



Criminal Justice (Scotland) Act 1995

CHAPTER 20

CRIMINAL JUSTICE (SCOTLAND) ACT 1995

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SCHEDULES

SCHEDULE 1 — Certificates as to Proof of Certain Matters

- 1 Schedule 1 to the Criminal Justice (Scotland) Act 1980 (which...
- 2 Before the entry relating to the Wireless Telegraphy Act 1949...
- 3 After the entry relating to the Wireless Telegraphy Act 1949...
- 4 In the entry relating to the Firearms Act 1968, for...
- 5 After the entry relating to the Social Security Act 1975...
- 6 In the entry relating to the Bail etc. (Scotland) Act...
- 7 After the entry relating to the Forgery and Counterfeiting Act...
- 8 After the entry relating to the Video Recordings Act 1984...
- 9 After the entry relating to the Social Security Administration Act...

SCHEDULE 2 — Supervision and Treatment Orders: Schedule to be inserted in the 1975 Act

SCHEDULE 3 — Administrators

Appointment of administrators

- 1 (1) On the application of the prosecutor the court may...

Functions of administrators

- 2 (1) Subject to paragraph 5 below, an administrator—

Money received by administrator

- 3 (1) Subject to sub-paragraph (2) below, all money received by...

Application of proceeds of realisation and other sums

- 4 (1) This paragraph applies only to an administrator appointed to...

Supervision of administrators

- 5 (1) The accountant of court shall supervise the performance by...

Accounts and remuneration of administrator

- 6 (1) The administrator shall keep such accounts in relation to...

Effect of appointment of administrator on diligence

- 7 Without prejudice to sections 98 and 99 of this Act—...

Further provision as to administrators

- 8 (1) Where an administrator takes any action—

Discharge of administrator

- 9 After an administrator has lodged his final accounts under paragraph...

Compensation

- 10 (1) Where the court, on an application made to it...

Rules of court as regards accountant of court's supervision etc of administrators

- 11 Without prejudice to section 5 of the Court of Session...

Power to facilitate realisation

- 12 (1) Without prejudice to any enactment or rule of law...

SCHEDULE 4 — Sequestration etc. of Persons Holding Realisable or Forfeitable Property

Sequestration of person holding realisable or forfeitable property

- 1 (1) Where the estate of a person who holds realisable...

Bankruptcy in England and Wales of person holding realisable or forfeitable property

- 2 (1) Where a person who holds realisable or forfeitable property...

Winding up of company holding realisable or forfeitable property

- 3 (1) Where realisable or forfeitable property is held by a...

Property subject to floating charge

- 4 (1) Where any property held subject to a floating charge...

Insolvency practitioners dealing with property subject to restraint order

- 5 (1) Without prejudice to the generality of any enactment contained...

Interpretation

- 6 (1) In this Schedule “the 1985 Act” means the Bankruptcy...

SCHEDULE 5 — Amendments to the Criminal Justice (Scotland) Act 1987
Relating to Part II

