

Community Justice (Scotland) Bill

[AS INTRODUCED]

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Explanatory Notes, together with other accompanying documents, are printed separately as SP Bill 68-EN. A Policy Memorandum is printed separately as SP Bill 68-PM.

Community Justice (Scotland) Bill

[AS INTRODUCED]

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.

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*Meaning of “community justice”***1 Meaning of “community justice”**

- (1) In this Act, “community justice” means—
- (a) giving effect to community disposals and post-release control requirements,
 - (b) managing and supporting offenders in the community with a view to reducing reoffending by them,
 - (c) arranging general services in ways which facilitate offenders in the community accessing and using them,
 - (d) preparing offenders for release from imprisonment or detention in a penal institution.
- (2) In subsection (1)(b), “supporting” includes—
- (a) advising and guiding,
 - (b) providing opportunities to participate in activities designed to reduce reoffending,
 - (c) helping—
 - (i) to access opportunities to participate in activities designed to reduce reoffending,
 - (ii) to access and make use of general services.
- (3) In this section—
- “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 of the Criminal Procedure (Scotland) Act 1995,

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(c) supervision and treatment orders made under section 57(2)(d) of the Criminal Procedure (Scotland) Act 1995,

“general services” means services and support provided to people generally,

“in the community”, in relation to offenders, means not for the time being imprisoned or detained in a penal institution (whether in relation to the offences or otherwise),

“offenders” means persons who have at any time been convicted of an offence,

“post-release control requirements” means requirements for persons, following release from imprisonment or detention in a penal institution, 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.

Community Justice Scotland

2 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.

3 Functions

- (1) Community Justice Scotland’s main functions are—
 - (a) to promote the national strategy (see section 32(1)),
 - (b) to oversee 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 offenders),
 - (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) offenders being sentenced to community disposals rather than imprisonment or detention in penal institutions, and
 - (ii) managing and supporting offenders in the community with a view to reducing reoffending by them.
- (2) “Community disposals”, “in the community” and “offenders” have the same meaning in subsection (1) as they have in section 1.
- (3) Community Justice Scotland also has the other functions conferred on it by virtue of this or any other enactment.

- (4) 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,
 - (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).
- (5) Regulations under subsection (4) may modify this or any other enactment.
- (6) Before making regulations under subsection (4), the Scottish Ministers must consult—
- (a) Community Justice Scotland, and
 - (b) such other persons as they consider appropriate.
- (7) Regulations under subsection (4) are subject to the affirmative procedure.

4 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.

5 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.

6 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.
- (3) A grant under this section is subject to such conditions (including as to repayment) as the Scottish Ministers may determine.

7 Directions and guidance

- (1) Community Justice Scotland must—
 - (a) comply with any general or specific direction issued by the Scottish Ministers about the exercise of its functions,

(b) have regard to any guidance issued by the Scottish Ministers about the exercise of its functions.

(2) The Scottish Ministers must—

(a) lay a copy of any such direction or guidance before the Scottish Parliament, and

(b) publish it.

(3) The Scottish Ministers may vary or revoke a direction or guidance issued under this section.

(4) Subsections (1) to (3) apply to a direction or guidance which has been varied under subsection (3) as they apply to the original direction or guidance.

8 Governance and accountability

Community Justice Scotland must, so far as reasonably practicable, operate in a way which—

(a) is proportionate, transparent and accountable, and

(b) is consistent with any other principle of good governance which appears to it to constitute best practice.

9 Corporate plan

(1) Community Justice Scotland must prepare for approval by the Scottish Ministers a plan setting out how it intends to exercise its functions.

(2) The plan must include information on how Community Justice Scotland intends to comply with section 8.

(3) In preparing the plan, Community Justice Scotland must—

(a) have regard to the national strategy, and

(b) consult—

(i) each of the community justice partners, and

(ii) such other persons as it considers appropriate.

(4) The plan must be submitted to the Scottish Ministers as soon as reasonably practicable after the establishment of Community Justice Scotland.

(5) The Scottish Ministers must—

(a) approve the plan, or

(b) approve the plan with such modifications as they consider appropriate.

(6) Before approving the plan with modifications the Scottish Ministers must consult Community Justice Scotland.

(7) As soon as reasonably practicable after the plan is approved (with or without modifications), the Scottish Ministers must lay a copy of the plan before the Scottish Parliament.

(8) Community Justice Scotland must publish the plan as soon as reasonably practicable after a copy of it has been laid before the Scottish Parliament under subsection (7).

(9) Community Justice Scotland—

(a) must review the plan as soon as reasonably practicable after the publication of a revised strategy under section 14, and

(b) may review the plan at any other time.

(10) Community Justice Scotland may, in consequence of such a review, prepare and submit to the Scottish Ministers for approval a revised plan.

(11) Subsections (2), (3) and (5) to (10) apply to a revised plan as they apply to the original plan.

10 Annual reports on exercise of functions

(1) Community Justice Scotland must, as soon as reasonably practicable after the end of each financial year—

(a) prepare a report on the exercise of its functions during that financial year, and

(b) send a copy of the report to the Scottish Ministers.

(2) Community Justice Scotland may include in a report such other information about its operation as it considers appropriate.

(3) In preparing a report, Community Justice Scotland must consult—

(a) each of the community justice partners, and

(b) such other persons as it considers appropriate.

