

SCHEDULES

FIRST SCHEDULE

Section 2.

PROVISIONS OF CRIMINAL PROCEDURE (SCOTLAND) ACT, 1887, AS APPLIED TO SUMMARY PROCEDURE

“4 Summary complaint, Naming of accused.

A person accused may be named and designed in a complaint according to the former practice, or he may be named by the name given by him and designed as of the place given by him as his residence when he is examined on declaration, and it shall not be necessary to set forth any other name or names by which he may be known, or any other address or designation.

5 Nomen juris unnecessary.

It shall not be necessary in any complaint to specify by any nomen juris the offence which is charged, but it shall be sufficient that the complaint sets forth facts relevant and sufficient to constitute an offence punishable on complaint.

6 Case of two or more persons charged.

When in any complaint two or more persons are charged together with committing an offence punishable on complaint, it shall not be necessary to allege that " both and each or one or other," or that " all and each or one or more" of them committed the offence, or did or failed to do any particular act, but such alternatives shall be implied in all such complaints.

7 " Guilty, actor or art and part ".

It shall not be necessary to state in any complaint that a person accused is " guilty, actor or art and part", but such charge shall be implied in all complaints.

8 Qualifying words to be implied.

It shall not be necessary in any complaint to allege that any act of commission or omission therein charged was done or omitted to be done " wilfully " or " maliciously ", or " wickedly and feloniously ", or " falsely and fraudulently ", or " knowingly ", or " culpably and recklessly ", or " negligently ", or in " breach of duty ", or to use such words as " knowing the same to be forged ", or " having good reason to know". or " well knowing the same to have been stolen", or to use any similar words or expressions qualifying any act charged, but such qualifying allegation shall be implied in every case in which according to the former law and practice its insertion would have been necessary in order to make the complaint relevant.

9 Quotation of statutes unnecessary.

It shall not be necessary in a complaint for an offence punishable under any Act of Parliament to quote the Act of Parliament or any part of it, but it shall be sufficient to allege that the offence was committed contrary to such Act of Parliament, and to refer to the Act and any section of the Act founded on without setting forth the enactment in words at length.

10 Latitude as to time and place.

The latitude formerly in use to be taken in stating time in complaints shall be implied in all statements of time where an exact time is not of the essence of the charge, and the latitude formerly in use to be taken in stating any place in such complaints by adding to the word " at " , or to the word " in " , the words " or near " , or the words " or in the near neighbourhood thereof " , or similar words, shall be implied in all statements of place where the actual place is not of the essence of the charge, and where the circumstances of the offence charged make it necessary to take an exceptional latitude in regard to time or place it shall not be necessary to set forth such circumstances in the complaint, or to set forth that the particular time or the particular place is to the prosecutor unknown ; provided always that where exceptional latitude is taken, the court shall, if satisfied that such exceptional latitude was not reasonable in the circumstances of the case, give such remedy to the person accused by adjournment of the trial or otherwise as shall seem just.

11 Latitude as to quantities, persons, things, or modes.

The latitude formerly in use to be taken in complaints in describing quantities by the words " or thereby " , or the words " or part thereof " , or the words " or some other quantity to the prosecutor unknown " , or similar words, shall be implied in all statements of quantities, and the latitude formerly in use to be taken in stating details connected with the perpetration of any act regarding persons, things, or modes by inserting general alternative statements followed by the words " to the prosecutor unknown " , or similar words, shall be implied in all cases where such statements were in use to be made according to the former practice.

12 Description of buildings, goods, money, or other property.

Where in a complaint, whether raised on Act of Parliament or at common law, buildings, goods, money, or property of any other description are mentioned, it shall not be necessary to allege the property or possession thereof, to be in any person, official, corporation, or company, or that the same were not the property of the accused, and the allegation that the same were not the property of the accused shall be implied in all cases where it is essential to the criminality of the charge.

13 Description of persons, goods, etc.

Where in a complaint or any list or inventory relative thereto any person is referred to, it shall be sufficient to describe him by his name and ordinary address, and it shall not be necessary to describe him as " now or lately " residing at such address, but such words shall be implied, and where goods, articles, or things require to be described, it shall be sufficient to describe them in general terms without specifying the materials of which they are made, or any particulars which distinguish them from other goods, articles, or things of a similar kind except in cases in which such particulars are essential to the constitution of the offence charged.

14 " Money " to include coin, bank notes, and post office orders.

The word " money " when used in a complaint shall include all current coin of the realm, post office orders and postal orders, and bank or banker's notes, and it shall not be necessary to specify in any statement in a complaint relating to a sum of money whether such sum consisted of gold, silver, or other coin, post office orders or postal orders, or bank or banker's notes, or any of them, but it shall be sufficient to state the sum as consisting of money.

15 Setting forth documents unnecessary.

Where in a complaint any document requires to be referred to, it shall not be necessary to set forth the document or any part of it in such complaint, but it shall be sufficient to refer to such document by a general description."

