

SCHEDULE

Regulation 3

ANCILLARY PROVISION

Modification of the Matrimonial Homes (Family Protection) (Scotland) Act 1981

1. Section 17 of the Matrimonial Homes (Family Protection) (Scotland) Act 1981⁽¹⁾, insofar as it continues to have effect despite its repeal, does so as though it were modified as follows—

- (a) in subsection (1), paragraph (b) and the word “; and” immediately preceding it were omitted;
- (b) subsection (3) were omitted;
- (c) after subsection (3) there were inserted—
 - “(3A) Subsections (4) and (5) apply when the procurator fiscal has decided that no criminal proceedings are to be taken in respect of the facts and circumstances which gave rise to the arrest under section 15(3) of this Act.”;
- (d) in subsection (4), for “subsection (1)” there were substituted “subsection (3A)”.

Modification of the Children (Scotland) Act 1995

2. Section 78 of the Children (Scotland) Act 1995⁽²⁾ is modified as follows—

- (a) in subsection (10), paragraph (b) and the word “; and” immediately preceding it are omitted;
- (b) subsection (12) is repealed;
- (c) before subsection (13) insert—
 - “(12A) Subsection (13) applies where—
 - (a) a person is brought before the sheriff under subsection (11) above; and
 - (b) the procurator fiscal has decided that no criminal proceedings are to be taken in respect of the facts and circumstances which gave rise to the arrest.”;
- (d) in subsection (13), for “a person is brought before the sheriff under subsection (11) above” substitute “this subsection applies”;
- (e) after subsection (13) insert—
 - “(13A) Subsection (14) applies where—
 - (a) a person has been liberated under subsection (7)(a) above; or
 - (b) the following conditions are met—
 - (i) a person is to be brought before the sheriff under subsection (11) above; and
 - (ii) the procurator fiscal has decided that no criminal proceedings are to be taken in respect of the facts and circumstances which gave rise to the arrest.”;
- (f) in subsection (14)—
 - (i) for the words from the beginning to “subsection (11) above” substitute “Where this subsection applies”;

(1) 1981 c.59. Section 17 was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) (“the 1995 Act”) schedule 4 paragraph 37 and the Family Law (Scotland) Act 2006 (asp 2) (“the 2006 Act”) schedule 2 paragraph 4(3). It was repealed by the 2006 Act schedule 3, subject to the saving provision contained in S.S.I. 2006/212 article 13.

(2) 1995 c.36. Section 78 was amended by the 1995 Act schedule 4 paragraph 97(7) and the Police and Fire Reform (Scotland) Act 2012 (asp 8) schedule 7 paragraph 11(2).

- (ii) for the words from “in the case of” to “, before that” substitute “where the conditions in subsection (13A)(b) above are met, before the”.

Modification of the Protection from Abuse (Scotland) Act 2001

- 3.**—(1) The Protection from Abuse (Scotland) Act 2001⁽³⁾ is modified as follows.
- (2) In section 4—
 - (a) in subsection (2)—
 - (i) the words from “informed” to “practicable and” are omitted;
 - (ii) paragraph (a) is omitted;
 - (b) subsections (3) to (5) are repealed.
 - (3) In section 5—
 - (a) in subsection (1), from the words from the beginning to “detained” substitute “Where a person is detained under section 4(2), the”;
 - (b) after subsection (2) there is inserted—

“(2A) Subsections (3) to (5) apply where, on being brought before the sheriff under this section, the detained person is not accused on petition or charged on complaint with an offence in respect of the facts and circumstances giving rise to the arrest.”.

Modification of the Civil Partnership Act 2004

- 4.** Section 116 of the Civil Partnership Act 2004⁽⁴⁾, insofar as it continues to have effect despite its repeal, does so as though it were modified as follows—
- (a) in subsection (1), paragraph (b) and the word “, and” immediately preceding it were omitted;
 - (b) subsection (4) were omitted;
 - (c) after subsection (4) there were inserted—

“(4A) Subsections (5) to (7) apply where the procurator fiscal has decided that no criminal proceedings are to be taken in respect of the facts and circumstances which gave rise to the arrest under section 114(4).”;
 - (d) in subsection (5), for “subsection (1)” there were substituted “subsection (4A)”.

Modification of S.S.I. 2006/212

- 5.**—(1) Article 13 of the Family Law (Scotland) Act 2006 (Commencement, Transitional Provisions and Savings) Order 2006⁽⁵⁾ is modified as follows.
- (2) The existing text of the article becomes paragraph 1 of the article.
 - (3) After that paragraph, insert—

“(2) Paragraph (1) applies subject to regulation 3 and paragraphs 1 and 4 of the schedule of the Criminal Justice (Scotland) Act 2016 (Modification of Part 1 and Ancillary Provision) Regulations 2017.”.

(3) 2001 asp 14.

(4) 2004 c.33. Section 116 was repealed by the 2006 Act schedule 3, subject to the saving provision contained in S.S.I. 2006/212 article 13.

(5) S.S.I. 2006/212.

Modification of the Adult Support and Protection (Scotland) Act 2007

- 6.—(1) The Adult Support and Protection (Scotland) Act 2007⁽⁶⁾ is modified as follows.
- (2) In section 28, subsection (2) is repealed.
 - (3) In section 29(1), paragraph (a) is omitted.
 - (4) Section 30 is repealed.
 - (5) Section 31 is repealed.
 - (6) In section 32—
 - (a) in subsection (1), paragraph (b) and the word “, and” immediately preceding it are omitted;
 - (b) in subsection (2), paragraph (b) and the word “, and” immediately preceding it are omitted.

⁽⁶⁾ 2007 asp 10.