

SCHEDULES

SCHEDULE 15

Section 77.

MINOR AND CONSEQUENTIAL AMENDMENTS SCOTLAND

Trespass (Scotland) Act 1865 (c. 56)

- 1 In section 4 of the Trespass (Scotland) Act 1865 (apprehension and punishment of offenders) for the words from " , and on being convicted" onwards, substitute the words " ; and every person committing an offence against the provisions of this Act shall be liable, on summary conviction, to a fine not exceeding level 1 on the standard scale. "

Electric Lighting Act 1882 (c. 56)

- 2 In section 12(3) of the Electric Lighting Act 1882 (incorporation of certain provisions of Clauses Consolidation Acts), both as enacted in the said Act of 1882 and as set out in the Appendix to the Schedule to the Electric Lighting (Clauses) Act 1899, for the word "thirty-eight " substitute the word " thirty-nine " (this amendment having effect also for the purposes of the said Schedule as incorporated with the Electricity Act 1947 or any other enactment).

Merchant Shipping Act 1894 (c. 60)

- 3 In section 680 of the Merchant Shipping Act 1894 (prosecution of offences)—
(a) in subsection (1) omit the words " and to the provisions herein-after contained with respect to Scotland "; and
(b) at end of that section insert the following subsection—

“(4) Subsection (2) above shall extend to Scotland, but save as aforesaid this section shall not extend to Scotland.”

- 4 At the beginning of section 702 of that Act (offences punishable as misdemeanors) insert the words " Subject to section 703 of this Act ".

- 5 For paragraph (a) of section 703 of that Act (summary proceedings in Scotland) substitute the following paragraphs—

“(a) subject to section 43(2) of the Merchant Shipping Act 1979 (which among other things makes certain offences triable either summarily or on indictment), any offence under this Act which was triable only summarily immediately before 1st January 1980 (the date of commencement of the said section 43) shall continue to be so triable and shall be deemed to have been so triable at all times since that date ;

(aa) subject to any special provisions of this Act—

(i) an offence under this Act described as a misdemeanor shall be triable either summarily or on indictment and, subject

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to any other penalty prescribed in respect of any particular offence, shall be punishable on summary conviction with a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both, and on conviction on indictment with a fine or imprisonment for a term not exceeding 2 years or both;

- (ii) subject to sub-paragraph (i) above, an offence under this Act made punishable with imprisonment for any term not exceeding 6 months or with a fine or a maximum fine which does not exceed level 5 on the standard scale shall be triable only summarily ;
- (iii) an offence under this Act not failing within paragraph (a) above or the preceding provisions of this paragraph shall be triable either summarily or on indictment:

Provided that in relation to the period before the commencement of section 54 of the Criminal Justice Act 1982 sub-paragraph (ii) above shall have effect as if for " level 5 on the standard scale" there were substituted "£1,000 [Public Health \(Scotland\) Act 1897 \(c. 38\)](#)".

- 6 In section 18 of the Public Health (Scotland) Act 1897 (power of entry to local authority or their officers)—
 - (a) before the word " conviction " insert the word " summary " ; and
 - (b) for the words " a penalty not exceeding five pounds " substitute the words " a fine not exceeding level 3 on the standard scale " .
- 7 In section 24 of that Act (penalty for contravention of decree and of interdict)—
 - (a) for the words "to a penalty of not more than £10 per day during his failure so to comply " substitute the words " on summary conviction to a fine not exceeding level 2 on the standard scale " ; and
 - (b) for the words " to a penalty not exceeding £20 per day during such infringement" substitute the words " on summary conviction to a fine not exceeding level 2 on the standard scale " .

Food and Drugs (Scotland) Act 1956 (c. 30)

- 8 In section 56 of the Food and Drugs (Scotland) Act 1956 (orders and regulations)—
 - (a) in subsection (8)(e), for the words "section forty of this Act" substitute " subsection (8A) below " ; and
 - (b) after subsection (8), insert the following new subsection—
 - “(8A) The maximum penalties referred to in subsection (8)(e) above are—
 - (a) on conviction of an offence triable only summarily, a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding 6 months or both ;
 - (b) in relation to an offence triable either summarily or on indictment—
 - (i) on summary conviction, a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both ;

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- (ii) on conviction on indictment, a fine or imprisonment for a term not exceeding one year or both.”.

South of Scotland Electricity Order Confirmation Act 1956 (c. xciv)

- 9 For section 51 of the South of Scotland Electricity Order 1956 as set out in the Schedule to the South of Scotland Electricity Order Confirmation Act 1956 there shall be substituted the following section—

Injury to electricity lines, meters, seals etc. and interference with meters.