(4) The Scottish Ministers must lay a copy of each report before the Scottish Parliament.

(5) As soon as practicable after a copy of a report has been laid before the Scottish Parliament under subsection (4), Community Justice Scotland must publish the report.

11 Accounts

(1) Community Justice Scotland must—

(a) keep proper accounts and proper records in relation to the accounts, and

(b) prepare a statement of accounts in respect of each financial year.

(2) A statement of accounts prepared under subsection (1)(b) must be in such form, contain such information and be prepared in accordance with such methods or principles, as the Scottish Ministers may direct.

(3) Community Justice Scotland must send a copy of each statement of accounts to the Scottish Ministers as soon as reasonably practicable after the end of each financial year.

(4) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General for Scotland for auditing.

Community justice partners

12 Community justice partners

(1) The following persons are “community justice partners” for the purposes of this Act—

(a) each local authority,

(b) each health board,

(c) the chief constable of the Police Service of Scotland,

- (d) the Scottish Fire and Rescue Service,
- (e) Skills Development Scotland,
- (f) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
- 5 (g) the Scottish Courts and Tribunals Service, and
- (h) the Scottish Ministers.
- (2) References in this Act to the community justice partners for the area of a local authority are references to the following persons, acting jointly—
- (a) the local authority for the area,
- 10 (b) the health board for the area, or within whose area the area of the local authority falls,
- (c) the chief constable of the Police Service of Scotland,
- (d) the Scottish Fire and Rescue Service,
- (e) Skills Development Scotland,
- 15 (f) any integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 for the area, or within whose area the area of the local authority falls,
- (g) the Scottish Courts and Tribunals Service, and
- (h) the Scottish Ministers.
- 20 (3) The Scottish Ministers may by regulations modify subsection (1) or (2).
- (4) Regulations under subsection (3) are subject to the affirmative procedure.

National strategy and performance framework

13 National strategy in relation to community justice

- (1) The Scottish Ministers must, no later than one year after this section comes into force,
- 25 publish a strategy in relation to community justice in Scotland.
- (2) The strategy may contain such material in relation to community justice as the Scottish Ministers consider appropriate, including in particular—
- (a) a statement of the aims of community justice,
- (b) action that the Scottish Ministers propose to take, or consider that others should
- 30 take, to achieve, or support the achievement of, those aims.
- (3) In preparing the strategy, the Scottish Ministers must consult—
- (a) each of the other community justice partners, and
- (b) such other persons as they consider appropriate.
- (4) As soon as reasonably practicable after the strategy has been published under subsection
- 35 (1), the Scottish Ministers must lay a copy of it before the Scottish Parliament.

14 Review of national strategy

- (1) The Scottish Ministers must review the strategy published under section 13(1)—

- (a) no later than 5 years after the strategy is published, and
 - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, the Scottish Ministers must either—
 - (a) publish a revised strategy, or
 - (b) publish a statement indicating that they consider that the strategy should not be revised.
- (3) Subsection (2) of section 13 applies to a revised strategy as it applies to the strategy published under subsection (1) that section.
- (4) In reviewing, and in revising, the strategy, the Scottish Ministers must consult—
 - (a) Community Justice Scotland,
 - (b) each of the other community justice partners, and
 - (c) such other persons as they consider appropriate.
- (5) As soon as reasonably practicable after a revised strategy has been published under subsection (2)(a), the Scottish Ministers must lay a copy of it before the Scottish Parliament.
- (6) Where a revised strategy is published under subsection (2)(a), this section—
 - (a) ceases to apply in relation to the previous strategy, and
 - (b) applies instead in relation to the revised strategy (as it applied in relation to the strategy published under section 13(1)).

15 National performance framework in relation to community justice

- (1) The Scottish Ministers must, no later than one year after this section comes into force, publish a performance framework in relation to community justice in Scotland.
- (2) The framework is to set out—
 - (a) outcomes in relation to community justice which are to be achieved in the area of each local authority (called “nationally determined outcomes”), and
 - (b) indicators to be used to measure performance in achieving the outcomes (called “national indicators”).
- (3) The framework may contain such other material concerning performance in relation to community justice as the Scottish Ministers consider appropriate, including in particular—
 - (a) other indicators which may be used to measure performance in relation to community justice,
 - (b) advice or guidance in relation to—
 - (i) anything in the framework,
 - (ii) achieving improvement in performance in relation to community justice more generally.
- (4) In preparing the framework, the Scottish Ministers must consult—
 - (a) each of the other community justice partners, and
 - (b) such other persons as they consider appropriate.

