



Criminal Law (Consolidation) (Scotland) Act 1995

1995 CHAPTER 39

PART VI

MISCELLANEOUS AND GENERAL

False oaths etc.

44 False statements and declarations

- (1) Any person who—
- (a) is required or authorised by law to make a statement on oath for any purpose; and
 - (b) being lawfully sworn, wilfully makes a statement which is material for that purpose and which he knows to be false or does not believe to be true,
- shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding five years or to a fine or to both such fine and imprisonment.
- (2) Any person who knowingly and wilfully makes, otherwise than on oath, a statement false in a material particular, and the statement is made—
- (a) in a statutory declaration; or
 - (b) in an abstract, account, balance sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return or other document which he is authorised or required to make, attest or verify by, under or in pursuance of any public general Act of Parliament for the time being in force; or
 - (c) in any oral declaration or oral answer which he is authorised or required to make by, under or in pursuance of any public general Act of Parliament for the time being in force; or
 - (d) in any declaration not falling within paragraph (a), (b), or (c) above which he is required to make by an order under section 2 of the Evidence (Proceedings in Other Jurisdictions) Act 1975,

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shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding two years or to a fine or to both such fine and imprisonment.

- (3) Any person who—
- (a) procures or attempts to procure himself to be registered on any register or roll kept under or in pursuance of any Act of Parliament for the time being in force of persons qualified by law to practise any vocation or calling; or
 - (b) procures or attempts to procure a certificate of the registration of any person on any such register or roll,
- by wilfully making or producing or causing to be made or produced either verbally or in writing, any declaration, certificate or representation which he knows to be false or fraudulent, shall be guilty of an offence and be liable on conviction to imprisonment for a term not exceeding 12 months or to a fine or to both such fine and imprisonment.
- (4) Subsection (2) above applies to any oral statement made for the purpose of any entry in a register kept in pursuance of any Act of Parliament as it applies to the statements mentioned in that subsection.

45 Provisions supplementary to section 44

- (1) Any person who aids, abets, counsels, procures or suborns another person to commit an offence against section 44 of this Act shall be liable to be proceeded against, indicted, tried and punished as if he were a principle offender
- (2) Any person who incites or attempts to procure or suborn another person to commit an offence against that section shall be guilty of an offence and be liable on conviction to imprisonment or to a fine or to both such fine and imprisonment.
- (3) Nothing in section 44 and 46(1) of this Act and subsections (1) and (2) above shall affect the common law relating to the crime of perjury or to any crime or offence involving falsehood, fraud or wilful imposition, or the liability of any person to be prosecuted for any such crime or offence, provided that no person shall be liable in respect of the same matter to be punished both at common law and under these sections.
- (4) Where the making of a false statement is not only an offence under the said sections 44 or 46(1) or under subsection (1) or (2) above, but also by virtue of some other Act is a corrupt practice or subjects the offender to any forfeiture or disqualification or to any penalty other than imprisonment or a fine, the liability of the offender under these sections shall be in addition to and not in substitution for his liability under such other Act.
- (5) Where the making of a false statement is by any other Act whether passed before or after the commencement of this Act, made punishable on summary conviction, proceedings may be taken either under such other Act or under this Act.

46 Proceedings

- (1) For the purposes of any proceedings at common law for perjury or of any proceedings for a contravention of section 44(1) of this Act—
 - (a) the forms and ceremonies used in administering an oath shall be immaterial if the court or person before whom the oath is taken has power to administer an oath for the purpose of verifying the statement in question, and if the oath has

