

Status: Point in time view as at 01/05/2004.

Changes to legislation: Criminal Justice (Scotland) Act 2003 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 04/10/2005

SCHEDULE 1

(introduced by section 1(2))

ORDER FOR LIFELONG RESTRICTION: MODIFICATION OF ENACTMENTS

- 1 (1) The 1993 Act is amended in accordance with this paragraph.
- (2) In section 2 (duty to release discretionary life prisoners)—
- (a) in subsection (1), after paragraph (aa) there is inserted “or
 - (ab) who is subject to an order for lifelong restriction in respect of an offence,”;
 - (b) in subsection (2)(aa)—
 - (i) after the words “paragraph (a)” there is inserted “ or (ab) ”; and
 - (ii) in sub-paragraph (i), after the word “life” there is inserted “, or as the case may be not made the order for lifelong restriction, ”;
 - (c) in subsection (3), after the words “subsection (1) above” there is inserted “ or makes an order for lifelong restriction ”;
 - (d) after subsection (9) there is added—
 - “(10) In subsection (9) above, the reference to “sentences of imprisonment for life” is to be construed as including a reference to any sentence constituted by an order for lifelong restriction.”.
- (3) In section 27(1) (interpretation)—
- (a) in the definition of “life prisoner”, at the end there is added “ or in respect of whom there has been made an order for lifelong restriction ”; and
 - (b) the following definitions are inserted at the appropriate places—
 - ““order for lifelong restriction” means an order under section 210F(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46);”
 - ““risk management plan” shall be construed in accordance with section 6(1) of the Criminal Justice (Scotland) Act 2003 (asp 7);”.

Commencement Information

- II** Sch. 1 para. 1 wholly in force at 19.6.2006; para. 1 not in force at Royal Assent, see s. 89(2); para. 1(3)(b) in force at 4.10.2005 by S.S.I. 2005/433, art. 2; para. 1 in force otherwise at 19.6.2006 by S.S.I. 2006/332, art. 2 (for the purposes there specified)

VALID FROM 19/06/2006

- 2 (1) The 1995 Act is amended in accordance with this paragraph.
- (2) In section 69 (notice of previous convictions)—
- (a) after subsection (4) there is inserted—

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- “(4A) A notice served under subsection (2) or (4) above shall include any details which the prosecutor proposes to provide under section 101(3A) of this Act; and subsection (3) above shall apply in relation to intimation objecting to the provision of such details, on the grounds that they do not apply to the accused or are otherwise inadmissible, as it applies in relation to intimation objecting to a conviction.”; and
- (b) in subsection (5), after the word “section” there is inserted “, or to the provision of such details as are, by virtue of subsection (4A) above, included in a notice so served, ”.
- (3) In section 101 (previous convictions: solemn proceedings)—
- (a) in subsection (3), the existing words “for sentence” become paragraph (a); and after that paragraph there is inserted the word “; or” and the following paragraph—
- “(b) for a risk assessment order (or the court at its own instance proposes to make such an order)”;
- (b) after that subsection there is inserted—
- “(3A) Where, under paragraph (b) of subsection (3) above, the prosecutor lays previous convictions before the judge, he shall also provide the judge with such details regarding the offences in question as are available to him.”.
- (4) In section 106(1) (right of appeal), after paragraph (b) there is inserted—
- “(ba) against the making of an order for lifelong restriction;”.
- (5) In section 195(1) (sheriff’s duty in certain circumstances to remit convicted person to High Court for sentence), after—
- (a) the word “inadequate” there is inserted “ or it appears to him that the criteria mentioned in section 210E of this Act (that is to say, the risk criteria) may be met ”; and
- (b) the words “so that” there is inserted “, in either case, ”.
- (6) In section 204(2A) (restrictions on passing sentence of imprisonment or detention), after the word “court” there is inserted “, unless it has made a risk assessment order in respect of the person, ”.
- (7) In section 307(1) (interpretation), the following definitions are inserted at the appropriate places—
- ““order for lifelong restriction” means an order under section 210F(1) of this Act;”
- ““risk assessment order” means an order under section 210B(2) of this Act;”
- ““risk assessment report” has the meaning given by section 210B(3)(a) of this Act;”.