16 Review of national performance framework

- (1) Community Justice Scotland must review the framework published under section 15(1)—
- (a) no later than 5 years after the framework is published, and
 - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, Community Justice Scotland must either—
- (a) make proposals to the Scottish Ministers for the revision of the framework, or
 - (b) publish a statement indicating that they consider that the framework should not be revised.
- (3) In reviewing the framework, and in developing proposals for revision of it, Community Justice Scotland must—
- (a) have regard to the national strategy, and
 - (b) consult—
 - (i) each of the community justice partners (other than the Scottish Ministers), and
 - (ii) such other persons as it considers appropriate.
- (4) The Scottish Ministers must consider any proposals made to them under subsection (2) and then either—
- (a) publish a revised framework reflecting them, with such modifications as they consider appropriate, or
 - (b) publish a statement indicating that they consider that the framework should not be revised.
- (5) The Scottish Ministers must consult Community Justice Scotland before—
- (a) publishing a revised framework under subsection (4)(a) containing modifications, or
 - (b) publishing a statement under subsection (4)(b).
- (6) Subsections (2) and (3) of section 15 apply to a revised framework as they apply to the framework published under subsection (1) of that section.
- (7) Where a revised framework is published under subsection (4)(a), this section—
- (a) ceases to apply in relation to the previous framework, and
 - (b) applies instead in relation to the revised framework (as it applied in relation to the framework published under section 15(1)).

*Community justice outcomes improvement planning***17 Preparation of community justice outcomes improvement plan**

- (1) The community justice partners for the area of a local authority must, in accordance with such provision as to timing as the Scottish Ministers make by regulations, publish a plan in relation to community justice for the area.
- (2) The plan is to set out, in relation to each of the nationally determined outcomes—

- (a) the assessment of the community justice partners as to—
- (i) whether the outcome is being achieved in the area, and
 - (ii) if not, how near the outcome is to being achieved,
- (b) in light of that assessment, whether the outcome requires to be a priority for action,
- (c) the action they intend to take (individually or jointly) to achieve or, as the case may be, maintain achievement of, the outcome.
- (3) In making an assessment for the purpose of subsection (2)(a), the community justice partners must use the national indicators.
- (4) The plan may contain such other material in relation to community justice as the community justice partners consider appropriate.
- (5) In particular, the plan may set out other outcomes in relation to community justice (being outcomes that are consistent with the nationally determined outcomes) that the community justice partners consider should be achieved in the area (called “locally determined outcomes”).
- (6) In relation to any such outcome, the plan must set out—
- (a) the indicators the community justice partners intend to use to measure performance in achieving the outcome, and
 - (b) the action the community justice partners intend to take (individually or jointly) to achieve the outcome or, as the case may be, maintain the achievement of the outcome.
- (7) The community justice partners must, as soon as reasonably practicable after the plan has been published under subsection (1), send a copy to Community Justice Scotland.
- (8) Regulations under subsection (1) are subject to the negative procedure.

18 Community justice outcomes improvement plan: engagement

- (1) In preparing the plan for the area of a local authority under section 17, the community justice partners must—
- (a) have regard to—
 - (i) the national strategy,
 - (ii) the national performance framework, and
 - (iii) the local outcomes improvement plan in relation to the area,
 - (b) consult—
 - (i) Community Justice Scotland,
 - (ii) such community bodies in relation to the area as they consider appropriate, and
 - (iii) such other persons as they consider appropriate.
- (2) The reference in subsection (1)(a)(iii) to the local outcomes improvement plan in relation to the area is to—
- (a) the plan prepared and published in relation to the area under section 5(1) of the Community Empowerment (Scotland) Act 2015, or

(b) if that plan has been revised under section 6(2)(b) of that Act, the revised plan (or most recent revised plan, as the case may be).

(3) The community justice partners must—

(a) consider which community bodies are likely to be able to contribute to the preparation of the plan for the area under section 17,

(b) make all reasonable efforts to secure the participation of such bodies in the preparation of the plan, and

(c) where such a body wishes to participate in the preparation of the plan to any extent, take such steps as are reasonable to enable it to do so to that extent.

19 Review of community justice outcomes improvement plan

(1) The community justice partners for the area of a local authority must review the plan for that area published under section 17(1)—

(a) as soon as reasonably practicable after the occurrence of an event mentioned in subsection (2), and

(b) otherwise, from time to time.

(2) The events referred to in subsection (1)(a) are—

(a) the publication of a revised strategy under section 14(2),

(b) the publication of a revised framework under section 16(4)(a),

(c) the publication of a revised local outcomes improvement plan in relation to the area under section 6(5) of the Community Empowerment (Scotland) Act 2015.

(3) Following such a review, the community justice partners for the area of a local authority must either—

(a) publish a revised plan, or

(b) publish a statement indicating that they consider that the plan should not be revised.

(4) Subsections (2) to (7) of section 17 apply to a revised plan as they apply to a plan published under subsection (1) of that section.

(5) Section 18 applies to reviewing, and revising, a plan under this section as it applies to preparing a plan.

(6) Where a revised plan is published under subsection (3)(a), this section—

(a) ceases to apply in relation to the previous plan, and

(b) applies instead in relation to the revised plan (as it applied in relation to the plan published under section 17(1)).

20 Reports on performance in relation to community justice outcomes

(1) The community justice partners for the area of a local authority must, as soon as reasonably practicable after—

(a) a first period specified by the Scottish Ministers by regulations, and

(b) each subsequent period of one year,

publish a report setting out their assessment of the matters mentioned in subsection (2).