- 1 The Criminal Justice (Scotland) Act 1987 shall be amended as...
- 2 In section 1 (confiscation orders)— (a) in subsection (1)—
- 3 For section 2 (postponed confiscation orders) there shall be substituted...
- 4 In section 3 (assessing the proceeds of drug trafficking)—
- 5 In section 4 (statements relating to drug trafficking)—
- 6 In section 5 (realisable property)— (a) for subsections (1) to...
- 7 In section 6 (implicative gifts)— (a) in subsection (1), in...
- 8 After section 6 (implicative gifts) there shall be inserted the...
- 9 In section 7 (application of provisions relating to fines to...
- 10 After section 7 (application of provisions relating to fines to...
- 11 For sections 8 (cases in which restraint orders may be...
- 12 In section 11 (inhibition and arrestment of property affected by...
- 13 After section 11 there shall be inserted the following section—...
- 14 In section 12 (interdict of person not subject to a...
- 15 In section 13 (administrators)— (a) for the words “Lord Advocate”...
- 16 In section 14 (functions of administrators)— (a) in subsection (1)—...
- 17 In section 16 (application of proceeds of realisation and other...
- 18 In section 17 (supervision of administrators), in subsection (2), for...
- 19 In section 18 (accounts and remuneration of administrator), for the...
- 20 In section 19 (effect of appointment under section 13 of...
- 21 In section 20 (further provision as to administrators), at the...
- 22 In section 23 (exercise of powers by Court of Session...
- 23 In section 24 (power to facilitate realisation), for the words...
- 24 For section 25 (variation of confiscation order), there shall be...
- 25 In section 26 (compensation)— (a) in subsection (1)—
- 26 After section 28 (provisions supplementary to section 27), there shall...
- 27 In section 30 (enforcement of other external orders)—
- 28 In section 32 (Orders in Council as regards taking action...
- 29 In section 33 (sequestration of person holding realisable property)—
- 30 In section 34 (bankruptcy in England and Wales of person...
- 31 In section 35 (winding up company holding realisable property)—
- 32 In section 36 (property subject to floating charge)—
- 33 After section 37 (insolvency practitioners dealing with property subject to...
- 34 In section 41(2) (disclosure of information held by government departments)—...
- 35 In section 44(1) (offences relating to controlled drugs: fines), for...
- 36 In section 47 (interpretation of Part I)—

SCHEDULE 6 — Minor and Consequential Amendments
Part I — AMENDMENTS RELATING TO PART I

The Criminal Procedure (Scotland) Act 1887 (c. 35)

- 1 Section 3 of and Schedules D (form of execution of...

The Criminal Justice (Scotland) Act 1949 (c. 94)

- 2 Schedule 7 to the Criminal Justice (Scotland) Act 1949 (forms...

The Summary Jurisdiction (Scotland) Act 1954 (c. 48)

- 3 Parts I and III to VI of Schedule 2 (forms...

The Backing of Warrants (Republic of Ireland) Act 1965 (c. 45)

- 4 In section 8(1)(b) of the Backing of Warrants (Republic of...

The Criminal Justice Act 1967 (c. 80)

- 5 In section 69(2) of the Criminal Justice Act 1967 (extension...

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

- 6 The Criminal Procedure (Scotland) Act 1975 shall be amended as...
 7 In section 6(3) (jurisdiction and procedure in respect of certain...
 8 Sections 14(3) and 323(3) (warrant to search for or remove...
 9 After section 15 there shall be inserted the following section—...
 10 In section 18(3) (penalty for breach of undertaking to appear),...
 11 In section 19(1)(a) (intimation to a solicitor), for the words...
 12 Section 20(2) (record where accused does not emit declaration) shall...
 13 In section 20B(9) (service of transcript of record of proceedings...
 14 In each of sections 23 and 329 (remand and committal...
 15 In section 26 (bail before committal)— (a) in subsection (2),...
 16 In section 31 (appeal in respect of bail), after subsection...
 17 In section 33 (liberation of applicant when appeal by public...
 18 For section 42 (procedure on resignation, death or removal of...
 19 After section 48 there shall be inserted the following sections—...
 20 In section 50 (latitude as to time and place), after...
 21 In section 54 (“money” to include coin, bank notes and...
 22 In subsection (2) of section 58 (authentication of deletion or...
 23 After section 60 there shall be inserted the following section—...
 24 Sections 62 and 313 (mode of charging certain offences committed...
 25 In section 68 (notice of previous convictions), in each of...
 26 In section 69 (warrants for citation)— (a) the existing provision...
 27 In section 72 (citation of jurors and witnesses)—
 28 In section 73(1) (execution of citation of indictment), the words...
 29 In section 77 (alteration of trial diet), for paragraphs (a)...
 30 In section 78(1) (lodging of record copy of indictment and...
 31 In section 79(1) (description of witnesses), for the words from...
 32 In section 80(1) (objection to witnesses), after the word “accused”...
 33 In section 81 (examination by prosecutor of witnesses, etc. not...
 34 In section 82 (notice of special defence, incrimination etc.)—
 35 For section 85 (45 jurors to be returned for trials),...
 36 In section 93 (names of jurors to be inserted in...
 37 In section 100 (no exemptions by sex or marriage from...
 38 In section 103(1) (pleas of guilty), after the word “he”...
 39 In section 108 (certain objections competent only at preliminary diet)
 —...
 40 Section 110 (where sentence delayed, original warrant of commitment
 stands)...
 41 After section 114 there shall be inserted the following section—...
 42 In section 124 (plea of guilty at trial diet), the...
 43 For section 125 (on plea of not guilty, jury to...
 44 In section 127 (procedure where trial does not take place)—...