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Commencement Information

I2 Sch. 1 para. 2 in force at 19.6.2006 by S.S.I. 2006/322, art. 2 (for the purposes there specified)

SCHEDULE 2

(introduced by section 3(3))

CONSTITUTION ETC. OF THE RISK MANAGEMENT AUTHORITY

Status

- 1 The Risk Management Authority (“the Authority”) is a body corporate.
- 2 The Authority—
 - (a) is not a servant or agent of the Crown; and
 - (b) has no status, immunity or privilege of the Crown,and its property is not to be regarded as property of, or held on behalf of, the Crown.
- 3 (1) The Authority consists of such members (including a convener) as the Scottish Ministers may appoint.
 - (2) Each member—
 - (a) is appointed for such period, not exceeding 5 years, as is specified in the terms of the appointment;
 - (b) holds and vacates office in accordance with those terms;
 - (c) is eligible for reappointment but may not hold office for a period exceeding 10 years in aggregate;
 - (d) may, by written notice to the Scottish Ministers, resign membership.
 - (3) The Scottish Ministers may remove a member from office if they are satisfied that the member—
 - (a) without reasonable excuse, has not complied with the terms of the appointment;
 - (b) is otherwise unable or unfit to discharge the functions of member or is unsuitable to continue as a member.
- 4 (1) The Authority may regulate its own procedure (including any quorum).
 - (2) The validity of any proceedings of the Authority is not affected by any vacancy in membership nor any defect in the appointment of a member.
- 5 (1) The Authority may, with the approval of the Scottish Ministers, pay—
 - (a) such remuneration and allowances to its members; and
 - (b) in respect of any office held by a person as member—
 - (i) such pension, allowance or gratuity to or in respect of the person; and
 - (ii) such contribution or other payment towards provision of such pension, allowance or gratuity,as it may with such approval determine.

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- (2) Where a person ceases to be a member otherwise than on expiry of term of office, the Authority may, exceptionally and with the approval of the Scottish Ministers, pay to the person such amount by way of compensation for loss of office as it may with such approval determine.
- 6 (1) The Authority may, with the approval of the Scottish Ministers, appoint such employees as it considers are required on such terms and conditions as it may with such approval determine.
- (2) The authority is to—
- (a) pay such pensions, allowances and gratuities to or in respect of its employees or former employees;
 - (b) make such payment towards provision of such pensions, allowances or gratuities; and
 - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances and gratuities,
- as it may with the approval of the Scottish Ministers determine.
- (3) References in sub-paragraph (2) to pensions, allowances or gratuities include their provision by way of compensation for loss of office or employment.

SCHEDULE 3

(introduced by section 77)

WILDLIFE OFFENCES

- 1 The Wildlife and Countryside Act 1981 (c. 69) is amended in accordance with the following paragraphs.
- 2 In each of sections 6(8) (regulations as to dealing in dead wild birds etc. after having been convicted of an offence under Part I of the Act) and 7(3) (keeping or possessing certain birds after having been so convicted), for paragraphs (a) and (b) there is substituted “within five years of his having been convicted of—
- (a) an offence under this Part (being an offence relating to the protection of birds or other animals); or
 - (b) any other offence involving their ill-treatment,”.
- 3 In section 7(4) (offence relating to disposal etc. of certain birds), for paragraphs (a) and (b) there is substituted “within five years of that person’s having been convicted of such an offence as is mentioned in subsection (3), ”.
- 4 In section 19 (enforcement)—
- (a) in subsection (1)(c), the words “if he fails to give his name and address to the constable’s satisfaction” are repealed; and
 - (b) in subsection (3), for paragraphs (a) and (b) there is substituted “an offence under this Part ”.
- 5 In section 20 (summary prosecutions)—
- (a) subsection (1) is repealed; and
 - (b) in subsection (2), for the words “to which this section applies” there is substituted “under this Part ”.
- 6 In section 21 (penalties, forfeitures etc.)—

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- (a) for subsection (1) there is substituted—
 - “(1) Subject to subsection (5), a person guilty of an offence under any of sections 1 to 13 or section 17 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”;
- (b) subsections (2) and (3) are repealed;
- (c) in subsection (4), for paragraphs (a) and (b) there is substituted—
 - “(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.”; and
- (d) in subsection (5), the words “(2) or (3)” are repealed.

