

## SCHEDULE

(introduced by section 80)

### MODIFICATION OF ENACTMENTS

#### *Sheriff Courts and Legal Officers (Scotland) Act 1927 (c. 35)*

- 1 In section 5 (whole-time clerks) of the Sheriff Courts and Legal Officers (Scotland) Act 1927—
- (a) the words “, and such clerks or other assistants are in this Act referred to as whole-time clerks” are repealed,
  - (b) the remaining words become subsection (1),
  - (c) after that subsection there is inserted—
    - “(2) The Scottish Ministers may appoint to a justice of the peace court such clerks and assistant clerks as they consider necessary.
    - (3) The clerks and assistants mentioned in subsections (1) and (2) above are referred to in this Act as whole-time clerks.”.

#### *Public Records (Scotland) Act 1937 (c. 43)*

- 2 (1) After section 2 (sheriff court records) of the Public Records (Scotland) Act 1937 there is inserted—

##### **“JP court records**

- (1) A sheriff principal may, on the application of the Keeper, make an order directing that the JP court records of that sheriff principal’s sheriffdom which are specified in the order shall be transmitted to the Keeper within 6 months of the date of the order.
- (2) An order under subsection (1) above shall not apply to any record which is dated less than 10 years before the date of the order unless the sheriff principal is satisfied that adequate provision as regards care, indexing and availability for consultation cannot otherwise be made.
- (3) Where any record transmitted to the Keeper under subsection (1) above is required for the purpose of proceedings in the High Court of Justiciary, the Court of Session, or any sheriff court or JP court, the Keeper shall re-transmit the record to the clerk of the relevant court on an order of a judge of the High Court or Court of Session or of the sheriff or judge of a JP court (as the case may be), and a record so re-transmitted shall be returned by the clerk to the Keeper as soon as may be after it has ceased to be required for the purpose.
- (4) The sheriff principal of each sheriffdom shall be responsible for the proper care and preservation of the JP court records of that sheriffdom which have not been transferred to the Keeper under subsection (1) above and shall, in compliance with any request which the Keeper may from time to time make, cause a report to be prepared and sent by the sheriff clerk to the Keeper, giving the information which is specified in the request, regarding—
  - (a) the nature, situation and condition of all buildings in which any such records are kept;
  - (b) the age and condition of such records;

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- (c) the arrangements made for—
  - (i) their care and preservation;
  - (ii) indexing them; and
  - (iii) rendering them available for inspection by the public; and
- (d) any other matters connected with the care and preservation of such records.”.

(2) In section 14 (interpretation) of that Act—

- (a) at the appropriate place there is inserted—
 

“the expression “JP court records” includes the registers, minute books, processes, writs or documents belonging to or in the custody of JP courts;”
- (b) at the appropriate place there is inserted—
 

“the expression “JP court” means a justice of the peace court;”.

*Social Work (Scotland) Act 1968 (c. 49)*

3 In section 27 (supervision and care of persons put on probation or released from prisons etc.) of the Social Work (Scotland) Act 1968—

- (a) in paragraph (b) of subsection (1)—
  - (i) the word “and” immediately following sub-paragraph (vi) is repealed,
  - (ii) after sub-paragraph (vii) there is inserted—
 

“(viii) persons in their area who are subject to work orders under section 303ZA(6) of the said Act of 1995;”
- (b) in subsection (2), for the words “the foregoing subsection” there is substituted “subsections (1) to (1B) above”,
- (c) in subsection (5A), after the word “(1)(b)(va)” there is inserted “or (viii)”.

*Education (Scotland) Act 1980 (c. 44)*

4 In the Education (Scotland) Act 1980—

- (a) in section 36(1)(a) (power of education authority in relation to irregular attendance of child at a public school), the words “, not being the district court” are repealed,
- (b) in section 43(2) (prosecutions and penalties), the words “, other than in the district court,” are repealed.

*Legal Aid (Scotland) Act 1986 (c. 47)*

5 In the Legal Aid (Scotland) Act 1986—

- (a) in section 22 (automatic availability of criminal legal aid), after paragraph (dd) of subsection (1) there is inserted—
 

“(de) where a solicitor has been appointed under subsection (4)(b) or (7) of section 150A (proceedings in absence of accused) of the Criminal Procedure (Scotland) Act 1995 to represent the accused’s interests;”

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- (b) in section 31 (solicitors and counsel), in paragraph (f) of subsection (1A), after the words “(2E)” there is inserted “, 150A(4)(b), (6) and (7)”.

