

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1980, SCHEDULE 7. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

Section 83(2).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *The Prisons (Scotland) Act 1952 (c. 61)*

1—6 ..... F1

#### Textual Amendments

**F1** Sch. 5, Sch. 7 paras. 1–6, 14, 15, 17–20 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

7 ..... F2

#### Textual Amendments

**F2** Sch. 7 paras. 7, 12, 50 repealed by Criminal Justice Act 1982 (c. 48), Sch. 16

8 In section 29(1) (removal for judicial purposes) after the words “young offenders centre” there shall be inserted the words “, young offenders institution”.

#### Modifications etc. (not altering text)

**C1** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

9 In section 30(3) (prisoners unlawfully at large) after the words “young offenders centre” there shall be inserted the words “, young offenders institution”.

#### Modifications etc. (not altering text)

**C2** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

10 In section 32(2) (extension throughout the United Kingdom of certain enactments relating to supervision and recall)—

(a) paragraph (b) shall cease to have effect ;

(b) in paragraph (f), the word “11” shall cease to have effect ; and

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(c) in paragraph (i) for the words “214” there shall be substituted the words “212, 214, 421”.

**Modifications etc. (not altering text)**

**C3** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

11 In section 38 (construction of references to sentence of imprisonment)—

(a) in subsection (3)(a)—

- (i) the words “corrective training, preventive detention,” shall cease to have effect ;
- (ii) at the end there shall be added the words “ or young offenders institution ” ; and

(b) in subsection (5)(a), the words “in a young offenders institution” shall cease to have effect.

**Modifications etc. (not altering text)**

**C4** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

12 ..... F3

**Textual Amendments**

**F3** Sch. 7 paras. 7, 12, 50 repealed by [Criminal Justice Act 1982 \(c. 48\)](#), [Sch. 16](#)

*The Criminal Justice (Scotland) Act 1963 (c. 39)*

13 In section 9(4)(a) (transfer between institutions), after the words “1957” there shall be inserted the words “ the Armed Forces Act 1976 ”.

**Modifications etc. (not altering text)**

**C5** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

14, 15. .... F4

**Textual Amendments**

**F4** Sch. 5, Sch. 7 paras. 1–6, 14, 15, 17–20 repealed by [Prisons \(Scotland\) Act 1989 \(c. 45, SIF 39:1\)](#), s. 45(2), [Sch. 3](#)

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*The Legal Aid (Scotland) Act 1967 (c.43)*

16 In section 1 (scope and general conditions of legal aid), at the end of subsection (7) there shall be added the following proviso—

“:Provided that nothing in this section shall preclude a person from being given legal aid in connection with summary proceedings after conviction and before sentence where the court is considering a sentence of imprisonment or detention or the imposition of imprisonment, or detention, under section 396(2) of the Criminal Procedure (Scotland) Act 1975 in respect of failure to pay a fine, and he has not previously been sentenced to imprisonment, or detention as defined in section 41(2) (b) of the Criminal Justice (Scotland) Act 1980.”.

**Modifications etc. (not altering text)**

**C6** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

17–20. . . . . <sup>F5</sup>

**Textual Amendments**

**F5** Sch. 5, Sch. 7 paras. 1–6, 14, 15, 17–20 repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

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

21 In section 42 (conduct of children’s hearing and application to sheriff for findings), after subsection (2) there shall be inserted the following subsection—

“(2A) Where the ground for referral is that the child is in need of compulsory measures of care because he has committed an offence, the sheriff to whom an application under subsection (2)(c) above shall be made shall be the sheriff who would have jurisdiction if the child were being prosecuted for that offence.”

