

From: Secretary of State <secofstate@Justice.gov.uk>

Sent: 23 July 2019 15:45

To: [Redacted]@gov.scot>

Subject: ADR 70525 Letter from the Cabinet Secretary for Justice - Restitution Orders

Dear [Redacted],

Please see attached response from the Secretary of State for Justice.

Thanks

[Redacted]

[Redacted]

Correspondence Manager to the Secretary of State for Justice

Private Office Directorate, 9.40 102 Petty France London SW1H 9AJ

Phone: [Redacted]

Mobile: [Redacted]

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Ministry
of Justice

Humza Yousaf MSP
Cabinet Secretary for Justice
Scottish Government
St Andrew's House,
Regent Road,
Edinburgh
EH1 3DG

The Right Honourable
David Gauke MP
Lord Chancellor & Secretary of
State for Justice

RECEIVED BY PD
06 AUG 2019

MoJ ref: 70525

22 July 2019

Dear Humza

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

Thank you for your letter of 5 July seeking agreement in principle to the making of an Order under section 104 of the Scotland Act 1998. I am aware that our respective officials have been collaborating closely on the issue.

On the understanding that the scope of the section 104 Order is limited to the imposition of restitution orders, I am content to agree in principle to your proposal. I look forward to hearing further from you when the section 104 Order is ready to begin the Parliamentary procedure.

*Yours ever
David*

RT HON DAVID GAUKE MP



Department
for Work &
Pensions

The Rt Hon AMBER RUDD MP
Secretary of State for Work & Pensions

17 July 2019

Humza Yousaf MSP
Cabinet Secretary for Justice
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Humza,

Thank you for your letter of 5 July seeking agreement in principle to the making of an Order under section 104 of the Scotland Act 1998. This will effectively extend the current arrangements under which the Department for Work and Pensions recovers fines on behalf of Scottish Courts and Tribunals Service, by facilitating, additionally, recovery of the new Scottish restitution orders, where appropriate.

I am aware that our respective officials have been collaborating closely on the issue, and am confident that this will continue.

I am content to agree in principle to your proposal. I look forward to hearing when the section 104 Order has been made and when the regulations implementing the restitution orders have been laid before the Scottish Parliament.

I am sending copies of this letter to the Secretary of State for Justice and the Secretary of State for Scotland.

Best wishes,


The Rt Hon Amber Rudd MP
SECRETARY OF STATE FOR WORK AND PENSIONS

Cabinet Secretary for Justice
Humza Yousaf MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon Amber Rudd MP
Secretary of State for Work and Pensions
Department for Work & Pensions
Caxton House
Tothill Street
London
SW1H 9NA

5 July 2019

Dear Amber

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

Further to my letter of 28 March, I am writing to seek your agreement in-principle to the making of an Order under section 104 of the Scotland Act 1998. This Order is in consequence of the Victims and Witnesses (Scotland) Act 2014 ("the 2014 Act").

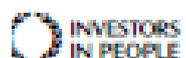
Section 25 of the 2014 Act inserts new sections 253A – 253E into the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"), which introduce the restitution order and related provisions. The restitution order is a new financial penalty which can be imposed on persons convicted of the offence of police assault set out in section 90(1) of the new Police and Fire Reform (Scotland) Act 2012. This new penalty can be imposed by the court instead of or in addition to dealing with the offender in any other way – a person convicted of police assault could therefore receive a fine and a restitution order.

The money received in relation to a restitution order must be placed into a separate fund to be known as the Restitution Fund, which is to be used to provide services which care for, treat or rehabilitate victims of the offence of police assault set out in section 90(1) of the 1995 Act.

Section 24 of the Criminal Justice Act 1991 ("the 1991 Act") gives the Secretary of State the power to introduce a process, via subordinate legislation, whereby courts can apply for a deduction from an offender's benefits to pay for a fine or compensation order. The application process, and the power to make appropriate deductions, are contained in the Fines (Deductions from Income Support) Regulations 1992 (S.I. 1992/2182 ("the 1992 Regulations").

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbyins.scot

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www.gov.scot



Accredited
Level 2020

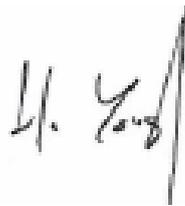


Using the 1992 regulations, the Department for Work and Pensions, following an application from the Scottish Courts and Tribunals Service, currently recover fines and compensation orders by direct deduction from an offenders benefits (a deduction from benefits order). The power to impose a deduction from benefits order does not currently extend to the new restitution order in Scotland. We are therefore seeking an Order under section 104 of the Scotland Act 1998, to amend section 24 of the 1991 Act, thereby enabling a restitution order to be recovered via a deduction from benefits order.

I understand that our officials, and those in Ministry of Justice and the Scotland Office, have been in contact and working constructively together regarding this proposed order. My officials have liaised with officials from the Office of the Secretary of State for Scotland regarding the timetable for the proposed order. It would therefore be very helpful to have confirmation by 12 July 2019 that you are content in-principle for this Order to be taken forward.

Final Ministerial agreement for the section 104 Order to be laid in draft in the UK Parliament will be sought, in the usual manner, when the draft Order is ready to begin its Parliamentary scrutiny.

I am writing in similar terms to the Rt Hon David Gauke MP, Secretary of State for Justice, and I am copying these letters to the Rt Hon David Mundell MP, Secretary of State for Scotland.



HUMZA YOUSAF

From: [Redacted]@gov.scot] On Behalf Of CabSecJustice@gov.scot
Sent: 05 July 2019 15:00
To: Private Office David Gauke <privateoffice.gauke@justice.gov.uk>
Cc: CabSecJustice@gov.scot
Subject: Letter from the Cabinet Secretary for Justice - Restitution Orders

BY EMAIL ONLY

Good afternoon

Please find attached a letter from the Cabinet Secretary for Justice regarding Restitution Orders – Scotland Act Order Required Under Section 104.

Kind regards

[Redacted]

[Redacted]

Assistant Private Secretary

Office of Humza Yousaf, Cabinet Secretary for Justice

Cabinet Secretary for Justice
Humza Yousaf MSP



Scottish Government
Riaghaltas na h-Alba
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T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon David Gauke MP
Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

5 July 2019

Dear David

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

Further to my letter of 26 March and your reply of 25 April, I am writing to seek your agreement in-principle to the making of an Order under section 104 of the Scotland Act 1998. This Order is in consequence of the Victims and Witnesses (Scotland) Act 2014 ("the 2014 Act").

