
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 397 (C. 49)

CRIMINAL LAW

The Management of Offenders etc. (Scotland)
Act 2005 (Commencement No. 8 and
Consequential Provisions) Order 2015

Made - - - - 18th November 2015
*Laid before the Scottish
Parliament* - - - - 20th November 2015
Coming into force - - 31st March 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by section 22(1) and 24(2) and (3) of the Management of Offenders etc. (Scotland) Act 2005(1) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Management of Offenders etc. (Scotland) Act 2005 (Commencement No. 8 and Consequential Provisions) Order 2015 and comes into force on 31st March 2016.

(2) In this Order “the 2005 Act” means the Management of Offenders etc. (Scotland) Act 2005.

Commencement

2. Section 10(1)(e) of the 2005 Act, in so far as not already in force, comes into force on 31st March 2016.

3. Section 10(2)(b) of the 2005 Act, in so far as not already in force, comes into force on 31st March 2016 for the purposes of section 10(1)(e) of that Act in so far as not already in force for the purposes of section 10(1)(e).

Consequential amendment

4. In the Schedule to the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007 (persons specified for the purposes of section 10(3) of the Management of

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Offenders etc. (Scotland) Act 2005)(2), in the entry relating to persons providing services to, or on behalf of, a responsible authority, after “(a)” insert “or (e)”.

St Andrew’s House, Edinburgh
18th November 2015

MICHAEL MATHESON
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order brings into force on 31st March 2016 section 10(1)(e) of the Management of Offenders etc. (Scotland) Act 2005 (“the 2005 Act”) in so far as not already in force. Article 3 of this Order brings into force section 10(2)(b) in so far as not already in force but only for the purposes of section 10(1)(e) of the 2005 Act.

The persons covered by section 10(1)(e) of the 2005 Act are those who have been convicted of an offence if, by reason of that conviction, the person is considered to be someone who may cause serious harm to the public at large.

Section 10(1)(e) was partially commenced on 26th June 2009. It was a limited commencement only in respect of persons subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995, a hospital direction under section 59A of that Act or a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003. These are the orders and directions which are set out in section 10(1)(b) to (d) of the 2005 Act which specifies the persons for whom Health Boards and Special Health Boards, as “responsible authorities”, have duties to make arrangements.

Section 10(2)(b) provides that for the purposes of section 10(1)(b) or (e), it is immaterial where the offence of which the person has been convicted was committed. This clarifies for the purpose of identifying which authorities are responsible for making the arrangements that it is immaterial where the offence was committed. The test for establishing such responsibility is whether the person poses a risk in the responsible authority’s area.

Section 10(2)(b) was partially commenced on 26th June 2009. It was a limited commencement only in respect to those whom section 10(1)(e) was commenced on the 26th June 2009. Section 10(1)(b) has not yet been commenced.

Article 4 makes a consequential amendment to the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007.

The Bill for the 2005 Act received Royal Assent on 8th December 2005. Sections 13, 17, 20, 22, 23, 24 and 25 came into force on that day.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the 2005 Act commenced by an earlier commencement order are detailed in the table below.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 1-2	3rd April 2006	S.S.I. 2006/48
Section 3(1)	8th February 2006	S.S.I. 2006/48
Section 3(2)	3rd April 2006	S.S.I. 2006/48
Section 3(3)-(4)	8th February 2006	S.S.I. 2006/48

