



Community Justice (Scotland) Act 2016

2016 asp 10

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 11 February 2016 and received Royal Assent on 21 March 2016

An Act of the Scottish Parliament to make provision about community justice, including establishing a new national body to oversee community justice and introducing requirements in relation to the achievement of particular nationally and locally determined outcomes; and for connected purposes.

Meaning of “community justice”

1 Meaning of “community justice”

(1) In this Act, “community justice” means—

- (a) giving effect to bail conditions, community disposals and post-release control requirements,
- (b) managing and supporting persons falling within subsection (3), (6) or (7) with a view to them not offending in future or, if that is not realistic, reducing future offending by them,
- (c) arranging relevant general services in ways which facilitate persons falling within subsection (3), (6) or (7) accessing and using them,
- (d) preparing persons who have been convicted of offences and sentenced to imprisonment or detention in penal institutions for release,
- (e) facilitating the provision of relevant general services which persons mentioned in paragraph (d) are likely to need immediately following their release.

(2) In subsection (1)(b), “supporting” includes—

- (a) advising and guiding,
- (b) providing—
 - (i) opportunities to participate in activities designed to eliminate or reduce future offending,
 - (ii) emotional and practical support designed to eliminate or reduce future offending,
- (c) helping—
 - (i) to access things falling within paragraph (b)(i) or (ii),
 - (ii) to access and make use of relevant general services.

Changes to legislation: There are currently no known outstanding effects for the Community Justice (Scotland) Act 2016. (See end of Document for details)

- (3) A person falls within this subsection if the person—
 - (a) has, whether before or after this section comes into force, been the subject of an act mentioned in subsection (4), and
 - (b) is not for the time being imprisoned or detained in a penal institution (whether in consequence of the act or otherwise).
- (4) The acts referred to in subsection (3)(a) are—
 - (a) conviction for an offence,
 - (b) the making, in respect of an offence, of a relevant finding (see section 2(2)(b)),
 - (c) being given an alternative to prosecution in respect of an offence,
 - (d) arrest on suspicion of having committed an offence by any person having power to do so in respect of the offence.
- (5) Subsection (4) includes acts occurring anywhere in the world.
- (6) A person falls within this subsection if the person is the subject of a recognised EU supervision measure.
- (7) A person falls within this subsection if the person—
 - (a) is aged 16 or 17, and
 - (b) is subject to a compulsory supervision order made by virtue of the ground mentioned in section 67(2)(j) of the Children's Hearings (Scotland) Act 2011.

2 Interpretation of section 1

- (1) In section 1—
 - “bail conditions” means—
 - (a) conditions imposed by courts in relation to grants of bail,
 - (b) recognised EU supervision measures,
 - “community disposals” means—
 - (a) requirements for people to be supervised under orders of courts made in exercise of their criminal jurisdiction by virtue of any enactment,
 - (b) community payback orders imposed under section 227A or 227M of the 1995 Act,
 - (c) supervision and treatment orders made under section 57(2)(d) of the 1995 Act,
 - “relevant general services” means services and support provided to people generally in relation to—
 - (a) housing,
 - (b) employment,
 - (c) education,
 - (d) children,
 - (e) physical or mental health (including, in particular, alcohol and drug treatment services),
 - (f) social welfare,
 - (g) any other matter which does or may affect the likelihood of future offending by persons falling within section 1(3), (6) or (7),

Changes to legislation: There are currently no known outstanding effects for the Community Justice (Scotland) Act 2016. (See end of Document for details)

“post-release control requirements” means requirements for persons, following release from imprisonment or detention in a penal institution in consequence of conviction of offences, to be under supervision—

- (a) under any enactment, or
- (b) by the terms of—
 - (i) an order or licence of the Scottish Ministers, or
 - (ii) a condition or requirement imposed in pursuance of any enactment,

“recognised EU supervision measure” means a measure imposed in another member State of the European Union which is recognised in Scotland (with or without adaptation) under Schedule 2 to the Mutual Recognition of Supervision Measures in the European Union (Scotland) Regulations 2014 (S.S.I. 2014/337).

