
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 160 (C. 15)

CRIMINAL LAW

**The Criminal Justice and Licensing (Scotland) Act 2010
(Commencement No. 10 and Saving Provisions) Order 2012**

<i>Made</i>	- - - -	<i>21st May 2012</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>23rd May 2012</i>
<i>Coming into force</i>	- -	<i>25th June 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 201(1), (2) and 206(1) of the Criminal Justice and Licensing (Scotland) Act 2010⁽¹⁾.

Citation and commencement

1. This Order may be cited as the Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 10 and Saving Provisions) Order 2012 and comes into force on 25th June 2012.

Interpretation

- 2.—(1) In this Order “the Act” means the Criminal Justice and Licensing (Scotland) Act 2010.
- (2) For the purposes of this Order criminal proceedings are commenced—
- (a) in summary proceedings, on the date of the first calling of the case; and
 - (b) in solemn proceedings, on the date on whichever of the following first occur—
 - (i) the grant of a warrant to arrest and commit;
 - (ii) the intimation of a petition; or
 - (iii) the service of an indictment.

Commencement of provisions

3. The provisions of the Act specified in column 1 of the Schedule (the subject matter of which is specified in column 2 of the Schedule) come into force on 25th June 2012 and apply to criminal proceedings commenced on or after that date irrespective of the date the offence was committed.

Saving provisions

4.—(1) The rules of law referred to in section 171 of the Act continue to have effect in relation to criminal proceedings commenced before 25th June 2012.

(2) The common law of diminished responsibility continues to have effect in relation to criminal proceedings commenced on or after 25th June 2012 where the conduct giving rise to the proceedings took place before that date, the case proceeding as if—

(a) section 168 of the Act (in so far as inserting section 51B of the Criminal Procedure (Scotland) Act 1995(2); and

(b) section 171 of the Act (in so far as abolishing the plea of diminished responsibility),
had not been commenced.

St Andrew's House,
Edinburgh
21st May 2012

KENNY MACASKILL
A member of the Scottish Executive

SCHEDULE

Article 3

<i>Column 1</i>	<i>Column 2</i>
<i>(Provisions of the Act)</i>	<i>(Subject matter)</i>
Section 168	Criminal responsibility of persons with mental disorder
Section 169	Acquittal involving mental disorder: procedure
Section 170	Unfitness for trial
Section 171	Abolition of common law rules
In Schedule 7, paragraphs—	
8	Modification of the Rehabilitation of Offenders Act 1974
16	Modifications of the Legal Aid (Scotland) Act 1986
32, 37 to 43, 46, 51, 57, 58 and 62	Modifications of the Criminal Procedure (Scotland) Act 1995
66	Modification of the Crime and Punishment (Scotland) Act 1997
71	Modification of the Criminal Justice (Scotland) Act 2003
73	Modification of the Sexual Offences Act 2003
75	Modifications of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005
76	Modifications of the Management of Offenders etc. (Scotland) Act 2005
84	Modification of the Protection of Vulnerable Groups (Scotland) Act 2007
85	Modifications of the Counter-Terrorism Act 2008
87	Modifications of the Coroners and Justice Act 2009

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

The Criminal Justice and Licensing (Scotland) Act 2010 (“the Act”) received Royal Assent on 6th August 2010. Sections 201, 202, 204, 205 and 206 of the Act came into force on Royal Assent.

This Order brings into force sections 168 to 171 of the Act (and related provisions in Schedule 7 of the Act). These provisions implement the Scottish Law Commission’s Report on Insanity and Diminished Responsibility. The provisions come into force on 25th June 2012 and apply in general

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to all criminal proceedings commenced on or after that date, irrespective of when the conduct giving rise to the proceedings occurred.

There is one exception to this general approach. In the light of developments in the common law of diminished responsibility that have occurred since the Act received Royal Assent, section 168 of the Act (in so far as inserting section 51B in the Criminal Procedure (Scotland) Act 1995) does not apply where the conduct giving rise to the proceedings took place before 25th June 2012, even when the proceedings are commenced after that date. In such cases the common law of diminished responsibility continues to have effect.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 14(1) (in part)	1st February 2011	2010/413
Section 14(1) (insofar as not already in force)	1st April 2011	2010/413
Section 14(2)	1st February 2011	2010/413
Section 15	28th March 2011	2011/178
Section 16	13th December 2010	2010/413
Section 17	1st February 2011	2010/413
Section 19	28th March 2011	2011/178
Sections 20 and 21	1st February 2011	2010/413
Section 22	28th March 2011	2011/178
Section 23	13th December 2010	2010/413
Section 24	28th March 2011	2011/178
Sections 25 and 26	13th December 2010	2010/413
Section 27	28th March 2011	2011/178
Sections 28 to 31	13th December 2010	2010/413
Sections 32 and 33	28th March 2011	2011/178
Section 34	13th December 2010	2010/413
Section 35	28th March 2011	2011/178
Section 36	28th March 2011	2011/178
Section 37	13th December 2010	2010/413
Section 38	6th October 2010	2010/339
Sections 39 to 41	13th December 2010	2010/413
Section 42	28th March 2011	2011/178
Sections 43 and 44	1st December 2010	2010/357

