



Criminal Justice (Scotland) Act 2003

2003 asp 7

PART 12

MISCELLANEOUS AND GENERAL

Miscellaneous

73 Public defence

In section 28A of the Legal Aid (Scotland) Act 1986 (c. 47) (power of Scottish Legal Aid Board directly to employ solicitors to provide criminal legal assistance)—

- (a) subsections (2), (3) and (10) to (15) are repealed; and
- (b) ^{F1}

Textual Amendments

- F1** S. 73(b) repealed (13.12.2010) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), ss. [112\(2\)](#), 206; S.S.I. 2010/413, [art. 2](#), Sch.

^{F2}74 Offences aggravated by religious prejudice

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Textual Amendments

- F2** S. 74 repealed (1.4.2024) by [Hate Crime and Public Order \(Scotland\) Act 2021 \(asp 14\)](#), s. 21(2), [sch. 2 para. 4](#); S.S.I. 2024/82, [reg. 2](#) (with [reg. 3](#))

^{F3}75 Reintroduction of ranks of deputy chief constable and chief superintendent

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Cross Heading: Miscellaneous. (See end of Document for details)

Textual Amendments

F3 S. 75 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

76 Police custody and security officers

- F4(1)
- F4(2)
- F4(3)
- F4(4)
- F4(5)
- F4(6)
- F4(7)
- F4(8)
- F4(9)

(10) In section 102(5) of the Criminal Justice and Public Order Act 1994 (c33) (compliance with warrants or orders), at the end there is added “ or by a police custody and security officer in the performance of functions prescribed under section 9(1A)(b) of the Police (Scotland) Act 1967 (c. 77) ”.

(11) In section 307(1) of the 1995 Act (interpretation), in paragraph (c) of the definition of “officer of law”—

- (a) after the word “employed” there is inserted “ or appointed ”;
- (b) after the words “and who” there is inserted “ either ”; and
- (c) at the end there is added “ or is a police custody and security officer ”.

Textual Amendments

F4 S. 76(1)-(9) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **sch. 8 Pt. 1**; S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

77 Wildlife offences

Schedule 3 to this Act, which contains amendments to the Wildlife and Countryside Act 1981 (c. 69) relating to penalties for, and powers of arrest as regards, offences under Part I of that Act, has effect.

78 Disqualification from jury service

(1) In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55) (ineligibility for and disqualification and excusal from jury service), in Part II, after paragraph (b) there is inserted—

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- “(bb) persons who have been convicted of an offence if, in respect of the conviction, one or more of the following orders was made—
- (i) a probation order under section 228(1) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (section 247 of that Act being disregarded for the purposes of this head);
 - (ii) a drug treatment and testing order under section 234B(2) of that Act;
 - (iii) a community service order under section 238(1) of that Act;
 - (iv) a restriction of liberty order under section 245A(1) of that Act;
 - (v) a community order as defined by section 33(1) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
 - (vi) a community order as defined by article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (N.I.24));
 - (vii) a drug treatment and testing order under article 8(2) of the Criminal Justice (Northern Ireland) Order 1998 (SI 1998/2839 (N.I.20)),
- except where they are rehabilitated persons for the purposes of the Rehabilitation of Offenders Act 1974 (c. 53);”.

(2) Subject to subsection (3), the insertion made by subsection (1) has effect even in relation to a case where the probation order, drug treatment and testing order, community service order, restriction of liberty order or community order is made before the date on which subsection (1) is brought into force.

- (3) A person—
- (a) cited under section 85(4) of the 1995 Act (citation of jurors); or
 - (b) summoned by virtue of section 12 of the Court of Session Act 1988 (c. 36) (summoning of jury),

before that date is not, by virtue of subsection (1), excused from attending in compliance with the citation or disqualified from serving as a juror at the sitting, or trial, in question.

79 Separation of jury after retiral

It shall no longer be mandatory for the period during which a jury, after retiring to consider their verdict, are enclosed to be continuous; and accordingly, in section 99 of the 1995 Act (seclusion of jury to consider verdict)—

- (a) in subsection (1), for the word “after” there is substituted “ while ”;
- (b) in subsection (2), for the words “until the jury” there is substituted “ while the jury are enclosed and until they ”;
- (c) in subsection (4)(b), after the word “and” there is inserted “ , unless under subsection (7) below the court permits them to separate, ”; and
- (d) at the end there is added—

“(7) The court may, if it thinks fit, permit the jury to separate even after they have retired to consider their verdict.”.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Cross Heading: Miscellaneous. (See end of Document for details)

F⁵80 Television link from court to prison or other place of detention

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Textual Amendments

- F5** S. 80 repealed (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), ss. **110(2)(b)**, 117(2); S.S.I. 2017/345, art. 3, sch. (with art. 10)

81 Warrants issued in Northern Ireland for search of premises in Scotland

- (1) Where a warrant issued by a magistrate or county court judge in Northern Ireland for the search of premises in Scotland is duly endorsed by a sheriff or justice of the peace in whose jurisdiction the warrant purports to authorise search, the warrant has effect as if granted by the sheriff or, as the case may be, justice of the peace.
- (2) The reference in subsection (1) to the warrant being duly endorsed is to its being endorsed in the manner specified in subsection (1) of section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) as if it were a process mentioned in that subsection.

82 Use of electronic communications or electronic storage in connection with warrants to search

- (1) This section, which is without prejudice to section 8 of the Electronic Communications Act 2000 (c. 7) (power to modify legislation), applies to warrants to search granted under section 134(1) of the 1995 Act (that is to say, where incidental to proceedings by complaint or although no subsequent proceedings by complaint may follow).
- (2) Subject to subsections (1) and (4), the Scottish Ministers may, in relation to warrants to which this section applies, by order modify—
 - (a) any rule of law; or
 - (b) the practice and procedure in relation to criminal proceedings,
 in such manner as they think fit so as to authorise or facilitate the use of electronic communications or electronic storage (instead of other forms of communication or storage) for any purpose mentioned in subsection (3).
- (3) Those purposes are (in relation to the rule of law or the practice and procedure) the purposes mentioned (in relation to the provisions which may be modified under subsection (1) of section 8 of that Act of 2000) in any of paragraphs (a) to (f) of subsection (2) of that section.
- (4) The Scottish Ministers are not to make an order under subsection (2) authorising the use of electronic communications or electronic storage for any purpose unless they consider that the authorisation is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications or electronic storage than in other cases.
- (5) Subsections (4) to (6) and (8) of section 8 and (5) and (6) of section 9 of that Act of 2000 apply in relation to an order made under subsection (2) as they apply in relation to an order made under subsection (1) of the said section 8.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 2003, Cross Heading: Miscellaneous. (See end of Document for details)

(6) Expressions used in this section and in that Act of 2000 have the same meanings in this section as in that Act.

83

F6

Textual Amendments

F6 S. 83 repealed (28.10.2004) by Antisocial Behaviour etc. (Scotland) Act 2004 (asp 8), ss. 144(2), 145(2), **Sch. 5**; S.S.I. 2004/420, **art. 3**, Sch. 1

Changes to legislation:

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