

SCHEDULE MODIFICATION OF ENACTMENTS

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS

- 10 (1) The 1995 Act is amended as follows.
- (2) In section 79 (preliminary pleas and preliminary issues), after paragraph (c) of subsection (3A) there is inserted—
- “(d) section 1A(2)(b) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 or section 7(2)(b) of the Domestic Abuse (Scotland) Act 2018.”.
- 11 (1) The Abusive Behaviour and Sexual Harm (Scotland) Act 2016 is amended as follows.
- (2) In section 1 (aggravation of offence where abuse of partner or ex-partner), in subsection (6)(b), the words “or civil partners” are repealed.
- (3) After section 1 there is inserted—

“1A Presumption as to the relationship

- (1) In proceedings for an offence that is aggravated as described in section 1(1) (a), the matter of a person being another person’s partner or ex-partner is to be taken as established—
- (a) according to the stating of the matter in the charge of the offence in the complaint or indictment, and
- (b) unless the matter is challenged as provided for in subsection (2).
- (2) The matter is challenged—
- (a) in summary proceedings, by—
- (i) preliminary objection before the plea is recorded, or
- (ii) later objection as the court allows in special circumstances,
- (b) in proceedings on indictment, by giving notice of a preliminary objection in accordance with section 71(2) or 72(6)(b)(i) of the 1995 Act.”.