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 45	13th December 2010	2010/413
Sections 46 to 53	28th March 2011	2011/178
Section 54	6th June 2011	2011/178
Section 55	28th March 2011	2011/178
Section 56	13th December 2010	2010/413
Sections 57 and 58	28th March 2011	2011/178
Sections 59 and 60	13th December 2010	2010/413
Sections 61 and 62	28th March 2011	2011/178
Sections 65 to 70	28th March 2011	2011/178
Section 71	13th December 2010	2010/413
Sections 72 to 76	28th March 2011	2011/178
Section 77(1) (in part)	28th March 2011	2011/178
Section 77(1) (insofar as not already in force)	1st August 2011	2011/178
Section 77(2)(a)	28th March 2011	2011/178
Section 77(2)(b) and (c)	1st August 2011	2011/178
Section 77(3)	28th March 2011	2011/178
Sections 78 and 79	28th March 2011	2011/178
Section 80 (in part)	13th December 2010	2010/413
Section 80 (insofar as not already in force)	15th April 2011	2011/178
Section 81	28th March 2011	2011/178
Section 82	1st August 2011	2011/178
Section 83	5th November 2010	2010/385
Section 84	28th March 2011	2011/178
Section 85	6th June 2011	2011/178
Sections 86 to 91	28th March 2011	2011/178
Section 93	13th December 2010	2010/413
Sections 94 to 96	10th January 2011	2010/413
Section 97	6th October 2010	2010/339
Section 99	13th December 2010	2010/413
Section 100	1st November 2011	2011/354
Section 101	13th December 2010	2010/413
Section 102	28th March 2011	2011/178
Section 103	1st November 2011	2011/354
Sections 104 and 105	13th December 2010	2010/413

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Sections 106 and 107	28th March 2011	2011/178
Section 108(1) (in part) and (4)	12th October 2010	2010/344
Section 108(1) to (3) and (4) (insofar as not already in force)	28th February 2011	2011/157
Section 109(1) to (4)	1st November 2011	2011/354
Section 110(1) to (5)	1st November 2011	2011/354
Sections 111 to 114	13th December 2010	2010/413
Section 115	28th March 2011	2011/178
Sections 116 to 167	6th June 2011	2011/178
Section 172(1) to (3), (4)(a), (5) and (6)	28th March 2011	2011/178
Section 173	13th December 2010	2010/413
Section 174	1st November 2011	2011/354
Section 175	28th March 2011	2011/178
Section 176	1st April 2012	2011/178
Section 177	1st October 2012	2011/178
Section 178(3)(e)	16th August 2010	2010/297
Section 178 (insofar as not already in force)	28th February 2011	2010/413
Sections 180 and 181	13th December 2010	2010/413
Section 182	28th February 2011	2010/413
Section 183	13th December 2010	2010/413
Section 184(1) and (2) and (3) (both partially)	13th December 2010	2010/413
Section 185	13th December 2010	2010/413
Section 186	28th March 2011	2011/178
Section 187	13th December 2010	2010/413
Section 188(1)	13th December 2010	2010/413
Section 188(2)	28th March 2011	2011/178
Section 188(3)	13th December 2010	2010/413
Sections 189 and 190	1st October 2011	2011/178
Section 191	28th December 2011	2011/178
Sections 192 to 194	13th December 2010	2010/413
Section 195(1), (2) and (3) (partially)	13th December 2010	2010/413
Section 195 (insofar as not already in force)	1st November 2011	2011/354
Section 196	13th December 2010	2010/413
Sections 198 and 199	13th December 2010	2010/413
Section 203	28th March 2011	2011/178

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Schedule 2 (with the exception of paragraph 38)	1st February 2011	2010/413
Schedule 2 (insofar as not already in force)	The day that section 25(2) of the Welfare Reform Act 2009 (c.24) (jobseekers allowance: sanctions for violent conduct etc. in connection with claim) comes into force	2010/413
Schedule 4 (with the exception of paragraph 12)	13th December 2010	2010/413
Schedule 5	28th March 2011	2011/178
Schedule 6 (with the exception of paragraphs 2, 9, 10 and 17)	13th December 2010	2010/413
Schedule 6, paragraphs 2, 9, 10 and 17	1st November 2011	2011/354
Schedule 7, paragraphs—		
1 to 3	28th March 2011	2011/178
4	13th December 2010	2010/413
5	13th December 2010	2010/413
6	28th March 2011	2011/178
7, 9 and 10	1st November 2011	2011/354
11 and 12	28th March 2011	2011/178
13	13th December 2010	2010/413
14 and 15	28th March 2011	2011/178
17 to 25	28th March 2011	2011/178
27 to 31	28th March 2011	2011/178
33	1st August 2011	2011/178
34 to 36	28th March 2011	2011/178
44 and 45	28th March 2011	2011/178
47	28th March 2011	2011/178
48	10th January 2011	2010/413
49	13th December 2010	2010/413
50	28th March 2011	2011/178
52 to 56	28th March 2011	2011/178
59 to 61	28th March 2011	2011/178
63 to 65	28th March 2011	2011/178
67 to 69	28th March 2011	2011/178
72	28th March 2011	2011/178
74	28th March 2011	2011/178

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77 to 83	28th March 2011	2011/178
86	13th December 2010	2010/413