#### *Criminal Justice Act 1988 (c. 33)*

- 6 (1) In section 133 (compensation for miscarriages of justice) of the Criminal Justice Act 1988, for sub-paragraph (ii) of paragraph (b) of subsection (5) there is substituted—
  - “(ii) under section 194B of the Criminal Procedure (Scotland) Act 1995 (c. 46);”.
- (2) The substitution made by sub-paragraph (1) has effect as if commenced at the same time as commencement of section 25(1) of the Crime and Punishment (Scotland) Act 1997 (c. 48) by [Statutory Instrument 1999 No. 652](#).
- (3) But that substitution does not affect the operation of section 133 of the Criminal Justice Act 1988 as respects any cases to which subsection (5)(b)(ii) of that section related before being subject to that substitution (as it has effect in accordance with sub-paragraph (2)).

#### *Road Traffic Offenders Act 1988 (c. 53)*

- 7 In the Road Traffic Offenders Act 1988—
  - (a) in section 10 (jurisdiction of district court in Scotland), in each of subsections (1) and (2), for the words “district court” there is substituted “justice of the peace court”,
  - (b) in section 34A(6) (reduced disqualification period for attendance on courses), the words from “or” in the second place where it occurs to “area” in the second place where it occurs are repealed,
  - (c) in section 34C(2) (provisions supplementary to sections 34A and 34B), in paragraph (b) of the definition of “supervising court”, for the words from “for” in the first place where it appears to the end there is substituted “or the justice of the peace court for the district where the offender resides or will reside”,
  - (d) in sections 35(6) (disqualification for repeated offences) and 44(3) (endorsement of licences), for the words “district court” there is substituted “justice of the peace court”.

#### *Environmental Protection Act 1990 (c. 43)*

- 8 In the Environmental Protection Act 1990—
  - (a) in section 33A(12) (fixed penalty notices for contraventions of section 33(1) (a) and (c): Scotland), for the words from “be” in the second place where it occurs to the end there is substituted “accrue to that authority”,
  - (b) in section 88(6)(b) (fixed penalty notices for leaving litter), for the words from “be” to the end there is substituted “accrue to the litter authority”.

#### *The 1995 Act*

- 9 (1) In section 6 (district courts: area, constitution and prosecutor) of the 1995 Act—
  - (a) subsection (1) is repealed,
  - (b) in subsection (3), for the words “commission area” there is substituted “JP court”,

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- (c) subsection (4) is repealed,
  - (d) for subsection (5) there is substituted—
    - “(5) The authority of the procurator fiscal to prosecute in JP courts is without prejudice to the authority of any other person to take proceedings there in pursuance of section 43 (prosecutions and penalties) of the Education (Scotland) Act 1980 (c. 44).”
  - (e) for subsection (6) there is substituted—
    - “(6) In this section, “justice” means a justice of the peace.”
- (2) In section 7 (district court: jurisdiction and powers) of that Act—
- (a) subsections (1) and (2) are repealed,
  - (b) in subsection (3), for the words “to try any statutory offence which is triable summarily” there is substituted “to—
    - (a) try any common law or statutory offence which is triable summarily;
    - (b) make such orders and grant such warrants as are appropriate to a court of summary jurisdiction;
    - (c) do anything else (by way of procedure or otherwise) as is appropriate to such a court”
  - (c) in subsection (5), for the words “mentioned in subsection (1) above” there is substituted “the court has otherwise”
  - (d) in subsection (8), paragraph (a) and the word “or” immediately following it are repealed,
  - (e) in subsection (10), for the word “district” there is substituted “area”.
- (3) In section 8 (sittings of sheriff and district courts) of that Act—
- (a) in subsection (3), for the words from the beginning to “authority,” there is substituted “A sheriff principal may”
  - (b) in that subsection, the words “, after such consultation,” are repealed.
- (4) In sections 6(2), 7(3) to (8) and 8(1), (3) and (4) of that Act, for the words “district court” and “district courts” wherever occurring there is substituted “JP court” and “JP courts” respectively.
- (5) In relation to sections 6 to 8 of that Act—
- (a) the italic cross-heading immediately preceding section 6 becomes “*JP courts*”
  - (b) the title of section 6 becomes “JP courts: constitution and prosecutor”
  - (c) the title of section 7 becomes “JP courts: jurisdiction and powers”
  - (d) the italic cross-heading immediately preceding section 8 becomes “*Sittings of sheriff and JP courts*”
  - (e) the title of section 8 becomes “Sittings of sheriff and JP courts”.
- (6) In section 9 (boundaries of jurisdiction) of that Act, in subsection (4)—
- (a) for the words “under one indictment or complaint” there is substituted “together”
  - (b) for the words from “offences” in the second place where it occurs to the end there is substituted “offences—
    - (a) under one indictment or complaint before the sheriff of any one of the districts; or

