

2007 No. 250 (C.23)

CRIMINAL LAW

**The Criminal Proceedings etc. (Reform) (Scotland) Act 2007
(Commencement and Savings) Order 2007**

Made - - - -

15th March 2007

The Scottish Ministers, in exercise of the powers conferred by section 84(1) and (2) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007^(a), hereby make the following Order:

Citation

1. This Order may be cited as the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (Commencement and Savings) Order 2007.

Interpretation

2. In this Order—

“the Act” means the Criminal Proceedings etc. (Reform) (Scotland) Act 2007; and

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995^(b).

Commencement

3. Subject to the savings provisions contained in article 4, the following provisions of the Act shall come into force on 23rd April 2007—

- (a) section 35 (evidence on commission);
- (b) section 36 (victim notification scheme);
- (c) section 44(2) (particular statutory offences);
- (d) section 56 (recognition of EU financial penalties);
- (e) section 67(5) and (6) (appointment of JPs);
- (f) section 69 (training and appraisal of JPs);
- (g) sections 78 and 79 (appointment of Inspector, and the Inspector’s functions);
- (h) section 80 (modification of enactments), for the purposes of bringing into force the provisions of the schedule to the Act specified in paragraph (i); and
- (i) paragraphs 6, 16(1), 18(2), 18(3) and 19 of the schedule to the Act.

^(a) 2007 asp 6.
^(b) 1995 c.46.

Savings

4.—(1) An extended sentence under section 210A (extended sentences for sex or violent offenders) of the 1995 Act shall not be imposed in respect of the offences listed in section 210A(10)(xxii) to (xxvi)(a) of that Act where the offence was committed before 23rd April 2007.

(2) The coming into force of paragraphs 16(1), 18(2) and 18(3) of the schedule to the Act shall not affect proceedings in which a decision under sections 107(1)(a), 107(5)(a), 180(1)(a), 180(5)(a), 187(1)(a) or 187(4)(a) of the 1995 Act has been intimated to the appellant or the appellant's solicitor before 23rd April 2007.

St Andrew's House,
Edinburgh
15th March 2007

CATHY JAMIESON
A member of the Scottish Executive

(a) Section 210A(10)(xxii) to (xxvi) of the 1995 Act are inserted by paragraph 19 of the schedule to the Act.

EXPLANATORY NOTE

(This note is not part of the Order)

The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (“the Act”) received Royal Assent on 22nd February 2007.

Article 3 of this Order brings into force several sections of the Act on 23rd April 2007, namely–

- section 35 which makes changes to the provisions of the 1995 Act in relation to evidence given on commission;
- section 36 which makes changes to the provisions of the Criminal Justice (Scotland) Act 2003 in relation to victim notification schemes;
- section 44(2) which amends section 26A (enforcement of wildlife legislation) of the Wildlife and Countryside Act 1981;
- section 56 which gives the Scottish Ministers power to make provision in relation to Council Framework Decision 2005/214/JHA of 24th February 2004 on the application of the principle of mutual recognition to financial penalties;
- sections 67(5) and 67(6) which give the Scottish Ministers power to make provision as to the appointment of Justices of the Peace (“JPs”) under the Act;
- section 69 which gives the Scottish Ministers power to make provision as to the training and appraisal of JPs. Orders made under section 69 are subject to the approval of the Lord President;
- sections 78 and 79 which make provision in relation to the inspection of the Crown Office and Procurator Fiscal Service; and
- section 80 for the purposes of bringing into force paragraphs 6, 16(1), 18(2), 18(3) and 19 of the schedule to the Act. Paragraph 6 of the schedule modifies provisions dealing with compensation for miscarriages of justice in the Criminal Justice (Scotland) Act 1988. Paragraphs 16(1), 18(2) and 18(3) modify certain appeal procedures found in sections 107 (leave to appeal), 180 (leave to appeal against conviction etc.) and 187 (leave to appeal against sentence) of the 1995 Act. Paragraph 19 modifies section 210A (extended sentences for sex and violent offenders) of the 1995 Act.

Article 4(1) of the Order makes saving provision in relation to the application of section 210A (extended sentences for sex or violent offenders) of the 1995 Act. Paragraph 19 of the schedule to the Act adds to the list of offences for which an extended sentence may be imposed. The effect of article 4(1) of the Order is that an extended sentence may not be imposed for an offence inserted by paragraph 19 of the schedule where that offence has been committed prior to 23rd April 2007.

Article 4(2) makes saving provision in relation to certain appeal proceedings under sections 107, 180 and 187 of the 1995 Act. Paragraphs 16(1), 18(2) and 18(3) of the schedule to the Act modify the timescales for seeking leave of the High Court to rely on grounds of appeal which have been deemed to be unarguable at an earlier sift. In consequence, the procedure for notification of the application to the Crown Agent is also adjusted. Further, the High Court is given discretion to extend these timescales if cause can be shown. The effect of article 4(2) is to apply these changes only to cases where intimation of the High Court’s decision on leave to appeal has been made prior to 23rd April 2007.