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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order creates a scheme of accreditation to be administered by the Risk Management Authority (“the Authority”). The Authority has functions in respect of ensuring the effective assessment and minimisation of the risk posed to the safety of the public at large by certain offenders and others, if they were to be at liberty.

Article 3 sets out application requirements for the two types of accreditation which may be awarded: first, in respect of a manner of assessing or minimising risk and, secondly, in respect of people who have functions in relation to the assessment and minimisation of risk. In each case, the relevant risk is that presented to the safety of the public at large by the release into the community of the subject. Whilst only natural persons may apply to be accredited, both natural and legal persons may apply for the accreditation of a manner of assessing or minimising risk.

Article 4 requires the Authority to constitute an accreditation committee and, where authorised by the Authority to do so, it shall decide whether or not to award accreditation (of either a manner of assessing or minimising risk or of a person), whether to withdraw or suspend an accreditation, and shall determine complaints relating to an accredited person or manner. This article also makes provision about the constitution of the committee.

Article 5 sets out what must be contained in any decision to award accreditation, and regulates the committee’s procedure in reaching such a decision. Article 5(1) provides that, where the Authority does not authorise the committee to take decisions, articles 5 to 8 and article 15 shall apply as if references to the committee were to the Authority.

Articles 6 to 8 deal, respectively, with the termination, withdrawal and suspension of an accreditation. Article 6(1) sets out the four situations in which an accreditation will be terminated. Article 7(1) and (2) sets out two situations in which an accreditation may be withdrawn. By virtue of paragraph (1) the accreditation committee will require to withdraw a person’s accreditation where he or she is no longer a member of, or registered with, a specified professional regulatory body in breach of a condition of the accreditation. Paragraph (2) provides a discretionary power for the accreditation committee to withdraw an accreditation, and paragraphs (3) to (8) set out procedural requirements.

In a similar manner, article 8 provides, in paragraph (1), a mandatory requirement to suspend an accreditation where a condition requiring a person to be a member of, or registered with a professional regulatory body is breached; and, in paragraph (2), a discretionary power to suspend an accreditation pending a decision on whether to withdraw the accreditation under article 7.

Articles 9 to 15 deal with appeals. Article 9(1) stipulates that an appeal may only be lodged against an accreditation decision (under article 5(2)) or a decision under article 7(8) to withdraw an accreditation. Article 9(2) sets out certain procedural requirements and article 9(3) provides that, in an appeal against an accreditation decision, that decision shall continue to have effect until the appeal is determined. Article 10 requires the Authority to constitute an appeals committee and makes provision about how it is to operate. It may only determine appeals if authorised to do so by the Authority. Article 11(1) provides that, where the Authority does not authorise the committee to determine appeals, articles 11 to 15 shall apply as if references to the committee were references to the Authority. Article 11(2) requires the committee to hold an oral hearing, and provides that the appellant may attend, with or without a representative. The main purpose of the hearing is to allow oral representations to be made. These will supplement the consideration of written material, as provided for by article 12(3). Unless the appellant requests otherwise, the hearing will be held in private, in which case only those people described in article 11(5) may attend. Article 12(1) provides

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the committee with power to regulate its own procedure. Both the appellant and the committee may call any person as a witness at the hearing, by article 13, but the chair of the committee may, if he or she considers it appropriate, refuse to allow a witness to be called by an appellant.

Article 14 provides that the Authority may appoint a legal assessor, whose functions are to advise the committee on questions of law and to advise on the drafting of (without being a party to) the decision letter. Such letter shall, by article 15(3), contain a statement of the reasons for the decision and must be sent no later than 4 weeks after the end of the hearing.

Complaints relating to an accredited person or manner may be made under article 16 and shall be considered by the accreditation committee.

The Authority is obliged, by article 17, to maintain a register of all currently valid authorisations, which shall be open to inspection on its website (<http://www.rmascotland.gov.uk>) and at its office. The details which must be included are specified in article 17(3).