

Status: Point in time view as at 10/03/2008.

Changes to legislation: There are currently no known outstanding effects for the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, Cross Heading: The 1995 Act. (See end of Document for details)

SCHEDULE MODIFICATION OF ENACTMENTS

The 1995 Act

- 9 (1) In section 6 (district courts: area, constitution and prosecutor) of the 1995 Act—
- (a) subsection (1) is repealed,
 - (b) in subsection (3), for the words “commission area” there is substituted “JP court”,
 - (c) subsection (4) is repealed,
 - (d) for subsection (5) there is substituted—
 - “(5) The authority of the procurator fiscal to prosecute in JP courts is without prejudice to the authority of any other person to take proceedings there in pursuance of section 43 (prosecutions and penalties) of the Education (Scotland) Act 1980 (c. 44).”,
 - (e) for subsection (6) there is substituted—
 - “(6) In this section, “justice” means a justice of the peace.”.
- (2) In section 7 (district court: jurisdiction and powers) of that Act—
- (a) subsections (1) and (2) are repealed,
 - (b) in subsection (3), for the words “to try any statutory offence which is triable summarily” there is substituted “to—
 - (a) try any common law or statutory offence which is triable summarily;
 - (b) make such orders and grant such warrants as are appropriate to a court of summary jurisdiction;
 - (c) do anything else (by way of procedure or otherwise) as is appropriate to such a court”,
 - (c) in subsection (5), for the words “mentioned in subsection (1) above” there is substituted “the court has otherwise”,
 - (d) in subsection (8), paragraph (a) and the word “or” immediately following it are repealed,
 - (e) in subsection (10), for the word “district” there is substituted “area”.
- (3) In section 8 (sittings of sheriff and district courts) of that Act—
- (a) in subsection (3), for the words from the beginning to “authority,” there is substituted “A sheriff principal may”,
 - (b) in that subsection, the words “, after such consultation,” are repealed.
- (4) In sections 6(2), 7(3) to (8) and 8(1), (3) and (4) of that Act, for the words “district court” and “district courts” wherever occurring there is substituted “JP court” and “JP courts” respectively.
- (5) In relation to sections 6 to 8 of that Act—
- (a) the italic cross-heading immediately preceding section 6 becomes “*JP courts*”,
 - (b) the title of section 6 becomes “JP courts: constitution and prosecutor”,
 - (c) the title of section 7 becomes “JP courts: jurisdiction and powers”,
 - (d) the italic cross-heading immediately preceding section 8 becomes “*Sittings of sheriff and JP courts*”,

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- (e) the title of section 8 becomes “ Sittings of sheriff and JP courts ”.
- (6) In section 9 (boundaries of jurisdiction) of that Act, in subsection (4)—
 - (a) for the words “under one indictment or complaint” there is substituted “together”;
 - (b) for the words from “offences” in the second place where it occurs to the end there is substituted “offences—
 - (a) under one indictment or complaint before the sheriff of any one of the districts; or
 - (b) under one complaint in the JP court for any one of the districts.”.
- (7) Section 9A of that Act is repealed.

Commencement Information

II [Sch. para. 9](#) partly in force; [Sch. para. 9](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 9](#) in force for certain purposes at 10.12.2007, 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 by [S.S.I. 2007/479](#), [art. 3](#), [Sch.](#) (as amended by [S.S.I. 2007/527](#)); [S.S.I. 2008/42](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/192](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/329](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/362](#), [art. 3](#), [Sch.](#); [S.S.I. 2009/432](#), [art. 3\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)

- 10 In section 10 (crimes committed in different districts) of the 1995 Act—
 - (a) in subsection (1)—
 - (i) for the words “indicted to” there is substituted “prosecuted in”;
 - (ii) after the word “court” in the second place where it occurs there is inserted “or JP court”;
 - (b) in subsection (2)(c), for the words “under one indictment” there is substituted “together”;
 - (c) in subsection (3), after the word “court” in the first place where it occurs there is inserted “or JP court”.
- 11 After section 10 of the 1995 Act there is inserted—

“10A Jurisdiction for transferred cases

- (1) A sheriff has jurisdiction for any cases which come before the sheriff by virtue of—
 - (a) section 34A or 83 of this Act; or
 - (b) section 137A, 137B, 137C or 137D of this Act.
- (2) A procurator fiscal for a sheriff court district shall have—
 - (a) power to prosecute in any cases which come before a sheriff of that district by virtue of a provision mentioned in subsection (1) above; and
 - (b) the like powers in relation to such cases as he has for the purposes of criminal proceedings which otherwise come before that sheriff.
- (3) Subsections (1) and (2) above, and the provisions mentioned in subsection (1) above, are without prejudice to sections 4, 9 and 10 of this Act.”.

