

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 4 – Justice

Part 4 – Extension of time limits

Criminal proceedings: extension of time limits

140. Paragraph 10 of schedule 4 makes provision to extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) relating to criminal proceedings.
141. Paragraph 10(2) modifies section 52T of the 1995 Act which applies the statutory time limits contained in sections 65 and 147 of the 1995 Act to cases where an accused person has been detained in hospital by virtue of an assessment order or a treatment order. It provides for time limits contained in those sections to apply as extended by virtue of paragraph 10(3) and (5).
142. Paragraph 10(3) modifies section 65 of the 1995 Act, which applies certain time limits in respect of solemn trials, by adding new subsections (11), (12) and (13).
143. New subsection (11) provides that in calculating any of the time periods specified in section 65(12), no account is to be taken of the suspension period.
144. New subsection (12) provides that those periods are:
 - any period mentioned in section 65(1), which specifies the time limit within which a preliminary hearing (in High Court cases), a first diet (sheriff court cases) and the trial (in any case) must be commenced following the first appearance of the accused on petition, including where this period has been extended under section 65(3) or on appeal under section 65(8), or under section 74(4)(c); and
 - any period mentioned in section 65(4), which specifies the time limit within which an indictment must be served on any accused who is committed for any offence and being held in custody pending trial, and also the time limits for commencing a preliminary hearing/first diet and trial in any such case including where this period has been extended under section 65(5) or on appeal under section 65(8).
145. New subsection (13) provides that the suspension period referred to in new subsection (11) is a period of 6 months beginning on whichever is later of:
 - the day on which this paragraph (paragraph 10 of schedule 4 of the Act) comes into effect; or
 - in the case of any criminal proceedings commenced after this paragraph has come into effect, where the time limit is specified in section 65(1), the day on which the accused first appears on petition in respect of the offence, or in the case of the time

*These notes relate to the Coronavirus (Scotland) Act
2020 (asp 7) which received Royal Assent on 6 April 2020*

limits specified in section 65(4), the date on which the accused is committed until liberated in due course of law.

146. Paragraph 10(4) modifies section 136(1) of the 1995 Act so as to provide that the time limit for the commencement of proceedings for any statutory offence triable only summarily, unless the enactment fixes a different time limit, is temporarily increased from 6 months to 12 months.
147. Paragraph 10(5) modifies section 147 of the 1995 Act, which sets a 40-day limit on detaining a person charged with an offence in summary proceedings pending trial, by adding new subsections (5) and (6).
148. New subsection (5) provides that, in calculating the 40-day period referred to in section 147(1), including where this period has been extended either under subsection (2) or on appeal under subsection (3), no account is to be taken of the suspension period.
149. New subsection (6) provides that the suspension period referred to in subsection (5) is a period of 3 months beginning on whichever is later of the day on which this paragraph (paragraph 10 of schedule 4 of the Act) comes into effect, or the date on which the complaint is brought in court.
150. Paragraph 10(6) modifies section 201 of the 1995 Act, which provides the court with a power to adjourn a case before sentence for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case. It substitutes a new subsection (3) which allows the court to adjourn the hearing of such a case for such period as the court considers appropriate. This temporarily replaces the existing power to adjourn a case for 4 weeks or 8 weeks on cause shown.
151. Subparagraphs (7) and (8) of paragraph 10 make a consequential modification to section 21 of the Criminal Justice (Scotland) Act 2003 concerning the power to adjourn cases involving sexual and certain other offences for pre-sentence reports. This has the effect of temporarily applying section 201(3) of the 1995 Act, modified by paragraph 10(6), to such cases as it applies to any other case. This means that the court can adjourn the hearing of such a case for such a period as the court considers appropriate.