Section 25 of the 2014 Act inserts new sections 253A – 253E into the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"), which introduce the restitution order and related provisions. The restitution order is a new financial penalty which can be imposed on persons convicted of the offence of police assault set out in section 90(1) of the new Police and Fire Reform (Scotland) Act 2012. This new penalty can be imposed by the court instead of or in addition to dealing with the offender in any other way – a person convicted of police assault could therefore receive a fine and a restitution order.

The money received in relation to a restitution order must be placed into a separate fund to be known as the Restitution Fund, which is to be used to provide services which care for, treat or rehabilitate victims of the offence of police assault set out in section 90(1) of the 1995 Act.

Section 24 of the Criminal Justice Act 1991 ("the 1991 Act") gives the Secretary of State the power to introduce a process, via subordinate legislation, whereby courts can apply for a deduction from an offender's benefits to pay for a fine or compensation order. The application process, and the power to make appropriate deductions, are contained in the Fines (Deductions from Income Support) Regulations 1992 (S.I. 1992/2182 ("the 1992 Regulations").

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbyins.scot

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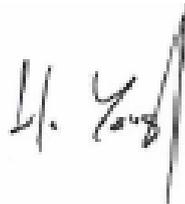


Using the 1992 regulations, the Department for Work and Pensions, following an application from the Scottish Courts and Tribunals Service, currently recover fines and compensation orders by direct deduction from an offenders benefits (a deduction from benefits order). The power to impose a deduction from benefits order does not currently extend to the new restitution order in Scotland. We are therefore seeking an Order under section 104 of the Scotland Act 1998, to amend section 24 of the 1991 Act, thereby enabling a restitution order to be recovered via a deduction from benefits order.

I understand that our officials, and those in Department of Work and Pensions and the Scotland Office, have been in contact and working constructively together regarding this proposed order. My officials have liaised with officials from the Office of the Secretary of State for Scotland regarding the timetable for the proposed order. It would therefore be very helpful to have confirmation by 12 July 2019 that you are content in-principle for this Order to be taken forward.

Final Ministerial agreement for the section 104 Order to be laid in draft in the UK Parliament will be sought, in the usual manner, when the draft Order is ready to begin its Parliamentary scrutiny.

I am writing in similar terms to the Rt Hon Amber Rudd MP, Secretary of State for Work and Pensions, and I am copying these letters to the Rt Hon David Mundell MP, Secretary of State for Scotland.



HUMZA YOUSAF

From: [Redacted]
Sent: 04 July 2019 11:09
To: [Redacted]@dwp.gov.uk>; [Redacted]@Justice.gov.uk>; [Redacted]@scotlandoffice.gsi.gov.uk>; [Redacted]@scotlandoffice.gsi.gov.uk>
Cc: [Redacted]@gov.scot>; [Redacted]@advocategeneral.gov.uk>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>; [Redacted]@dwp.gov.uk>; [Redacted]@Justice.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

[Redacted]

Yes, you're right the timetable says in-principle agreement from Ministers by 12 July, then agreement on the draft order by 26 July, so I should have spelled that out. However I would imagine that if there was slippage on 12 July, but both could be in place by that target date of 26 July then that would be great.

From my perspective we have the advantage that we have in-principle agreement from Secretary of State for Scotland contingent on in-principle agreement from the other departments.

I realise that the timing is a bit of a challenge and that there are many factors that influence how quickly a Minister can respond, so very grateful that you are doing what you can to achieve it and I can ask no more than that.

Many thanks

[Redacted] | Police Workforce Team Leader ([Redacted]) | Police Powers & Workforce Unit | Safer Communities Directorate | Scottish Government |
Area 1R, St Andrew's House, Edinburgh, EH1 3DG | tel [Redacted]

From [Redacted]@dwp.gov.uk>
Sent: 03 July 2019 16:53
To: [Redacted]@Justice.gov.uk>; [Redacted]@gov.scot>; [Redacted]@scotlandoffice.gsi.gov.uk>; [Redacted]@scotlandoffice.gsi.gov.uk>
Cc: [Redacted]@gov.scot>; [Redacted]@advocategeneral.gov.uk>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>; [Redacted]@dwp.gov.uk>; [Redacted]@Justice.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

[Redacted]

Just noticed proper deadline. I'm with [Redacted] on this - 12 July will be pushing things. Send shortbread urgently.

Thanks

[Redacted] | Working Age Benefits | UC and Working Age Policy Directorate | 1st Floor, King's Court, 80 Hanover Way, Sheffield, S3 7UF

Phone[Redacted]

From: [Redacted]@Justice.gov.uk>

Sent: 03 July 2019 16:40

To: [Redacted]@DWP.GSI.GOV.UK>; [Redacted]@gov.scot; [Redacted]@scotlandoffice.gsi.gov.uk; [Redacted]@scotlandoffice.gsi.gov.uk

Cc: [Redacted]@gov.scot; [Redacted]@advocategeneral.gov.uk; [Redacted]@gov.scot; [Redacted]@gov.scot; [Redacted]@DWP.GSI.GOV.UK>; [Redacted]@DWP.GSI.GOV.UK>; [Redacted]@Justice.gov.uk>

Subject: RE: Scotland Act Order - section 104 - Restitution Order

Hi [Redacted]

And an update from me... I have sent the draft s104 order to my lawyer so that she can confirm whether she is content. I have also alerted the Justice Secretary's private office that the letter from Mr Yousaf is being sent this week so to send it my way when received. I will then prepare the submission for in-principle agreement. I think the timetable actually says 12 July for in-principle agreement, with 26 July being the date for policy and legal from all depts. to agree the order. 12 July is next Friday so I am not certain we would be able to get a response from the SoS that quickly as it doesn't give long, but I will try and progress things from my end as quickly as I can.

Many thanks
[Redacted]

[Redacted]Non-custodial sentencing
Bail, Sentencing and Release Policy
Mobile: [Redacted]
Find out more on People Finder
Follow us on Twitter @MoJGovUK

From: [Redacted]@dwp.gov.uk]

Sent: 03 July 2019 16:30

To: [Redacted]@gov.scot; [Redacted]@scotlandoffice.gsi.gov.uk; [Redacted]@scotlandoffice.gsi.gov.uk; [Redacted]@Justice.gov.uk>

Cc: [Redacted]@gov.scot; [Redacted]@advocategeneral.gov.uk[Redacted]@gov.scot; [Redacted]@gov.scot; [Redacted]@dwp.gov.uk>; [Redacted]@dwp.gov.uk>

Subject: RE: Scotland Act Order - section 104 - Restitution Order

[Redacted]

Submission went off to SSWP this morning, alerting her to forthcoming letter from Mr Yousaf. I note your target date for in-principle agreement as being 26 July. Be assured, we have our very smartest running shoes on.

