

2007 No. 84 (C. 12)

POLICE

CRIMINAL LAW

**The Police, Public Order and Criminal Justice (Scotland) Act
2006 (Commencement No. 3, Transitional and Savings
Provisions) Order 2007**

Made - - - -

14th February 2007

The Scottish Ministers, in exercise of the powers conferred by sections 103(2) and 104(1) of the Police, Public Order and Criminal Justice (Scotland) Act 2006(a), hereby make the following Order:

Citation

1. This Order may be cited as the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Commencement No. 3, Transitional and Savings Provisions) Order 2007.

Interpretation

2. In this Order—

“the 1982 Act” means the Civic Government (Scotland) Act 1982(b);

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(c); and

“the Act” means the Police, Public Order and Criminal Justice (Scotland) Act 2006.

Commencement of provisions

3.—(1) The following provisions of the Act shall come into force on 25th February 2007—

(a) section 84 (testing of arrested persons for Class A drugs), only for the purpose of commencing section 20B(3) of the 1995 Act; and

(b) section 90 (interpretation of sections 85 to 88), so far as not already in force.

(2) Sections 91 to 97 (offenders assisting investigations and prosecutions and conditional immunity from prosecution) of the Act shall come into force on 1st March 2007.

(3) Subject to paragraph (4), and with the exception of sections 3(2)(d) and (8), 82 and schedule 1, paragraph 14(2), all the provisions of the Act, so far as not then in force, shall come into force, for all purposes, on 1st April 2007.

(a) 2006 asp 10.

(b) 1982 c.45.

(c) 1995 c.46.

- (4) The following provisions of the Act shall come into force on 12th June 2007—
- (a) section 84 (testing of arrested persons for Class A drugs), so far as not already in force;
 - (b) section 85(1) and (2) (assessment following positive test under section 20A of the 1995 Act); and
 - (c) sections 86 to 88 (requirements under section 85: supplementary, date, time and place of assessment, failure to comply with requirements under sections 85 and 86).

Savings provision for complaints and misconduct

4. Notwithstanding the repeal of section 40A of the Police (Scotland) Act 1967^(a) by paragraph 1(7) of schedule 6 to the Act, that section shall continue to have effect on and after 1st April 2007 for the purpose of enabling the inspectors of constabulary^(b) to conduct, or continue to conduct, an examination into the manner in which a chief constable of a police force has handled a complaint made by a member of the public about a constable of that force, provided the request to examine the handling of that matter was made to the inspectors of constabulary before 1st April 2007.

Transitional and savings provisions for public processions

5.—(1) Notwithstanding the modifications to sections 62 to 65 of the 1982 Act by sections 70 to 72 of the Act, those sections shall continue to have effect on and after 1st April 2007 as if those modifications had not been made, in relation to a public procession which takes place on or after that date but only to a case to which paragraph (2) applies.

(2) This paragraph applies where—

- (a) a local authority has made an order under section 62(6) of the 1982 Act, which exempts a person from giving written notice to that authority of the proposal to hold a public procession, which is specified in that order, and that person holds such a public procession at any time on or after 1st April 2007 and before 28th April 2007;
- (b) a public procession of the type specified in section 62(7) of the 1982 Act is held on or after 1st April 2007 and before 28th April 2007 and a local authority has not made an order under that section which requires written notice of a proposal to hold such a public procession to be given to that authority; or
- (c) a person who is proposing to hold a public procession has given written notice of that proposal, in accordance with section 62 of the 1982 Act before 1st April 2007 and a local authority has before that date—
 - (i) made an order under section 63(1) or (1A)(b) of the 1982 Act; or
 - (ii) given notification, in accordance with section 63(3)(a)(ii) of the 1982 Act, that it has decided not to make an order under section 63(1) of the 1982 Act, and no order under section 63(1A)(b) of that Act has been subsequently made.

^(a) 1967 c.77; section 40A was inserted by the Police and Magistrates' Courts Act 1994 (c.29), section 61.