- (2) Those matters are—
- (a) in relation to each of the nationally determined outcomes—
 - (i) whether, at the end of the period concerned, the outcome was being achieved in relation to the area, and
 - 5 (ii) in so far as the outcome was not being achieved, progress that has been made towards its achievement,
 - (b) in relation to each locally determined outcome (if any)—
 - (i) whether, at the end of the period concerned, the outcome was being achieved in relation to the area, and
 - 10 (ii) in so far as the outcome was not being achieved, progress that has been made towards its achievement.
- (3) In making an assessment for the purpose of subsection (1), the community justice partners must use the relevant indicators.
- (4) In preparing a report under subsection (1), the community justice partners for the area of a local authority must consult—
- 15 (a) such community bodies in relation to the area as they consider appropriate, and
 - (b) such other persons as they consider appropriate.
- (5) The community justice partners must, as soon as reasonably practicable after publishing a report under subsection (1), send a copy to Community Justice Scotland.
- 20 (6) In this section, “relevant indicators” means—
- (a) in relation to a nationally determined outcome, the national indicators,
 - (b) in relation to a locally determined outcome, the indicators set out in the community justice outcomes improvement plan for the area in relation to the outcome by virtue of section 17(6)(a).
- 25 (7) Regulations under subsection (1)(a) are subject to the negative procedure.

21 Guidance in relation to community justice outcomes improvement planning

- (1) The community justice partners for the area of a local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of the functions conferred on them by sections 17 to 20.
- 30 (2) Such guidance may be—
- (a) general or for particular purposes,
 - (b) different in relation to different persons, or otherwise for different purposes.
- (3) Before issuing such guidance (or revised guidance), the Scottish Ministers must consult—
- 35 (a) each person to whom it would relate, and
 - (b) such other persons as they consider appropriate.
- (4) The Scottish Ministers must publish any such guidance (or revised guidance).

22 Duty to have regard to community justice outcomes improvement plan

A community justice partner must, in exercising the partner's functions in relation to community justice in relation to the area of a particular local authority, have regard to the community justice outcomes improvement plan for the area.

5 *Overseeing performance in relation to community justice outcomes*

23 Monitoring of performance in relation to community justice outcomes

(1) In pursuance of section 3(1)(b), Community Justice Scotland must in relation to the area of each local authority—

(a) monitor performance in the achievement of—

10 (i) the nationally determined outcomes, and

(ii) each locally determined outcome, and

(b) from time to time, report to the community justice partners for the area on its assessment of that performance.

15 (2) In making an assessment for the purpose of subsection (1)(b), Community Justice Scotland must use the relevant indicators.

(3) A report under subsection (1)(b) may include guidance as to action which Community Justice Scotland considers—

(a) is necessary to enable the achievement of a particular outcome in the area of the local authority concerned, or

20 (b) would or might help to improve performance in achieving such an outcome in the area.

(4) Community justice partners to whom a report has been made under subsection (1)(b) must comply with any direction issued by Community Justice Scotland—

(a) to arrange for the publication (in such manner as may be specified) of—

25 (i) the report, or

(ii) specified information in relation to the report, or

(b) to notify Community Justice Scotland (within such period as may be specified) of—

30 (i) the action the community justice partners have taken or propose to take in response to the report, or

(ii) their intention not to take any action in response to the report.

(5) In this section—

“relevant indicators” has the same meaning as in section 20,

“specified” means specified in the direction.

24 Section 23: recommendations to Scottish Ministers

35 (1) Community Justice Scotland may, in consequence of the exercise of its function in section 23(1)(a), make recommendations to the Scottish Ministers as to action which Community Justice Scotland considers—

(a) is necessary to enable the achievement of a nationally determined outcome, or

- (b) would help to improve performance—
 - (i) in achieving such an outcome, or
 - (ii) otherwise in relation to community justice.

- (2) Such recommendations may relate to—
 - (a) Scotland as a whole, or
 - (b) the area of a particular local authority.
- (3) Community Justice Scotland must, as soon as reasonably practicable after making recommendations under subsection (1), publish them.

25 Annual report on performance in relation to community justice outcomes

- (1) In pursuance of section 3(1)(b), Community Justice Scotland must, as soon as reasonably practicable after 31 March in each year, publish a report setting out its assessment of performance in Scotland as a whole in relation to the achievement of the nationally determined outcomes.
- (2) In making an assessment for the purpose of subsection (1), Community Justice Scotland must use the national indicators.
- (3) A report under subsection (1) may include guidance as to action which Community Justice Scotland considers—
 - (a) is necessary to enable the achievement of a nationally determined outcome in Scotland as a whole, or
 - (b) would help to improve performance—
 - (i) in achieving such an outcome in Scotland as a whole, or
 - (ii) otherwise, in relation to community justice in Scotland as a whole.
- (4) In preparing a report under subsection (1), Community Justice Scotland must consult—
 - (a) each of the community justice partners, and
 - (b) such other persons as it considers appropriate.
- (5) As soon as reasonably practicable after a report has been published under subsection (1), Community Justice Scotland must lay a copy of it before the Scottish Parliament.

Community Justice Scotland: developing and arranging services

26 Ability of Community Justice Scotland to develop and arrange services

- (1) The powers conferred on Community Justice Scotland by section 4 include, in particular, power to do any of the things mentioned in subsection (2) in pursuance of section 3(1)(c).
- (2) Those things are—
 - (a) identifying a desirable service in relation to community justice,
 - (b) designing an appropriate model for the provision of such a service,
 - (c) making arrangements for the provision of such a service,
 - (d) encouraging or assisting, or acting in collaboration with, any of the community justice partners to do anything mentioned in paragraphs (a) to (c).