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- (b) under one complaint in the JP court for any one of the districts.”.
- (7) Section 9A of that Act is repealed.
- 10 In section 10 (crimes committed in different districts) of the 1995 Act—
- (a) in subsection (1)—
    - (i) for the words “indicted to” there is substituted “prosecuted in”,
    - (ii) after the word “court” in the second place where it occurs there is inserted “or JP court”,
  - (b) in subsection (2)(c), for the words “under one indictment” there is substituted “together”,
  - (c) in subsection (3), after the word “court” in the first place where it occurs there is inserted “or JP court”.
- 11 After section 10 of the 1995 Act there is inserted—
- “10A Jurisdiction for transferred cases**
- (1) A sheriff has jurisdiction for any cases which come before the sheriff by virtue of—
    - (a) section 34A or 83 of this Act; or
    - (b) section 137A, 137B, 137C or 137D of this Act.
  - (2) A procurator fiscal for a sheriff court district shall have—
    - (a) power to prosecute in any cases which come before a sheriff of that district by virtue of a provision mentioned in subsection (1) above; and
    - (b) the like powers in relation to such cases as he has for the purposes of criminal proceedings which otherwise come before that sheriff.
  - (3) Subsections (1) and (2) above, and the provisions mentioned in subsection (1) above, are without prejudice to sections 4, 9 and 10 of this Act.”.
- 12 (1) In section 65 (prevention of delay in trials) of the 1995 Act, in subsection (2), for the word “arrest” there is substituted “apprehension”.
- (2) In section 71 (first diet) of that Act, in subsection (4), the words “and the court may, if he fails to do so, grant a warrant to apprehend him” are repealed.
- 13 (1) In section 72F(1) and (4)(b) (engagement, dismissal and withdrawal of solicitor representing accused) of the 1995 Act, for the words “proceedings on indictment” in each place where they occur there is substituted “solemn proceedings”.
- (2) In section 72G(1) (service etc. on accused through a solicitor) of that Act, for the words “proceedings on indictment” there is substituted “solemn proceedings”.
- 14 In section 79 (preliminary pleas and preliminary issues) of the 1995 Act, in subsection (2)(b)(ii), after the words “27(4A)(a)” there is inserted “or (4B), 90C(2A)”.
- 15 (1) In section 90A(10) (apprehension of witnesses in proceedings on indictment) of the 1995 Act, the words “, except where the context requires otherwise” are repealed.

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- (2) In section 90D(2)(b) (review of orders under section 90B(1)(a) or (b)) of that Act, for the words “that section” in the first place where they occur there is substituted “section 90B”.
- (3) In section 90E(3) (appeals in respect of orders under section 90B(1)) of that Act, for the words “Lord Advocate” there is substituted “Crown Agent”.
- 16 (1) In section 107 (leave to appeal) of the 1995 Act—
- (a) in subsection (9)—
- (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “within 14 days of the date of intimation under subsection (10) below”,
- (ii) in paragraph (b), for the words “not less that seven days before” there is substituted “within 14 days of”,
- (b) after that subsection there is inserted—
- “(9A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (9) above.”.
- (2) In section 110(1)(a) (note of appeal) of that Act—
- (a) the words from “or” in the second place where it occurs to “made” in the first place where it occurs are repealed,
- (b) after the word “deferred” there is inserted “, the proposal to make a reference was made”.
- (3) In section 112 (admission of appellant to bail) of that Act, in subsection (2), paragraph (b) and the word “and” immediately preceding it are repealed.
- (4) In section 116(2) (abandonment of appeal) of that Act, for the words “116(1)(dc)” there is substituted “106(1)(dc)”.
- (5) In section 118(4) (disposal of appeals) of that Act, for the words “106(1)(bb) to (e)” there substituted “106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f)”.
- (6) In section 119(11) (provision where High Court authorises new prosecution) of that Act, for the words “Subsections (4)(b) and (7) to (9) of section 65” there is substituted “Section 65(4)(aa) and (b) and (4A) to (9)”.
- 17 In section 135 (warrants for apprehension and search) of the 1995 Act—
- (a) in subsection (3), after the word “day” there is inserted “on which the court is sitting”,
- (b) subsection (4) is repealed.
- 18 (1) In section 177(3) (procedure where appellant in custody) of the 1995 Act, the words “, after hearing parties,” are repealed.
- (2) In section 180 (leave to appeal against conviction etc.) of that Act—
- (a) in subsection (9)—
- (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “within 14 days of the date of intimation under subsection (10) below”,
- (ii) in paragraph (b), for the words “not less that seven days before” there is substituted “within 14 days of”,
- (b) after that subsection there is inserted—