I am arranging for a DWP lawyer to affirm consent to the s104 process.

I'll be back when all is safely gathered in.

Thanks

[Redacted] | Working Age Benefits | UC and Working Age Policy Directorate | 1st Floor, King's Court,
80 Hanover Way, Sheffield, S3 7UF

Phone: [Redacted]

From: [Redacted]@gov.scot>

Sent: 03 July 2019 14:26

To: [Redacted]@scotlandoffice.gsi.gov.uk; [Redacted]@scotlandoffice.gsi.gov.uk;

[Redacted]@DWP.GSI.GOV.UK>; Lucy.Wilding@Justice.gov.uk

Cc: [Redacted]@gov.scot; [Redacted]@advocategeneral.gov.uk; [Redacted]@gov.scot;

[Redacted]@gov.scot

Subject: RE: Scotland Act Order - section 104 - Restitution Order

Colleagues

[Redacted] from our Legal team has provided an updated draft of the section 104 order taking into account the comments made by OAG[Redacted]DWP. This version now aligns more closely with the finalised version of the victim surcharge section 104 order which was approved by both houses of Parliament last week.

My understanding is that we need to have agreement of policy and legal officials in SO, DWP and Ministry of Justice before this goes to OAG for its formal check. The target deadline for agreement is 26 July. I would be grateful if you could share with your legal teams and confirm they are content, or contact [Redacted] with any legal queries or comments, ideally before [Redacted] goes on leave on 18 July.

I will also need to complete the attached clearance pro forma which includes details of the policy and legal contacts in the various departments and date of agreement, so please share the necessary information in due course.

It may be helpful to know that we are expecting Mr Yousaf, Cabinet Secretary for Justice, to write to your Ministers this week seeking in-principle agreement to the section 104 Order.

Thanks for your input so far and please give me a call if you would like to discuss. (I work until 2pm or so Monday to Friday.)

[Redacted]

[Redacted] | Police Workforce Team Leader ([Redacted]) | Police Powers & Workforce Unit | Safer Communities Directorate | Scottish Government |
Area 1R, St Andrew's House, Edinburgh, EH1 3DG | tel [Redacted]

From: [Redacted]@scotlandoffice.gsi.gov.uk>
Sent: 19 June 2019 16:38
To: [Redacted]@gov.scot>; [Redacted]@gov.scot>
Cc: [Redacted]@gov.scot>; [Redacted]@advocategeneral.gsi.gov.uk>;
[Redacted]@scotlandoffice.gsi.gov.uk>; [Redacted]@gov.scot>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

Hi [Redacted]

Thank you for confirmation of territorial extent and terming restitution orders a “penalty”. Below are some very brief comments on the Order from OAG, and also I have attached some relevant documentation regarding in-principle agreement.

[Redacted]

In-principle agreement

Once the policy has been agreed, and you can provide confirmation that DWP and MOJ are content to give their agreement at official level, then the process of seeking ministerial in-principle agreement can be started. Usually, an SG minister would write to the OSSS and any other relevant UKG depts., however as there has already been an exchange of letters between your Cab Sec for Justice and SoS Scotland, discussing the Order and in-principle agreement, in this case I would advise your minister just writes to MOJ and DWP.

For information, I have attached a template for an in-principle letter to any UKG department, and an example letter sent from an SG to OSSS Minister (victim surcharge).

It may appear I am sending this to you a little early, however I am going to be out of office from 24th June to 15th July, and wanted to make sure you had all material guidance you may need, before I left. Should you have any further queries from the OSSS during this time, please direct them towards my colleague [Redacted] (cc'd) who also has oversight of the SAO process.

All the best,

[Redacted]

[Redacted], Policy Advisor,
Scotland Act Order programme,
Primary and Secondary Legislation Team,
Constitutional Policy (Scotland)
T: [Redacted]

Addressee
Address

Our ref:
Date

I am writing to seek your agreement in-principle to the making of an Order under section 104 of the Scotland Act 1998 ("the 1998 Act") to make provisions in consequence of the name of ASP/Bill. The section 104 Order will be taken forward in the UK Parliament by the Office of the Secretary of State for Scotland and is subject to affirmative/negative resolution procedure.

The overarching purpose of the ASP/Bill is to xxx.

A section 104 Order under the 1998 Act is used to make consequential amendments to reserved legislation, which are considered expedient or necessary, in consequence of an Act of the Scottish Parliament. A section 104 Order under the 1998 Act has been identified as the most appropriate legislative vehicle to take forward the consequential amendments that are required in consequence to the ASP/Bill.

With regard to the ASP/Bill, this Order is required to XXX.

I understand that our officials, and those officials in any other relevant department(s), are in the process of agreeing the policy for the provisions to be included in this Order, and that detailed drafting of the Order will begin shortly. My officials have liaised with officials from the Office of the Secretary of State for Scotland regarding the proposed Order, and have provided them with our plans and proposed timetable. It would, therefore, be very helpful to have confirmation by date that you are content in-principle for this Order to be taken forward.

Final Ministerial agreement for the section 104 Order to be laid in draft in the UK Parliament will be sought in the usual manner, when the draft Order is ready to begin its Parliamentary scrutiny.

I am copying this letter to other relevant UKG departments and to the Rt Hon David Mundell MP, Secretary of State for Scotland.

MINISTER



T: 0300 244 4000
E: scottish.ministers@gov.scot

Rt Hon David Mundell MP
Secretary of State for Scotland
Dover House
Whitehall
London
SW1A 2AU

25 September 2018

Dear David,

VICTIM SURCHARGE - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

I write seeking agreement in principle to the making of an Order under section 104 of the Scotland Act 1998. This Order is in consequence of the Victims and Witnesses (Scotland) Act 2014 ('the 2014 Act').

The 2014 Act inserts sections 253F - 253J into the Criminal Procedure (Scotland) Act 1995, which introduce a victim surcharge and related provisions. The victim surcharge is a new financial penalty which will be imposed on offenders who receive a court fine, with the money raised to be placed in the Victim Surcharge Fund (VSF). The VSF will be used to make payments to those who provide or secure the provision of victim support services.

Section 24 of the Criminal Justice Act 1991 ("the 1991 Act") gives the Secretary of State the power to introduce a process, via subordinate legislation, whereby courts can apply for a deduction from an offender's benefits to pay for a fine or compensation order. The application process, and the power to make appropriate deductions, are contained in the Fines (Deductions from Income Support) Regulations 1992 (S.I. 1992/2182) ("the 1992 Regulations").