- (3) A service referred to in subsection (2) may be for—
- (a) all of Scotland, or
 - (b) the areas of particular local authorities.
- (4) Before exercising a power conferred by virtue of subsection (1), Community Justice Scotland must—
- (a) have regard to the desirability of—
 - (i) services in a particular area being best suited to the needs of that area, and
 - (ii) working in collaboration with others, where appropriate,
 - (b) consult—
 - (i) each of the community justice partners, and
 - (ii) such other persons as it considers appropriate.
- (5) Subsection (4) does not apply where Community Justice Scotland is complying with a requirement under subsection (6).
- (6) Community Justice Scotland must comply with a requirement by the Scottish Ministers that it exercises a power conferred by virtue of subsection (1) in relation to a service of a particular description.
- (7) Before making a requirement under subsection (6), the Scottish Ministers must consult—
- (a) each of the other community justice partners, and
 - (b) such other persons as they consider appropriate.
- (8) Nothing in this section, or section 4, authorises Community Justice Scotland to provide a service in relation to community justice itself.
- (9) In this section—
- (a) the reference to identifying a service includes procuring and funding the identification of a service,
 - (b) the reference to designing a service includes procuring and funding the design of a service.

Innovation, learning and development

27 Strategy for innovation, learning and development

- (1) In pursuance of section 3(1)(c), Community Justice Scotland must, no later than one year after this section comes into force, publish a strategy for innovation, learning and development in relation to community justice.
- (2) The strategy may contain such material about innovation, learning and development in relation to community justice as Community Justice Scotland considers appropriate.
- (3) In preparing the strategy, Community Justice Scotland must—
- (a) have regard to—
 - (i) the national strategy, and
 - (ii) the national performance framework,
 - (b) consult—

- (i) each of the community justice partners, and
- (ii) such other persons as it considers appropriate.

28 Review of strategy for innovation, learning and development

- 5
- (1) Community Justice Scotland must review the strategy published under section 27(1)—
- (a) no later than 5 years after the strategy is published, and
 - (b) then from time to time (but no later than 5 years after the last review).
- (2) Following such a review, Community Justice Scotland must either—
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- (a) publish a revised strategy, or
 - (b) publish a statement indicating that it considers that the strategy should not be revised.
- (3) Subsection (2) of section 27 applies to a revised strategy as it applies to the strategy published under subsection (1) of that section.
- (4) In reviewing, and in revising, the strategy, Community Justice Scotland must—
- 15
- (a) have regard to—
 - (i) the national strategy, and
 - (ii) the national performance framework,
 - (b) consult—
 - (i) each of the community justice partners, and
 - (ii) such other persons as it considers appropriate.
- 20
- (5) Where a revised strategy is published under subsection (2)(a), this section—
- (a) ceases to apply in relation to the previous strategy, and
 - (b) applies instead in relation to the revised strategy (as it applied in relation to the strategy published under section 27(1)).

29 Innovation, learning and development activity

- 25
- (1) The powers conferred on Community Justice Scotland by section 4 include, in particular, power to do any of the things mentioned in subsection (2)—
- (a) in furtherance of the strategy for innovation, learning and development, or
 - (b) otherwise, in pursuance of section 3(1)(c).
- (2) Those things are—
- 30
- (a) conducting, commissioning or co-ordinating research about—
 - (i) community justice, or
 - (ii) activity elsewhere in the world which corresponds with, or is reasonably similar to, community justice,
 - (b) identifying, establishing or promoting good practice in relation to community justice,
- 35
- (c) developing or providing education or training in relation to community justice,

- (d) requiring community justice partners (other than the Scottish Ministers) to do any of the things mentioned in paragraphs (a) to (c),
- (e) encouraging or assisting community justice partners, or other persons, to do any of the things mentioned in paragraphs (a) to (c).
- 5 (3) Community Justice Scotland must, so far as reasonably practicable, comply with a request by the Scottish Ministers that it—
- (a) conducts or commissions research about a particular matter by virtue of subsection (1),
- 10 (b) identifies or establishes good practice in relation to a particular matter, or promotes particular good practice, by virtue of subsection (1),
- (c) develops or provides particular education or training by virtue of subsection (1).
- (4) Community Justice Scotland may charge for any education or training materials developed or provided by virtue of subsection (1).
- 15 (5) A community justice partner must comply with any requirement made of it as mentioned in subsection (2)(d).
- (6) In this section—
- (a) the reference to the strategy for innovation, learning and development is to—
- (i) the strategy published under section 27(1), or
- 20 (ii) if a revised strategy has been published under section 28(2)(a), the revised strategy (or most recent revised strategy, as the case may be),
- (b) the references to developing education or training include procuring and funding the development of education or training,
- (c) the references to providing education or training include procuring and funding the provision of education or training.

25 *Co-operation in relation to community justice functions*

30 Duty of co-operation

- (1) Each person or group of persons falling within subsection (2) must so far as reasonably practicable co-operate, in the exercise of their respective functions in relation to community justice, with each other person or group of persons falling within that subsection.
- 30 (2) Those persons are—
- (a) Community Justice Scotland,
- (b) each of the community justice partners,
- (c) the community justice partners for the area of each local authority.
- 35 (3) Such co-operation may include—
- (a) sharing information,
- (b) providing advice and assistance,
- (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
- (d) funding activities together.

