Criminal Justice (Scotland) Act 1995

1995 CHAPTER 20

PART I

THE COURSE OF JUSTICE

Bail

1 Bail conditions.

For subsection (2) of section 1 of the [M1]Bail etc. (Scotland) Act 1980 (release on bail subject to conditions) there shall be substituted the following subsections—

"(2) In granting bail the court or, as the case may be, the Lord Advocate shall impose on the accused—

(a) the standard conditions; and

(b) such further conditions as the court or, as the case may be, the Lord Advocate considers necessary to secure—

(i) that the standard conditions are observed; and

(ii) that the accused makes himself available for the purpose of participating in an identification parade or of enabling any print, impression or sample to be taken from him.

(2A) The standard conditions referred to in subsection (2) above are conditions that the accused—

(a) appears at the appointed time at every diet relating to the offence with which he is charged of which he is given due notice;

(b) does not commit an offence while on bail;

(c) does not interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person; and

(d) makes himself available for the purpose of enabling enquiries or a report to be made to assist the court in dealing with him for the offence with which he is charged.".

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Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

Marginal Citations
M1 1980 c. 4.

2 Breach of bail conditions.

(1) Section 3 of the [M2]Bail etc. (Scotland) Act 1980 (breach of bail conditions) shall be amended as follows.

(2) In subsection (1), after the word "shall" there shall be inserted " , subject to subsection (2A) below, ".

(3) In subsection (2)(a), for the words "£200" there shall be substituted " level 3 on the standard scale ".

(4) After subsection (2) there shall be inserted the following subsections—

"(2A) Where, and to the extent that, the failure referred to in subsection (1)(b) above consists in the accused having committed an offence while on bail (in this section referred to as "the subsequent offence"), he shall not be guilty of an offence under that subsection but, subject to subsection (2B) below, the court which sentences him for the subsequent offence shall, in determining the appropriate sentence or disposal for that offence, have regard to—

(a) the fact that the offence was committed by him while on bail and the number of bail orders to which he was subject when the offence was committed;

(b) any previous conviction of the accused of an offence under subsection (1)(b) above; and

(c) the extent to which the sentence or disposal in respect of any previous conviction of the accused differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.

(2B) The court shall not, under subsection (2A) above, have regard to the fact that the subsequent offence was committed while the accused was on bail unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.

(2C) Where the maximum penalty in respect of the subsequent offence is specified by or by virtue of any enactment, that maximum penalty shall, for the purposes of the court's determination, by virtue of subsection (2A) above, of the appropriate sentence or disposal in respect of that offence, be increased—

(a) where it is a fine, by the amount for the time being equivalent to level 3 on the standard scale; and

(b) where it is a period of imprisonment—

(i) as respects a conviction in the High Court or the sheriff court, by 6 months; and

(ii) as respects a conviction in the district court, by 60 days,

notwithstanding that the maximum penalty as so increased exceeds the penalty which it would otherwise be competent for the court to impose.

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(2D) Where the sentence or disposal in respect of the subsequent offence is, by virtue of subsection (2A) above, different from that which the court would have imposed but for that subsection, the court shall state the extent of and the reasons for that difference.".

Marginal Citations
M2 1980 c. 4.

3 No bail in homicide or rape proceedings after previous conviction of such offences.

After section 28 of the [M3]Criminal Procedure (Scotland) Act 1975 (in this Act referred to as "the 1975 Act") there shall be inserted the following section—

"**28A No bail for persons charged with or convicted of homicide or rape after previous conviction of such offences.**

(1) Notwithstanding sections 26 to 33 and 238 of this Act, a person who in any proceedings has been charged with or convicted of—

(a) attempted murder;
(b) culpable homicide;
(c) rape; or
(d) attempted rape,

in circumstances where this section applies shall not be granted bail in those proceedings.