SCHEDULE 4

(introduced by section 85)

MINOR AND CONSEQUENTIAL AMENDMENTS

- 1 Section 42 of the 1989 Act (exercise of powers to make rules, orders, etc.) is amended for the purposes of the existing provisions, within the meaning of Schedule 6 to the 1993 Act, as follows—
 - (a) in subsection (1), for the words “section 22(1A) or (2), 28(1A) or 37(1)” there is substituted “section 22(2) or 37(1)”; and
 - (b) in subsection (4), for the words “section 22(1A) or (2), 28(1A) of this Act” there is substituted “section 22(2) of this Act”.
- 2 (1) The 1993 Act is amended as follows.
 - (2) In section 1A (application of that Act to persons serving more than one sentence), in paragraph (c)(ii), after the word “specified” there is inserted “under”.
 - (3) In section 10 (life prisoners transferred to Scotland)—
 - (a) in subsection (2B), after paragraph (b) there are added the words “and in such a case subsection (3) below applies”; and
 - (b) in subsection (3)—
 - (i) after the word “applies” there is inserted “(whether by virtue of subsection (2) above or of subsection (2B) above)”; and
 - (ii) at the end, there are added the words “or as the case may be in the certificate or direction referred to in subsection (2D) above”.
 - (4) In section 45(3) (exercise of powers to make rules and orders), the words “or (6), 20(3)” are repealed.
- 3 (1) The 1995 Act is amended as follows.
 - (2) In each of sections 17A(1)(a) (right of person accused of sexual offence to be told about restriction on conduct of defence: arrest), 35(4A)(a) (judicial examination of accused), 66(6A)(a)(i) (citation and service of indictment), 140(2A)(a) (citation of accused in summary prosecution), 144(3A)(a) (procedure at first summary diet) and 146(3A)(a) (procedure in summary prosecution following not guilty plea), after

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the word “defence” there is added “ and any proof ordered as is mentioned in section 288C(1) of this Act ”.

- (3) In section 220(1) (reduction in term of imprisonment by part payment of fine), after the word “imprisonment”, where it first appears, there is inserted “ imposed under section 219 of this Act in respect of the fine ”.

Commencement Information

- I3** [Sch. 4 para. 3](#) wholly in force at 25.11.2003; [para. 3](#) not in force at Royal Assent, see [s. 89\(2\)](#); [para. 3\(1\)\(3\)](#) in force at 27.6.2003 by [S.S.I. 2003/288](#), [art. 2](#), [Sch.](#); [para. 3\(2\)](#) in force at 25.11.2003 by [S.S.I. 2003/475](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

- 4 In Schedule 1 to the Crime and Punishment (Scotland) Act 1997, in paragraph 21(29), for the words “(5)” and “(6)” there is substituted “ (6) ” and “ (7) ” respectively.
- 5 In the schedule to the Convention Rights (Compliance) (Scotland) Act 2001—
- in paragraph 16, for the words “transferred life prisoner” there is substituted “ existing life prisoner ”; and
 - in paragraph 19, for the word “subsection” there is substituted “ paragraph ”.

SCHEDULE 5

(introduced by section 86)

REPEALS

Commencement Information

- I4** [Sch. 5](#) wholly in force at 27.6.2003; [sch. 5](#) in force for specified purposes at Royal Assent, see [s. 89\(2\)](#) (d); [sch. 5](#) in force so far as not already in force at 27.6.2003 by [{S.S.I. 2003/288}](#), [art. 2](#), [sch.](#)

Enactment

Wildlife and Countryside Act 1981 (c. 69)

Extent of repeal

In section 1, subsection (4); and in subsection (5) the words “and liable to a special penalty”.

In section 3(1), paragraph (c).

In section 5(1), the words “and be liable to a special penalty”.

Section 6(4).

In section 7(1), the words “and be liable to a special penalty”.

In section 8, in each of subsections (1) and (3), the words “and be liable to a special penalty”.

Prisons (Scotland) Act 1989 (c. 45) Section 23.

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Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)	In section 2(1), the words “subject to subsection (9)(a) below and”.
Criminal Justice and Public Order Act 1994 (c. 33)	Section 134(4).
Crime and Punishment (Scotland) Act 1997 (c. 48)	Section 16(4).

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