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<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 3(5)(a)	3rd April 2006	S.S.I. 2006/48
Section 3(5)(b)-(c)	2nd April 2007	S.S.I. 2006/545
Section 3(5)(d)	3rd April 2006	S.S.I. 2006/48
Section 3(5)(e)	2nd April 2007	S.S.I. 2006/545
Section 3(5)(f)-(h)	3rd April 2006	S.S.I. 2006/48
Section 3(6)-(7)	2nd April 2007	S.S.I. 2006/545
Section 3(8)-(9)	3rd April 2006	S.S.I. 2006/48
Section 3(10)	2nd April 2007	S.S.I. 2006/545
Section 3(11)-(12)	8th February 2006	S.S.I. 2006/48
Section 3(13)-(17)	3rd April 2006	S.S.I. 2006/48
Section 3(18)-(19)	2nd April 2007	S.S.I. 2006/545
Section 3(20)(a)	2nd April 2007	S.S.I. 2006/545
Section 3(20)(b), (21)-(22)	3rd April 2006	S.S.I. 2006/48
Section 3(23)-(25)	8th February 2006	S.S.I. 2006/48
Section 4	3rd April 2006	S.S.I. 2006/48
Section 5(1)(a)	3rd April 2006	S.S.I. 2006/48
Section 5(1)(b)	2nd April 2007	S.S.I. 2006/545
Section 5(2)-(4)	3rd April 2006	S.S.I. 2006/48
Section 6-9	3rd April 2006	S.S.I. 2006/48
Section 10(1)(a)	2nd April 2007	S.S.I. 2006/545
Section 10(1)(c)	30th April 2008	S.S.I. 2008/149
Section 10(1)(d) (partially)	30th April 2008	S.S.I. 2008/149
Section 10(1)(e) (partially)	26th June 2009	S.S.I. 2009/240
Section 10(2)(a)	2nd April 2007	S.S.I. 2006/545
Section 10(2)(b) (partially)	26th June 2009	S.S.I. 2009/269
Section 10(2)(c)	30th April 2008	S.S.I. 2008/149

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 10(3) (partially)	1st December 2006	S.S.I. 2006/545
Section 10(3) (in so far as not already commenced)	2nd April 2007	S.S.I. 2006/545
Section 10(4)-(10)	2nd April 2007	S.S.I. 2006/545
Section 10(11)(a)-(b)	30th April 2008	S.S.I. 2008/149
Section 10(11)(c)-(d), (12)-(14)	2nd April 2007	S.S.I. 2006/545
Section 11	2nd April 2007	S.S.I. 2006/545
Section 12	8th February 2006	S.S.I. 2006/48
Section 14	20th June 2006	S.S.I. 2006/331
Section 15(1)-(3)	8th February 2006	S.S.I. 2006/48
Section 15(4) (partially)	3rd July 2006	S.S.I. 2006/331
Section 15(4) (in so far as not already commenced)	21st March 2008	S.S.I. 2008/21
Section 15(5) (partially)	3rd July 2006	S.S.I. 2006/331
Section 15(5) (partially)	11th February 2008	S.S.I. 2008/21
Section 15(5) (in so far as not already commenced)	21st March 2008	S.S.I. 2008/21
Section 15(6) (partially)	3rd July 2006	S.S.I. 2006/331
Section 15(6) (in so far as not already commenced)	21st March 2008	S.S.I. 2008/21
Section 15(7)	8th February 2006	S.S.I. 2006/48
Section 15(8)-(9) (partially)	3rd July 2006	S.S.I. 2006/331
Section 15(8)(9) (in so far as not already commenced)	11th February 2008	S.S.I. 2008/21
Section 15(10) (partially)	21st March 2008	S.S.I. 2008/21
Section 15(10) (partially)	3rd July 2006	S.S.I. 2006/331
Section 15(10) (partially)	21st March 2008	S.S.I. 2008/21
Section 15(10) (in so far as not already commenced)	8th February 2006	S.S.I. 2006/48

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<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 15(11)-(13) (partially)	8th February 2006	S.S.I. 2006/48
Section 15(11)-(13) (in so far as not already commenced)	8th February 2006	S.S.I. 2006/48
Section 15(14)	20th June 2006	S.S.I. 2006/331
Section 16	3rd April 2006	S.S.I. 2006/48
Section 18	8th February 2006	S.S.I. 2006/48
Section 19	3rd April 2006	S.S.I. 2006/48
Section 21(1)(a)(i)	8th February 2006	S.S.I. 2006/48
Section 21(1)(a)(ii), (b)-(c)	2nd April 2007	S.S.I. 2006/545
Section 21(2)-(3)	3rd April 2006	S.S.I. 2006/48
Section 21(4)-(5)	8th February 2006	S.S.I. 2006/48
Section 21(6)	3rd April 2006	S.S.I. 2006/48
Section 21(7)	8th February 2006	S.S.I. 2006/48
Section 21(8)	3rd April 2006	S.S.I. 2006/48
Section 21(9)	1st December 2006	S.S.I. 2006/545
Section 21(10)		
Section 21(11)-(12)		
Section 21(13)		