^(b) Inspectors of constabulary are appointed by the Scottish Ministers under section 33 of the Police (Scotland) Act 1967 (c.77).

6. Where before 1st April 2007, a person who is proposing to hold a procession in public on or after 28th April 2007 has given written notice of that proposal in accordance with section 62 of the 1982 Act, that written notice shall, unless it is a case to which article 5(2)(c) applies, be treated as if it had been given on 1st April 2007.

St Andrew's House,
Edinburgh
14th February 2007

CATHY JAMIESON
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force further provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”).

Article 3 brings section 84 (only for the purpose of commencing s.20B(3) of the Criminal Procedure (Scotland) Act 1995) and section 90 of the Act, so far as not already in force, into force on 25th February 2007. This article also brings sections 91 to 97 of the Act (offenders assisting investigations and prosecutions and conditional immunity from prosecution) into force on 1st March 2007. Sections 84 to 90 of the Act, in so far as these provisions have not already been commenced, are brought into force on 12th June 2007. The remainder of the provisions in the Act, with exception to sections 3(2)(d) and (8), 82 and schedule 1, paragraph 14(2) are brought fully into force on 1st April 2007.

Article 4 saves the effect of section 40A of the Police (Scotland) Act 1967 so that the inspectors of constabulary can consider and conclude any examination into the manner in which a chief constable has dealt with a complaint made by a member of the public about a constable of their force, provided such a complaint was referred to the inspectors constabulary before 1st April 2007.

Article 5 saves the effects of Part V of the Civic Government (Scotland) Act 1982 (“the 1982 Act”), prior to the amendments by the Act (“the old law”) in relation to a public procession that takes place after 1st April 2007 in the circumstances set down in paragraph (2). If a local authority make an order under section 62(6) of the 1982 Act which exempts a person from the requirement to give written notice of a proposal to hold certain public processions, a person can hold a procession of this nature up until 28th April 2007, without being required to give written notice of this proposal. Unless a local authority make an order under section 62(7) of the 1982 Act, which requires notice to be given in relation to specified processions, any processions of a common or customary nature can be held up until 28th April 2007 without a requirement to give written notice. The old law is also being preserved in relation to any public procession which takes place after 1st April 2007, if a local authority has determined the notification before this date.

Article 6 provides that a written notice of the proposal to hold a public procession which is taking place after 28th April 2007 must be determined under Part V of the 1982 Act as amended by the Act, if such a notice has not been dealt with by a local authority before 1st April 2007.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Chapter 3 Part 1 (sections 48 to 50)	1st September 2006	2006/432
Chapter 1 of Part 2 (sections 51 to 69)	1st September 2006	
Schedule 5	1st September 2006	
Chapter 3 of Part 2 (sections 73 to 80)	1st September 2006	
Sections 81, 98, 101 (insofar as it relates to the specified provisions of schedule 6)	1st September 2006	
Schedule 6, paragraphs 1(1), (2), (4)(a), (5)(a), (5)(c), (5)(d), (8) and 2 to 4	1st September 2006	
Section 1(1)	1st January 2007	2006/607
Section 1(2) (partially)	1st January 2007	
Sections 2(1), 4, 8, 12(1)(a), (b) and (d)	1st January 2007	
Section 12(2) (partially)	1st January 2007	
Sections 13, 16(1), 18, 23, to 25, 30, to 34	1st January 2007	
38(4), 41, 47	1st January 2007	
Sections 35, 36, 39 and 44 (partially)	1st January 2007	
Sections 83 and 85(3)	1st January 2007	
Sections 84, 90 and 101 (partially)	1st January 2007	
Schedule 1, paragraphs 1 to 9, 10(1), 11(1), (5) to (8), 12, 13, 14(1) and (3), 15 and 16	1st January 2007	
Schedule 2, paragraphs 1 to 6, 8 and 9	1st January 2007	
Schedules 3 and 4	1st January 2007	
Schedule 6, paragraphs 5(4) and (5), 7 and 12	1st January 2007	

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