



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

### PART 1

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61 Transfer of justice of the peace court cases

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63 Dockets and charges in sex cases

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- 97 Data matching for detection of fraud etc.

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- 99 Closure of premises associated with human exploitation etc.

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- 184 Premises licences: connected persons and interested parties
- 185 Provisional premises licences: duration
- 186 Premises licence applications: food hygiene certificates
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- 189 Occasional licences
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- 202 Interpretation
- 203 Modification of enactments
- 204 Ancillary provision
- 205 Transitional provision etc.
- 206 Commencement and short title

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### *Membership*

- 1 (1) The Council consists of a chairing member, other judicial...

#### *Procedure for appointment of members*

- 2 (1) It is for the Lord Justice General, after consulting...

#### *Persons disqualified from membership*

- 3 A person is disqualified from appointment, and from holding office,...

#### *Term of office*

- 4 (1) A member holds office for such period not exceeding...

#### *Resignation and removal of members*

- 5 (1) A member appointed by the Lord Justice General may...

#### *Suspension of judicial members*

- 6 A judicial member is suspended from acting as such during...

#### *Remuneration and expenses of members*

- 6A (1) A member of the Council is entitled to such...

### *Chairing of the Council*

- 7 (1) The Lord Justice Clerk is to chair meetings of...

### *Committees*

- 8 The Council may establish committees comprising members of the Council...

### *Proceedings*

- 9 The Council may determine— (a) its own procedure (including the...

#### *Validity of acts*

- 10 The validity of proceedings or actings of the Council is...

#### *Ancillary powers*

- 11 The Council may do anything which it considers necessary or...

#### *Delegation*

- 12 (1) Any function of the Council, other than the function...

### *Maladministration*

- 13 In the Scottish Public Services Ombudsman Act 2002 (asp 11),...

### *Freedom of information*

- 14 In the Freedom of Information (Scotland) Act 2002 (asp 13),...

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SCHEDULE 2 — COMMUNITY PAYBACK ORDERS: CONSEQUENTIAL  
MODIFICATIONS  
PART 1 — THE 1995 ACT

*The 1995 Act*

- 1 The 1995 Act is amended as follows.
- 2 In section 52H(3) (early termination of assessment order), the following...
- 3 In section 52R(3) (termination of treatment order), the following are...
- 4 In section 53(12)(a) (interim compulsion orders), for sub-paragraphs (vi) and...
- 5 In section 57A(15)(a) (compulsion order), for sub-paragraphs (vi) and (vii)...
- 6 In section 58(8) (order for hospital admission or guardianship), for...
- 7 In section 106(1) (right of appeal), for paragraph (d) substitute—...
- 8 In section 108 (Lord Advocate's right of appeal against disposal)—...
- 9 In section 118(4) (disposal of appeals against sentence), after “(d),”...
- 10 In section 121A(4) (suspension of certain sentences pending determination of...
- 11 In section 173(2) (quorum of High Court in relation to...
- 12 In section 175 (right of appeal)— (a) in subsection (2)—...
- 13 In section 186 (appeals against sentence only), in each of...
- 14 In section 187(1) (leave to appeal against sentence), for “175(2)(b)...
- 15 In section 189(5) (disposal of appeal against sentence), after “175(2)(c)”...
- 16 In section 193A(4) (suspension of certain sentences pending determination of...
- 17 Sections 228 to 234 (probation) are repealed.
- 18 In section 234H (disposal on revocation of drug treatment and...
- 19 (1) Section 234J (concurrent drug treatment and testing and probation...
- 20 Sections 235 to 245 (supervised attendance orders and community service...
- 21 (1) Section 245A (restriction of liberty orders) is amended as...
- 22 (1) Section 245D (combination of restriction of liberty orders with...
- 23 (1) Section 245G (disposal on revocation of restriction of liberty...
- 24 In section 245J (breach of certain orders: adjourning hearing and...
- 25 Sections 245K to 245Q (community reparation orders) are repealed.
- 26 In section 246 (admonition and absolute discharge), in each of...
- 27 In section 249(2) (compensation order against convicted person), for paragraph...
- 28 In section 307 (interpretation)— (a) in subsection (1)—
- 29 Schedules 6 and 7 are repealed.