<sup>F6</sup> *The Road Traffic Act 1972 (c. 20)*

**Textual Amendments**

**F6** Sch. 7 para. 22 repealed (*prosp.*) by Transport Act 1981 (c. 56, SIF 107:1), Sch. 12 Pt. III

22 In section 10(4) (evidence by certificate)—

- (a) after the word “Scotland” there shall be inserted “ (a) ”; and
- (b) at the end there shall be inserted the following paragraph—

“(b) A written execution purporting to be signed by the person who served a copy of the certificate or of the notice in terms of subsection (3) above, together with, where appropriate, a post office receipt for the relative registered

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or recorded delivery letter shall be sufficient evidence of service of such a copy.”.]

**Modifications etc. (not altering text)**

**C7** The text of Sch. 7 para. 22, Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

23

F7

**Textual Amendments**

**F7** Sch. 7 para. 23 repealed by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 3, [Sch. 1 Pt. I](#)

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

24

In section 5 (rehabilitation periods for particular sentences)—

- (a) in subsection (1)(d)—
  - (i) after the word “life”, there shall be inserted the words “ or under section 205(2) or (3) of the Criminal Procedure (Scotland) Act 1975, ” ; and
  - (ii) for the words “or under section 57 of the Children and Young Persons (Scotland) Act 1937 (young offenders convicted of grave crimes)” there shall be substituted the words “ (young offenders convicted of grave crimes) or under section 206 of the said Act of 1975 (detention of children convicted on indictment) ” ;
- (b) in subsection (2), in Table B, in the first column—
  - (i) for the words “57 of the said Act of 1937” there shall be substituted the words “ 206 of the Criminal Procedure (Scotland) Act 1975 ” ; and
  - (ii) the words “or under section 7 of the Criminal Justice (Scotland) Act 1963” shall cease to have effect ;
- (c) in subsection (5) for paragraph (c) there shall be substituted the following paragraph—
  - “(c) an order under section 413 of the Criminal Procedure (Scotland) Act 1975 committing a child for the purpose of his undergoing residential training ;” ; and
- (d) in subsection (9)—
  - (i) in paragraph (a), for the words “in a young offenders institution in Scotland” there shall be substituted the words “ under section 207 or 415 of the Criminal Procedure (Scotland) Act 1975 ” ; and
  - (ii) in paragraph (b) for the words “section 57 of the said Act of 1937” there shall be substituted the words “ section 206 of the said Act of 1975 ”.

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**Modifications etc. (not altering text)**

- C8** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

- 25 In section 19(1) (prisoners before examination to have access to solicitor), the existing words after “arrest” shall be paragraph (a) of the subsection and after that paragraph there shall be inserted the following paragraph—

“(b) to be told what rights there are under paragraph (a) above and subsections (2) and (3) below.”.

**Modifications etc. (not altering text)**

- C9** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 26 At the end of section 28 (admission or refusal of bail after committal), there shall be added the following subsection—

“(3) For the avoidance of doubt, the provisions of section 26 of this Act and the foregoing provisions of this section apply whether or not the person is in custody at such time, as he appears for the disposal of his application.”.

**Modifications etc. (not altering text)**

- C10** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 27 In section 71 (manner of service of indictment, etc.), for the words from “macer” to the end there shall be substituted the words “ officer of law ”.

**Modifications etc. (not altering text)**

- C11** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 28 In section 81 (examination by prosecutor of witnesses not included in lists lodged), at the beginning there shall be inserted the words “ Without prejudice to section 82A of this Act, ”.

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**Modifications etc. (not altering text)**

**C12** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 29 In section 98 (jurors to be cited by registered letter or recorded delivery), after the word “delivery” there shall be inserted the words “ or to be served on him by an officer of law ”.

**Modifications etc. (not altering text)**

**C13** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 30 In section 100(2) (rules of court in relation to jurors) for the words from “The rules of court” to “to this Act.” there shall be substituted the words “ The provisions of Schedule 3 to this Act shall have effect as if they were rules of court made under this subsection. ”.

