

# **MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### ***Integrated Management Of Offenders***

#### ***Section 7 – Power of Scottish Ministers to require action by community justice authority: failure by local authority***

59. This section supplements section 6 (power of Scottish Ministers to require action following failure by a community justice authority) and section 3(5)(c) which enables community justice authorities to issue directions to local authorities within the area of a community justice authority. This section enables Scottish Ministers to compel action through a community justice authority should individual local authorities fail to satisfactorily exercise their functions under section 27 of the Social Work (Scotland) Act 1968 in relation to “relevant persons” as defined in section 1(2)(b).
60. Subsection (1) mirrors the trigger mechanism described in section 6(1) as regards failure of a community justice authority. Subsection (1)(a) clarifies that a failure by a local authority under section 27 of the Social Work (Scotland) Act 1968 may be in relation to relevant persons as a group, or as individuals, provided that the person making a report considers that such a failure to be symptomatic of some general failure. This proviso means that an individual complaint will not cause these powers to be exercised unless the reporter considers that the complainant has identified an underlying, systematic fault in the exercise of local authority functions. The Scottish Ministers are given the power to issue a preliminary notice to the relevant community justice authority.
61. Subsection (2) states that sections 6(3) through to 6(11) are also applied where a failure is deemed to occur at a local authority level. Thus sections 6 and 7 provide Scottish Ministers with trigger mechanisms and stages of intervention should failure occur at either local authority or community justice authority level.
62. Subsections (3) and (4) clarify for the purposes of this section the use of the term “authority” as a reference to either a community justice authority or a local authority.