PART 2 — OTHER ENACTMENTS

*The Firearms Act 1968 (c.27)*

- 30 (1) The Firearms Act 1968 is amended as follows.

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

- 31 (1) The Social Work (Scotland) Act 1968 is amended as...

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*The Rehabilitation of Offenders Act 1974 (c.53)*

32 (1) The Rehabilitation of Offenders Act 1974 is amended as...

*The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55)*

33 In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland)...

*The Local Government and Planning (Scotland) Act 1982 (c.43)*

34 In section 24 of the Local Government and Planning (Scotland)...

*The 1982 Act*

35 (1) The 1982 Act is amended as follows.

*The Foster Children (Scotland) Act 1984 (c.56)*

36 In section 2 of the Foster Children (Scotland) Act 1984...

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

37 In section 46(3)(b) of the Road Traffic Offenders Act 1988...

*The Jobseekers Act 1995 (c.18)*

38 In section 20D(5) of the Jobseekers Act 1995 (as inserted)...

*The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)*

39 In Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland)...

*The Proceeds of Crime (Scotland) Act 1995 (c.43)*

40 (1) The Proceeds of Crime (Scotland) Act 1995 is amended...

*The Crime and Punishment (Scotland) Act 1997 (c.48)*

41 In the Crime and Punishment (Scotland) Act 1997, the following...

*The Crime and Disorder Act 1998 (c.37)*

42 In the Crime and Disorder Act 1998, in Schedule 6...

*The Powers of Criminal Courts (Sentencing) Act 2000 (c.6)*

43 In Schedule 9 to the Powers of Criminal Courts (Sentencing)...

*The Criminal Justice and Court Services Act 2000 (c.43)*

44 (1) Schedule 7 to the Criminal Justice and Court Services...

*The Social Security Fraud Act 2001 (c.11)*

45 (1) The Social Security Fraud Act 2001 is amended as...

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*The Justice (Northern Ireland) Act 2002 (c.26)*

46 In Schedule 4 to the Justice (Northern Ireland) Act 2002...

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

47 (1) The Criminal Justice (Scotland) Act 2003 is amended as...

*The Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)*

48 In the Mental Health (Care and Treatment) (Scotland) Act 2003,...

*The Criminal Justice Act 2003 (c.44)*

49 In Schedule 32 to the Criminal Justice Act 2003 (amendments)...

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

50 In the Antisocial Behaviour etc. (Scotland) Act 2004, the following...

*The Management of Offenders etc. (Scotland) Act 2005 (asp 14)*

51 (1) The Management of Offenders etc. (Scotland) Act 2005 is...

*The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*

52 In the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, the...

*The Criminal Justice and Immigration Act 2008 (c.4)*

53 In Part 1 of Schedule 4 to the Criminal Justice...

SCHEDULE 3 — SHORT-TERM CUSTODY AND COMMUNITY SENTENCES:  
CONSEQUENTIAL AMENDMENTS

*Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)*

- 1 The Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)...
- 2 In section 34 (period during which licence in force), for...
- 3 In the following places after “section” insert “ 5, ”...
- 4 In section 40 (compassionate release: effect of revocation in certain...
- 5 (1) Section 42 (consideration by Parole Board) is amended as...
- 6 After section 42 insert— Determination that section 42(3) applicable:  
consequences...
- 7 (1) Section 45 (prisoner's right to request early reconsideration by...
- 8 In section 46 (multiple licences to be replaced by single...
- 9 (1) Section 51 (prisoners serving extended sentences) is amended as...
- 10 (1) Section 55 (application to young offenders and children) is...
- 11 In section 56 (fine defaulters and persons in contempt of...
- 12 In section 65 (rules, regulations and orders), in subsection (4)(a),...
- 13 (1) Schedule 2 (prisoners serving more than one sentence) is...
- 14 (1) Schedule 3 (sentences framed to run consecutively) is amended...