**Modifications etc. (not altering text)**

**C14** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 31 After section 111 there shall be inserted the following section—

**“111A Computation of periods.**

Where the last day of any period mentioned in section 75, 76, 76A or 80 of this Act falls on a Saturday, Sunday or court holiday, such period shall extend to and include the next day which is not a Saturday, Sunday or court holiday.”.

**Modifications etc. (not altering text)**

**C15** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 32 In the proviso to section 113(4) (judges in High Court), after the word “importance” there shall be inserted the words “ in Edinburgh or on circuit ” and after the word “preside” there shall be inserted the words “ for the whole or any part of the trial. ”.

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**Modifications etc. (not altering text)**

**C16** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 33 In section 141(1) (accused and spouse competent witnesses for defence). for the words “competent witnesses” there shall be substituted the words “ a competent witness ”.

**Modifications etc. (not altering text)**

**C17** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 34 In section 168 (power of court, in respect of certain offences against a child, to refer child to reporter), for the words from “committed” to “reporter” there shall be substituted the words—

“committed any offence—

- (a) under section 21 of the Children and Young Persons (Scotland) Act 1937 ;
- (b) mentioned in Schedule 1 to this Act ; or
- (c) in respect of a female person aged 17 years or over which constitutes the crime of incest,

may refer—

- (i) the child in respect of whom the offence mentioned in paragraph (a) or (b) above has been committed ; or
- (ii) any child who is, or who is likely to become, a member of the same household as the person who has committed the offence mentioned in paragraph (b) or (c) above,

to the reporter ”.

**Modifications etc. (not altering text)**

**C18** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 35 In section 173(3) (reference and remit of children’s cases by courts to children’s hearings), for the words “shall request” there shall be substituted the words—

“dealing with the case if it is—

- (a) the High Court, may; and

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(b) the sheriff court, shall,  
 request ”.

**Modifications etc. (not altering text)**

**C19** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 36 In section 179 (power of court, in solemn proceedings, to adjourn a case before sentence)—
- (a) in subsection (1) there shall be inserted before the, proviso the words “ or ordain him to appear at the adjourned diet ” ; and
  - (b) in subsection (2), for paragraph (a) there shall be substituted the following paragraph—
    - “(a) review the order appealed against and either grant bail on such conditions as it thinks fit or ordain the accused to appear at the adjourned diet ;”.

**Modifications etc. (not altering text)**

**C20** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 37 In section 193A (fines on conviction on indictment to be without limit), after the word “summarily” there shall be inserted the words—
- “other than by virtue of section 8 of the Criminal Justice (Scotland) Act 1980”.

**Modifications etc. (not altering text)**

**C21** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 38 In section 212 (recall to young offenders institution on reconviction), in subsection (1)—
- (i) for the words “young offenders institution” there shall be substituted the words “ under section 207 of this Act ” ; and
  - (ii) for the words from “instead” to the end there shall be substituted the words “ , except where the person convicted is subject to a licence granted under section 60(1) or section 61 of the Criminal Justice Act 1967, make an order for his recall. ”.



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**Modifications etc. (not altering text)**

**C22** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

39 For section 215 (legal custody) there shall be substituted the following section—

**“215 Legal custody.**

Any person required or authorised by or under this Act or Part I of the Criminal Justice (Scotland) Act 1980 to be taken to any place, or to be detained or kept in custody shall, while being so taken or detained or kept, be deemed to be in legal custody.”

**Modifications etc. (not altering text)**

**C23** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

40 In section 218 (consideration of time spent in custody), the words “in a young offenders institution as defined in section 31(1)(d) of the Prisons (Scotland) Act 1952” shall cease to have effect.

**Modifications etc. (not altering text)**

**C24** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

41 In section 241 (notice to authorities, etc. of date of hearing), for the words “Prison Commissioners for Scotland” in both places where they occur there shall be substituted the words “ Secretary of State ”.