(2) This section applies where—

(a) the person has previously been convicted by or before a court in any part of the United Kingdom of any offence specified in subsection (1) above or of murder or manslaughter; and
(b) in the case of a previous conviction of culpable homicide or of manslaughter—
(i) he was sentenced to imprisonment or, if he was then a child or young person, to detention under any of the relevant enactments;
(ii) a hospital order was imposed in respect of him;
(iii) an order having the same effect as a hospital order was made in respect of him under section 174ZC(2)(a) of this Act; or
(iv) an order having equivalent effect to an order referred to in sub-paragraph (ii) or (iii) above has been made in respect of him by a court in England and Wales.

(3) This section applies whether or not an appeal is pending against conviction or sentence or both.

(4) In this section—

"conviction" includes—

(a) a finding that a person is not guilty by reason of insanity;
(b) a finding under section 174ZA(2) of this Act;

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(c) a finding under section 4A(3) of the Criminal Procedure (Insanity) Act 1964 (cases of unfitness to plead) that a person did the act or made the omission charged against him; and

(d) a conviction of an offence for which an order is made placing the offender on probation or discharging him absolutely or conditionally;

and "convicted" shall be construed accordingly; and

"the relevant enactments" means—

(a) as respects Scotland, sections 205 and 206 of this Act;

(b) as respects England and Wales, section 53(2) of the Children and Young Persons Act 1933; and

(c) as respects Northern Ireland, section 73(2) of the Children and Young Persons Act (Northern Ireland) 1968.".

Marginal Citations

M3 1975 c. 21.

4 Right of prosecutor to seek review of grant of bail.

After each of sections 30 and 299 of the 1975 Act there shall be inserted the following section as, respectively, section 30A and section 299A—

. "**0 Application by prosecutor for review of court's decision to grant bail.**

(1) On an application by the prosecutor at any time after a court has granted bail to a person the court may, where the prosecutor puts before the court material information which was not available to it when it granted bail to that person, review its decision.

(2) On receipt of an application under subsection (1) above the court shall—

(a) intimate the application to the person granted bail;

(b) fix a diet for hearing the application and cite that person to attend the diet; and

(c) where it considers that the interests of justice so require, grant warrant to arrest that person.

(3) On hearing an application under subsection (1) above the court may—

(a) withdraw the grant of bail and remand the person in question in custody; or

(b) grant bail, or continue the grant of bail, either on the same or on different conditions.

(4) Nothing in the foregoing provisions of this section shall affect any right of appeal against the decision of a court in relation to bail.".

5 Bail pending appeal.

(1) Section 238 of the 1975 Act (admission of appellant to bail) shall be amended as follows.

(2) In subsection (1), at the beginning there shall be inserted " Subject to subsection (1A) below, ".

(3) After subsection (1) there shall be inserted the following subsection—

"(1A) The High Court shall not admit a convicted person to bail under subsection (1) above unless—

(a) where he is the appellant and has not lodged a note of appeal in accordance with section 233(1)(a) of this Act, the application for bail states reasons why it should be granted and sets out the proposed grounds of appeal; or

(b) where the Lord Advocate is the appellant, the application for bail states reasons why it should be granted;

and, in either case, the High Court considers there to be exceptional circumstances justifying admitting the convicted person to bail.".

Juries

6 Lists of potential jurors.

In section 3 of the [M4]Jurors (Scotland) Act 1825 (sheriff principal to maintain lists of potential jurors)—

(a) the existing provision shall become subsection (1);

(b) in that subsection, for the word "designations" there shall be substituted " addresses "; and

(c) after that subsection there shall be inserted the following subsections—

"(2) For the purpose of maintaining lists of potential jurors under subsection (1) above, a sheriff principal may require any person in the sheriff court district in question who appears to him to be qualified and liable to serve as a juror to provide such information, and in such form, as the Secretary of State may by order prescribe.

(3) A statutory instrument containing an order by virtue of subsection (2) above shall be subject to annulment pursuant to a resolution of either House of Parliament.

(4) Any person who fails to comply with a requirement under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) In proceedings against a person for an offence under subsection (4) above it is a defence to prove that he had reasonable excuse for the failure.".

