

# **CRIMINAL JUSTICE (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT THE ACT IS IN 12 PARTS.**

#### **Part 4 – Prisoners**

#### **Custody and temporary detention**

##### ***Section 24 - Legal custody***

116. **Section 24** amends the Prisons (Scotland) Act 1989 (“the 1989 Act”) to remove the need for prison officers to remain with a prisoner at all times when he or she is in the custody of the police or of a police custody and security officer, and clarifies the relationship between section 13 of the 1989 Act and section 295 of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”).
117. **Section 24(1)** amends section 13 of the 1989 Act, which defines “legal custody” for the purposes of that Act, to provide that:
- the definition relates to prisoners and is without prejudice to section 295 of the 1995 Act; and
  - in addition to the existing circumstances in which a prisoner is in legal custody, a prisoner will also be in legal custody in terms of the 1989 Act if under the control of a constable or a police custody and security officer while outside a prison;
  - “constable” includes a constable under any part of the law of the United Kingdom and Channel Islands.
118. **Section 24(2)** amends section 295 of the 1995 Act to provide that it is without prejudice to section 13 of the 1989 Act.