**Modifications etc. (not altering text)**

**C25** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

42 In section 242 (notice to Prison Commissioners of attendance of appellant at hearing), for the words “Prison Commissioners for Scotland” and “said Commissioners” there shall in each case be substituted the words “ Secretary of State ”.

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**Modifications etc. (not altering text)**

**C26** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 43 In section 243 (warders to attend court), for the words “Prison Commissioners for Scotland” there shall be substituted the words “ Secretary of State ” and for the word “warders” there shall be substituted the words “ prison officers ”.

**Modifications etc. (not altering text)**

**C27** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 44 In section 251(5) (appeal against refusal of application), for the words “Prison Commissioners for Scotland” there shall be substituted the words “ Secretary of State ”.

**Modifications etc. (not altering text)**

**C28** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 45 In section 261 (notice of determination of appeal), for the words “Prison Commissioners for Scotland” there shall be substituted the words “ Secretary of State ”.

**Modifications etc. (not altering text)**

**C29** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 46 In section 268(4) (reckoning of time spent pending appeal) for the words “Borstal institution” there shall be substituted the words “ young offenders institution ”.

**Modifications etc. (not altering text)**

**C30** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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47 In section 282 (Acts of Adjournal), the existing words shall be subsection (1) and at the end of that subsection there shall be added the following subsection—

“(2) The High Court may by Act of Adjournal modify, amend or repeal any enactment, including an enactment contained in this Part of this Act, in so far as that enactment relates to matters with respect to which an Act of Adjournal may be made under subsection (1) above.”.

**Modifications etc. (not altering text)**

**C31** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

48 In section 283(1) (application of Part II of this Act)—

- (a) in paragraph (b) for the word “statute” there shall be substituted the words “enactment or rule of law”; and
- (b) at the end of that paragraph there shall be inserted the words “as well as, in accordance with section 196(1) of this Act, to the enforcement of a fine imposed in solemn proceedings”.

**Modifications etc. (not altering text)**

**C32** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

49 In section 283A(1) (offences which are to become triable only summarily), at the beginning there shall be inserted the words— “Subject to section 8 of the Criminal Justice (Scotland) Act 1980, but otherwise ”

**Modifications etc. (not altering text)**

**C33** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

50 ..... F8

**Textual Amendments**

**F8** Sch. 7 paras. 7, 12, 50 repealed by Criminal Justice Act 1982 (c. 48), Sch. 16

51 At the end of section 298 (all offences to be bailable), there shall be added the following subsection—

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“(3) For the avoidance of doubt, the foregoing provisions of this section apply whether or not the person is in custody at such time as he appears for the disposal of his application.”.

**Modifications etc. (not altering text)**

**C34** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

52 In section 305 (intimation to solicitor)—

- (a) for the word “apprehended” and for the word “apprehension” there shall be substituted respectively the word “arrested” and the words “such arrest”;
- (b) the existing words after “entitled” shall be paragraph (a) of the section; and
- (c) after that paragraph there shall be inserted the following paragraph—  
“ (b) to be told what his rights under paragraph (a) above are.”.

**Modifications etc. (not altering text)**

**C35** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

53 In section 310 (incidental applications), after the words “prior to” there shall be inserted the words “or after”; and the word “subsequent” where it first occurs shall cease to have effect.

**Modifications etc. (not altering text)**

**C36** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

54 In section 334 (procedure at first diet, etc.)—

- (a) in subsection (1) for the words from “objections” where it first occurs to “stated” there shall be substituted the words “an objection to the competency or relevancy of the complaint or the proceedings or issue a denial that he is the person charged by the police with the offence, and no such objection or denial shall be allowed to be stated or issued”;
- (b) for subsection (2) there shall be substituted the following subsection—  
“(2) In the absence of the accused, an objection to the competency or relevancy of a summary complaint or the proceedings thereon may be stated, or a denial that the accused is the person charged by the police with the offence may be issued, by counsel or by a solicitor on his behalf; and where such an objection is stated or denial is

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issued, the provisions of this Part of this Act shall apply in like manner as if the accused had appeared and stated the objection or issued the denial.”.

