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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Criminal Justice and Licensing (Scotland) Act 2010 (“the Act”) received Royal Assent on 6th August 2010. Sections 201, 202, 204, 205 and 206 of the Act came into force on Royal Assent.

This Order brings into force sections 168 to 171 of the Act (and related provisions in Schedule 7 of the Act). These provisions implement the Scottish Law Commission’s Report on Insanity and Diminished Responsibility. The provisions come into force on 25th June 2012 and apply in general to all criminal proceedings commenced on or after that date, irrespective of when the conduct giving rise to the proceedings occurred.

There is one exception to this general approach. In the light of developments in the common law of diminished responsibility that have occurred since the Act received Royal Assent, section 168 of the Act (in so far as inserting section 51B in the Criminal Procedure (Scotland) Act 1995) does not apply where the conduct giving rise to the proceedings took place before 25th June 2012, even when the proceedings are commenced after that date. In such cases the common law of diminished responsibility continues to have effect.