



# Management of Offenders etc. (Scotland) Act 2005

2005 asp 14

## *Miscellaneous*

### **17 Notification requirements where sentence of imprisonment for public protection is imposed in England and Wales**

- (1) In the table in section 82(1) of the Sexual Offences Act 2003 (c. 42) (notification period for persons convicted of sexual offences under requirement to notify the police about certain matters), in the entry relating to a person sentenced to imprisonment for life or for a term of 30 months or more, for the words “or for” substitute “, to imprisonment for public protection under section 225 of the Criminal Justice Act 2003 or to imprisonment for”.
- (2) This section applies in relation to sentences passed before the date on which this section comes into force, as well as to those passed on or after that date.

### **18 Offender’s failure to comply with notification requirements: jurisdiction of Scottish courts**

In section 91 of the Sexual Offences Act 2003 (c. 42) (offences relating to the notification requirements of Part 2 of that Act), for subsection (4) substitute—

- “(4) Proceedings for an offence under this section may be commenced in any court—
- (a) having jurisdiction in any place where the accused—
    - (i) resides;
    - (ii) is last known to have resided; or
    - (iii) is found;
  - (b) which has convicted the accused of an offence if the accused is subject to the notification requirements of this Part by virtue of that conviction; or
  - (c) which has made an order under section 104(1)(b) in respect of the accused if the accused is subject to those requirements by virtue of that order.”.

**19 Objection to content or finding of risk assessment report: conduct of proceedings**

After section 210E of the Criminal Procedure (Scotland) Act 1995 (c. 46) insert—

**“210EA Application of certain sections of this Act to proceedings under section 210C(7)**

- (1) Sections 271 to 271M, 274 to 275C and 288C to 288F of this Act (in this section referred to as the “applied sections”) apply in relation to proceedings under section 210C(7) of this Act as they apply in relation to proceedings in or for the purposes of a trial, references in the applied sections to the “trial” and to the “trial diet” being construed accordingly.
- (2) But for the purposes of this section the references—
- (a) in sections 271(1)(a) and 271B(1)(b) to the date of commencement of the proceedings in which the trial is being held or is to be held; and
  - (b) in section 288E(2)(b) to the date of commencement of the proceedings, are to be construed as references to the date of commencement of the proceedings in which the person was convicted of the offence in respect of which sentence falls to be imposed (such proceedings being in this section referred to as the “original proceedings”).
- (3) And for the purposes of this section any reference in the applied sections to—
- (a) an “accused” (or to a person charged with an offence) is to be construed as a reference to the convicted person except that the reference in section 271(2)(e)(iii) to an accused is to be disregarded;
  - (b) an “alleged” offence is to be construed as a reference to any or all of the following—
    - (i) the offence in respect of which sentence falls to be imposed;
    - (ii) any other offence of which the convicted person has been convicted;
    - (iii) any alleged criminal behaviour of the convicted person; and
  - (c) a “complainer” is to be construed as a reference to any or all of the following—
    - (i) the person who was the complainer in the original proceedings;
    - (ii) in the case of any such offence as is mentioned in paragraph (b) (ii) above, the person who was the complainer in the proceedings relating to that offence;
    - (iii) in the case of alleged criminal behaviour if it was alleged behaviour directed against a person, the person in question.
- (4) Where—
- (a) any person who is giving or is to give evidence at an examination under section 210C(7) of this Act gave evidence at the trial in the original proceedings; and
  - (b) a special measure or combination of special measures was used by virtue of section 271A, 271C or 271D of this Act for the purpose of taking the person’s evidence at that trial,
- that special measure or, as the case may be, combination of special measures is to be treated as having been authorised, by virtue of the same section, to be

used for the purpose of taking the person's evidence at or for the purposes of the examination.

- (5) Subsection (4) above does not affect the operation, by virtue of subsection (1) above, of section 271D of this Act.”