Using the 1992 Regulations, the Department for Work & Pensions, following an application from the Scottish Courts and Tribunals Service, currently recover fines and compensation orders by direct deduction from an offender's benefits.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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www.gov.scot



However, whilst, by virtue of section 24(3A) of the 1991 Act, the reference to a "fine" includes the victim surcharge in England and Wales (which was introduced in 2007), the power to enforce financial penalties under section 24 does not currently extend to the new victim surcharge in Scotland. We are therefore seeking an Order under section 104 of the Scotland Act 1998, to amend section 24 of the 1991 Act, thereby facilitating recovery of the surcharge via deduction from benefits and bringing Scotland into line with powers that already exist in England & Wales.

Our respective officials have been in contact regarding the content of this proposed Order. These discussions have been positive and will continue.

Our intention is for The Victim Surcharge (Scotland) Regulations, which will implement the surcharge, to be laid before the Scottish Parliament, as soon as practicable after the section 104 Order is made. It would therefore be helpful to have your reply as early as possible.

I have also sent a copy of this letter to the Rt Hon David Gauke MP, Secretary of State for Justice and the Rt Hon Esther McVey MP, Secretary of State for Work and Pensions.

Best wishes,
H. You

HUMZA YOUSAF

From: [Redacted] @scotlandoffice.gsi.gov.uk>
Sent: 13 June 2019 10:14
To: [Redacted]@gov.scot>
Cc: [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@gov.scot>;
[Redacted]@dwp.gov.uk>; [Redacted]@Justice.gov.uk>; [Redacted]@advocategeneral.gsi.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

Hi [Redacted]

Thanks for your time on the phone yesterday.

As mentioned, I have spoken to OAG about the policy summary and legally the substance of the summary looks fine. We spoke on the phone about a few different points:

[Redacted]

- Timetable – we spoke about the in-force deadline for the Order and what a feasible timetable may look like. Whilst we will work towards the Order being in-force as soon as practicable, the 1 November is an unrealistic goal to set ourselves. I've attached a draft timetable here for your consideration – happy to answer any questions on that.
- Two Orders – the proposal for restitution orders is broadly similar to that for the victim surcharge, and plans to amend the same piece of UK reserved legislation. I noted that we would have expected these provisions to be presented in one Order, in aid of duplicating resource for all involved and avoiding possible Parliamentary criticism for Ministers. I can confirm that the letter we spoke about from our SoS to the Cab Sec for Justice has now issued (attached), you may have had sight of this already.

Next steps

- For you to ensure that agreement is reached at official level on the policy, and also on the draft Order.
- Once agreement is reached at official level, the process for seeking in-principle ministerial agreement should begin. This is where an SG Minister will write to UKG departments (in this case DWP, MOJ and usually OSSS – though our in-principle agreement has somewhat already been given in the letter issued yesterday) to ask for in-principle agreement for the Order to be made. I can send you through template and example letters to support this process.
- I attach a clearance pro-forma document to be completed, which will confirm that all necessary steps have been taken before the legal 12 week checks begin.

Happy to discuss anything.

All the best,

[Redacted]
[Redacted], Policy Advisor,
Scotland Act Order programme,
Primary and Secondary Legislation Team,
Constitutional Policy (Scotland)
T: [Redacted]

SUBORDINATE LEGISLATION UNDER THE SCOTLAND ACT 1998 SUBJECT TO AFFIRMATIVE RESOLUTION

TIMETABLE – Restitution Orders s.104

	Stage	Start Date	End Date	Action Needed to Achieve Date	Responsibility	Comments
1	Assessment of the policy summary by OSSS/OAG	31/05/19	14/06/19			
2	Prepare Policy Instructions		14/06/19	To be agreed between SG and HMG; OSSS and OAG input as required.	SG and HMG Depts	Policy Instructions must accompany the Order when this is submitted to OAG
3	Submission to Ministers for in-principle agreement	17/06/19	12/07/19	SG and HMG Ministers to provide their in-principle agreement to the Order.	OSSS, SG and HMG	Letter to issue from SG to HMG and OSSS. OSSS official can provide template letters and examples of previously issued letters
4	Drafting of Order and Explanatory Note		26/07/19	Agree draft Order between SG and relevant HMG depts.	SG and HMG	SG officials need to agree the draft Order with relevant HMG departments.
5	Date by which full policy and legal drafting of the draft Order and Explanatory Note must be agreed		26/07/19	Policy and legal agreement must be reached at official level. SG to complete Clearance Pro-forma document outlining the contacts' agreement from all relevant departments.	SG and HMG	<u>Policy and legal officials in both the SG and HMG must agree to a finalised version of the draft Order and provide this to OAG.</u> It must be stressed that only a fully agreed version is sent to OAG – not a version which still requires comment or final agreement. Policy/drafting instructions should accompany the draft Order.
6	OAG and Parliamentary Counsel checks (OAG to organise review of	29/07/19	21/10/19	12 weeks. This cannot be reduced without the express consent of OAG and Parly Counsel	OAG as lead action officer	OAG need 12 weeks from receipt of the final and agreed draft Order to obtain views from SPC OAG and OPC (which can be extensive) and consider

	Stage	Start Date	End Date	Action Needed to Achieve Date	Responsibility	Comments
	Draft Order and Explanatory Note)				PC OAG and OPC	these, do OAG's own checks, and to discuss those points with SG and HMG, obtain a redraft of the Order and have that cleared.
7	Explanatory Memorandum Drafted		21/10/19	EM to be drafted by OSSS and contributed to by SG, HMG/NIE/WG and OAG. OSSS to circulate revised drafts.	OSSS	OSSS retains responsibility for the EM but will circulate this to both policy and legal leads in SG and HMG before the agreed EM is submitted to OAG for their comments. The finalised and agreed EM must accompany the draft Order when this is sent to Counsel to the JCSI.
8	Styling and Validation of the Order	21/10/19	04/11/19		OAG as lead action officer	Two weeks are allocated for the Order to be styled, validated and have the appropriate DS checks completed.
9	"Triage" of Order	October triage, likely will be 4 October (could be different dependent on UK conference recess)		OSSS to complete information needed in the legislative programme tool, with input from SG/HMG. Can triage at the earliest 3 months before requested laying date.	OSSS	Triage is the process by which SIs are scrutinised and given approval for their requested laying date. Each triage considers laying dates for the following three months, for example a January triage would decide laying dates for February, March and April. Triage happens monthly, on the first Friday of the month, and the results are usually heard 2 weeks afterward.
10	Draft Order to Counsel to the JCSI	06/11/19	04/12/19		OAG	Where possible, Counsel to the JCSI will provide comments within <u>2 sitting</u> weeks. These comments then need to be addressed, agreed and have the revised draft re-circulated. These can