- 45 In section 129 (procedure for selection of jurors), for the...
- 46 Section 132(2) (procedure in High Court trials where jurors chosen...
- 47 In section 134 (provision for death or illness of jurors)—...
- 48 In section 135 (clerk to state charge and swear jury)—...
- 49 In section 140A(1)(b) (no case to answer), the words “were...
- 50 For section 142 (evidence of the accused) there shall be...
- 51 Section 144 (notice of spouse as witness) shall cease to...
- 52 Section 145(4) (interruption of trial) shall cease to have effect...
- 53 Section 146 (sheriff’s notes of evidence) shall cease to have...
- 54 In each of sections 148 and 340 (examination of witnesses)—...
- 55 In section 150 (admissions and agreements as to evidence in...
- 56 In section 151(2) (application to have all or part of...
- 57 In section 153 (seclusion of jury, etc, after retiral)—
- 58 In section 156 (interruption of trial to give direction to...
- 59 In section 157 (interruption of trial for plea or sentence...
- 60 Section 159(1) (previous convictions libelled as aggravations) and (3)
(passing...
- 61 Section 160(3) (verdict as to whether previous convictions proved)
shall...
- 62 In section 162(3) (proof of convictions), for the words “An...
- 63 Section 163 (extract conviction to be issued by clerk having...
- 64 In each of sections 166 and 362 (power to clear...
- 65 In section 174 (insanity in bar of trial or as...
- 66 In section 176 (requirements as to medical evidence)—
- 67 In section 178(3) (restriction orders), for the words “section 60(4)”...
- 68 In each of sections 179(1) and 380(1) (power of court...
- 69 After section 182 there shall be inserted the following— Caution...
- 70 In subsection (7) of each of sections 183 and 384...
- 71 In each of sections 186(1) and 387(1) (failure to comply...
- 72 Sections 190 and 391 (supplementary provisions as to probation:
security...
- 73 In section 191(4) (effect of probation and absolute discharge) the...
- 74 In each of sections 192 and 393 (probation reports), the...
- 75 In each of sections 196(1) and 402 (fines, etc. may...
- 76 Sections 225 (interlocutors to be signed by clerk), 226 (record...
- 77 In section 235 (applications in connection with appeals may be...
- 78 In section 236A(3) (judge’s report), for the words “and the...
- 79 Section 236C (signing of appeal documents) shall cease to have...
- 80 Section 237 (note of proceedings) shall cease to have effect...
- 81 In section 238 (bail pending appeal), in subsection (2), the...
- 82 In section 239 (clerk to give notice of date of...
- 83 In section 240 (appellant may be present at hearing), the...
- 84 Section 246 (sittings of the High Court to be arranged...
- 85 In section 254 (disposal of appeals)— (a) in subsection (4)(b),...
- 86 After section 254A there shall be inserted the following section—...
- 87 Section 256 (summary dismissal of frivolous or vexatious appeals)
shall...
- 88 In section 257 (failure to appear at hearing), for the...
- 89 Section 259 (continuation of hearing) shall cease to have effect...
- 90 In section 263 (prerogative of mercy), after subsection (2) there...
- 91 In section 263A (power of Lord Advocate to refer point...
- 92 In section 264 (disqualification, forfeiture etc.)— (a) in each of...
- 93 In section 265 (fines and caution)— (a) in subsection (1),...

Status: This is the original version (as it was originally enacted).