- (1) If any person—
- (a) wilfully, fraudulently or by culpable negligence—
 - (i) injures or suffers to be injured any electric lines, meter or fittings belonging to the Board ;
 - (ii) alters the index to any meter ; or
 - (iii) prevents any meter from duly registering the quantity of electricity supplied ; or
 - (b) wilfully—
 - (i) injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle, meter or apparatus affixed by the Board to any electric line within a consumer's premises ; or
 - (ii) opens or suffers to be opened any such sealed or locked receptacle, meter or apparatus ;
- he shall (without prejudice to any other right or remedy for the protection of the Board or the punishment of the offender) be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) The prosecution of any such offence shall not prevent the Board from recovering the amount of any damage caused to them by the offence, and, if the offence involves wilful or fraudulent injury to or interference with any electric lines, meter or fittings belonging to the Board, the Board may also, until the matter has been remedied, but no longer, discontinue the supply of electricity to the person so offending (notwithstanding any contract previously existing).
- (3) The existence of artificial means for causing an alteration of the index to any meter or preventing any meter from duly registering the quantity of electricity supplied, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration or prevention, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter.
- (4) If any person—
- (a) accidentally injures or detaches any seal or locking device referred to in paragraph (b) of subsection (1) of this section ; or
 - (b) accidentally opens any sealed or locked receptacle, meter or apparatus referred to in that paragraph;
- he shall within 48 hours of doing so notify the Board in writing.

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(5) Any person who fails to comply with subsection (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

10 In section 55 of that Order (penalty for interference with works) for the words " five pounds " substitute the words " level 3 on the standard scale ".

North of Scotland Electricity Order Confirmation Act 1958 (c. ii)

11 For section 36 of the North of Scotland Electricity Order 1958 as set out in the Schedule to the North of Scotland Electricity Order Confirmation Act 1958 there shall be substituted the following section—

Injury to electricity lines, meters, seals etc. and interference with meters.

(1) If any person—

(a) wilfully, fraudulently or by culpable negligence—

(i) injures or suffers to be injured any electric lines, meter or fittings belonging to the Board ;

(ii) alters the index to any meter ; or

(iii) prevents any meter from duly registering the quantity of electricity supplied ; or

(b) wilfully—

(i) injures or detaches or suffers to be injured or detached any of the sealing or locking devices attached to any sealed or locked receptacle, meter or apparatus affixed by the Board to any electric line within a consumer's premises ; or

(ii) opens or suffers to be opened any such sealed or locked receptacle, meter or apparatus ;

he shall (without prejudice to any other right or remedy for the protection of the Board or the punishment of the offender) be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) The prosecution of any such offence shall not prevent the Board from recovering the amount of any damage caused to them by the offence, and, if the offence involves any wilful or fraudulent injury to or interference with any electric lines, meter or fittings belonging to the Board, the Board may also, until the matter has been remedied, but no longer, discontinue the supply of electricity to the person so offending (notwithstanding any contract previously existing).

(3) The existence of artificial means for causing an alteration of the index to any meter or preventing any meter from duly registering the quantity of electricity supplied, when the meter is under the custody or control of the consumer, shall be prima facie evidence that the alteration or prevention, as the case may be, has been fraudulently and wilfully caused by the consumer using the meter.

(4) If any person—

(a) accidentally injures or detaches any seal or locking device referred to in paragraph (b) of subsection (1) of this section ; or

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(b) accidentally opens any sealed or locked receptacle, meter or apparatus referred to in that paragraph;

he shall within 48 hours of doing so notify the Board in writing.

(5) Any person who fails to comply with subsection (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.”.

- 12 In section 40 of that Order (penalty for interference with works) for the words " five pounds " substitute the words " level 3 on the standard scale ".

Roads (Scotland) Act 1970 (c. 20)

- 13 In section 48 of the Roads (Scotland) Act 1970 (prosecution of certain offences under the Act), after the word " Act" where first occurring insert the words " shall be triable only summarily and ".

Rent (Scotland) Act 1971 (c. 28)

- 14 In section 126 of the Rent (Scotland) Act 1971 (prosecution of offences)—
- (a) at the beginning insert " (1) ";
 - (b) at the end insert—

“(2) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by this Act is an offence.”.

Immigration Act 1971 (c. 77)

- 15 In section 6 of the Immigration Act 1971 (recommendations by court for deportation)—
- (a) in paragraph (b) of subsection (3), for the words "first offenders " substitute the words " persons who have not previously been sentenced to imprisonment ";
 - (b) in subsection (5), the words "except in Scotland," and paragraph (b) and the word " and " preceding it are repealed.

Road Traffic Act 1972 (c. 20)

- 16 In section 101 of the Road Traffic Act 1972 (endorsement of licences), the subsection inserted by section 55 of the Criminal Justice (Scotland) Act 1980 shall be renumbered subsection (9).