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- “(9A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (9) above.”.
- (3) In section 187 (leave to appeal against sentence) of that Act—
- (a) in subsection (8)—
- (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “within 14 days of the date of intimation under subsection (9) below”,
- (ii) in paragraph (b), for the words “not less than seven days before” there is substituted “within 14 days of”,
- (b) after that subsection there is inserted—
- “(8A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (8) above.”.
- (4) In section 201(4) (power of court to adjourn case before sentence) of that Act, the words “, after hearing parties” are repealed.
- 19 In section 210A(10) (extended sentences for sex and violent offenders) of the 1995 Act, in the entry for “sexual offence”—
- (a) the word “and” immediately preceding paragraph (xxi) is repealed,
- (b) after that paragraph there is added—
- “(xxii) an offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (meeting a child following certain preliminary conduct);
- (xxiii) an offence under section 9 of that Act (paying for sexual services of a child);
- (xxiv) an offence under section 10 of that Act (causing or inciting provision by child of sexual services or child pornography);
- (xxv) an offence under section 11 of that Act (controlling a child providing sexual services or involved in pornography);
- (xxvi) an offence under section 12 of that Act (arranging or facilitating provision by child of sexual services or child pornography).”.
- 20 (1) In section 211 (fines) of the 1995 Act—
- (a) subsection (5) is repealed,
- (b) in subsection (6)—
- (i) the word “summary” is repealed,
- (ii) for the words “clerk of court” there is substituted “clerk of any court, or to any other person (or class of person) authorised by the Scottish Ministers for the purpose,”,
- (iii) the words “by him” are repealed.
- (2) In section 217 (fines: supervision pending payment) of that Act, after subsection (8) there is inserted—
- “(9) Where an enforcement order has been made under section 226B of this Act in relation to payment of the fine, the supervising officer shall, instead

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of reporting under subsection (8) above to the court, report under that subsection to the fines enforcement officer dealing with the order.”.

- (3) In section 222 (transfer of fine orders) of that Act—
- (a) in subsection (1)—
    - (i) for the words “the court” in the first place where they occur there is substituted “the clerk of court”,
    - (ii) for the words “the court” in the second place where they occur there is substituted “that clerk”,
  - (b) after subsection (1) there is inserted—
 

“(1A) Where a court has imposed a fine on a person convicted of an offence, and it appears to the clerk of court that there is a fine imposed by another court (of whatever kind) in the same sheriffdom, that clerk may order that payment of the fine is to be enforceable by that other court.”,
  - (c) in subsection (2), for the words “the sheriff court” there is substituted “the sheriff clerk”,
  - (d) in subsection (4)—
    - (i) after the word “Where” there is inserted “, in relation to a transfer of fine order made under subsection (1)(a) above”,
    - (ii) in paragraph (a), for the words “court specified in a transfer of fine order” there is substituted “clerk of the court specified in the order”.
- (4) In section 223 (transfer of fines: procedure for clerk of court) of that Act—
- (a) in subsection (1)—
    - (i) after the word “Where” there is inserted “the clerk of”,
    - (ii) for the words “the clerk of the court” in the first place where they occur there is substituted “that clerk”,
  - (b) in subsection (2), for the words “of the court which” there is substituted “of court who”,
  - (c) in subsection (4), for the words “the fine” in the first place where they occur there is substituted “a fine imposed by a court outwith Scotland”.
- 21 In section 245J(5) (breach of certain orders: adjourning hearing and remanding in custody etc.) of the 1995 Act, the words “the prosecutor and” are repealed.
- 22 In section 249 (compensation order against convicted person) of the 1995 Act, in subsection (8)—
- (a) in paragraph (a), the words “appointed under section 5 of the District Courts (Scotland) Act 1975” are repealed,
  - (b) in paragraph (b), for the word “such” there is substituted “a”.
- 23 In section 283 (evidence as to time and place of video surveillance recordings) of the 1995 Act—
- (a) in subsection (1)(c), for the words “recorded on a particular video tape are images, recorded by the system, of” there is substituted “(and any sounds) recorded on a particular device are images (and sounds), recorded by the system, of (or relating to)”,
  - (b) in subsection (4), after the word “place” there is inserted “(and includes associated equipment for transmitting and recording sounds relating to such events)”.