*Abolition of community justice authorities***31 Abolition of community justice authorities**

- 5 (1) The community justice authorities established by article 2(1) of the Community Justice Authorities (Establishment, Constitution and Proceedings) (Scotland) Order 2006 (S.S.I. 2006/182) are dissolved.
- (2) That order is revoked.
- (3) Sections 3 to 9 of the Management of Offenders etc. (Scotland) Act 2005 (which provide for the establishment of community justice authorities and their functions) are repealed.

*Interpretation***32 Interpretation**

- (1) In this Act—

“commencement regulations” means regulations under section 36(2),

15 “community bodies”, in relation to the area of a local authority, means bodies (whether or not formally constituted) established for purposes which consist of, or include, promoting or improving the interests of any communities (however described) resident or otherwise present in the area,

“community justice outcomes improvement plan”, in relation to the area of a local authority, means—

20 (a) the plan for the area published under section 17(1), or

(b) if a revised plan has been published under section 19(3)(a), the revised plan (or the most recent revised plan, as the case may be),

“health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

25 “locally determined outcomes”, in relation to the area of a local authority, means outcomes set out in the community justice outcomes improvement plan for that area by virtue of section 17(5),

“nationally determined outcomes” means outcomes set out in the national performance framework by virtue of section 15(2)(a),

30 “national indicators” means indicators set out in the national performance framework by virtue of section 15(2)(b),

“national performance framework” means—

(a) the framework published under section 15(1), or

35 (b) if a revised framework has been published under section 16(4)(a), the revised framework (or most recent revised framework, as the case may be),

“national strategy” means—

(a) the strategy published under section 13(1), or

(b) if a revised strategy has been published under section 14(2)(a), the revised strategy (or most recent revised strategy, as the case may be),

40 “penal institution” means any—

- (a) prison (including a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989) other than a naval, military or air force prison,
- (b) remand centre, within the meaning of section 19(1)(a) of the Prisons (Scotland) Act 1989,
- (c) young offenders institution, within the meaning of section 19(1)(b) of that Act,

“publish” means make available to the public—

- (a) on a website or by other electronic means, and
- (b) in such other manner (if any) as the person publishing considers appropriate,

“Skills Development Scotland” means the company limited by guarantee registered in Scotland with company number SC202659.

- (2) References in this Act to “community justice” (except in sections 3(1)(b), 13(1), 15(1) and 27(1)) include a reference to any aspect of community justice.

Supporting provisions

33 Consequential and minor modifications

Schedule 2 makes—

- (a) modifications of other enactments in consequence of provisions of this Act, and
- (b) other minor modifications of other enactments.

34 Regulations

- (1) Regulations under this Act may—
 - (a) make different provision for different purposes,
 - (b) include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider appropriate.
- (2) This section does not apply to commencement regulations.

35 Ancillary provision

- (1) The Scottish Ministers may by regulations make such supplementary, incidental, consequential, transitional, transitory or saving provision as they consider appropriate for the purposes of, or in connection with, or for the purposes of giving full effect to, any provision made by this Act.
- (2) Regulations under this section may modify this or any other enactment.
- (3) Regulations under this section—
 - (a) are subject to the affirmative procedure if they contain provision which adds to, or replaces or omits any part of, the text of this or any other Act,
 - (b) otherwise, are subject to the negative procedure.

36 Commencement

- (1) Sections 34, 35 and 37, and this section, come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

5

- (3) Commencement regulations may—
 - (a) make different provision for different purposes,
 - (b) include transitional, transitory or saving provision.

37 Short title

The short title of this Act is the Community Justice (Scotland) Act 2015.

SCHEDULE 1
(introduced by section 2)

COMMUNITY JUSTICE SCOTLAND

Corporate status

- 5 1 Community Justice Scotland is a body corporate.

Exclusion of Crown status

- 2 (1) Community Justice Scotland—
 (a) is not a servant or agent of the Crown, and
 (b) does not enjoy any status, immunity or privilege of the Crown.
- 10 (2) Community Justice Scotland’s property is not property of, or property held on behalf of, the Crown.

Membership

- 3 (1) Community Justice Scotland is to consist of—
 (a) a member appointed by the Scottish Ministers to chair Community Justice
15 Scotland, and
 (b) at least 5 but no more than 8 other members appointed by the Scottish Ministers.
- (2) The Scottish Ministers may not appoint a person as a member if the person is—
 (a) a member of the Scottish Parliament,
 (b) a member of the House of Commons,
20 (c) a member of the House of Lords,
 (d) a member of the European Parliament.
- (3) The Scottish Ministers must make appointments of members of Community Justice
Scotland in a manner which encourages equal opportunities and in particular the
observance of the equal opportunity requirements.
- 25 (4) In sub-paragraph (3), “equal opportunities” and “equal opportunity requirements” have
the same meanings as in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998.
- (5) The Scottish Ministers may by regulations modify sub-paragraph (1)(b) by substituting
for the minimum or maximum number of members for the time being specified there
such other number as they consider appropriate.
- 30 (6) Regulations under sub-paragraph (5) are subject to the negative procedure.
- (7) The members of Community Justice Scotland may elect from their number a member
to—
 (a) deputise for the person appointed under sub-paragraph (1)(a),
 (b) act during any period when there is no person appointed under that sub-paragraph.