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- 12 (1) In section 65 (prevention of delay in trials) of the 1995 Act, in subsection (2), for the word “arrest” there is substituted “ apprehension ”.
- (2) In section 71 (first diet) of that Act, in subsection (4), the words “and the court may, if he fails to do so, grant a warrant to apprehend him” are repealed.
- 13 (1) In section 72F(1) and (4)(b) (engagement, dismissal and withdrawal of solicitor representing accused) of the 1995 Act, for the words “proceedings on indictment” in each place where they occur there is substituted “ solemn proceedings ”.
- (2) In section 72G(1) (service etc. on accused through a solicitor) of that Act, for the words “proceedings on indictment” there is substituted “ solemn proceedings ”.
- 14 In section 79 (preliminary pleas and preliminary issues) of the 1995 Act, in subsection (2)(b)(ii), after the words “27(4A)(a)” there is inserted “ or (4B), 90C(2A) ”.

Commencement Information

- I2** [Sch. para. 14](#) wholly in force at 10.12.2007, see [s. 84](#) and [S.S.I. 2007/479](#). {art. 3} (subject to transitional provisions in art. 9 (as amended by [S.S.I. 2007/527](#)))

- 15 (1) In section 90A(10)(apprehension of witnesses in proceedings on indictment) of the 1995 Act, the words “, except where the context requires otherwise” are repealed.
- (2) In section 90D(2)(b) (review of orders under section 90B(1)(a) or (b)) of that Act, for the words “that section” in the first place where they occur there is substituted “ section 90B ”.
- (3) In section 90E(3) (appeals in respect of orders under section 90B(1)) of that Act, for the words “Lord Advocate” there is substituted “ Crown Agent ”.
- 16 (1) In section 107 (leave to appeal) of the 1995 Act—
- (a) in subsection (9)—
- (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “ within 14 days of the date of intimation under subsection (10) below ”,
- (ii) in paragraph (b), for the words “not less that seven days before” there is substituted “ within 14 days of ”,
- (b) after that subsection there is inserted—
- “(9A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (9) above.”.
- (2) In section 110(1)(a)(note of appeal) of that Act—
- (a) the words from “or” in the second place where it occurs to “made” in the first place where it occurs are repealed,
- (b) after the word “deferred” there is inserted “, the proposal to make a reference was made ”.
- (3) In section 112 (admission of appellant to bail) of that Act, in subsection (2), paragraph (b) and the word “and” immediately preceding it are repealed.
- (4) In section 116(2) (abandonment of appeal) of that Act, for the words “116(1)(dc)” there is substituted “ 106(1)(dc) ”.

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- (5) In section 118(4) (disposal of appeals) of that Act, for the words “106(1)(bb) to (e)” there substituted “ 106(1)(ba), (bb), (c), (d), (da), (dc), (e) or (f) ”.
- (6) In section 119(11) (provision where High Court authorises new prosecution) of that Act, for the words “Subsections (4)(b) and (7) to (9) of section 65” there is substituted “ Section 65(4)(aa) and (b) and (4A) to (9) ”.

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I3 [Sch. para. 16](#) wholly in force at 10.12.2007; [Sch. para. 16](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 16\(1\)](#) in force at 23.4.2007 by [S.S.I. 2007/250](#), [art. 3](#) (subject to savings in [art. 4](#)); [Sch. para. 16](#) otherwise in force at 10.12.2007 by [S.S.I. 2007/479](#), [art. 3](#), [Sch.](#) (with transitional provision in [art. 14](#))

- 17 In section 135 (warrants for apprehension and search) of the 1995 Act—
- (a) in subsection (3), after the word “day” there is inserted “ on which the court is sitting ”,
 - (b) subsection (4) is repealed.
- 18 (1) In section 177(3)(procedure where appellant in custody) of the 1995 Act, the words “, after hearing parties,” are repealed.
- (2) In section 180 (leave to appeal against conviction etc.) of that Act—
- (a) in subsection (9)—
 - (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “ within 14 days of the date of intimation under subsection (10) below ”,
 - (ii) in paragraph (b), for the words “not less that seven days before” there is substituted “ within 14 days of ”,
 - (b) after that subsection there is inserted—

“(9A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (9) above.”.
- (3) In section 187 (leave to appeal against sentence) of that Act—
- (a) in subsection (8)—
 - (i) in paragraph (a), for the words “not less than seven days before the date fixed for the hearing of the appeal” there is substituted “ within 14 days of the date of intimation under subsection (9) below ”,
 - (ii) in paragraph (b), for the words “not less that seven days before” there is substituted “ within 14 days of ”,
 - (b) after that subsection there is inserted—

“(8A) The High Court may, on cause shown, extend the periods of 14 days mentioned in subsection (8) above.”.
- (4) In section 201(4) (power of court to adjourn case before sentence) of that Act, the words “, after hearing parties”are repealed.