Criminal Procedure (Scotland) Act 1975 (c. 21)

- 17 In section 193A of the Criminal Procedure (Scotland) Act 1975 (fines on conviction on indictment to be without limit)—
- (a) at the beginning, insert " (1) ";
 - (b) for the words " section 8 of the criminal Justice (Scotland) Act 1980 " substitute the words " section 457A(4) of this Act ";
 - (c) after the word " fine " where first occurring insert the words " of or ";
 - (d) for the word " section " in the second and third places where it occurs substitute the words " subsection ";

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(e) at the end, insert the following new subsection—

“(2) Where any Act confers a power by subordinate instrument to make a person liable on conviction on indictment of any offence mentioned in subsection (1) above to a fine or a maximum fine of a specified amount, or which shall not exceed a specified amount, the fine which may be provided in the exercise of that power shall by virtue of this subsection be a fine of an unlimited amount.”.

- 18 In section 421(1) of the Criminal Procedure (Scotland) Act 1975 (recall to young offenders institution on reconviction)—
- (a) omit the words " in a ";
 - (b) for the words " an institution " substitute the word " detention ".
- 19 In section 462(1) of that Act (interpretation), in the definition of " fine ", after the word " penalty ", insert the words " (but not a pecuniary forfeiture or pecuniary compensation) ".

National Health Service (Scotland) Act 1978 (c. 29)

- 20 In paragraph 1(1) of Schedule 9 to the National Health Service (Scotland) Act 1978 (buying or selling goodwill of medical practice) omit the words from " not exceeding " where first occurring to " £500 ".
- 21 In paragraph 7 of Schedule 10 to that Act (penalties for contravention of provisions regarding control of maximum prices for medical supplies)—
- (a) in sub-paragraph (2)(a) for the words " £100" substitute the words " the statutory maximum ";
 - (b) in sub-paragraph (2)(b) omit the words " not exceeding £500 ";
 - (c) sub-paragraph (3) is repealed.

Electricity (Scotland) Act 1979 (c. 11)

- 22 In section 41(1) of the Electricity (Scotland) Act 1979 (penalties for certain offences)—
- (a) in paragraph (a) for the words " £100 " substitute the words " the statutory maximum ";
 - (b) in paragraph (b) omit the words " not exceeding £500 ".

Water (Scotland) Act 1980 (c. 45)

- 23 In section 38(6) of the Water (Scotland) Act 1980 (penalties for disclosure of information) in paragraph (a) for the words " £50" substitute the words " the statutory maximum ".
- 24 In section 77 of that Act (obtaining supplies to meet drought)—
- (a) for paragraphs (i) and (ii) of subsection (8) substitute the words " to the penalties mentioned in subsection (9). ";
 - (b) after subsection (8) insert the following subsection—
 - (9) The penalties referred to in subsection (8) are—
 - (a) in the case of an offence under paragraph (a) of that subsection—

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- (i) on summary conviction, a fine not exceeding the statutory maximum ; and
 - (ii) on conviction on indictment, a fine ; and
 - (b) in the case of an offence under paragraph (b) of that subsection, a fine not exceeding level 3 on the standard scale.”.
- 25 In section 94(a) of that Act (penalties for false information) for the words " £50 " substitute the words " the statutory maximum ".
- 26 In section 95(a) of that Act (penalties for offences not otherwise provided for), for the words " £50 " substitute the words " the statutory maximum ".
- 27 In paragraph 10(3) of Schedule 4 to that Act (offences relating to construction of reservoirs)—
- (a) in sub-paragraph (i), for the words " £50 in respect of each such day " substitute the words " the statutory maximum "; and
 - (b) in sub-paragraph (ii), omit the words " in respect of each such day ".
- 28 In paragraph 37 of Schedule 4 to that Act (pollution of water by manufacture of gas, etc.), for the words "£50" substitute the words " the statutory maximum ".
- 29 In paragraph 43 of Schedule 4 to that Act—
- (a) at the end of sub-paragraph (1) insert the words " but all such offences shall be triable only summarily. "; and
 - (b) at the end of the paragraph insert the following sub-paragraph—
 - “(3) For the avoidance of doubt it is declared that conduct in respect of which a person is made liable to a fine by or under the provisions of this Schedule is an offence.”.
- Criminal Justice (Scotland) Act 1980 (c. 62)*
- 30 In section 55 of the Criminal Justice (Scotland) Act 1980 (disqualification and endorsement where orders for probation or for absolute discharge are made)—
- (a) after the word " subsection " insert the words " , which shall form subsection (8) of the said section 93 and subsection (9) of the said section 101 ";
 - (b) omit the word " (8) ".