Tenure etc.

- 4 (1) A member is appointed for such period not exceeding 3 years as the Scottish Ministers determine.
- (2) A person who has been a member may be reappointed.
- 5 (3) But a person must not hold office as a member for a period exceeding 8 years (whether in consecutive or non-consecutive appointments).
- (4) A member holds and vacates office on such terms and conditions as the Scottish Ministers may determine (in relation to matters not covered by this schedule).
- (5) A member may resign by informing the Scottish Ministers in writing to that effect.

10 *Events which automatically end membership*

- 5 A person's membership of Community Justice Scotland ends if the person becomes—
- (a) a member of the Scottish Parliament,
- (b) a member of the House of Commons,
- (c) a member of the House of Lords,
- 15 (d) a member of the European Parliament.

Power to end membership

- 6 (1) The Scottish Ministers may end a person's membership of Community Justice Scotland if—
- (a) the person becomes an undischarged bankrupt, or
- 20 (b) the Scottish Ministers are satisfied that the person—
- (i) has, without reasonable excuse, been absent from 3 consecutive meetings of Community Justice Scotland,
- (ii) is unable to perform the functions of a member, or
- (iii) is unsuitable to continue as a member.
- 25 (2) In sub-paragraph (1)(a), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),
- (b) who has granted a trust deed for, or made a composition or arrangement with, creditors and has not been discharged in respect of it,
- 30 (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986,
- (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts,
- 35 (e) who has been adjudged bankrupt and has not been discharged, or
- (f) who is subject to any other kind of arrangement or undertaking, anywhere in the world, which is analogous to those described in paragraphs (a) to (d).

Remuneration and allowances of members

7 Community Justice Scotland must pay each member such remuneration and allowances as the Scottish Ministers may determine.

Chief executive and other staff

- 5 8 (1) Community Justice Scotland is to have, as a member of staff, a chief executive.
- (2) The Scottish Ministers are to appoint the first chief executive on such terms and conditions as they determine.
- (3) Community Justice Scotland is to appoint each subsequent chief executive with the approval of the Scottish Ministers.
- 10 (4) Community Justice Scotland may appoint other members of staff.
- (5) An appointment under sub-paragraph (3) or (4) is to be on such terms and conditions as Community Justice Scotland, with the approval of the Scottish Ministers, determines.

Pensions, allowances and gratuities

- 15 9 (1) Community Justice Scotland may, with the approval of the Scottish Ministers, make provision for such pensions, allowances or gratuities in respect of any person who is or has been a member of staff of Community Justice Scotland as it may determine.
- (2) That provision may take the form of—
- (a) payment (or making arrangements for the payment) of,
- (b) payments or contributions towards the provision of,
- 20 (c) providing and maintaining schemes (whether contributory or not) for the payment of,
- such pensions, allowances or gratuities.
- (3) Those pensions, allowances or gratuities may include pensions, allowances or gratuities by way of compensation for loss of office.

Procedure

25 10 Community Justice Scotland may regulate its own procedure (including quorum).

Committees

- 11 (1) Community Justice Scotland may establish committees and sub-committees.
- 30 (2) The membership of a committee or sub-committee may include (but may not consist entirely of) persons who are not members of Community Justice Scotland, but those persons are not entitled to vote at meetings.
- (3) Community Justice Scotland may pay such remuneration and allowances as it may determine to each member of a committee or sub-committee who is not a member of, or member of staff of, Community Justice Scotland.
- 35 (4) A committee or sub-committee must comply with any direction given to it by Community Justice Scotland.

- (5) Community Justice Scotland may regulate the procedure (including quorum) of any of its committees or sub-committees.

Validity of things done

- 5 12 The validity of anything done by Community Justice Scotland, or its committees or sub-committees, is not affected by—
- (a) a vacancy in membership,
 - (b) a defect in the appointment of a member,
 - (c) a person’s membership having ended under paragraph 5.

Authority to exercise functions

- 10 13 (1) Community Justice Scotland may authorise the exercise of any of its functions by—
- (a) one (or some) of its members,
 - (b) a member of its staff, or
 - (c) any of its committees or sub-committees.
- 15 (2) Authorisation for the purpose of sub-paragraph (1) may be general or limited to the exercise of the function in specific circumstances.
- (3) This paragraph does not affect the responsibility of Community Justice Scotland for the exercise of its functions.

Legislation relating to public bodies

- 20 14 (1) In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3, before the entry for Creative Scotland insert—
- “Community Justice Scotland”.
- (2) In the Scottish Public Services Ombudsman Act 2002, in schedule 2, before paragraph 21ZC insert—
- “21ZZC Community Justice Scotland.”.
- 25 (3) In the Freedom of Information (Scotland) Act 2002, in schedule 1, before paragraph 62ZC insert—
- “62ZZC Community Justice Scotland.”.
- (4) In the Public Appointments and Public Bodies etc. (Scotland) Act 2003, in schedule 2, after the entry relating to Children’s Hearings Scotland insert—
- 30 “Community Justice Scotland”.
- (5) In the Public Services Reform (Scotland) Act 2010, in schedule 8, after the entry for the Common Services Agency for the Scottish Health Service insert—
- “Community Justice Scotland”.
- 35 (6) In the Public Records (Scotland) Act 2011, in the schedule, after the entry for the Common Services Agency for the Scottish Health Service insert—
- “Community Justice Scotland”.