## **20 Recovery of criminal injuries compensation from offenders**

- (1) The Criminal Injuries Compensation Act 1995 (c. 53) is amended as provided for in subsection (2) of section 57 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).
- (2) But in the provision to be inserted, by virtue of subsection (1) (above), into that Act of 1995—
- (a) as section 7A(1), for the words “Secretary of State” substitute “Scottish Ministers”;
  - (b) as section 7B(3), for the words “Secretary of State” substitute “Scottish Ministers”; and
  - (c) as section 7D, for subsection (4) substitute—
    - “(4) For the purposes of section 6(3) of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of 5 years), the date when the obligation to pay that amount became enforceable shall be taken to be—
      - (a) the date on which the compensation was paid; or
      - (b) if later, the date on which the person from whom the amount is sought to be recovered was convicted of an offence to which the injury is directly attributable.”.
- (3) In section 11 of that Act of 1995, after subsection (8) insert—
- “(8A) No regulations under section 7A(1) or order under section 7B(3) shall be made unless a draft of the regulations or order has been laid before, and approved by a resolution of, the Scottish Parliament.”.
- (4) In Schedule 1 to the Prescription and Limitation (Scotland) Act 1973 (c. 52), in paragraph 1 (application of section 6 of that Act), after sub-paragraph (d) insert—
- “(dd) to any obligation arising by virtue of section 7A(1) of the Criminal Injuries Compensation Act 1995 (recovery of compensation from offenders: general);”.

## **21 Further amendments and repeal**

- (1) In section 27 of the Social Work (Scotland) Act 1968 (c. 49) (supervision and care of persons put on probation or released from prisons etc.)—
- (a) in subsection (1)—
    - (i) at the beginning insert “Subject to any order or determination under section 8 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14),”; and
    - (ii) after paragraph (ad) insert—
      - “(ae) making available to the Scottish Ministers such background and other reports as the Scottish Ministers may request in relation to the exercise of

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their functions under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9);”;

(b) after subsection (1B) insert—

“(1C) In paragraphs (ac) and (b)(i) and (ii) of subsection (1) above, “enactment” includes an Act of the Scottish Parliament.

(1D) The Scottish Ministers may by order amend subsection (1) above so as (any or all)—

- (a) to add to the functions for the time being described;
- (b) to omit any of those functions;
- (c) to alter any of those functions.”; and

(c) in subsection (2), for the words “the foregoing subsection” substitute “subsection (1) above”.

(2) In section 27A of that Act (grants in respect of community service facilities)—

(a) for subsection (1) substitute—

“(1) The Scottish Ministers may (any or all)—

- (a) pay to a community justice authority, for allocation under section 3(5)(e)(i) of the Management of Offenders etc. (Scotland) Act 2005 (asp 14) as grants to the local authorities within its area;
- (b) make a grant to a local authority of;
- (c) make a grant to a community justice authority, in respect of any function exercisable by that authority by virtue of section 8(2) or (3) of that Act of 2005, of,

such amount as the Scottish Ministers may determine in respect of expenditure incurred by, as the case may be, those local authorities, that local authority or that community justice authority, in providing a relevant service.

(1A) In subsection (1) above, a “relevant service” means a service—

- (a) for the purposes mentioned in section 27(1) of this Act;
- (b) for enabling those local authorities, that local authority or that community justice authority to comply with the area plan prepared by the community justice authority under section 3(5)(a)(i) of that Act of 2005; or
- (c) for such other similar purposes as the Scottish Ministers may prescribe.

(1B) Any grant made under, or paid by virtue of, subsection (1) above is subject to such conditions as the Scottish Ministers may determine.”; and

(b) in subsection (2), for the words “(1)(b)” substitute “(1)(c)”.

