 8(2)(a) are the subject of a saving for prisoners serving sentences of imprisonment in respect of offences committed before 4th April 2005, by virtue of paragraph 27 of Schedule 2 to the Criminal Justice Act 2003 (Commencement No. 8 and Transitional and Saving Provisions) Order 2005 (S.I.2005/950).

(4) 2005 asp 14.

(5) 1975 c. 24; there are amendments to Part 3 of Schedule 1 not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision consequential on the [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\)](#) (“the 2005 Act”).

Article 2 amends Schedule 1 to the Crime (Sentences) Act 1997 (c. 43) (“the 1997 Act”) so that the provisions in the Criminal Justice Act 2003 (c. 44) (“the 2003 Act”) relating to the release of prisoners on home detention curfew continue to apply to a prisoner transferred from England and Wales to Scotland on a restricted basis under Schedule 1 to the 1997 Act. In particular, in Article 2–

- (a) paragraph (a) amends paragraph 8(2)(a) of Schedule 1 by substituting a new reference to the list of sections of the 2003 Act which will continue to apply to prisoners transferred from England and Wales to Scotland, with the effect that section 246 (power to release prisoners on licence before required to do so) and section 253 (curfew condition to be included in licence under section 246) of that Act will now continue to apply to a prisoner transferred from England and Wales to Scotland on a restricted basis under the 1997 Act; and
- (b) paragraph (b) amends paragraph 8(4)(a) of Schedule 1 with the effect that section 253 (curfew condition to be included in licence under section 246) of the 2003 Act will now continue to apply to a prisoner whose supervision is transferred from England and Wales to Scotland on a restricted basis.

Article 3 extends the amendments made to paragraphs 10 and 11 of Schedule 1 to the 1997 Act by section 21(8) of the 2005 Act to England and Wales and Northern Ireland as well as Scotland. The effect of extending this provision is that sections 1AA (release of certain sexual offenders) and 3AA (further powers to release prisoners) of the 1993 Act (both of which were inserted into the 1993 Act by the 2005 Act) will continue to apply to prisoners whose sentences and/or supervision are transferred from Scotland to England and Wales or Northern Ireland.

Article 4 amends Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) by inserting a reference to a chief officer of a community justice authority appointed under section 4(2) of the 2005 Act (community justice authorities are established under section 3(1) of the 2005 Act). The effect of this amendment is that such officers are disqualified from becoming members of the House of Commons.