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- been administered in a form and with ceremonies which the person taking the oath has accepted without objection or has declared to be binding on him;
- (b) an affirmation or declaration made in lieu of an oath shall be of the like effect in all respects as if it had been made on oath.
- (2) Where an offence against section 44 of this Act is committed in any place outside the United Kingdom, the offender may be proceeded against, tried and punished in any place in Scotland where he was apprehended or is in custody as if the offence had been committed in that place; and for all purposes incidental to or consequential on the trial or punishment of the offence, it shall be deemed to have been committed in that place.
- (3) Any summary criminal proceedings for an offence against section 44 of this Act may, notwithstanding anything in the Criminal Procedure (Scotland) Act 1995, be commenced at any time within one year from the date of the commission of the offence, or within three months from the date when evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge whichever period last expires; and for the purposes of this section a certificate purporting to be signed by or on behalf of the Lord Advocate as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence thereof.
- (4) In sections 44 and 45 of this Act and in this section, the expression “statutory declaration” means a declaration made by virtue of the Statutory Declarations Act 1835 or of any enactment (including subordinate legislation) applying or extending the provisions of that Act.

Offensive weapons

47 Prohibition of the carrying of offensive weapons

- (1) Any person who without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any public place any offensive weapon shall be guilty of an offence, and shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (2) Where any person is convicted of an offence under subsection (1) above the court may make an order for the forfeiture or disposal of any weapon in respect of which the offence was committed.
- (3) A constable may arrest without warrant any person whom he has reasonable cause to believe to be committing an offence under subsection (1) above, if the constable is not satisfied as to that person’s identity or place of residence, or has reasonable cause to believe that it is necessary to arrest him in order to prevent the commission by him of any other offence in the course of committing which an offensive weapon might be used.
- (4) In this section “public place” includes any road within the meaning of the Roads (Scotland) Act 1984 and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise; and “offensive weapon” means any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use by him.

48 Search for offensive weapons

- (1) Where a constable has reasonable grounds for suspecting that any person is carrying an offensive weapon and has committed or is committing an offence under section 47 of this Act, the constable may search that person without warrant, and detain him for such time as is reasonably required to permit the search to be carried out; and he shall inform the person of the reason for such detention.
- (2) Any person who—
 - (a) intentionally obstructs a constable in the exercise of the constable’s powers under subsection (1) above; or
 - (b) conceals from a constable acting in the exercise of those powers an offensive weapon,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) A constable may arrest without warrant any person who he has reason to believe has committed an offence under subsection (2) above.
- (4) In this section, “offensive weapon” has the same meaning as in the said section 47.

49 Offence of having in public place article with blade or point

- (1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both; and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed.
- (3) This section does not apply to a folding pocketknife if the cutting edge of its blade does not exceed three inches (7.62 centimetres).
- (4) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he had good reason or lawful authority for having the article with him in the public place.
- (5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under subsection (1) above to prove that he had the article with him—
 - (a) for use at work;
 - (b) for religious reasons; or
 - (c) as part of any national costume.
- (6) Where a person is convicted of an offence under subsection (1) above the court may make an order for the forfeiture of any article to which the offence relates, and any article forfeited under this subsection shall (subject to section 193 of the Criminal Procedure (Scotland) Act 1995 (suspension of forfeiture etc, pending appeal)) be disposed of as the court may direct.
- (7) In this section “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

50 Extension of constable's power to stop, search and arrest without warrant

- (1) Where a constable has reasonable grounds for suspecting that a person has with him an article to which section 49 of this Act applies and has committed or is committing an offence under subsection (1) of that section, the constable may search that person without warrant and detain him for such time as is reasonably required to permit the search to be carried out.
- (2) A constable who detains a person under subsection (1) above shall inform him of the reason for his detention.
- (3) Where a constable has reasonable cause to believe that a person has committed or is committing an offence under section 49(1) of this Act and the constable—
 - (a) having requested that person to give his name or address or both—
 - (i) is not given the information requested; or
 - (ii) is not satisfied that such information as is given is correct; or
 - (b) has reasonable cause to believe that it is necessary to arrest him in order to prevent the commission by him of any other offence in the course of committing which an article to which that section applies might be used,he may arrest that person without warrant.
- (4) Any person who—
 - (a) intentionally obstructs a constable in the exercise of the constable's powers under subsection (1) above; or
 - (b) conceals from a constable acting in the exercise of those powers an article to which section 49 of this Act applies,shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) Where a constable has reasonable cause to believe that a person has committed or is committing an offence under subsection (4) above he may arrest that person without warrant.

