

*These notes relate to the Police, Public Order and  
Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

---

## **EXPLANATORY NOTES**

### **POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)**

#### **INTRODUCTION**

#### **THE ACT**

#### **COMMENTARY ON SECTIONS**

##### **PART 1: POLICE**

##### **Chapter 1: the Scottish Police Services Authority**

##### **The Scottish Police Services Authority**

Section 1 – Establishment of the Scottish Police Services Authority

Section 2 – Duty to establish and maintain the Agency

Section 3 – Duty to provide the police support services

Section 4 – Strategic priorities of the Authority

Section 5 – Objectives of the Authority

Section 6 – Annual plans of the Authority

Section 7 – Annual reports of the Authority

Section 8 – Provision of information to the Scottish Ministers

Section 9 – Liability for wrongful acts of certain persons seconded to  
the Authority

Section 10 – Grants

Section 11 – Charges by the Authority and other receipts

##### **The Scottish Crime and Drug Enforcement Agency**

Section 12 – Members of the Agency

Section 13 – Strategic priorities of the Agency

Section 14 – Annual plans of the Agency

*These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

Section 15 – Annual reports of the Agency

Section 16 – General functions of Director General of the Agency

Section 17 – Powers of the Agency

Section 18 – Scottish Ministers’ power to modify section 17

Section 19 – Disclosure of information by the Agency

Section 20 – Disclosure of information to the Agency

Section 21 – Direction by Director General of Agency

Section 22 – Liability for wrongful acts of police members of the Agency

Section 23 – Regulations relating to the Agency

**The police support services**

Section 24 – The police support services: modification by order

Section 25 – Use of the police support services

**Inspections**

Section 26 – Inspections of the Authority’s services and the Agency

Section 27 – Inspections of the Authority at request of the Scottish Ministers

Section 28 – Reports on inspections: powers of the Scottish Ministers

Section 29 – Revision of inadequate action plan

**Miscellaneous and general**

Section 30 – Directions

Section 31 – Transfer of staff, property etc.

Section 32 – Interpretation of Chapter 1

**Chapter 2: Complaints and Misconduct**

**The Police Complaints Commissioner for Scotland**

Section 33 – The Police Complaints Commissioner for Scotland

**Supervision of complaints**

Section 34 – “Relevant complaint” and “person serving with the police”

Section 35 – Examination of manner of handling of complaint

Section 36 – Duty of Commissioner not to proceed with certain complaint handling reviews

*These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

Section 37 – Appointment of person to reconsider complaint

Section 38 – Reconsideration of complaint: duties to keep persons informed

Section 39 – Power of Commissioner to discontinue reconsideration

Section 40 – Final reports on reconsideration

Section 41 – Appropriate authority in relation to a complaint

**Other functions**

Section 42 – General functions of the Commissioner

Section 43 – Reports to the Scottish Ministers

Section 44 – Provision of information to the Commissioner

Section 45 – Power of Commissioner to issue guidance

Section 46 – Disclosure of information by and to the Commissioner

**Supplementary**

Section 47 – Interpretation of Chapter 2

**Chapter 3: Other Provisions**

Section 48 – Allowances payable to special constables

Section 49 – Appointments of assistant inspectors of constabulary and staff officers

Section 50 – Constables engaged on service outside their force

**PART 2: PUBLIC ORDER ETC.**

**Chapter 1: Football Banning Orders**

**Making and content of orders**

Section 51 – Making of order on conviction of a football-related offence

Section 52 – Making of order on application to the sheriff

Section 53 – Content of order

Section 54 – Section 53: supplementary

Section 55 – “Football matches” and “regulated football matches”

Section 56 – “Violence” and “disorder”

**Variation, termination, information and appeals**

Section 57 – Variation of certain requirements of order

*These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

Section 58 – Termination of order

Section 59 – Information about making, varying or terminating order etc.

Section 60 – Appeals

### **Enforcement of order in relation to foreign matches**

Section 61 – Foreign matches: reporting and other requirements

Section 62 – Notices under section 61(4): further provision

Section 63 – Sections 61 and 62: guidance

Section 64 – Exemption from notice served under section 61(4)

Section 65 – Section 64: supplementary

Section 66 – Suspension of reporting requirements

### **Miscellaneous and general**

Section 67 – Service of documents

Section 68 – Offences under this Chapter

Section 69 – Interpretation of Chapter 1

### **Chapter Two: Public Processions**

Section 70 – Notification of public processions

Section 71 – Powers and duties of local authorities

Section 72 – Minor amendments of 1982 Act

### **Chapter Three: Other Provisions**

#### **Offensive Weapons**

Section 73 – Increase in maximum term of imprisonment for certain offences

Section 74 – Amendment of requirements for exercise of certain powers of arrest

Section 75 – Sale of knives and articles with blade or point to young persons

#### **Fireworks**

Section 76 – Possession of prohibited fireworks: powers of search and arrest

### **Control of Sex Offenders**

Section 77 – Powers to take data and samples from persons subject to notification requirements

Section 78 – Sex offender notification requirements

Section 79 – Information about release: power to require giving of specified information

Section 80 – Police powers of entry to and examination of relevant offender's home address

## **PART THREE: CRIMINAL JUSTICE**

### **Powers in relation to suspects and witnesses**

Section 81 – Power to require giving of certain information in addition to name and address

Section 82 – Power to take fingerprints to establish identity of suspect

### **Retention of samples etc.: prosecutions for sexual and violent offences**

Section 83 – Retention of samples etc.: prosecutions for sexual and violent offences

### **Arrested persons: drug testing and reference for assessment**

Section 84 – Testing of arrested persons for Class A drugs

Section 85 – Assessment following positive test under section 20A of the 1995 Act

Section 86 – Requirements under section 85: supplementary

Section 87 – Date, time and place of assessment

Section 88 – Failure to comply with requirements under sections 85 and 86

Section 89 – Guidance for the purposes of sections 85 to 88

Section 90 – Interpretation of sections 85 to 88

### **Offenders assisting investigations and prosecutions**

Section 91 – Assistance by offender: reduction in sentence

Section 92 – Assistance by offender: review of sentence

Section 93 – Proceedings under section 92: exclusion of public

Section 94 – Section 92: further provision

Section 95 – Sentencing: consideration of undisclosed information

Section 96 – Appeals etc.: undisclosed information

*These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10)*

**Conditional immunity from prosecution**

Section 97 – Investigation and prosecution of crime: conditional immunity from prosecution

**Enforcement of Sea Fisheries (Shellfish) Act 1967**

Section 98 – Enforcement of Sea Fisheries (Shellfish) Act 1967

**PART FOUR: GENERAL**

Section 100 – Equal opportunities

Section 103 – Subordinate legislation

Schedule 1: the Scottish Police Services Authority

Schedule 2: Membership of the Scottish Crime and Drug Enforcement Agency

Schedule 3: Transfers of Staff and Property

Schedule 4: the Police Complaints Commissioner for Scotland

Schedule 5: Section 53(2)(B): Relevant Events Etc.

Schedule 6: Modifications of Enactments

**PARLIAMENTARY HISTORY**

**ANNEX A PART 5 OF THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (C.45)**

**ANNEX B SECTIONS 13 AND 14 OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995 (C.46)**