- 94 In section 268 (reckoning of time spent on bail pending...
 95 In section 269 (extract convictions), after the words “section 228(1) (b)”...
 96 In section 270 (release of documents, productions etc. after trial),...
 97 Sections 272 (note to be kept of appeal) and 273...
 98 In section 274(5)(e) (record of proceedings at trial), for the...
 99 Section 276 (declaration administered to shorthand writer) shall cease to...
 100 In section 277(2) (non-compliance with certain provisions may be waived),...
 101 Section 282 (power to make Acts of Adjournal: solemn procedure)...
 102 For subsection (1) of section 283 (application of Part II...
 103 Section 289D(1A)(d) (power to alter sums specified in section 435(e)...
 104 In section 296 (police liberation or detention of children arrested),...
 105 In section 300 (appeal in respect of bail)—
 106 For section 305 (intimation to a solicitor) there shall be...
 107 In section 309(1) (forms of procedure in summary proceedings), the...
 108 In section 310 (incidental applications)— (a) the words “Part I...
 109 In section 311 (complaint)— (a) in subsection (1), the words...
 110 In section 312 (form of charge in complaint)—
 111 In section 314 (orders of court on complaint)—
 112 In section 315(2) (citation), the words “Part IV of Schedule...
 113 In section 316(3) (manner of citation of accused)—
 114 In section 318(2) (citation of offender), the words “Part IV...
 115 In section 319(1) (citation by post), the words “other than...
 116 In section 320 (apprehension of witness), after the word “may”...
 117 In section 321 (warrants of apprehension and search)—
 118 In section 335(1) (amendment of complaint), the words “penalty or”...
 119 Section 336 (record of plea of guilty) shall cease to...
 120 In section 338(1) (failure of accused to appear), after the...
 121 In section 339 (alibi), for the words “prior to the...
 122 In section 344(1) (punishment of witness for contempt), the words...
 123 Section 345 (administration of oath to same witness in case...
 124 For section 347 (evidence of the accused) there shall be...
 125 In section 352(2) (application to have all or part of...
 126 In section 354(1) (admissions and agreements as to evidence in...
 127 In section 357 (proof of convictions)— (a) in subsection (1)(a),...
 128 In section 359 (record of summary proceedings), after the words...
 129 Section 360 (proceedings written or printed) shall cease to have...
 130 In section 360A (interruption of summary proceedings for verdict in...
 131 In section 366 (procedure where sheriff sits summarily in respect...
 132 In section 375(3) (insanity in bar of trial), for the...
 133 In section 376 (power of court to order hospital admission...
 134 In section 377 (requirements as to medical evidence)—
 135 In section 379(3) (restriction orders), for the words “section 62(1)”...
 136 In section 392 (effects of probation and absolute discharge on...
 137 In section 396(7) (time for payment of fine), the words...
 138 In section 398(1) (restriction on imprisonment after fine or caution)—...
 139 In section 406 (substitution of custody for imprisonment where a...
 140 In section 408 (discharge from imprisonment to be specified), for...
 141 In section 413(1) (detention of children in residential care)—
 142 In section 430 (consecutive sentences)— (a) in subsection (1), the...
 143 In section 432(1) (deferred sentence), the words from “and”, where...

- 144 Section 435 (expenses) shall cease to have effect.
- 145 In section 440 (extract sufficient warrant for imprisonment), the words...
- 146 In section 441 (provision for court comprising more than one...
- 147 In section 443A (disqualification, forfeiture etc.), after subsection (2) there...
- 148 In section 444(1)(b) (contents of application for stated case), for...
- 149 In section 446 (procedure in relation to appeal by stated...
- 150 In section 451(3) (computation of time) after the words “442(1)(a)(i)”...
- 151 (1) Section 453 (prosecutor’s consent to or application for setting...
- 152 In section 453B (appeals against sentence only), after subsection (4)...
- 153 In section 453D (disposal of appeal where appellant insane)—
- 154 In section 454(1) (convictions not to be quashed on certain...
- 155 Section 457 (power to make Acts of Adjournal: summary procedure)...
- 156 Before section 457A there shall be inserted the following section—...
- 157 (1) Section 462 (interpretation) shall be amended as follows.
- 158 In Schedule 5 (discharge and amendment of probation orders), in...