*The 1995 Act*

- 15 The 1995 Act is amended in accordance with paragraphs 16...
- 16 (1) Section 167 (forms of finding and sentence in summary...
- 17 (1) Section 210A (extended sentences for sex and violent offenders)...

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SCHEDULE 4 — CONVICTIONS BY COURTS IN OTHER EU MEMBER STATES: MODIFICATIONS OF ENACTMENTS  
PART 1 — THE 1995 ACT

*The 1995 Act*

- 1 The 1995 Act is amended as follows.
- 2 In section 23C(2)(d)(i) (previous convictions to be taken into consideration...
- 3 In section 27 (breach of bail conditions: offences), after subsection...
- 4 In section 202(2) (deferred sentence), for “Great Britain” substitute “...
- 5 In section 204 (restrictions on passing sentence of imprisonment or...
- 6 In section 205B (minimum sentence for third conviction of certain...
- 7 In section 275A (disclosure of accused's previous convictions where court...
- 8 In section 307 (interpretation)— (a) in subsection (1), insert the...

PART 2 — OTHER ENACTMENTS

*The 1982 Act*

- 9 In section 58 of the 1982 Act, after subsection (4)...

*The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)*

- 10 In section 27(1) of the Prisoners and Criminal Proceedings (Scotland)...

*The Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)*

- 11 (1) Section 9 of the Criminal Law (Consolidation) (Scotland) Act...

*The Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17)*

- 12 In section 4(1) of the Custodial Sentences and Weapons (Scotland)...

*The Sexual Offences (Scotland) Act 2009 (asp 9)*

- 13 (1) Section 39 of the Sexual Offences (Scotland) Act 2009...

SCHEDULE 5 — WITNESS ANONYMITY ORDERS: TRANSITIONAL

*Interpretation*

- 1 In this schedule— “commencement” means the day on which section...

*Pre-commencement anonymity orders: appeals*

- 2 (1) This paragraph applies where— (a) the High Court of...

SCHEDULE 6 — FURTHER MODIFICATIONS OF 2005 ACT

- 1 The 2005 Act is amended in accordance with the following...
- 2 In section 4 (the licensing objectives), subsection (2) is repealed....
- 3 In section 21 (notification of premises licence applications), subsection (5)...
- 4 In section 22 (objections and representations), subsection (2) is repealed....
- 5 In section 23 (determination of premises licence application), for subsection...

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- 6 (1) Section 24 (applicant's duty to notify Licensing Board of...
- 7 (1) Section 33 (transfer of premises licence on application of...
- 8 In section 44 (procedure where Licensing Board receives notice of...
- 9 In section 57 (notification of occasional licence application to chief...
- 10 (1) Section 59 (determination of occasional licence application) is amended...
- 11 In section 69 (notification of extended hours application), in subsection...
- 12 In section 73 (notification of personal licence application to chief...
- 13 (1) Section 74 (determination of personal licence application) is amended...
- 14 (1) Section 75 (applicant's duty to notify Licensing Board of...
- 15 (1) Section 83 (procedure where Licensing Board receives notice of...
- 16 After section 84 insert— Power of chief constable to report...
- 17 In section 148 (index of defined expressions), in the table,...
- 18 In schedule 1 (Licensing Boards), in paragraph 10(4), the words...

#### SCHEDULE 7 — MODIFICATIONS OF ENACTMENTS

##### *The Libel Act 1792 (c.60)*

- 1 The Libel Act 1792 is repealed.

##### *The Criminal Libel Act 1819 (c.8)*

- 2 The Criminal Libel Act 1819 is repealed.