Commencement Information

I1 S. 6 wholly in force at 31.3.1996; s. 6 not in force at Royal Assent see s. 118(2); s. 6(c) in force for certain purposes at 5.3.1996 and s. 6 in force at 31.3.1996 insofar as not already in force by S.I. 1996/517, art. 3, **Sch.**

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Marginal Citations
M4 1825 c.22.

7 Jury service.

(1) After subsection (5) of section 1 of the [M5]Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (persons excused from jury service for good reason) there shall be inserted the following subsection—

"(5A) Where the clerk of court has, under subsection (5) above, excused a person from jury service in any criminal proceedings he shall, unless he considers there to be exceptional circumstances which make it inappropriate to do so, within one year of the date of that excusal cite that person to attend for jury service in criminal proceedings.".

(2) In Schedule 1 to that Act (ineligibility for and disqualification and excusal from jury service)—

(a) in Part II (persons disqualified from jury service), at the end of paragraph (b) there shall be inserted—

"(c) in respect of jury service in any criminal proceedings, persons who are on bail in or in connection with criminal proceedings in any part of the United Kingdom."; and

(b) in Part III (persons excusable as of right), at the end of Group D there shall be inserted—

"**GROUP DD**

Members of certain religious bodies

In respect of jury service in any criminal proceedings, practising members of religious societies or orders the tenets or beliefs of which are incompatible with jury service.".

Marginal Citations
M5 1980 c. 55.

8 Challenges to jurors.

In section 130 of the 1975 Act (challenges and objections to jurors)—

(a) subsections (1) to (3) shall cease to have effect; and

(b) after subsection (3) there shall be inserted—

"(3A) Where, before a juror is sworn to serve, the parties jointly apply for him to be excused the court shall, notwithstanding that no reason is given in the application, excuse that juror from service.".

Pre-trial procedure

9 Execution of warrants granted by sheriff, etc.

For each of sections 15 and 327 of the 1975 Act (certain warrants granted by sheriff may be executed throughout Scotland), there shall be substituted the following section—

. "**0 Warrants granted by justice may be executed throughout Scotland.**

Any warrant granted by a justice may, without being backed or endorsed by any other justice, be executed throughout Scotland in the same way as it may be executed within the jurisdiction of the justice who granted it.".

10 Judicial examination.

(1) Section 20A of the 1975 Act (examination of accused by prosecutor before sheriff) shall be amended as follows.

(2) In subsection (1)—

(a) after the words "eliciting any" there shall be inserted " admission, "; and

(b) in paragraph (i) of the proviso to paragraph (a), for the words from "category" to the end there shall be substituted " defence ".

(3) After subsection (3) there shall be inserted the following subsection—

"(3A) The accused shall be told by the sheriff that if he answers any question put to him at the examination under this section in such a way as to disclose an ostensible defence, the prosecutor shall be under the duty imposed by subsection (7) below.".

(4) After subsection (6) there shall be inserted the following subsections—

"(7) Without prejudice to any rule of law, on the conclusion of an examination under this section the prosecutor shall secure the investigation, to such extent as is reasonably practicable, of any ostensible defence disclosed in the course of the examination.

(8) The duty imposed by subsection (7) above shall not apply as respects any ostensible defence which is not reasonably capable of being investigated.".

11 Requirement to give notice of defence of automatism or coercion.

After subsection (1) of section 82 of the 1975 Act (requirement to give notice of plea of special defence, etc.) there shall be inserted the following subsection—

"(1A) Subsection (1) above shall apply to a defence of automatism or coercion as if it were a special defence.".

12 Agreement of evidence.

(1) After section 84 of the 1975 Act there shall be inserted the following section—

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"**84A Agreement of evidence.**

(1) Subject to subsection (2) below, the prosecutor and the accused (or each accused if more than one) shall each identify any facts which are facts—

(a) which he would, apart from this section, be seeking to prove;

(b) which he considers unlikely to be disputed by the other party (or by any of the other parties); and

(c) in proof of which he does not wish to lead oral evidence,

and shall (without prejudice to section 16 of the Criminal Justice (Scotland) Act 1995 (procedure for proving uncontroversial evidence)) take all reasonable steps to secure the agreement of the other party (or each of the other parties) to them; and the other party (or each of the other parties) shall take all reasonable steps to reach such agreement.