	Stage	Start Date	End Date	Action Needed to Achieve Date	Responsibility	Comments
						be extensive and time consuming to resolve. Only sitting weeks should be scheduled
11	Final Ministerial agreement obtained - submission made and agreed	04/12/19	18/12/19	Submission and letter drafted. Start this stage earlier where possible to get letters completed before Christmas.	OSSS, SG and HMG	Ministerial agreement must be given before the Order can go forward to be laid in Parliament. OSSS Ministerial agreement to take the Order through Parliament must also be sought . OSSS official can provide template letters and examples of previously issued letters.
12	Submission of final paperwork for laying	06/01/20		Submission of final Order, EM, SI info form and confirmation of FMA to Parly Section	OSSS	The Order should be validated before sending
13	Pre-Laying Arrangements		13/01/20	The required paperwork will be prepared by Parly	OSSS Parly Section	This includes copying the Order and EM and preparing the documentation that accompanies the draft Order when this is laid in the UK Parliament.
14	Laying date of draft Order in UK Parliament		15/01/20	OSSS Parly Section to liaise with the UK Parliament	OSSS Parly Section	This will depend on the other stages of this Order being met. Parliament must be sitting. Allow 8 weeks, excluding recess, for Parliamentary passage from laying to in-force.
15	Completion of Briefing Pack		27/01/20	Circulate for contributions from SG and HMG	OSSS	Relevant departments within HMG and SG should be asked for contributions to Q&A
16	Debates in the UK Parliament		January/ February 20	OSSS Parly Section to liaise with the UK Parliament Whips Office	OSSS Parly Section and	OSSS to lead on briefing OSSS Ministers, with input from OAG, SG and HMG.

	Stage	Start Date	End Date	Action Needed to Achieve Date	Responsibility	Comments
					OSSS Private Office	Debates will be scheduled by Whips Office once JCSI & SLSC have scrutinised Order
17	Order to be made by Scotland Office Minister		March 20	Approved Order to be put to the Scotland Office Minister to be signed.	OSSS Parly Section and OSSS Private Office	Order will be made once Parliamentary approval has been given.
18	Date Order to come into force		March 20	-	-	Once the Order has been approved by the UK Parliament, Order will either come into force on date specified in the Order or on the day after the day on which it is made

From: [Redacted]
Sent: 03 June 2019 14:59
To: [Redacted]@gov.scot>
Cc: [Redacted]@advocategeneral.gsi.gov.uk>; [Redacted]@gov.scot[Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>; [Redacted]@Justice.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

Hi [Redacted]

It would be great to know the level of agreement reached with DWP and MOJ on the policy summary and/or the Order itself? You mentioned there is further work to take forward with DWP before it would be appropriate to seek their Ministers' consent – grateful for clarification on what this is?

On the timetabling, I will look at drafting a timetable to get a better idea of expected timescales from this point forwards.

I should say that OAG will be providing legal advice to us at the OSSS on the policy summary (and not the Order until it is fully finalised and agreed, and corresponding UKG departments have given their in-principle agreement to it being made). Once we have received advice from OAG we will advise you on the Order itself.

All the best,

[Redacted]

[Redacted], Policy Advisor,
Scotland Act Order programme,
Primary and Secondary Legislation Team,
Constitutional Policy (Scotland)
T: [Redacted]

From: [Redacted]@gov.scot>
Sent: 03 June 2019 14:13
To: [Redacted]@scotlandoffice.gsi.gov.uk>; [Redacted]@Justice.gov.uk>
Cc: [Redacted]@advocategeneral.gsi.gov.uk>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

Thanks [Redacted]

Yes it is broadly similar to the Victim Surcharge, and we had hoped that perhaps this could impact beneficially in terms of timings, although I completely accept your point that there are many steps to go through.

I am copying in [Redacted] at Ministry of Justice, to keep her in the loop.

[Redacted]

[Redacted] | Police Workforce Team Leader ([Redacted]) | Police Powers & Workforce Unit | Safer Communities Directorate | Scottish Government |
Area 1R, St Andrew's House, Edinburgh, EH1 3DG | tel [Redacted]

From: [Redacted]@scotlandoffice.gsi.gov.uk>
Sent: 03 June 2019 13:15
To: [Redacted]@gov.scot>
Cc: [Redacted]@advocategeneral.gsi.gov.uk[Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

Hi [Redacted]

Thank you for these, and the update regarding discussions with [Redacted] in DWP.

OAG will now consider the draft policy summary and your proposal. From a non-legal eye the policy and changes look broadly similar to the current Victim Surcharge s.104, however OAG will ultimately weigh up the proposal.

Regarding the proposed timescales in your policy summary, and target in-force of 1st November 2019, I should say (as I mentioned on our initial call) that a Scotland Act Order takes on average 12 months to be completed and in-force. As you will see from the SAO guidance document I sent previously, there are many steps in the process and a number of these have timescales outwith our control. There are also a great number of non-aligned recess periods on the horizon, spanning generally from the end of June to September, and then likely again in October. As a point of reference, the Victim Surcharge s.104 Order process began over 12 months before it is due to come into force (July 2019), and the policy summary for this Order was finalised in June 2018, 13 months before it is due to come into force.

I hope that all makes sense, and of course happy to discuss.

Best,

[Redacted]

[Redacted], Policy Advisor,
Scotland Act Order programme,
Primary and Secondary Legislation Team,
Constitutional Policy (Scotland)
T: [Redacted]

From: [Redacted]@gov.scot>
Sent: 31 May 2019 11:43
To: [Redacted]@scotlandoffice.gsi.gov.uk>
Cc: [Redacted]@advocategeneral.gsi.gov.uk>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@gov.scot>; [Redacted]@dwp.gov.uk>
Subject: RE: Scotland Act Order - section 104 - Restitution Order

[Redacted]

Here is a draft policy statement and a draft of the section 104 order, in relation to Restitution Orders.

I have already shared these drafts with our contact [Redacted] in DWP who had no issue with the text of the policy summary, and suggested small changes to the draft order which we have taken on board. That said, we still have further work to take forward with DWP before it would be appropriate to seek their Ministers consent.

I am happy to discuss if this would be helpful, or to receive any comments you may wish to offer.