##### *The False Oaths (Scotland) Act 1933 (c.20)*

- 3 The False Oaths (Scotland) Act 1933 is repealed.

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

- 4 In section 14 of the Public Records (Scotland) Act 1937...

##### *The Law Officers Act 1944 (c.25)*

- 5 In section 2(3) of the Law Officers Act 1944 (Lord...

##### *The Defamation Act 1952 (c.66)*

- 6 In the Defamation Act 1952, section 17(2) is repealed.

##### *The Rehabilitation of Offenders Act 1974 (c.53)*

- 7 The Rehabilitation of Offenders Act 1974 is amended as follows....
- 8 In section 1 (rehabilitated persons and spent convictions), in subsection...
- 9 In section 6(6)(bb) (convictions in service disciplinary proceedings), for “the...
- 10 The Schedule (service disciplinary proceedings) is renumbered as Schedule 1....

##### *The Evidence (Proceedings in Other Jurisdictions) Act 1975 (c.34)*

- 11 In Schedule 1 to the Evidence (Proceedings in Other Jurisdictions)...

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*The 1982 Act*

- 12 The 1982 Act is amended as follows.
- 13 In section 52 (indecent photographs etc. of children), subsection (7)...
- 14 In section 64 (appeals against orders in relation to public...

*The Incest and Related Offences (Scotland) Act 1986 (c.36)*

- 15 The Incest and Related Offences (Scotland) Act 1986 is repealed....

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

- 16 In section 22 of the Legal Aid (Scotland) Act 1986...

*The Criminal Justice (Scotland) Act 1987 (c.41)*

- 17 In the Criminal Justice (Scotland) Act 1987, sections 51 to...

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

- 18 In the Criminal Justice Act 1988, in Schedule 15 (minor...

*The Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)*

- 19 In section 243(4)(b) of the Trade Union and Labour Relations...

*The Criminal Justice and Public Order Act 1994 (c.33)*

- 20 In the Criminal Justice and Public Order Act 1994, in...

*The Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)*

- 21 The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as...
- 22 Section 16 (powers of search) is repealed.
- 23 In section 23 (interpretation of Part 2), in the definition...

*The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40)*

- 24 In Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland)...

*The 1995 Act*

- 25 The 1995 Act is amended as follows.
- 26 After section 5 insert— Signing of warrants etc. outwith sheriff's...
- 27 In section 10A (jurisdiction for transferred cases)—
- 28 In section 11 (certain offences committed outside Scotland)—
- 29 In section 17A (right of person accused of sexual offence...
- 30 In section 18(8)(c) (power to take prints etc. under authority...
- 31 In section 19(1)(b) (samples etc. taken from person convicted of...
- 32 In section 19A (samples etc. from persons convicted of sexual...
- 33 Section 20 (use of prints, samples, etc.) is repealed.
- 34 In section 22 (liberation by police), subsections (1H), (2), (4),...
- 35 In section 23A (bail and liberation where person already in...
- 36 In section 35 (judicial examination), in subsection (4A)—
- 37 In section 55(4) (acquittal at examination of facts)—
- 38 The title of section 57 (disposal of case where accused...
- 39 In section 57 (disposal of case where accused found to...