(2) For the purposes of section 1(4)—

- (a) an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law,
- (b) a person is the subject of the making, in respect of an offence, of a relevant finding, if the person—
 - (i) is acquitted by reason of the special defence set out in section 51A of the 1995 Act,
 - (ii) is acquitted by reason of insanity,
 - (iii) is found by a court to be unfit for trial under section 53F of the 1995 Act but to have done the act or made the omission constituting the offence,
 - (iv) is found by a court to be under a disability but to have done the act or made the omission constituting the offence, or
 - (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in subparagraphs (i) to (iv),
- (c) a person is given an alternative to prosecution in respect of an offence if the person—
 - (i) accepts, or is deemed to have accepted, a conditional offer in respect of the offence under section 302 of the 1995 Act,
 - (ii) accepts, or is deemed to have accepted, a compensation offer issued in respect of the offence under section 302A of the 1995 Act,
 - (iii) has a work order made against the person in respect of the offence under section 303ZA of the 1995 Act,
 - (iv) has accepted an offer made by the procurator fiscal in respect of the offence to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution, or
 - (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in subparagraphs (i) to (iv).

(3) In this section, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995.

Changes to legislation: There are currently no known outstanding effects for the Community Justice (Scotland) Act 2016. (See end of Document for details)

Community Justice Scotland

3 Establishment

- (1) Community Justice Scotland (in Gaelic, Ceartas Coimhearsnachd Alba) is established.
- (2) Schedule 1 makes further provision about the constitution of Community Justice Scotland.

Commencement Information

- I1** [S. 3](#) in force at 1.10.2016 for specified purposes by [S.S.I. 2016/262, reg. 2, sch.](#)
- I2** [S. 3](#) in force at 1.4.2017 in so far as not already in force by [S.S.I. 2017/33, reg. 2\(3\)](#)

4 Functions

- (1) Community Justice Scotland's main functions are—
 - (a) to promote the national strategy (see section 37(1)),
 - (b) to monitor, promote and support improvement in, and keep the Scottish Ministers informed about, performance in the provision of community justice (and in particular, performance in relation to the achievement of the nationally determined outcomes),
 - (c) to promote and support—
 - (i) improvement in the quality and range of provision of community justice (and in particular, improvement in meeting the needs of persons mentioned in subsection (2)),
 - (ii) making the best use of the facilities, people and other resources available to provide community justice,
 - (d) to promote public awareness of benefits arising from—
 - (i) persons who are convicted of offences being sentenced to community disposals rather than imprisonment or detention in penal institutions, and
 - (ii) managing and supporting persons falling within section 1(3), (6) or (7) with a view to them not offending in future or, if that is not realistic, reducing future offending by them.
- (2) The persons referred to in subsection (1)(c)(i) are persons who—
 - (a) fall within section 1(3), (6) or (7), or
 - (b) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions.
- (3) In subsection (1)(d)(i), “community disposals” has the same meaning as in section 1.
- (4) Community Justice Scotland also has the other functions conferred on it by virtue of this or any other enactment.
- (5) The Scottish Ministers may by regulations—
 - (a) confer additional functions in relation to community justice on Community Justice Scotland,
 - (b) transfer functions in relation to community justice from another person to Community Justice Scotland,

Changes to legislation: There are currently no known outstanding effects for the Community Justice (Scotland) Act 2016. (See end of Document for details)

- (c) make changes to functions of Community Justice Scotland (but only if the changed function is a function in relation to community justice),
 - (d) remove from Community Justice Scotland functions conferred by virtue of paragraph (a),
 - (e) transfer to another person functions transferred to Community Justice Scotland by virtue of paragraph (b).
- (6) Regulations under subsection (5) may modify this or any other enactment.
- (7) Before making regulations under subsection (5), the Scottish Ministers must consult—
- (a) Community Justice Scotland,
 - (b) each of the other community justice partners (see section 13(1)), and
 - (c) such other persons as they consider appropriate.
- (8) Regulations under subsection (5) are subject to the affirmative procedure.

Commencement Information

I3 [S. 4](#) in force at 1.4.2017 by [S.S.I. 2017/33](#), [reg. 2\(3\)](#)

5 General powers

Community Justice Scotland may do anything which appears to it—

- (a) to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions,
- (b) to be otherwise conducive to the exercise of its functions.

Commencement Information

I4 [S. 5](#) in force at 1.4.2017 by [S.S.I. 2017/33](#), [reg. 2\(3\)](#)

6 Provision of information, advice and assistance

A community justice partner (other than the Scottish Ministers) must comply with any reasonable request from Community Justice Scotland to provide information, advice or assistance to it for the purposes of, or in any connection with, any of its functions.

Commencement Information

I5 [S. 6](#) in force at 1.4.2017 by [S.S.I. 2017/33](#), [reg. 2\(3\)](#)

7 Funding

- (1) The Scottish Ministers may make grants to Community Justice Scotland.
- (2) Such a grant may be—
- (a) for the general purpose of enabling Community Justice Scotland to exercise its functions, or
 - (b) for a particular purpose in connection with any of those functions.