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- 24 In section 292 (mode of trial of certain offences) of the 1995 Act—
- (a) in subsection (2)(b)(ii), the words “subject to subsection (3) below,” are repealed,
  - (b) subsection (3) is repealed.
- 25 In section 307 (interpretation) of the 1995 Act, in subsection (1)—
- (a) in the definitions of “court of summary criminal jurisdiction” and “judge”, for the words “district court” in each place where they occur there is substituted “JP court”,
  - (b) for the definition of “justice of the peace” there is substituted—
    - ““justice of the peace” means a justice of the peace appointed under section 67 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6);”,
  - (c) at the appropriate place there is inserted—
    - ““JP court” means a justice of the peace court;”,
  - (d) at the appropriate place there is inserted—
    - ““stipendiary magistrate” means a stipendiary magistrate appointed under section 74 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6);”.
- 26 In the 1995 Act (in addition to the provisions amended by paragraphs 7(4) and 16(a)), for the words “district court” and “district courts”, wherever occurring in the following provisions, there is substituted “JP court” and “JP courts” respectively—
- (a) section 22(2)(b)(i),
  - (b) section 24B(3),
  - (c) section 27(2)(b)(i) and (5)(b)(ii),
  - (d) section 49(3)(b),
  - (e) section 52A,
  - (f) section 52B(4), in the definition of “court”,
  - (g) section 150(8)(b)(i),
  - (h) section 178(1)(a),
  - (i) section 203(2),
  - (j) section 211(3),
  - (k) section 234K, in paragraph (b) of the definition of “the appropriate court”,
  - (l) section 245(5)(b),
  - (m) section 245A(9),
  - (n) section 245Q,
  - (o) section 248C(1),
  - (p) section 249(8)(b),
  - (q) section 288E(2),
  - (r) section 288F(1)(a),
  - (s) section 288G(1) and (2)(b),
  - (t) section 304(2)(c)(v),
  - (u) schedule 6, in paragraph 2(2) and (3),
  - (v) schedule 7—
    - (i) in paragraphs 4(2)(a)(ii) and 5(1)(d)(ii),
    - (ii) in paragraph 8, in the definition of “the appropriate court”.

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*Bail, Judicial Appointments etc. (Scotland) Act 2000 (asp 9)*

- 27 In the Bail, Judicial Appointments etc. (Scotland) Act 2000—
- (a) sections 8 to 10 are repealed,
  - (b) section 11 is repealed,
  - (c) in the schedule, paragraphs 2 and 3(2) are repealed.

*Sexual Offences (Procedure and Evidence) (Scotland) Act 2002 (asp 9)*

- 28 In section 6 (accused to give notice of defence of consent) of the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002, subsection (2) is repealed.

*Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

- 29 In schedule 2 (the specified authorities) to the Public Appointments and Public Bodies etc. (Scotland) Act 2003, the entry “any Justices of the Peace Advisory Committee” is repealed.

*Criminal Justice (Scotland) Act 2003 (asp 7)*

- 30 In the Criminal Justice (Scotland) Act 2003—
- (a) in section 42(2)(b), for the words from the beginning to the word “court” in the second place where it occurs there is substituted “the area of a justice of the peace court (“JP court”), in which case the clerk of the JP court is, subject to that subsection, to nominate a JP court”,
  - (b) section 59 is repealed.

*Dog Fouling (Scotland) Act 2003 (asp 12)*

- 31 In section 9(3) of the Dog Fouling (Scotland) Act 2003, for the words from “be” to the end there is substituted “accrue to that authority”.

*Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8)*

- 32 In the Antisocial Behaviour etc. (Scotland) Act 2004—
- (a) in section 51(6) (fixed penalty notices: supplementary), for the words from “be” to the end there is substituted “accrue to that authority”,
  - (b) in sections 130(3)(d), 131(5) and (6) and 132(1) for the words “district court” wherever occurring there is substituted “justice of the peace court”,
  - (c) in section 132 (payment of fixed penalty), subsection (6) is repealed.

*Enactments generally: references to district court and justices*

- 33 (1) Any reference in any enactment (apart from this Act) to the district court is to be read as if it were a reference to the JP court.
- (2) Any reference in any enactment (apart from this Act) to the area of a district court (however described) is to be read as if it were a reference to the area of a JP court.
- (3) Any reference in any enactment (apart from this Act) to a justice of the peace (however described) is to be read as a reference to a justice of the peace appointed under section 67 of this Act.

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- (4) Without prejudice to sub-paragraphs (1) to (3), the Scottish Ministers may by order amend any enactment so as to substitute for any reference to the district court, the area of a district court (however described) or a justice of the peace (however described) a reference respectively to the JP court, the area of a JP court or a justice of the peace appointed under section 67 of this Act.