

Cabinet Secretary for Justice  
Michael Matheson MSP

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Margaret Mitchell MSP  
Convenor, Justice Committee  
c/o Justice Committee Clerks  
Room T2.60  
The Scottish Parliament  
Edinburgh  
EH99 1SP



2nd May 2017

Dear Margaret,

I am writing to provide an update to the Committee on the commencement of Part 1 of the Criminal Justice (Scotland) Act 2016.

I wrote to you on 12 April 2017 informing the Justice Committee that it was my intention to commence Part 1 on 20 July 2017. Since I provided you with that update, however, it has been announced that a UK general election will be held on 8 June. Consequently, it will not be possible for the UK Parliament to pass the necessary order under section 104 of the Scotland Act 1998 in time for a July commencement date.

The section 104 Order is required in particular to update the powers and duties of Scottish police constables when operating in a cross border capacity within the United Kingdom, in line with the provisions in the Act. The Order would also contain provisions to ensure that Her Majesty's Revenue & Customs (HMRC), UK Border Agency (UKBA), National Crime Agency (NCA), British Transport Police (BTP), Ministry of Defence Police (MDP), Civil Nuclear Constabulary (CNC) officers operate within a similar framework to Scottish constables when exercising their powers of arrest in Scotland. It will also include provisions relating to the Ministry of Defence applying certain provisions of the Act to deal with arrests of service personnel for offences under the Armed Forces Act 2006. The Order will also include provisions relating to immigration and extradition arrests carried out in Scotland in light of the new provisions contained within the Act.

A common timetable is key to the smooth introduction of the new powers. Commencing Part 1 of the Act without the necessary changes to the powers and duties of reserved police forces and agencies operating in Scotland would be problematic for a variety of operational reasons.

In light of this, I will unfortunately have to reschedule commencement of Part 1 of the Act to allow the associated section 104 Order to successfully complete its legislative process in Westminster. My officials are currently working with Scotland Office officials on a revised timetable for this but early indications are that commencement of Part 1 of the Act will be delayed by some months.

The Scottish Government, Police Scotland and justice agency partners will review and update plans to ensure effective implementation of the Act from the new commencement date, which is now likely to be in the winter. I will update the committee regarding those revised plans for commencement in due course.

I hope the above information is helpful to the Committee.

*Best wishes*

A handwritten signature in blue ink, appearing to read 'Michael Matheson', with a long horizontal flourish extending to the right.

**MICHAEL MATHESON**