Thanks

[Redacted]

[Redacted] | Police Workforce Team Leader ([Redacted]) | Police Powers & Workforce Unit | Safer Communities Directorate | Scottish Government |
Area 1R, St Andrew's House, Edinburgh, EH1 3DG | tel [Redacted]

Scotland Act Order Policy Summary

1. Type of Proposed Order (section 104, 93, 63, etc.)

Section 104

2. Name of Proposed Order (at least a working title)

The Victims and Witnesses (Scotland) Act 2014 (Consequential Modification) (No. 2) Order 2019

3. Subject Matter

a) Policy (in as much detail as possible, explain why this Order is required and how it fits in with existing and proposed new legislation. For example, if there is going to be a gap in your Bill, explain what you will need from this Order to bridge that gap. Or, if the issue is one of legislative competence, explain what would otherwise have been included in the Bill. If the Order includes consequential amendments, please provide as much detail as possible at the moment and follow this up as soon as you have more information. In all cases, please document your desired policy outcomes as fully as possible)

The Victims and Witnesses (Scotland) Act 2014 ('the 2014 Act') introduces various measures to improve the support and information available to victims and witnesses of crime in Scotland and is being implemented in stages.

Section 25 of the 2014 Act inserts new sections 253A – 253E into the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") which introduce the restitution order and related provisions. The restitution order is a new financial penalty which can be imposed on persons convicted of the offence set out in section 90(1) of the Police and Fire Reform (Scotland) Act 2012 (assaulting or impeding police). This new penalty can be imposed instead of or in addition to any other sentence which the court may impose for that offence. The money received in relation to a restitution order to be placed into a separate fund to be known as the Restitution Fund ('the Fund').

The policy behind the creation of this new financial penalty is that it should be possible for courts to require those who are convicted of the statutory offence of assaulting a police officer or member of police staff to contribute to the cost of providing services which care for, treat or rehabilitate police officers.

The purpose of the Fund, set out in new section 253B(3) of the 1995 Act, is to secure the provision of support services to victims of the offence of police assault set out in section 90(1) of the 1995 Act.

In the event of non-payment of a financial penalty (fine or compensation order), one method currently available for enforcement is for the court to authorise direct deduction from an offender's benefits. The power to enforce financial penalties in this way sits in UK legislation and, at this time, this power does not extend to the restitution order.

Section 24 of the Criminal Justice Act 1991 ("the 1991 Act") gives the Secretary of State the power to introduce a process, via subordinate legislation, whereby courts can apply to the Secretary of State for a deduction from an offender's benefits to pay for, inter alia, a fine or compensation order. The Fines (Deductions from Income Support) Regulations 1992 (SI 1992/2182) ("the 1992 Regulations") introduce this application process and empower the Secretary of State to make deductions from benefits in order to meet a fine or a compensation order. The benefits from which deductions may be made are: income support, universal credit, state pension credit, jobseeker's allowance or employment and support allowance.

The 1995 Act makes provision, in sections 226A to 226I, for the recovery of "relevant penalties" by fine enforcement officers ("FEOs"). Section 226E of the 1995 Act provides that an FEO may request a court to apply under regulations made under section 24 of the 1991 Act for deductions from the relevant offender's benefits in order to pay a relevant penalty. Relevant penalty is defined in section 226I as including fines, compensation orders, fixed penalties and any other penalty as the Scottish Ministers may by order specify for the purposes of this section.

The Scottish Ministers propose to prescribe the restitution order as a relevant penalty for the purposes of the rules on fine enforcement in sections 226A to 226I of the 1995 Act. This would enable FEOs to take action to recover sums owed by an offender under the restitution order

– this would include requesting the court to apply for a deduction from benefits order (“DBO”) to recover those sums.

The process for applying for deductions from benefits is determined by the 1991 Act and the 1992 Regulations. The 1992 Regulations only provide a scheme for deductions from benefits to secure payment of fines, compensation orders or the victim surcharge. Section 24 of the 1991 Act only gives the Secretary of State power to introduce a scheme for deductions from benefits to secure payment of certain financial penalties which currently do not include the restitution order. Section 24 could not therefore be used to introduce a scheme for the payment of the restitution order via deductions from the offender’s benefits. Accordingly, any application by a court in Scotland for a DBO in order to recover monies due under a restitution order would require to be refused by the Secretary of State.

For the Secretary of State to be able to grant a DBO in relation to a restitution order in Scotland, an amendment to section 24 of the 1991 Act would be required. As social security schemes for making deductions from benefits are expressly reserved to the UK Government under paragraph F1 of Schedule 5 to the Scotland Act 1998, any amendment to the 1991 Act or the 1992 Regulations would require to be undertaken by the UK Government.

b) Legal Changes (explain the legal changes which will be required to implement your policy. As fully as possible, you should include details of the legislation which will need amending)

An amendment would be required to section 24 of the 1991 Act to enable the Secretary of State to make provision in Regulations for deductions to be made from an offender’s benefits in order to pay a ‘restitution order’. If the references to a “fine” in section 24(1) and (3) of the 1991 Act could be modified so as to include a reference to the restitution order, there would be no need for a consequential amendment to the 1992 Regulations made under section 24. References to a fine in the 1992 Regulations would thereafter include references to the restitution order.

c) Procedure (anticipate whether this should follow affirmative or negative procedure - or other procedure if applicable - and explain the reasons for this view)

As the section 104 order will amend primary legislation we anticipate that it will require to be subject to affirmative procedure.

4. Creation of offences (does this Order create, or restate, an offence in the law of England and/or Wales?)

No

- 5. Extent of Order (does this Order cover Scotland only or does it extend to England/Wales/Northern Ireland? Wales Office and Northern Ireland Office and the Devolved Administrations in Wales and Northern Ireland may need to be consulted if any of the subject matter is devolved to Wales or Northern Ireland)**

Scotland only

- 6. Into Force Date (please give a target date, even if this will be subject to change. Please explain why this target date is required and what impact there will be if this date is not met. Implications of delays are critical. You should include any known factors that may affect the timetable)**

We're aiming to implement the Restitution Fund via the commencement of section 25 of the 2014 Act on or about 1st November 2019. From that date, it will be imperative that Scottish Courts are able to seek a deduction from benefits order in relation to a restitution order, to ensure that monies due under a restitution order can be collected in the same manner as fines.

It is possible that we could implement the restitution order without the ability to seek a deduction from benefits order to assist the collection of the monies due. However, the Scottish Courts have indicated that this will require at least 6 months and incur significant resources in order to alter their current business rules for the collection of fines.

This approach would also bring risks where a court imposes a combination of financial penalties such as a restitution order combined with either a compensation or a fine. Section 253D of the 1995 Act requires monies received from the offender should be put towards payment of the compensation order, then the restitution order and then the fine. If funds are received from a DBO in order to pay a fine or compensation order then it is not clear how this hierarchy of payments could be adhered to if the DBO could not apply to the restitution order.

