

MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

INTRODUCTION

Integrated Management Of Offenders

Section 14 – Orders after assessment of risk

96. **Section 14** amends section 210F of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 1 of the Criminal Justice (Scotland) Act 2003) to ensure that the disposals available to the High Court when dealing with high risk mentally disordered offenders convicted of sexual or violent offences are in accordance with the policy set out at the time of the passage of the 2003 Act. Section 210F requires a court, in certain circumstances, to make an Order for Lifelong Restriction, a sentence intended for high risk violent and sexual offenders who meet the risk criteria set out in section 210E. If, following a risk assessment, the court is of the view that the risk criteria are met, it has no option but to make an Order for Lifelong Restriction. However there may be circumstances where a high risk mentally disordered offender who meets the risk criteria is also suffering from a mental disorder that meets the criteria for a compulsion order under section 57A of the Act (inserted by section 133 of the Mental Health (Care and Treatment) (Scotland) Act 2003) In these circumstances, the Court should be able to impose a mental health disposal. The amendment made by section 14 therefore ensures that where a mentally disordered offender meets both the risk criteria for an OLR and the criteria for a compulsion order the court should have the choice between these two disposals.