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- 40 In section 60C(7) (disapplication of provision where person acquitted on...)
- 41 In section 61 (requirements as to medical evidence)—
- 42 The title of section 62 (appeal by accused in case...)
- 43 The title of section 63 (appeal by prosecutor in case...)
- 44 In section 66 (service and lodging of indictment etc.), in...
- 45 In section 71 (first diet)— (a) in subsection (A1), for...
- 46 In section 78(2) (which attracts the procedure for notifying special...)
- 47 In section 79 (preliminary pleas and preliminary issues), in subsection...
- 48 In section 85 (juries: citation and attendance of jurors), in...
- 49 In section 90D (review of orders under section 90B(1)(a) or...)
- 50 In section 102A (failure of accused to appear), for paragraph...
- 51 In section 118(5) (disposal of appeal from solemn proceedings where...)
- 52 In section 136A (time limits for transferred and related cases),...
- 53 In section 137B (transfer of sheriff court summary proceedings outwith...)
- 54 In section 140 (citation), in subsection (2A)—
- 55 In section 144 (procedure at first diet), in subsection (3A)—...
- 56 In section 146 (plea of not guilty), in subsection (3A)—...
- 57 The title of section 190 (disposal of appeal where appellant...)
- 58 In section 190— (a) in subsection (1), for “insane when...)
- 59 In section 247 (effect of probation and absolute discharge)—
- 60 In section 254 (search warrant for forfeited articles)—
- 61 In section 258 (uncontroversial evidence), after subsection (4A) insert—
- 62 In section 307 (interpretation), in subsection (1), after the definition...

*The Offensive Weapons Act 1996 (c.26)*

- 63 In the Offensive Weapons Act 1996, section 5 is repealed....

*The Defamation Act 1996 (c.31)*

- 64 In the Defamation Act 1996, section 20(2) is repealed.

*The Crime and Punishment (Scotland) Act 1997 (c.48)*

- 65 The Crime and Punishment (Scotland) Act 1997 is amended as...
- 66 In section 9 (power to specify hospital unit), in subsection...
- 67 In section 13 (increase in sentences available to sheriff and...
- 68 In section 56 (powers of the court on remand or...

*The Terrorism Act 2000 (c.11)*

- 69 In paragraph 30 of Part II of Schedule 5 to...

*The Protection of Children (Scotland) Act 2003 (asp 5)*

- 70 In section 10 of the Protection of Children (Scotland) Act...

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

- 71 In section 3 of the Criminal Justice (Scotland) Act 2003...

*The Legal Deposit Libraries Act 2003 (c.28)*

- 72 Section 10 of the Legal Deposit Libraries Act 2003 (exemption...

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*The Sexual Offences Act 2003 (c.42)*

73 In section 135 of the Sexual Offences Act 2003 (interpretation:...

*The Criminal Procedure (Amendment) (Scotland) Act 2004 (asp 5)*

74 In the Criminal Procedure (Amendment) (Scotland) Act 2004 the following...

*The Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9)*

75 In section 8 of the Protection of Children and Prevention...

*The Management of Offenders etc. (Scotland) Act 2005 (asp 14)*

76 In section 10 of the Management of Offenders etc. (Scotland)...

*The Serious Organised Crime and Police Act 2005 (c.15)*

77 In section 65 of the Serious Organised Crime and Police...

*The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)*

78 The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 is amended...

79 In section 7 (liberation on undertaking), in subsection (2), paragraphs...

80 In section 74 (appointment of stipendiary magistrates), subsection (6) is...

81 After section 74 insert— Exercise of functions by stipendiary magistrates...

82 In section 76 (signing functions)— (a) in subsection (2), for...

83 In the schedule (modification of enactments)— (a) paragraph 3(b) is...

*The Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)*

84 In section 32 of the Protection of Vulnerable Groups (Scotland)...

*The Counter-Terrorism Act 2008 (c.28)*

85 In section 45 of the Counter-Terrorism Act 2008 (sentences or...

*The Sexual Offences (Scotland) Act 2009 (asp 9)*

86 In section 55(7) of the Sexual Offences (Scotland) Act 2009...

*The Coroners and Justice Act 2009 (c.25)*

87 In section 156 of the Coroners and Justice Act 2009...

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**Changes and effects yet to be applied to :**

- s. 103 repealed by [2016 asp 22 Sch. 2 para. 7\(a\)](#)
- s. 104 repealed by [2016 asp 22 Sch. 2 para. 7\(b\)](#)
- Sch. 7 para. 75 repealed by [2016 asp 22 Sch. 2 para. 7\(c\)](#)