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STATUTORY INSTRUMENTS

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**1997 No. 2323**

**The Crime and Punishment (Scotland) Act  
1997 (Commencement No.2 and Transitional  
and Consequential Provisions) Order 1997**

**Citation**

1. This Order may be cited as the Crime and Punishment (Scotland) Act 1997 (Commencement No.2 and Transitional and Consequential Provisions) Order 1997.

**Interpretation**

2. In this Order—

“the Act” means the Crime and Punishment (Scotland) Act 1997; and

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(1).

**Commencement of provisions of Parts I, II, III and VI**

3. The provisions of Parts I, II and VI of the Act specified in column 1 of Schedule 1 to this Order and whose subject matter is specified in column 2 of that Schedule shall, in so far as they are not then in force, come into force on 20th October 1997, but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

4. Subject to article 7 below, the provisions of Parts I, II, III and VI of the Act specified in column 1 of Schedule 2 to this Order and whose subject matter is specified in column 2 of that Schedule shall, in so far as they are not then in force, come into force on 1st January 1998 but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

5.—(1) Sections 5 and 24 of the Act shall, in so far as they are not then in force, come into force on 1st July 1998.

(2) Section 62 of the Act shall come into force on 1st July 1998 for the purpose of bringing into force the amendments made to the 1995 Act by paragraphs 21(27) and (28) of Schedule 1 to the Act.

**Commencement of Parts V and VI and consequential provisions**

6.—(1) The provisions of Part V of the Act specified in column 1 of Schedule 3 to this Order shall, in so far as they are not then in force, come into force on the date specified in column 2 of that Schedule so as to enable the provisions of the 1986 Act which are specified in column 3 to the Schedule to come into force on that date for the purpose specified in column 4 of that Schedule.

(2) Section 62(1) of the Act shall come into force on 1st October 1997 for the purpose of bringing into force the amendments to the 1986 Act which are made by paragraphs 12(2) to (4) and (8) to (10) of Schedule 1 to the Act.

(3) Section 63(1)(b) of the Act shall come into force on 1st October 1997.

(4) Where the name of a solicitor and any firm with which he is connected is not entered on the Register on 1st October 1998, the solicitor shall, in accordance with arrangements approved by the Board, forthwith and without waiting for the resolution of any appeal under section 25A(13)(2) of the 1986 Act, transfer—

- (a) any work currently being undertaken by him for any client by way of criminal legal assistance; and
- (b) notwithstanding any lien to which he might otherwise be entitled, any documents connected with any such work,

to a registered solicitor.

(5) For the purposes of this article and Schedule 3 to this Order—

“the 1986 Act” means the Legal Aid (Scotland) Act(3);

“the Board” means the Scottish Legal Aid Board;

“criminal legal assistance” means criminal legal aid and advice and assistance in relation to criminal matters;

“document” includes information recorded in any form;

“firm” includes an incorporated practice, a sole solicitor and a law centre;

“the Register” means the Register established and maintained under section 25A of the 1986 Act;

“registered firm” means a firm whose name appears on the Register; and

“registered solicitor” means a solicitor whose name appears on the Register.

### **Transitional Provisions**

7. Sections 248A and 248B of the 1995 Act as inserted by section 15 of the Act shall not apply in relation to any offence committed before 1st January 1998.

St Andrew’s House,  
Edinburgh  
24th September 1997

*Henry B McLeish*  
Minister of State, Scottish Office

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(2) Section 25A was inserted by section 49 of the Act.

(3) 1986 c. 47.