

# **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 25 – Temporary detention of person being returned to prison in England and Wales etc.***

119. **Section 25** inserts a new section 40B into the Prisons (Scotland) Act 1989 (“the 1989 Act”) to provide that a person who is unlawfully at large from another jurisdiction in the UK or the Channel Islands can be detained in a Scottish prison or young offenders institution until arrangements can be made for his/her return to the jurisdiction from which he/she is unlawfully at large.
120. Section 40(1) of the 1989 Act provides that any person in Scotland who is unlawfully at large from a Scottish prison or young offenders institution may be arrested by a constable or prison officer without a warrant and taken to the place in which he or she is required in accordance with the law to be detained.
121. By virtue of paragraph 17 of Schedule 1 to the Crime (Sentences) Act 1997, the provisions of section 40(1) of the 1989 Act and the corresponding provisions for England, Wales and Northern Ireland extend throughout the UK and Channel Islands. However, under section 40(1), the power of a constable or prison officer in Scotland in relation to a person liable to be detained in another part of the UK or in the Channel Islands extends only to taking the person to the place in which he or she is required to be detained and not to detaining that person in a place in Scotland pending their being transported to the other jurisdiction. This has caused practical difficulties for the Scottish Prison Service, which section 25 will remove.