Reset

51 Reset

Criminal resetting of property shall not be limited to the receiving of property taken by theft or robbery, but shall extend to the receiving of property appropriated by breach of trust and embezzlement and by falsehood, fraud and wilful imposition.

Vandalism

52 Vandalism

- (1) Subject to subsection (2) below, any person who, without reasonable excuse, wilfully or recklessly destroys or damages any property belonging to another shall be guilty of the offence of vandalism.
- (2) It shall not be competent to charge acts which constitute the offence of wilful fire-raising as vandalism under this section.

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- (3) Any person convicted of the offence of vandalism shall be liable on summary conviction—
- (a) in the district court, to imprisonment for a term not exceeding 60 days, or to a fine not exceeding level 3 on the standard scale, or to both;
 - (b) in the sheriff court—
 - (i) for a first such offence, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding the prescribed sum (within the meaning of section 225(8) of the Criminal Procedure (Scotland) Act 1995), or to both; and
 - (ii) for any subsequent such offence, to imprisonment for a term not exceeding 6 months, or to the fine mentioned in sub-paragraph (i) above, or to both.

General

53 Short title, commencement and extent

- (1) This Act may be cited as the Criminal Law (Consolidation) (Scotland) Act 1995.
- (2) This Act shall come into force on 1 April 1996.
- (3) Subject to subsection (4) below, this Act extends only to Scotland.
- (4) Section 35(10) to (12) of this Act extends also to England and Wales and sections 27 to 29 of this Act and this section extend also to England and Wales and Northern Ireland.

TABLE OF DERIVATIONS

1 Notes:

This Table shows the derivation of the provisions of the Bill.

2 The following abbreviations are used in the Table:—

ACTS OF PARLIAMENT

1933	= False Oaths (Scotland) Act 1933 (c. 20)
1976	= Sexual Offences (Scotland) Act 1976 (c. 67)
1980	= Criminal Justice (Scotland) Act 1980 (c. 62)
1987	= Criminal Justice (Scotland) Act 1987 (c. 41)
1988	= Criminal Justice Act 1988 (c. 33)
1993	= Criminal Justice Act 1993 (c. 36)
1994	= Drug Trafficking Act 1994 (c. 37)

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1995	= Criminal Justice (Scotland) Act 1995 (1995 c. 20)
1995CP	= Criminal Justice (Consequential Provisions) (Scotland) Act (1995 c. 40)
1995CLC	= Criminal Law (Consolidation) (Scotland) Act 1995 (1995 c. 39)

<i>Provision</i>	<i>Derivation</i>
1	1976 s.2A; Incest and Related Offences (Scotland) Act 1986 (c. 36) s.1
2	1976 s.2B; Incest and Related Offences (Scotland) Act 1986 (c. 36) s.1
3	1976 s.2C; Incest and Related Offences (Scotland) Act 1986 (c. 36) s.1
4	1976 s.2D; Incest and Related Offences (Scotland) Act 1986 (c. 36) s.1; 1987 Sch.2
5(1), (2)	1976 s.3
(3) — (7)	1976 s.4; Incest and Related Offences (Scotland) Act 1986 (c. 36) Sch.1 §.4; Criminal Justice (Scotland) Act 1995 (c. 20) Sch.6 §.
6	1976 s.5
7(1)	1976 s.1
(2), (3)	1976 s.2
(4)	1976 s.17
8(1), (2)	1976 s.8
(3) — (5)	1976 s.9
9	1976 s.10
10	1976 s.11
11(1) — (4)	1976 s.12
(5), (6)	1976 s.13(1)
12	1976 s.14; Criminal Procedure (Scotland) Act 1975 (c. 21) Sch.7A; Criminal Law Act 1977 (c. 45) Sch.11
13	1980 s.80; Mental Health (Scotland) Act 1984 (c. 36) Sch.5; Criminal Justice and Public Order Act 1994 (c. 33) ss.145(2), 146(2)
14	1976 s.15
15	1976 s.6

