

2006 No. 331 (C.29)

CRIMINAL LAW

**The Management of Offenders etc. (Scotland) Act 2005
(Commencement No. 2) Order 2006**

Made - - - -

7th June 2006

The Scottish Ministers, in exercise of the powers conferred by section 24(2) and (3) of the Management of Offenders etc. (Scotland) Act 2005^(a), hereby make the following Order:

Citation

1. This Order may be cited as the Management of Offenders etc. (Scotland) Act 2005 (Commencement No. 2) Order 2006.

Interpretation

2. In this Order—

“the 2005 Act” means the Management of Offenders etc. (Scotland) Act 2005.

Commencement

3.—(1) Sections 14 and 19 of the 2005 Act shall come into force on 20th June 2006 but, subject to paragraph (2), only for the purposes of sentences imposed for offences committed on or after 20 June 2006.

(2) In respect of sentences imposed for offences for which life imprisonment was the maximum sentence which could be imposed at the time the offence was committed, the provisions of sections 14 and 19 of the 2005 Act shall come into force only for the purposes of sentences imposed in cases which are commenced on or after 20th June 2006.

(3) For the purposes of paragraph (2) above, cases are taken to have commenced when a report of the case has been received by the procurator fiscal.

(4) Subject to paragraph (5), sections 15(4), 15(5), 15(6), 15(8), 15(9), 15(10) (insofar as not already commenced), 15(11), 15(12) and 15(13) of the 2005 Act shall come into force on 3rd July 2006.

(a) 2005 asp 14.

(5) The provisions of the 2005 Act specified in paragraph (4) shall come into force only in respect of prisoners to whom section 3AA(1)(a) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies^(a).

St Andrew's House,
Edinburgh
7th June 2006

CATHY JAMIESON
A member of the Scottish Executive

^(a) 1993 c.9.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Management of Offenders etc. (Scotland) Act 2005 (“the Act”) for different purposes.

Article 3(1) provides that sections 14 and 19 of the Act will come into force on 20th June 2006 and that, with the exception of cases in which the maximum sentence which could have been imposed at the time the offence was committed was life imprisonment, the provisions shall apply to sentences imposed for offences committed on or after 20th June 2006. Article 3(2) provides that in cases in which the maximum sentence which could have been imposed at the time the offence was committed was life imprisonment, sections 14 and 19 of the 2005 Act apply only to sentences imposed in cases which are commenced on or after 20th June 2006 (i.e. cases in which a report of the case is received by the procurator fiscal on or after 20th June 2006).

Section 14 amends section 210F of the Criminal Procedure (Scotland) Act 1995 (c.46) (“the 1995 Act”). It caters for the situation in which a mentally disordered offender who has been convicted of a sexual or violent offence and is deemed to present a continuing risk to the public meets both the criteria for compulsory imposition of an order for lifelong restriction in terms of sections 210E and 210F of the 1995 Act and the criteria under section 57A for a compulsion order. The court will have a choice between imposing a compulsion order and an order for lifelong restriction.

Section 19 inserts a new section 210EA into the 1995 Act. Sections 271 to 271M, 274 to 275C and 288C to 288F of that Act are applied to proceedings under 210C(7) arising from a challenge by a sexual or violent offender to the content of a risk assessment report.

Article 3(4) sets out the provisions of the Act which are to come into force on 3rd July 2006. These sections insert a number of sections and other provisions into the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) (“the 1993 Act”) relating to the release on licence and recall of certain prisoners. Such prisoners will, on release be made subject to a licence containing a curfew condition which will require the released person to remain at a place specified in the licence for a minimum of 9 hours and up to 12 hours each day. Compliance with this condition is to be monitored remotely. Article 3(5) provides that the provisions listed in paragraph (4) are to come into force only in respect of prisoners to whom section 3AA(1)(a) of the 1993 Act (as inserted by section 15(5) of the Act) applies (i.e. prisoners who are serving a sentence of imprisonment for a term of three months or more but less than four years).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 3(1), (3), (4), (11), (12), (23), (24) and (25), 12, 15(1), (2), (3), (7), (10) (partially) and (14), 16, 18, 21(1)(a)(ii), (1)(b) and (c), (4), (5), (8) and (10).	8th February 2006	2006/48
Sections 1, 2, 3(2), (5)(a), (d), (f), (g) and (h), (8), (9), (13), (14), (15), (16), (17), (20)(b), (21) and (22), 4, 5(1)(a), (2), (3) and (4), 6, to 9, 21(1)(a)(i), (2), (3), (7), (9), (11) and (12).	3rd April 2006	2006/48

£3.00

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