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- I4** Sch. para. 18 wholly in force at 10.12.2007; Sch. para. 18 not in force at Royal Assent, see s. 84; Sch. para. 18(2)(3) in force at 23.4.2007 by S.S.I. 2007/250, art. 3 (subject to savings in art. 4); Sch. para. 18 otherwise in force at 10.12.2007 by S.S.I. 2007/479, art. 3, Sch.

- 19 In section 210A(10) (extended sentences for sex and violent offenders) of the 1995 Act, in the entry for “sexual offence”—
- (a) the word “and” immediately preceding paragraph (xxi) is repealed,
 - (b) after that paragraph there is added—
 - “(xxii) an offence under section 1 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9) (meeting a child following certain preliminary conduct);
 - (xxiii) an offence under section 9 of that Act (paying for sexual services of a child);
 - (xxiv) an offence under section 10 of that Act (causing or inciting provision by child of sexual services or child pornography);
 - (xxv) an offence under section 11 of that Act (controlling a child providing sexual services or involved in pornography);
 - (xxvi) an offence under section 12 of that Act (arranging or facilitating provision by child of sexual services or child pornography).”.

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- I5** Sch. para. 19 wholly in force at 23.4.2007, see s. 84 and S.S.I. 2007/250, art. 3 (subject to savings in art. 4)

- 20 (1) In section 211 (fines) of the 1995 Act—
- (a) subsection (5) is repealed,
 - (b) in subsection (6)—
 - (i) the word “summary” is repealed,
 - (ii) for the words “clerk of court” there is substituted “clerk of any court, or to any other person (or class of person) authorised by the Scottish Ministers for the purpose, ”,
 - (iii) the words “by him” are repealed.
- (2) In section 217 (fines: supervision pending payment) of that Act, after subsection (8) there is inserted—
- “(9) Where an enforcement order has been made under section 226B of this Act in relation to payment of the fine, the supervising officer shall, instead of reporting under subsection (8) above to the court, report under that subsection to the fines enforcement officer dealing with the order.”.
- (3) In section 222 (transfer of fine orders) of that Act—
- (a) in subsection (1)—

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- (i) for the words “the court” in the first place where they occur there is substituted “ the clerk of court ”,
 - (ii) for the words “the court” in the second place where they occur there is substituted “ that clerk ”,
 - (b) after subsection (1) there is inserted—
 - “(1A) Where a court has imposed a fine on a person convicted of an offence, and it appears to the clerk of court that there is a fine imposed by another court (of whatever kind) in the same sheriffdom, that clerk may order that payment of the fine is to be enforceable by that other court.”,
 - (c) in subsection (2), for the words “the sheriff court” there is substituted “ the sheriff clerk ”,
 - (d) in subsection (4)—
 - (i) after the word “Where” there is inserted “ , in relation to a transfer of fine order made under subsection (1)(a) above ”,
 - (ii) in paragraph (a), for the words “court specified in a transfer of fine order” there is substituted “ clerk of the court specified in the order ”.
- (4) In section 223 (transfer of fines: procedure for clerk of court) of that Act—
- (a) in subsection (1)—
 - (i) after the word “Where” there is inserted “ the clerk of ”,
 - (ii) for the words “the clerk of the court” in the first place where they occur there is substituted “ that clerk ”,
 - (b) in subsection (2), for the words “of the court which” there is substituted “ of court who ”,
 - (c) in subsection (4), for the words “the fine” in the first place where they occur there is substituted “ a fine imposed by a court outwith Scotland ”.

