

Executive Note

DRAFT :The Management of Offenders etc. Scotland Act 2005 (Supplementary Provisions) (Scotland) Order 2006

The above instrument is being made in exercise of the powers conferred by Section 22(1) and (2) of the Management of Offenders etc (Scotland) Act 2005. The instrument is subject to affirmative resolution procedure and is due to come into force on the day following that on which it is made.

Policy Objectives

Community Justice Authorities (CJA) came into being on 3 April 2006 and will be fully operational from April 2007.

Each CJA is required to set in place a performance management system and participate in the production of the local area plan to manage offenders. Responsibility for delivery of offender management services lies with other agencies, particularly local authorities and Scottish Ministers. CJAs will be responsible for ensuring co-ordination in the delivery of these services. The CJA is required to appoint a Chief Officer and has the power to appoint other staff. The Chief Officer also has a monitoring and reporting function on the activities and performance within the CJA and has a duty to report on failure by either the authority itself, the Scottish Ministers (in practice the Scottish Prison Service), appropriate local authorities and statutory partner bodies to Scottish Ministers.

Given the role that CJAs will fulfil it will be important for the CJA and its staff, particularly the Chief Officer, to demonstrate political neutrality and independence from agencies delivering the services. The purpose of this instrument is to ensure that the new CJAs and their Chief Officers are included in relevant existing legislation and to provide structures to ensure the accountability and impartiality of the post of Chief Officer of a CJA.

CJAs:

- To ensure that CJAs are appropriately treated in relation to the re-use of public sector information;
- To exempt CJAs from the requirement to maintain employers' liability insurance.

Chief Officers and staff:

- To ensure that the post of Chief Officer is politically restricted;
- To prevent the Chief Officer from being elected to the House of Commons, the Scottish Parliament or the European Parliament or any local authority or participating in political activity and to prevent members of these Parliaments or any local authority being appointed as Chief Officer;
- To prevent other CJA officials from being elected as a member of a local authority within the CJA area and to prevent such members from being appointed as a member of staff of the CJA for the relevant local authority area;
- To prevent a Chief Officer continuing to hold a post as an employee of a local authority or partner body or as a member of staff of the Scottish Administration, but subject to certain secondment arrangements being ;
- To make Chief Officers ineligible for jury duty; and
- To make Chief Officers subject to police checks at basic disclosure level.

Consultation

There has been consultation, by means of meetings and discussion of these amendments included in the Order, with key stakeholders. The following bodies have been consulted during the preparation of the instrument:

Convention of Scottish Local Authorities
Association of Directors of Social Work
Scottish Prison Service
Voluntary Sector Forum

Financial Effects

The instrument has no additional financial effects on the Scottish Executive, local government or on business.

Scottish Executive Justice Department
11 May 2006