- (7) In the Procurement Reform (Scotland) Act 2014, in the schedule, after paragraph 28 insert—
 “28A Community Justice Scotland”.

SCHEDULE 2
(introduced by section 33)

MINOR AND CONSEQUENTIAL MODIFICATIONS

PART 1

PRIMARY LEGISLATION

The Social Work (Scotland) Act 1968

- 1 (1) The Social Work (Scotland) Act 1968 is modified as follows.
- (2) In section 27(1), for “Subject to any order or determination under section 8 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14), it” substitute “It”.
- (3) In section 27A—
- (a) for subsection (1), substitute—
- 15 “(1) The Scottish Ministers may make a grant to a local authority of such amount as the Scottish Ministers may determine in respect of expenditure incurred by that local authority in providing a relevant service.”,
- (b) in subsection (1A)—
- (i) in paragraph (a), after “27(1)” insert “or 27ZA”,
- 20 style="padding-left: 4em;">(ii) paragraph (b) is repealed,
- (c) in subsection (2), for “(1)(c)” substitute “(1A)(c)”.
- (4) In section 27B—
- (a) for subsection (1), substitute—
- 25 “(1) The Scottish Ministers may make a grant to a local authority of such amount as the Scottish Ministers may determine in respect of relevant expenditure.”,
- (b) in subsection (1A), the words “as the case may be, those local authorities or” are repealed.

The Criminal Procedure (Scotland) Act 1995

- 2 In section 227ZM of the Criminal Procedure (Scotland) Act 1995—
- 30 (a) in subsection (1), for “the Scottish Ministers” substitute “Community Justice Scotland”,
- (b) in subsection (3)—
- (i) for “The Scottish Ministers” substitute “Community Justice Scotland”,
- (ii) for “as soon as practicable after the end of” substitute “in relation to”,
- 35 (c) after subsection (3) insert—

“(3A) A report under subsection (3) must be laid before the Parliament, and published, together with, or as part of, the corresponding report under section 25 of the Community Justice (Scotland) Act 2015.

5 (3B) The reference in subsection (3A) to the corresponding report under section 25 of the Community Justice (Scotland) Act 2015 is, in relation to a report under subsection (3) for a particular reporting year, a reference to the report under that section which requires to be published as soon as reasonably practicable after that 31 March.”,

(d) for subsection (4), substitute—

10 “(4) In this section, “reporting year” means a year ending with 31 March.”.

The Ethical Standards in Public Life etc. (Scotland) Act 2000

3 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000, the entry for a community justice authority is repealed.

The Freedom of Information (Scotland) Act 2002

15 4 In schedule 1 to the Freedom of Information (Scotland) Act 2002, paragraph 62A is repealed.

The Management of Offenders etc. (Scotland) Act 2005

5 (1) The Management of Offenders etc. (Scotland) Act 2005 is modified as follows.

(2) In section 1—

20 (a) in subsection (1), the words “community justice authorities” are repealed,

(b) in subsection (2)(b)(i)—

(i) the words “(or, by virtue of section 8, by a community justice authority)” are repealed,

(ii) the words “(or a community justice authority)” are repealed.

25 (3) In section 11—

(a) in subsection (2), in paragraph (c) for “the community justice authority within the area of which the area of the local authority is comprised” substitute “Community Justice Scotland”,

(b) after subsection (3), insert—

30 “(4) Publication, for the purposes of subsection (2)(b), must be in such manner as will ensure that the report is likely to come to the attention of the other community justice partners for the area of the local authority.

(5) The reference in subsection (4) to “the other community justice partners for the area of the local authority” is to the persons—

35 (a) who are community justice partners for the area of the local authority, but

(b) who are not responsible authorities for the area of the local authority.

(6) The reference in subsection (5)(a) to “community justice partners for the area of the local authority” has the same meaning as in the Community Justice (Scotland) Act 2015 (see section 12(2) of that Act).

5 (7) As soon as practicable after subsection (2)(c) is complied with in relation to a report, Community Justice Scotland must send a copy of the report to the Scottish Ministers.”.

(4) Sections 21(9), (11) and (12) are repealed.

(5) In section 23, the definition of “community justice authority” is repealed.

PART 2

10

SECONDARY LEGISLATION

Orders to do with community justice authorities

6 The following orders are revoked—

- 15 (a) the Management of Offenders etc. (Scotland) Act 2005 (Designation of Partner Bodies) Order 2006 (S.S.I. 2006/63),
- (b) the Management of Offenders etc. (Scotland) Act 2005 (Supplementary Provisions) Order 2006 (S.S.I. 2006/389),
- (c) the Management of Offenders etc. (Scotland) Act 2005 (Members’ Remuneration and Supplementary Provisions) Order 2008 (S.S.I. 2008/30).

Community Justice (Scotland) Bill

[AS INTRODUCED]

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.

Introduced by: Michael Matheson
Supported by: Paul Wheelhouse
On: 7 May 2015
Bill type: Government Bill

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