58 Reset.

Criminal resetting of property shall not be limited to the receiving of property taken by theft or robbery, but shall extend to the receiving of property appropriated by breach of trust and embezzlement, and by falsehood fraud and wilful imposition, and under any complaint charging the resetting of property dishonestly appropriated by any of these means, it shall not be necessary to set forth any details of the offence by which the dishonest appropriation was accomplished, but it shall be sufficient to set forth that the person accused received such property, it having been dishonestly appropriated by theft or robbery, or by breach of trust and embezzlement, or by falsehood, fraud, and wilful imposition, as the case may be.

59 Robbery, etc., to include reset, and theft to include breach of trust, etc.

- (1) Under a complaint for theft, or for breach of trust and embezzlement, or for falsehood fraud and wilful imposition, a person accused may be convicted of reset; under a complaint for breach of trust and embezzlement, or for falsehood fraud and wilful imposition, a person accused may be convicted of theft; under a complaint for theft, a person accused may be convicted of breach of trust and embezzlement, or of falsehood fraud and wilful imposition, or may be convicted of theft, although the circumstances proved may in law amount to robbery.
- (2) The power conferred by the last foregoing subsection to convict a person of an offence other than the offence charged in a complaint shall be exercisable by the sheriff court before which such person is tried notwithstanding that that other offence was committed outside the jurisdiction of that sheriff court:

60 Procedure where more than one offence charged.

Where in a complaint two or more offences or acts constituting offences are charged cumulatively, it shall be lawful to convict of any one or more of them, and any part of what is charged in a complaint, constituting in itself an offence punishable on complaint, shall be deemed separable to the effect of making it lawful to convict of such offence, and where any offence is charged as having been committed with a particular intent or with particular circumstances of aggravation, it shall be lawful to convict of the offence without such intent or aggravation.

61 Attempt at offence.

Attempt to commit any offence punishable on complaint shall itself be an offence punishable on complaint, and under a complaint which charges a completed offence the person accused may be lawfully convicted of an attempt to commit such offence ; and under a complaint charging an attempt, the person accused may be convicted of such attempt although the evidence be sufficient to prove the completion of the offence said to have been attempted ; and under a complaint charging an offence which imports personal injury inflicted by the person accused, resulting in death or serious injury to the person, the person accused may be lawfully convicted of the assault or other injurious act, and may also be lawfully convicted of the aggravation that such assault or other injurious act was committed with intent to commit such offence.

62 Statutory offences which are offences at common law.

Where any act set forth in a complaint as contrary to any Act of Parliament is also criminal at common law, or where the facts proved under such a complaint do not amount to a contravention of the statute, but do amount to an offence at common law, it shall be lawful to convict of the common law offence.

63 Previous convictions of dishonesty.

Previous convictions obtained in any part of the United Kingdom of robbery, theft, stouthrief, reset, forgery and uttering forged documents, falsehood fraud and wilful imposition, housebreaking with intent to steal, assault with intent to rob, breach of trust and embezzlement, burglary, larceny, obtaining goods or money by false pretences, swindling, cardsharpping, and of attempts to commit any of those offences, and of offences contrary to the Acts of Parliament relating to the Queen's coinage, and of offences relating to the Queen's coinage at common law. and of offences inferring dishonest appropriation by post office officials, or of attempts to commit such offences, whether such convictions be under the Post Office Acts or at common law, and of all other offences inferring dishonest appropriation of property by a person not the owner thereof, or attempts to commit such offences, whether in contravention of any Act of Parliament or at common law, may be lawfully put in evidence as aggravations against any person accused on complaint of any of the offences, or attempts to commit offences, above set forth, and any aggravation of the offence or attempt which an extract of such conviction bears to have been found proven, may be lawfully used in evidence to the like effect.

64 Previous convictions of violence.

Previous convictions of any offence inferring personal violence obtained in any part of the United Kingdom may be lawfully put in evidence as aggravations of any offence inferring personal violence, and any aggravation set forth in such convictions may be lawfully used in evidence to the like effect.

65 Previous convictions of lewd conduct, etc.

Previous convictions obtained in any part of the United Kingdom of any offence inferring lewd, indecent, or libidinous conduct may be lawfully put in evidence as aggravations of any offence of a lewd, indecent, or libidinous character, and any aggravation set forth in such convictions may be lawfully used in evidence to the like effect.”

“68 Superfluous particulars as to identity.

When in the trial of any complaint, the evidence led shall be sufficient to prove the identity of any person, corporation, or company, or of any place, or of any thing, it shall not be a valid objection to the sufficiency of such evidence that any particulars set forth in regard thereto in the complaint have not been proved.

69 Declarations.

The declaration of the person accused, the formal parts of which may be written or printed, or partly written and partly printed, duly authenticated by the magistrate examiner as having been emitted before him according to the former law and practice, shall be received in evidence without being sworn to by witnesses, either for the prosecution or for the person accused, but it shall be competent for the person accused, before such declaration is read to the court, to adduce as witnesses the persons who were present when the declaration was emitted, and to examine them upon any matters regarding such declaration on which it would be competent to examine them according to the former law and practice, and to move the court to refuse to allow the declaration to be read on grounds appearing on the face of the declaration itself, or on the ground of what is disclosed in such evidence or on both of those grounds, and where a person accused objects to the declaration, the prosecutor shall be entitled to examine any witnesses in regard thereto, whom the person accused may be entitled to examine as aforesaid.”