**Modifications etc. (not altering text)**

**C37** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

55 In section 344(4)(a) (failure of witness to attend for precognition) for the words “24” there shall be substituted the words “ 48 ”.

**Modifications etc. (not altering text)**

**C38** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

56 In section 346(1) (accused and spouse competent witnesses for defence), for the words “competent witnesses” there shall be substituted the words “ a competent witness ”.

**Modifications etc. (not altering text)**

**C39** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

F<sup>9</sup>57 .....

58 In section 370 (child charged jointly with person who is not a child) for the words “,367 and 374” there shall be substituted the words “ and 367 ”.

**Modifications etc. (not altering text)**

**C40** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

59 In section 380 (power of court, in summary proceedings, to adjourn a case before sentence)—

(a) in subsection (1) there shall be inserted before the proviso the words “ or ordain him to appear at the adjourned diet ” ; and

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(b) in subsection (2), for paragraph (a) there shall be substituted the following paragraph—

“(a) review the order appealed against and either grant bail on such conditions as it thinks fit or ordain the accused to appear at the adjourned diet ;”.

**Modifications etc. (not altering text)**

**C41** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

60 In section 395(2) (provisions as to fines), for the words “detention centre” there shall be substituted the words “ young offenders institution ”.

**Modifications etc. (not altering text)**

**C42** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

61 In section 398(1) (restriction on imprisonment after fine or caution), for the words “his means in his presence” there shall be substituted the words “ in his presence the reason why the fine has not been paid ”.

**Modifications etc. (not altering text)**

**C43** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

62 In section 399 (payment of fine by instalments)—

(a) in subsection (1), the words from “and it” to the end shall cease to have effect ; and

(b) for subsection (2) there shall be substituted the following subsections—

“(2) Where the court has ordered payment of a fine by instalments it may—

(a) allow further time for payment of any instalment thereof ;

(b) order payment thereof by instalments of lesser amounts, or at longer intervals, than those originally fixed.

(3) The powers conferred by subsection (2) above shall be exercisable without requiring the attendance of the accused.”.

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**Modifications etc. (not altering text)**

**C44** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

63 At the end of section 401 (supplementary provisions as to payment of fine) there shall be added the following subsection—

“(3) Where a warrant has been issued for the apprehension of an offender for non-payment of a fine, the offender may, notwithstanding section 412 of this Act, pay such fine in full to a constable ; and the warrant shall not then be enforced and the constable shall remit the fine to the clerk of court.”.

**Modifications etc. (not altering text)**

**C45** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

64 In section 407(3) (period of imprisonment for non-payment of fine) for the words “ subsection (1)” there shall be substituted the words “ subsection (1A) ”.

**Modifications etc. (not altering text)**

**C46** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

65 In section 409(1) (payment of fine in part by prisoner), for the words from “by a number” to the end there shall be substituted the words ”(or as the case may be further reduced) by a number of days bearing as nearly as possible the same proportion to such term as the sum so paid bears to the amount of the fine outstanding at the commencement of the imprisonment:

Provided that the day on which any sum is paid shall not be regarded as a day served by the prisoner as part of the said term of imprisonment.“.

**Modifications etc. (not altering text)**

**C47** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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- 66 In section 411(1) (recovery by civil diligence), for the words “poining the sale”, “ten free” and “small debt court” there shall be substituted, respectively, the words “poining and sale”, “14” and “in a summary cause”.

**Modifications etc. (not altering text)**

- C48** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 67 In section 421(1) (recall to young offenders institution on reconviction)—
- (a) for the words “young offenders institution” there shall be substituted the words “under section 415 of this Act”; and
  - (b) for the words from “instead” to the end there shall be substituted the words “, except where the person convicted is subject to a licence granted under section 60(1) or section 61 of the Criminal Justice Act 1967, make an order for his recall.”.

