

SCHEDULE 2 OPERATION OF THE JUSTICE SYSTEM

PART 1

CRIMINAL JUSTICE

Criminal proceedings: extension of time limits

- 1 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in this paragraph.
- (2) Section 145 (adjournment for inquiry at first calling) has effect as if—
 - (a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,
 - (b) subsection (3) were repealed.
- (3) Section 145A (adjournment at first calling to allow accused to appear etc.) has effect as if—
 - (a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,
 - (b) subsection (3) were repealed.
- (4) Section 200 (remand for inquiry into physical or mental condition) has effect as if—
 - (a) in subsection (2), in the closing text, the words “, no single period exceeding three weeks,” were repealed,
 - (b) in subsection (3)(a), the words “not exceeding three weeks” were repealed.
- (5) Section 245J (breach of certain orders: adjourning hearing and remanding in custody etc.) has effect as if for subsection (3) there were substituted—

“(3) The court may adjourn a hearing under subsection (1) for such period as it considers appropriate.”.

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—

Status: This is the original version (as it was originally enacted).

- (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).
- (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.

Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016

- 6 (1) The Criminal Justice (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Section 29 (expiry of undertaking) has effect as if in subsection (1)(a), after “court” there were inserted “(but see section 29A)”.
- (3) The Act has effect as if after section 29 there were inserted—

“29A Expiry of undertaking: coronavirus-related reason for non-appearance

- (1) A court may modify the terms of an undertaking given under section 25(2) (a) by changing the time at which the person who gave it is to appear at the court if—
- (a) the person has failed to appear at court as required by the terms of the undertaking,
 - (b) the court considers that the failure to appear is attributable to a reason relating to coronavirus, and
 - (c) the court does not consider it appropriate to grant a warrant for the person’s arrest on account of the failure to appear.
- (2) Where a court modifies the terms of an undertaking under subsection (1), the procurator fiscal must give notice of the modification to the person who gave the undertaking as soon as reasonably practicable.
- (3) Notice under subsection (2) must be effected in a manner by which citation may be effected under section 141 of the 1995 Act.
- (4) The reference in subsection (1) to the terms of an undertaking are to the terms of the undertaking subject to any modification by notice under section 27(1).
- (5) A reference in any enactment to the modification of the terms of an undertaking under section 27(1) is to be treated as including modification under subsection (1).
- (6) In subsection (1)(b), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Fixed penalty notices under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020

- 7 (1) The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (S.S.I. 2020/103) are amended by this paragraph.
- (2) In regulation 9(1)(b), for “16” substitute “18”.