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I6 [Sch. para. 20](#) partly in force; [Sch. para. 20](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 20](#) partly in force at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 by [S.S.I. 2008/42](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/192](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/329](#), [art. 3](#), [Sch.](#); [S.S.I. 2008/362](#), [art. 3](#), [Sch.](#); [S.S.I. 2009/432](#), [art. 3\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)

- 21 In section 245J(5)(breach of certain orders: adjourning hearing and remanding in custody etc.) of the 1995 Act, the words “the prosecutor and” are repealed.
- 22 In section 249 (compensation order against convicted person) of the 1995 Act, in subsection (8)—
- (a) in paragraph (a), the words “appointed under section 5 of the District Courts (Scotland) Act 1975” are repealed,
 - (b) in paragraph (b), for the word “such” there is substituted “ a ”.

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I7 [Sch. para. 22](#) wholly in force at 22.2.2010; [Sch. para. 22](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 22](#) in force for specified areas at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010

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otherwise by S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3\(1\)\(2\)](#), Sch. 1, Sch. 2

- 23 In section 283 (evidence as to time and place of video surveillance recordings) of the 1995 Act—
- (a) in subsection (1)(c), for the words “recorded on a particular video tape are images, recorded by the system, of” there is substituted “ (and any sounds) recorded on a particular device are images (and sounds), recorded by the system, of (or relating to) ”,
 - (b) in subsection (4), after the word “place” there is inserted “ (and includes associated equipment for transmitting and recording sounds relating to such events) ”.
- 24 In section 292 (mode of trial of certain offences) of the 1995 Act—
- (a) in subsection (2)(b)(ii), the words “subject to subsection (3) below,” are repealed,
 - (b) subsection (3) is repealed.
- 25 In section 307 (interpretation) of the 1995 Act, in subsection (1)—
- (a) in the definitions of “court of summary criminal jurisdiction” and “judge”, for the words “district court” in each place where they occur there is substituted “ JP court ”,
 - (b) for the definition of “justice of the peace” there is substituted—
““justice of the peace” means a justice of the peace appointed under section 67 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6);”,
 - (c) at the appropriate place there is inserted—
““JP court” means a justice of the peace court;”,
 - (d) at the appropriate place there is inserted—
““stipendiary magistrate” means a stipendiary magistrate appointed under section 74 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6);”.

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- 18** [Sch. para. 25](#) wholly in force at 22.2.2010; [Sch. para. 25](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 25](#) partly in force at 10.12.2007, 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 otherwise by S.S.I. 2007/479, [art. 3](#), Sch.; S.S.I. 2008/42, [art. 3](#), Sch.; S.S.I. 2008/192, [art. 3](#), Sch.; S.S.I. 2008/329, [art. 3](#), Sch.; S.S.I. 2008/362, [art. 3](#), Sch.; S.S.I. 2009/432, [art. 3\(1\)\(2\)](#), Sch. 1, Sch. 2

- 26 In the 1995 Act (in addition to the provisions amended by paragraphs 7(4) and 16(a)), for the words “district court” and “district courts”, wherever occurring in the following provisions, there is substituted “ JP court ”and “ JP courts ” respectively—
- (a) section 22(2)(b)(i),
 - (b) section 24B(3),
 - (c) section 27(2)(b)(i) and (5)(b)(ii),
 - (d) section 49(3)(b),

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- (e) section 52A,
- (f) section 52B(4), in the definition of “court”,
- (g) section 150(8)(b)(i),
- (h) section 178(1)(a),
- (i) section 203(2),
- (j) section 211(3),
- (k) section 234K, in paragraph (b) of the definition of “the appropriate court”,
- (l) section 245(5)(b),
- (m) section 245A(9),
- (n) section 245Q,
- (o) section 248C(1),
- (p) section 249(8)(b),
- (q) section 288E(2),
- (r) section 288F(1)(a),
- (s) section 288G(1) and (2)(b),
- (t) section 304(2)(c)(v),
- (u) schedule 6, in paragraph 2(2) and (3),
- (v) schedule 7—
 - (i) in paragraphs 4(2)(a)(ii) and 5(1)(d)(ii),
 - (ii) in paragraph 8, in the definition of “the appropriate court”.

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19 [Sch. para. 26](#) wholly in force at 22.2.2010; [Sch. para. 26](#) not in force at Royal Assent, see [s. 84](#); [Sch. para. 26](#) in force for certain purposes at 10.3.2008, 2.6.2008, 8.12.2008, 23.2.2009, 14.12.2009 and 22.2.2010 otherwise by [S.S.I. 2008/42, art. 3, Sch.](#); [S.S.I. 2008/192, art. 3, Sch.](#); [S.S.I. 2008/329, art. 3, Sch.](#); [S.S.I. 2008/362, art. 3, Sch.](#); [S.S.I. 2009/432, art. 3\(1\)\(2\), Sch. 1, Sch. 2](#)

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