

Status: Point in time view as at 27/05/2020.

Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020, Cross Heading: Arrangements for the custody of persons detained at police stations. (See end of Document for details)

SCHEDULE 2 OPERATION OF THE JUSTICE SYSTEM

PART 1

CRIMINAL JUSTICE

Arrangements for the custody of persons detained at police stations

- 2 (1) The Scottish Ministers may make arrangements for functions within sub-paragraph (2) to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers with escort functions.
- (2) Those functions are—
- (a) functions of the transfer or custody of prisoners in police stations which are in connection with appearances by those prisoners before courts by electronic means,
 - (b) functions of an administrative character in connection with the appearance of prisoners in police stations before courts by electronic means.
- (3) Arrangements made by the Scottish Ministers under this paragraph may include entering into contracts with other persons for the provision by them of prisoner custody officers.
- (4) For the purposes of this paragraph—
- (a) a prisoner custody officer with escort functions is a person in respect of whom a certificate under section 114 of the 1994 Act (prisoner custody officers: general functions) is for the time being in force which certifies that the person has been approved by the Scottish Ministers for the purpose of performing—
 - (i) escort functions, or
 - (ii) both escort functions and custodial duties,
 - (b) a reference to appearing before a court by electronic means is a reference to appearing before a court by electronic means by virtue of—
 - (i) Part 1 of schedule 4 of the Coronavirus (Scotland) Act 2020, or
 - (ii) any other enactment allowing or requiring appearances before a court to be made by electronic means.
- 3 (1) The provisions of the 1994 Act specified in sub-paragraph (2) apply in relation to arrangements made under paragraph 2 as they apply in relation to prisoner escort arrangements and, accordingly, references in those provisions to prisoner escort arrangements are to be read as including references to arrangements made under that paragraph.
- (2) Those provisions are—
- (a) section 103 (monitoring of prisoner escort arrangements),
 - (b) section 104 (powers and duties of prisoner custody officers performing escort functions),
 - (c) section 105 (breaches of discipline by prisoners under escort),
 - (d) paragraph 3 of schedule 6 (suspension of certificates), and
 - (e) section 115 (wrongful disclosure of information).

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- (3) The references in paragraphs 3 and 4 of schedule 6 of the 1994 Act to escort functions are to be read as including functions within paragraph 2(2).
- (4) The reference in paragraph (a)(i) of rule 5 (suspension of a certificate of a prisoner custody officer) of the Prison Rules to prisoner escort arrangements is to be read as including arrangements made under paragraph 2.
- (5) The reference in paragraph (b) of rule 5 of the Prison Rules to the functions set out in section 102(2) of the 1994 Act is to be read as including functions within paragraph 2(2).
- 4 Where functions are performed by a prisoner custody officer by virtue of paragraph 2 prior to the prisoner being brought before the court, the prisoner is not to be regarded as having been transferred out of police custody for the purposes of section 64(2)(cb) of the Criminal Justice (Scotland) Act 2016.
- 5 In paragraphs 2 to 4—
 “the 1994 Act” means the Criminal Justice and Public Order Act 1994,
 “the Prison Rules” means the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (S.S.I. 2011/331),
 “prisoner” means any person who is in legal custody or is deemed to be in legal custody under section 295 of the Criminal Procedure (Scotland) Act 1995.

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