**Modifications etc. (not altering text)**

- C49** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 68 In section 424 (detention in precincts of court), after the word “imprisonment” there shall be inserted the words “or detention”.

**Modifications etc. (not altering text)**

- C50** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 69 For section 426 (legal custody) there shall be substituted the following section—

**“426 Legal custody.**

Any person required or authorised by or under this Act or Part I of the Criminal Justice (Scotland) Act 1980 to be taken to any place, or to be detained or kept in custody shall, while being so taken or detained or kept, be deemed to be in legal custody.”.



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**Modifications etc. (not altering text)**

**C51** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

70 In section 431 (consideration of time spent in custody), the words “in a young offenders institution as defined in section 31(1)(d) of the Prisons (Scotland) Act 1952” shall cease to have effect.

**Modifications etc. (not altering text)**

**C52** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

71 For section 436 (forfeiture of implements) there shall be substituted the same provisions as constitute section 223 (forfeiture of property).

**Modifications etc. (not altering text)**

**C53** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

72 In section 457 (Acts of Adjournal), at the end there shall be added the following paragraph—

“(d) to modify, amend or repeal any enactment, including an enactment contained in this Part of this Act, in so far as that enactment relates to matters with respect to which an Act of Adjournal may be made under this section”.

**Modifications etc. (not altering text)**

**C54** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

73 In section 458 (construction of enactments referring to sentence of detention) for the words “in a young offenders institution” there shall be substituted the words “under section 207 or 415 of this Act”.

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**Modifications etc. (not altering text)**

**C55** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

74 In section 459 (construction of enactments referring to detention) for the words “in a young offenders institution” there shall be substituted the words “under section 207 or 415 of this Act”.

**Modifications etc. (not altering text)**

**C56** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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76 In section 462(1) (interpretation)—

- (a) at the appropriate place there shall be inserted the definition “ “diet” includes any continuation of a diet ;” ;
- (b) in the definition of “impose detention” and “impose imprisonment”, for the words “ failing to do or abstain from doing anything required to be done or left undone” there shall be substituted the words “ contempt of court ” ; and
- (c) for the definition of “ sentence” there shall be substituted the definition “ “sentence” , whether of detention or of imprisonment, means a sentence passed in respect of a crime or offence and does not include an order for committal in default of payment of any sum of money or for contempt of court. ”.

**Modifications etc. (not altering text)**

**C57** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

77 In section 463 (extent) after subsection (1) there shall be added the following subsection—

“(1A) Sections 169 and 374 of this Act shall extend to Northern Ireland.”.

**Modifications etc. (not altering text)**

**C58** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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- 78 In Schedule 3 (composition of juries)—
- (a) in paragraph 2—
    - (i) for the words from “ be made” to “ by him).” there shall be substituted the words “ be lodged, at least 15 clear days before the trial diet, with the clerk of the court before which that diet is to be. ” ; and
    - (ii) for the words “ the presiding sheriff” there shall be substituted the words “ a judge of that court ; and that judge shall deal with the application in chambers. The accused, if represented by counsel or by a solicitor, shall not be entitled to attend. ” ; and
  - (b) for paragraphs 3 and 4 there shall be substituted the following paragraph—

“3 The judge’s decision under the foregoing rule shall be recorded on the record copy of the indictment and shall be final.”.

**Modifications etc. (not altering text)**

**C59** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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- 79 In section 39(3) (service of summonses and citations throughout the United Kingdom)—
- (a) after the word “include” there shall be inserted “ (a) ” ; and
  - (b) at the end there shall be added the following paragraph—

“(b) persons authorised by a chief officer of police in England or Wales to serve summonses there.”.

**Modifications etc. (not altering text)**

**C60** The text of Schs. 2–4, Sch. 7 paras 8–11, 13, 16, 21, 24–49, 51–79 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Status:**

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