Our strong preference is therefore to have this s104 order in place by 1st November 2019.

- 7. Lead Official(s) (contact details for both Policy and Legal contacts)**

Policy – [Redacted] | Police Division: Powers and Workforce | Scottish Government | 1R St Andrew's House | Edinburgh | EH1 3DG | Tel – [Redacted] | E-mail [Redacted]

Legal –
[Redacted]Criminal Justice, Police & Fire Division

Scottish Government Legal Directorate
GB-South Victoria Quay
Edinburgh EH6 6QQ
[Redacted]

- 8. Other Relevant Contact Details (contact details of any officials you have already been in contact with regarding this proposed Order within any relevant UK Government department or Devolved Administration. If no contact has been made yet, details of Departments you intend to involve)**

We have had on-going and constructive contact with:

[Redacted] Working Age Benefits, UC Policy Division | Strategy, Policy and Analysis Group | 1st Floor, King's Court, 80 Hanover Way, Sheffield, S3 7UF

[Redacted]

Phone: King's Court = [Redacted]

- 9. Drafting Proposals (is there a draft already available? If not, what are your proposals for the drafting? Will the Office of the Scottish Parliamentary Counsel draft the Order? If not, who is drafting the Order?)**

A draft section 104 order has been prepared and is attached. It is anticipated that the order will be subject to revision by UK Government lawyers and will be checked by Scottish Parliamentary Counsel in their role as Parliamentary Counsel for the UK Government.

- 10. Impact Assessment. Will this Order impact on the private or voluntary sectors? Has an Impact Assessment been carried out or considered? The need for and Impact Assessment should be considered against the HMG document "Impact Assessment Guidance - when to do an impact assessment"**

No impact is envisaged on the private or voluntary sectors.

- 11. Consultation. Will the terms of this Order necessitate a public consultation being carried out before it is laid in Parliament? Please outline your reasoning if public consultation is not required.**

No. A public consultation paper, 'Making Justice Work for Victims and Witnesses' was published in July 2012 prior to the introduction of the Victims and Witnesses Bill, and non-confidential responses and an analysis are available on the Scottish Government's website.

The Bill was part of the Scottish Government Programme for Government commitment and was part of the Making Justice Work programme, aimed at creating a more efficient justice system and improving public confidence. The proposals were supported by the majority of stakeholders.

From: SO Min Corr <SOMinCorr@scotlandoffice.gsi.gov.uk>
Sent: 12 June 2019 15:28
To: Cabinet Secretary for Justice <CabSecJustice@gov.scot>
Cc: SO Min Corr <SOMinCorr@scotlandoffice.gsi.gov.uk>
Subject: Restitution Orders - Scotland Act order required under section 104

Please see attached response from Rt Hon David Mundell MP, Secretary of State for Scotland.

[Redacted] | Correspondence Manager | Scotland Office | Dover House | Whitehall | London | SW1A
2AU | Tel: [Redacted]
@UKGovScotland | [facebook.com/ukgovscotland](https://www.facebook.com/ukgovscotland)
Keep up to date with UK Gov activity in Scotland [here](#)



Humza Yousaf MSP
Cabinet Secretary for Justice
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

12 June 2019

Dear Humza,

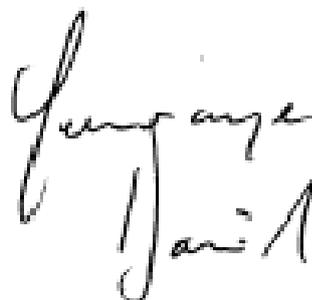
Thank for your letter of 26 March 2019 notifying me of your intention to implement restitution orders. I understand that restitution orders are a new financial charge in relation to assault on police officers, and the money raised will be placed into a Restitution Fund to support victims.

On 31 May 2019 your officials sent a detailed proposal for a new section 104 Order required to implement restitution orders in Scotland. The legislative proposal suggests amending the Criminal Justice Act 1991 to achieve its policy aim. The victim surcharge section 104 Order, laid in the UK Parliament on 16 May, is presently amending the same 1991 Act. I understand that these provisions need to be in-force before the Scottish Government can implement their own regulations for the victim surcharge this Autumn.

Normally, it would be preferable to have a single section 104 Order in consequence of an Act of the Scottish Parliament incorporating all required provisions. This is to avoid duplicating resource and UK Parliamentary scrutiny, particularly important with respect to Orders subject to affirmative procedure as these must be debated in both Houses of the UK Parliament. In this case, best practice would therefore mean withdrawing the current victim surcharge Order and adding in provision to support the implementation of restitution orders.

However, given that the withdrawal of this Order would delay support for victims of crime in Scotland, on this occasion, I am agreeing to progress two separate Scotland Act Orders. This approach has been agreed to in exceptional circumstances, but in future it would be preferable for the Scottish Government to continue to combine their policy in line with the best practice for Scotland Act Orders. This agreement is also contingent on other UK Government departments agreeing in-principle to legislation to implement restitution orders.

In their policy proposal, your officials have requested a second 104 Order for restitution orders should be in-force by 1 November 2019. Whilst my officials will endeavour to progress this Order as quickly as practicable, the process normally spans 12 months from receiving a policy proposal from the Scottish Government. I would be grateful if your officials could consider this timeframe, and liaise with my officials as early as possible, when organising their legislative programmes.

A handwritten signature in black ink, appearing to read 'David Mundell', written in a cursive style.

**Rt Hon DAVID MUNDELL MP
SECRETARY OF STATE FOR SCOTLAND**



Ministry
of Justice

Humza Yousaf MSP
Cabinet Secretary for Justice
Scottish Government
St Andrew's House
Regent Road
Edinburgh EH1 3DG

The Right Honourable
David Gauke MP
Lord Chancellor & Secretary of
State for Justice

MOJ Ref: 87563

25 April 2019

Dear Humza

RESTITUTION ORDERS – SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

Thank you for your letter of 26 March regarding the need for an order under section 104 of the Scotland Act 1998 to facilitate the recovery of restitution orders via deduction from offenders' benefits.

I have asked my officials to liaise with your officials on this matter and I understand that they are in contact.

Yours ever
David

RT HON DAVID GAUKE MP

From: [Redacted]@gov.scot> On Behalf Of Cabinet Secretary for Justice
Sent: 26 March 2019 14:43
To: Secretary of State - Scotland <secretaryofstate@scotlandoffice.gsi.gov.uk>
Cc: Cabinet Secretary for Justice <CabSecJustice@gov.scot>
Subject: Restitution Orders - Scotland Act order required under section 104

PS/Secretary of State for Scotland,

Please find attached a letter from the Cabinet Secretary for Justice, Humza Yousaf MSP, in relation to restitution orders.