The Sexual Offences (Scotland) Act 1976 (c. 67)

- 159 In section 4 of the Sexual Offences (Scotland) Act 1976...

The Community Service by Offenders (Scotland) Act 1978 (c. 49)

- 160 The Community Service by Offenders (Scotland) Act 1978 shall be...
- 161 In section 2 (offender to be provided with copy order)—...
- 162 In section 4(1) (failure to comply with requirements of community...

The Criminal Justice (Scotland) Act 1980 (c. 62)

- 163 In section 26(4) of the Criminal Justice (Scotland) Act 1980...

The Mental Health (Scotland) Act 1984 (c. 36)

- 164 The Mental Health (Scotland) Act 1984 shall be amended as...
- 165 In section 67(1) (application of sections 63 to 66 to...
- 166 In section 69(3) (persons ordered to be kept in custody...
- 167 In section 71(7)(a) (removal to hospital of persons serving sentences...
- 168 In section 73(1) (transfer order to cease to have effect...
- 169 In section 125(4) interpretation)— (a) after “174,” there shall be...

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

- 170 In section 60(3) of the Criminal Justice (Scotland) Act 1987...

The Road Traffic Offenders Act 1988 (c. 53)

- 171 In section 19 of the Road Traffic Offenders Act 1988...
- 172 In section 20 of that Act (admissibility of certain evidence...
- 173 In sections 31(2) (court may take account of particulars endorsed...

The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

- 174 The Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 shall be...
- 175 In section 56 (evidence of children through television link in...
- 176 In section 58 (prior identification of accused by child witness),...

- 177 In Schedule 6 (supervised attendance orders)— (a) in paragraph 2—...
- The Criminal Justice Act 1991 (c. 53)*
- 178 In Schedule 3 to the Criminal Justice Act 1991 (reciprocal...
- The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)*
- 179 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 shall...
- Part II — AMENDMENTS RELATING TO PART II
- The Trade Marks Act 1938 (c. 22)*
- 180 In section 58B of the Trade Marks Act 1938 (delivery...
- The Criminal Procedure (Scotland) Act 1975 (c. 21)*
- 181 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended...
- The Community Service by Offenders (Scotland) Act 1978 (c. 49)*
- 182 In section 1(7) of the Community Service by Offenders (Scotland)...
- The Civil Jurisdiction and Judgments Act 1982 (c. 27)*
- 183 In subsection (4A) of section 18 of the Civil Jurisdiction...
- The Telecommunications Act 1984 (c. 12)*
- 184 In Schedule 3 to the Telecommunications Act 1984 (penalties and...
- The Bankruptcy (Scotland) Act 1985 (c. 66)*
- 185 (1) The Bankruptcy (Scotland) Act 1985 shall be amended as...
- The Criminal Justice Act 1988 (c. 33)*
- 186 (1) The Criminal Justice Act 1988 shall be amended as...
- The Copyright, Designs and Patents Act 1988 (c. 48)*
- 187 (1) The Copyright, Designs and Patents Act 1988 shall be...
- The Road Traffic Offenders Act 1988 (c. 53)*
- 188 After section 33 of the Road Traffic Offenders Act 1988...
- The Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)*
- 189 (1) Schedule 4 to the Prevention of Terrorism (Temporary Provisions)...
- The Criminal Justice (International Co-operation) Act 1990 (c. 5)*
- 190 (1) In section 9(6) of the Criminal Justice (International Co-operation)...
- The Northern Ireland (Emergency Provisions) Act 1991 (c. 24)*
- 191 In section 50(2) of the Northern Ireland (Emergency Provisions) Act...

The Road Traffic Act 1991 (c. 40)

192 Section 37 of the Road Traffic Act 1991 (forfeiture of...

The Drug Trafficking Act 1994 (c. 37)

193 (1) The Drug Trafficking Act 1994 shall be amended as...

SCHEDULE 7 — Repeals

Part I — REPEALS RELATING TO PART I

Part II — REPEALS RELATING TO PART II