

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

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

- 24 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended in accordance with this paragraph.
- (2) Section 14 shall cease to have effect.
- (3) In section 23 (which, as amended by the Criminal Justice (Scotland) Act 1995, provides for remand of persons under twenty one in secure accommodation)—
- (a) in sub-paragraph (i) of paragraph (a) of subsection (1), for the words “the Social Work (Scotland) Act 1968” substitute “Part II of the Children (Scotland) Act 1995”; and
 - (b) in paragraph (a) of subsection (4), for the words “the Social Work (Scotland) Act 1968” substitute “Part II of the Children (Scotland) Act 1995”.
- (4) In section 37 (power to order parent to give security for child’s good behaviour) after subsection (3) add—
- “(4) In this section “parent” means either of the child’s parents, if that parent has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to him.”.
- (5) In section 39 (attendance at court of parent of child charged with an offence: solemn procedure)—
- (a) for subsection (4) substitute—
- “(4) The parent or guardian whose attendance shall be required under this section shall be—
- (a) any parent who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to the child; or
 - (b) the guardian having actual possession and control of him.”; and
- (b) in subsection (5), for the word “custody” substitute “care”.
- (6) In section 168 (power of court to refer child to reporter where accused convicted of certain offences: solemn proceedings)—
- (a) in paragraph (c), the word “female” shall cease to have effect;
 - (b) in paragraph (ii), after the word “above” insert “or the person in respect of whom the offence so mentioned was committed”; and

Status: This is the original version (as it was originally enacted).

- (c) for the words “Part III of the Social Work (Scotland) Act 1968” substitute “Chapter 3 of Part II of the Children (Scotland) Act 1995”.
- (7) In section 171(2) (regard to be had to certain provisions in presumption of age of child: solemn proceedings)—
- (a) for the words “application of the provisions of section 30(1) of the Social Work (Scotland) Act 1968” substitute “definition of a child for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995”; and
 - (b) for the words “under Part V of that Act” substitute “by virtue of regulations made under that Act for the purpose of giving effect to orders made in different parts of the United Kingdom”.
- (8) In section 177 (directions by court in solemn proceedings as to conveyance of person to residential establishment), the words “provided by a local authority under Part IV of the Social Work (Scotland) Act 1968” shall cease to have effect.
- (9) In section 296 (powers of police in relation to children apprehended)—
- (a) in subsection (3), the words from “and the child” to the end shall cease to have effect; and
 - (b) subsection (4) shall cease to have effect.
- (10) In section 304 (power to require parent to give security for child’s good behaviour), after subsection (3) add—
- “(4) In this section “parent” means either of the child’s parents, if that parent has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to him.”.
- (11) In section 307 (attendance at court of parent of child charged with an offence: summary procedure)—
- (a) for subsection (4) substitute—
 - “(4) The parent or guardian whose attendance shall be required under this section shall be—
 - (a) any parent who has parental responsibilities or parental rights (within the meaning of sections 1(3) and 2(4) respectively of the Children (Scotland) Act 1995) in relation to the child; or
 - (b) the guardian having actual possession and control of him.”; and
 - (b) in subsection (5), for the word “custody” substitute “care”.
- (12) Section 323 shall cease to have effect.
- (13) In section 329 (which, as amended by the Criminal Justice (Scotland) Act 1995, provides for remand of persons under twenty one in secure accommodation)—
- (a) in sub-paragraph (i) of paragraph (a) of subsection (1), for the words “the Social Work (Scotland) Act 1968” substitute “Part II of the Children (Scotland) Act 1995”; and
 - (b) in paragraph (a) of subsection (4), for the words “the Social Work (Scotland) Act 1968” substitute “Part II of the Children (Scotland) Act 1995”.

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

- (14) In section 364 (power of court to refer child to reporter where accused convicted of certain offences: summary proceedings)—
- (a) in paragraph (c) the word “female” shall cease to have effect;
 - (b) in paragraph (ii), after the word “above” insert “or the person in respect of whom the offence so mentioned was committed”; and
 - (c) for the words “Part III of the Social Work (Scotland) Act 1968” substitute “Chapter 3 of Part II of the Children (Scotland) Act 1995”.
- (15) In section 368(2) (regard to be had to certain provisions in presumption of age of child: summary proceedings)—
- (a) for the words “application of the provisions of section 30(1) of the Social Work (Scotland) Act 1968” substitute “definition of a child for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995”; and
 - (b) for the words “under Part V of that Act” substitute “by virtue of regulations made under that Act for the purpose of giving effect to orders made in different parts of the United Kingdom”.
- (16) In section 378 (directions by court in summary proceedings as to conveyance of person to residential establishment), the words “provided by a local authority under Part IV of the Social Work (Scotland) Act 1968” shall cease to have effect.
- (17) In section 413 (detention of children found guilty in summary proceedings)—
- (a) in subsection (1), for the words “residential care” substitute “residential accommodation provided under Part II of the Children (Scotland) Act 1995”;
 - (b) in subsection (3)—
 - (i) the definitions of “care” and of “the 1968 Act” shall cease to have effect; and
 - (ii) after the definition of “the appropriate local authority” insert—

““secure accommodation” has the meaning assigned to it in Part II of the Children (Scotland) Act 1995”;
 - (c) after subsection (3) insert the following subsection—

“(3A) Where a child in respect of whom an order is made under this section is detained by the appropriate local authority, that authority shall have the same powers and duties in respect of the child as they would have if he were subject to a supervision requirement.”;
 - (d) in subsection (4), the words “within the meaning of the 1968 Act” shall cease to have effect;
 - (e) in subsection (5), the words “(within the meaning of the 1968 Act)” shall cease to have effect;
 - (f) in subsection (6), for the word “care” substitute “accommodation”;
 - (g) in subsection (6A), the words “within the meaning of the 1968 Act” shall cease to have effect;
 - (h) in subsection (6B)—
 - (i) for the words “care of” substitute “accommodation provided by”; and
 - (ii) for the words “their care” substitute “that accommodation or any other such accommodation provided by that authority”; and
 - (i) in subsection (6C)—

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

- (i) for the word “care” where it first occurs substitute “accommodation provided by the appropriate local authority”;
 - (ii) in paragraph (a), for the word “care” substitute “accommodation”;
 - and
 - (iii) in paragraph (b), for the words “residential care” where they first occur substitute “detention in residential accommodation” and for those words where they secondly occur substitute “such detention”.
- (18) In section 462 (interpretation) in the definition of—
- (a) “child”, for the words “by section 30 of the Social Work (Scotland) Act 1968” substitute “for the purposes of Chapters 2 and 3 of Part II of the Children (Scotland) Act 1995”;
 - (b) “children’s hearing”, for the words “by section 34(1) of the Social Work (Scotland) Act 1968” substitute “in Part II of the Children (Scotland) Act 1995”;
 - (c) “place of safety”, for the words “section 94(1) of the Social Work (Scotland) Act 1968” substitute “Part II of the Children (Scotland) Act 1995”;
 - (d) “residential establishment”, for the words from “has” to the end substitute “means an establishment within the meaning of that expression for the purposes of the Social Work (Scotland) Act 1968 or, as the case may be, of Part II of the Children (Scotland) Act 1995”; and
 - (e) “supervision requirement”, for the words “by section 44(1) of the Social Work (Scotland) Act 1968” substitute “in Part II of the Children (Scotland) Act 1995”.