Regards,

[Redacted] | Private Secretary
Office of Humza Yousaf MSP, Cabinet Secretary for Justice

Contact – [Redacted]



T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon David Mundell MP
Secretary of State for Scotland
Scotland Office
Dover House
Whitehall
London
SW1A 2AU

□

Our ref:
March 2019

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

I am writing to let you know of my intention to implement restitution orders, a new financial penalty to be made available to the Scottish Courts and Tribunals Service in relation to assault on police officers, with the money raised to be placed in the Restitution Fund (RF). The intention is the RF will be used towards the provision of support services for police officers in relation to both mental and physical health and well-being.

As I am sure you will agree, the safety of Police Officers whilst carrying out their duty to protect the public is of utmost importance, and as a result I am strongly committed to progressing the implementation of restitution orders. This will necessitate an order under section 104 of the Scotland Act 1998, in consequence of the Victims and Witnesses (Scotland) Act 2014, to facilitate recovery of restitution orders via deduction from offenders benefits (extending the power to enforce financial penalties that already exists in relation to fines.)

I am aware that joint working between our officials has led to the development of a similar section 104 order relating to collection of the new victim surcharge in Scotland, with the order scheduled to be laid in the UK Parliament on 16 May. I therefore trust that our officials can again work together to enable a section 104 order relating to restitution orders to be implemented as quickly as is practicable.

I appreciate that Brexit is having an impact on the availability of parliamentary time, and stress the value of ensuring we nevertheless make progress in respect to restitution orders, which will send a clear signal to police officers and to offenders.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020



I appreciate that Brexit is having an impact on the availability of parliamentary time, and stress the value of ensuring we nevertheless make progress in respect to restitution orders, which will send a clear signal to police officers and to offenders.

My officials will make contact with your officials to seek commencement of the section 104 process as soon as possible.

I have also written to the Rt Hon David Mundell MP, Secretary of State for Scotland and the Rt Hon Amber Rudd MP, Secretary of State for Work and Pensions.

HUMZA YOUSAF

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot





T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon David Gauke MP
Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Our ref:
March 2019

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

I am writing to let you know of my intention to implement restitution orders, a new financial penalty to be made available to the Scottish Courts and Tribunals Service in relation to assault on police officers, with the money raised to be placed in the Restitution Fund (RF). The intention is the RF will be used towards the provision of support services for police officers in relation to both mental and physical health and well-being.

As I am sure you will agree, the safety of Police Officers whilst carrying out their duty to protect the public is of utmost importance, and as a result I am strongly committed to progressing the implementation of restitution orders. This will necessitate an order under section 104 of the Scotland Act 1998, in consequence of the Victims and Witnesses (Scotland) Act 2014, to facilitate recovery of restitution orders via deduction from offenders benefits (extending the power to enforce financial penalties that already exists in relation to fines.)

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Accredited
Until 2020



I appreciate that Brexit is having an impact on the availability of parliamentary time, and stress the value of ensuring we nevertheless make progress in respect to restitution orders, which will send a clear signal to police officers and to offenders.

My officials will make contact with your officials to seek commencement of the section 104 process as soon as possible.

I have also written to the Rt Hon David Mundell MP, Secretary of State for Scotland and the Rt Hon Amber Rudd MP, Secretary of State for Work and Pensions.

HUMZA YOUSAF

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot





Cabinet Secretary for Justice
Humza Yousaf MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon Amber Rudd MP
Secretary of State for Work and Pensions
Department for Work & Pensions
Caxton House
Tothill Street
London
SW1H 9NA



Our ref:
March 2019

RESTITUTION ORDERS - SCOTLAND ACT ORDER REQUIRED UNDER SECTION 104

I am writing to let you know of my intention to implement restitution orders, a new financial penalty to be made available to the Scottish Courts and Tribunals Service in relation to assault on police officers, with the money raised to be placed in the Restitution Fund (RF). The intention is the RF will be used towards the provision of support services for police officers in relation to both mental and physical health and well-being.

As I am sure you will agree, the safety of Police Officers whilst carrying out their duty to protect the public is of utmost importance, and as a result I am strongly committed to progressing the implementation of restitution orders. This will necessitate an order under section 104 of the Scotland Act 1998, in consequence of the Victims and Witnesses (Scotland) Act 2014, to facilitate recovery of restitution orders via deduction from offenders benefits (extending the power to enforce financial penalties that already exists in relation to fines.)

I am aware that joint working between our officials has led to the development of a similar section 104 order relating to collection of the new victim surcharge in Scotland, with the order scheduled to be laid in the UK Parliament on 16 May. I therefore trust that our officials can again work together to enable a section 104 order relating to restitution orders to be implemented as quickly as is practicable.

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



Accredited
Until 2020



I appreciate that Brexit is having an impact on the availability of parliamentary time, and stress the value of ensuring we nevertheless make progress in respect to restitution orders, which will send a clear signal to police officers and to offenders.

My officials will make contact with your officials to seek commencement of the section 104 process as soon as possible.

I have also written to the Rt Hon David Mundell MP, Secretary of State for Scotland and the Rt Hon David Gauke MP, Secretary of State for Justice.

HUMZA YOUSAF

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St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



From: [Redacted]

Sent: 26 March 2019 17:11

To: [Redacted]@justice.gov.uk' [Redacted]@justice.gov.uk>; [Redacted]@justice.gov.uk'
[Redacted]@justice.gov.uk>

Subject: Restitution Orders - Scotland Act Order Required under Section 104

Dear [Redacted]

This is just a quick courtesy email to let you know that our Cabinet Secretary for Justice, Humza Yousaf, has today written to Secretary of State for Justice, David Gauke in relation to Restitution Orders. This is a new financial penalty to be made available to the Scottish Courts and Tribunals Service in relation to assault on police officers, which would necessitate an order under section 104 of the Scotland Act 1998.

I know that you have been working with [Redacted] in relation to a section 104 for the Victim Surcharge, and [Redacted] kindly provided your email addresses. I had hoped to call you to discuss, so if that would be helpful perhaps you could let me have a contact number. My own details are provided below.

Kind regards

[Redacted]

[Redacted] | Police Workforce Team Leader ([Redacted]) | Police Powers & Workforce Unit | Safer Communities Directorate | Scottish Government |
Area 1R, St Andrew's House, Edinburgh, EH1 3DG | tel [Redacted]