(3) In section 27B of that Act (grants in respect of hostel accommodation for persons under supervision)—

(a) for subsection (1) substitute—

“(1) The Scottish Ministers may (any or all)—

- (a) pay to a community justice authority, for allocation under section 3(5)(e)(ii) of the Management of Offenders

- etc. (Scotland) Act 2005 (asp 14) as grants to the local authorities within its area;
- (b) make a grant to a local authority of;
  - (c) make a grant to a community justice authority, in respect of any function exercisable by that authority by virtue of section 8(2) or (3) of that Act of 2005, of, such amount as the Scottish Ministers may determine in respect of relevant expenditure.
- (1A) In subsection (1) above, “relevant expenditure” means expenditure incurred by, as the case may be, those local authorities or that local authority in—
- (a) providing; or
  - (b) contributing by way of grant under section 10(3) of this Act to the provision by a voluntary organisation of, residential accommodation wholly or mainly for the persons mentioned in subsection (2) below.
- (1B) Any grant made under, or paid by virtue of, subsection (1) above is subject to such conditions as the Scottish Ministers may determine.”; and
- (b) in subsection (2), for “subsection (1)” substitute “subsection (1A)”.
- (4) In section 90 of that Act (orders, regulations etc.), after subsection (3) add—
- “(4) A statutory instrument containing an order under section 27(1D) or 27A(1A) (c) of this Act is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.”.
- (5) In the Schedule to the Repatriation of Prisoners Act 1984 (c. 47) (operation of certain enactments in relation to prisoner), in paragraph 2 as substituted by section 33(1)(b)(i) of the Criminal Justice (Scotland) Act 2003 (asp 7) (prisoners repatriated to Scotland) —
- (a) in sub-paragraph (1), for the words “2(2) and (7)” substitute “1AA, 2(2) and (7), 3AA”; and
  - (b) in sub-paragraph (2), for the words “or 2(2) or (7)” substitute “, 2(2) or (7) or 3AA”.
- (6) In section 8(1) of the Prisons (Scotland) Act 1989 (c. 45) (provision for constitution of visiting committees), for the words from “at” to the end, substitute—
- “(a) by such—
    - (i) community justice authorities, or
    - (ii) councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994,
  - (b) at such times,
  - (c) in such manner, and
  - (d) for such periods,
- as may be prescribed by the rules.”.
- (7) In section 27(4A) of the 1993 Act (construction of references in Part 1 of that Act to wholly concurrent or partly concurrent terms of imprisonment or detention), in

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sub-paragraph (i) of paragraph (a) and in each of sub-paragraphs (i) and (ii) of paragraph (b), for the words “is imposed” substitute “commences”.

- (8) In Schedule 1 to the Crime (Sentences) Act 1997 (c. 43) (transfer of prisoners within the British Isles)—
- (a) in paragraph 10—
    - (i) in sub-paragraph (2)(a), for the words “1A, 3” substitute “1AA, 1A, 3, 3AA”; and
    - (ii) in sub-paragraph (5)(a), for the words “1A, 2(4)” substitute “1AA, 1A, 2(4), 3AA”;
  - (b) in paragraph 11(2)—
    - (i) for the word “or”, where it occurs for the second time, substitute “to”; and
    - (ii) in head (a), for the words “1A, 3” substitute “1AA, 1A, 3, 3AA”; and
  - (c) in paragraph 11(4)(a), for the words “1A” substitute “1AA, 1A, 3AA”.
- (9) In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) (devolved public bodies), after the entry relating to the Common Services Agency for the Scottish Health Service, insert—
- “A community justice authority”.
- (10) In section 24(c) of the International Criminal Court (Scotland) Act 2001 (asp 13) (limited disapplication of certain provisions relating to sentences), for the words “1A, 2, 3” substitute “1AA, 1A, 2, 3, 3AA”.
- (11) In part 2 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (persons liable to investigation: Scottish public authorities), after paragraph 21 insert—
- “21A      A community justice authority.”.
- (12) In Part 7 of schedule 1 to the Freedom of Information (Scotland) Act 2002 (asp 13) (Scottish public authorities), after paragraph 62 insert—
- “62A      A community justice authority.”.
- (13) In section 40(1) of the Criminal Justice (Scotland) Act 2003 (asp 7) (remote monitoring of released prisoners), the words from “but” to the end are repealed.