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<i>Provision</i>	<i>Derivation</i>
16	1976 s.18
17	1976 s.19
18	1980 s.68; Sporting Events (Control of Alcohol etc.) Act 1985 (c. 57) s.10
19(1)	1980 s.69
(2)	1980 s.70
(3) — (6)	1980 s.70A; Public Order Act 1986 (c. 64) Sch.1 §.10
(7)	1980 s.71; Public Order Act 1986 (c. 64) Sch.1 §.11
20(1)	1980 s.72(1)
(2)	1980 s.73
(3) — (6)	1980 s.72A(1) — (4); Public Order Act 1986 (c. 64) Sch.1 §.14
(7)	1980 s.74
(8)	1980 ss.72(2), (3), 72A(5); Public Order Act 1986 (c. 64) Sch.1 §.14
21	1980 s.75; Public Order Act 1986 (c. 64) Sch.1 §.12
22	1980 s.76; Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40) Sch.8 §.30
23	1980 s.77; Sporting Events (Control of Alcohol etc.) Act 1985 (c. 57) s.10; Public Order Act 1986 (c. 64) Sch.1 §.13
24	1987 s.48; Criminal Justice and Public Order Act 1994 (c. 33) s.129(4), (5)
25	1987 s.49; Criminal Justice and Public Order Act 1994 (c. 33) s.129(6); Children (Scotland) Act 1995 (c. 36) Sch.3 §.[39]
26	1987 s.50
27	1987 s.51; Criminal Justice and Public Order Act 1994 (c. 33) s.164(3)
28	1987 s.52; 1988 Sch.15 §.117; Criminal Justice and Public Order Act 1994 (c. 33) s.164(4)
29	1987 s.53
30	1987 s.54; 1988 Sch.15 §.111; S.I. 1989/2405 Sch.9 Pt.II §.58

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<i>Provision</i>	<i>Derivation</i>
31	1987 s.38; 1988 Sch.5 §.23
32	1987 s.39
33	1987 s.40
34	1987 s.40A; 1993 s.20(2)
35	1987 s.41
36	1987 s.42; 1993 s.26(2)
37	1987 s.42A; 1993 s.17(1)
38	1987 s.43; 1993 s.19(2), (3)
39	1987 s.43A; 1993 s.19(1)
40	1987 s.43B; 1993 s.19(1)
41	1987 s.44
42	1987 s.46A; 1993 Sch.4 §.2
43	1987 s.47(1)(part) — (4)
44(1)	1933 s.1; Criminal procedure (Scotland) Act 1975 s.221(1)
(2)	1933 s.2; Evidence (Proceedings in Other Jurisdictions) Act 1975 (c. 35) Sch.1
(3)	1933 s.3
(4)	Criminal Justice (Scotland) Act 1949 (c. 94) s.42(1)
45(1), (2)	1933 s.4
(3) — (5)	1933 s.6
46(1)	1933 s.7(1)
(2)	1933 s.5
(3)	Criminal Justice (Scotland) Act 1949 (c. 94) s.42(2)
(4)	1933 s.7(2)
47	Prevention of Crime Act 1953 (c. 14) s.1; Criminal Procedure (Scotland) Act 1975 (c. 21) ss. 193A, 298B; Roads (Scotland) Act 1984 (c. 54) Sch.9 §.42; Criminal Justice Act 1988 (c. 33) Sch.8 §.16
48	1980 s.4
49	Carrying of Knives (Scotland) Act 1993 (c. 13) s.1; Council Directive 80/181 (Approximation of Laws Relating to Units of Measurement)

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<i>Provision</i>	<i>Derivation</i>
50	Carrying of Knives (Scotland) Act 1993 (c. 13) s.2
51	Criminal Procedure (Scotland) Act 1975 (c. 21) s.59
52	1980 s.78
53(1), (2)	Drafting
(3), (4)	1987 s.72(1), (4)