POLICY NOTE

THE MANAGEMENT OF OFFENDERS ETC. (SCOTLAND) ACT 2005 (SPECIFICATION OF PERSONS) AMENDMENT ORDER 2020

SSI/2020/365

The above instrument was made in exercise of the powers conferred by section 10(3) of the Management of Offenders etc. (Scotland) Act 2005 (asp 14) ("the 2005 Act"). This instrument is subject to negative resolution procedure.

The provisions of section 10(3) of the 2005 Act were commenced on 1 December 2006 by the Management of Offenders etc. (Scotland) Act 2005 (Commencement No 3) Order (S.S.I. 2006/545) for the purposes of enabling Scottish Ministers to specify such persons as described in that section.

Purpose of the Instrument
To include the Scottish Ministers in exercise of their powers under the Social Security (Scotland) Act 2018 ('the 2018 Act') as a 'person' required to mutually co-operate with the responsible authorities specified in section 10(7) of the 2005 Act.

Policy Objectives

Section 10 of the 2005 Act requires the responsible authorities, as defined in section 10(7) of the 2005 Act to jointly establish, in the area of each local authority, arrangements for the assessment and management of the risks posed by the persons referred to in section 10(1). The model for the delivery of the joint arrangements is known as the Multi Agency Public Protection Arrangements (MAPPA).

Sections 10(3) and 10(4) of the 2005 Act provide that, the responsible authorities must co-operate with such persons as the Scottish Ministers specify in an Order made by Scottish Statutory Instrument in the assessment and management of risks posed by individuals specified in section 10(1) of the 2005 Act. This is a reciprocal arrangement so those persons (the term 'person' including agencies and bodies) specified in the Order also have a duty to co-operate with the responsible authorities. Co-operation is intended as a means of enabling different agencies to work together while maintaining the responsibilities of their own particular roles.

This Instrument is to specify the Scottish Ministers, exercising their function under the 2018 Act, as a person required to co-operate with the responsible authorities.

The overall aim is to assist clients who are also subject to MAPPA management to secure appropriate benefits. It will also allow Social Security Scotland to alert responsible authorities to any change of relevant circumstances, for example change of bank account, or address etc., of a client who is subject to MAPPA management.

Consultation

The MAPPA National Strategic Group which provides oversight and strategic direction for MAPPA in Scotland. and includes representatives from the Responsible Authorities and the Chairs of Scotland's 10 Strategic Oversight Groups and the Scottish Government's Social Security Directorate, Business Analysis Unit were consulted on the 2020 Regulations.

Specification of persons

SSS and the Scottish Government have been working to strengthen the administrative arrangements between the Social Security Scotland and the Responsible Authorities for the exchange of information for the purpose of managing high risk offenders in Scotland.

The Scottish Ministers agreed that it was appropriate for information to be shared between the Social Security Scotland and the Responsible Authorities.

The duty to cooperate will be supported by operational guidance that will set out the roles and responsibilities of agencies involved in the management of sex offenders and the relationships with Social Security Scotland.

Impact Assessments

There is no aspect of the proposals which have a differential or discriminatory impact on equality groups.

Financial effects

The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
November 2020