(2) Subsection (1) above shall not apply in relation to proceedings as respects which the accused (or any of the accused if more than one) is not legally represented.

(3) The duty under subsection (1) above applies from the date of service of the indictment until the swearing of the jury or, where intimation is given under section 102 of this Act, the date of that intimation.".

(2) After section 333A of that Act there shall be inserted the following section—

"**333B Agreement of evidence.**

(1) Subject to subsection (2) below, the prosecutor and the accused (or each accused if more than one) shall each identify any facts which are facts—

(a) which he would, apart from this section, be seeking to prove;

(b) which he considers unlikely to be disputed by the other party (or by any of the other parties); and

(c) in proof of which he does not wish to lead oral evidence,

and shall (without prejudice to section 16 of the Criminal Justice (Scotland) Act 1995 (procedure for proving uncontroversial evidence)) take all reasonable steps to secure the agreement of the other party (or each of the other parties) to them; and the other party (or each of the other parties) shall take all reasonable steps to reach such agreement.

(2) Subsection (1) above shall not apply in relation to proceedings as respects which the accused (or any of the accused if more than one) is not legally represented.

(3) The duty under subsection (1) above applies from the date on which the accused pleads not guilty until the swearing of the first witness or, where the accused tenders a plea of guilty at any time before the first witness is sworn, the date when he does so.".

13 First and preliminary diets in solemn proceedings.

(1) In section 75 of the 1975 Act (notice of trial diet), after the word "at" there shall be inserted—

"(a) where the case is to be tried in the sheriff court, a first diet not less than 15 clear days after the service of the indictment and not less than 10 clear days before the trial diet; and

(b)".

(2) After section 75 of that Act there shall be inserted the following section—

"**75A First diet.**

(1) At a first diet the court shall, so far as is reasonably practicable, ascertain whether the case is likely to proceed to trial on the date assigned as the trial diet and, in particular—

(a) the state of preparation of the prosecutor and of the accused with respect to their cases; and

(b) the extent to which the prosecutor and the accused have complied with the duty under section 84A(1) of this Act.

(2) In addition to the matters mentioned in subsection (1) above the court shall, at a first diet, consider any matter mentioned in subsection (3) below of which a party has, not less than two clear days before the first diet, given notice to the court and to the other parties.

(3) The matters referred to in subsection (2) above are—

(a) that the party intends to raise a matter relating to the competency or relevancy of the indictment or to raise an objection such as is mentioned in section 108(1) of this Act;

(b) that he intends to submit a plea in bar of trial or to apply for separation or conjunction of charges or trials or to raise a preliminary objection under section 67 of this Act or to make an application under section 151(2) of this Act;

(c) that there are documents the truth of the contents of which ought in his view to be admitted, or that there is any other matter which in his view ought to be agreed; and

(d) that there is some other matter which could in his opinion be resolved with advantage before the trial.

(4) At a first diet the court may ask the prosecutor and the accused any question in connection with any matter which it is required to ascertain or consider under subsection (1) or (2) above.

(5) The accused shall attend a first diet of which he has been given notice and the court may, if he fails to do so, grant a warrant to apprehend him.

(6) A first diet may proceed notwithstanding the absence of the accused.

(7) The accused shall, at the first diet, be required to state how he pleads to the indictment, and section 103 of this Act shall apply where he tenders a plea of guilty.

(8) Where at a first diet the court concludes that the case is unlikely to proceed to trial on the date assigned for the trial diet, the court—

(a) shall, unless having regard to previous proceedings in the case it considers it inappropriate to do so, postpone the trial diet; and

(b) may fix a further first diet.

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(9) Subject to subsection (8) above, the court may, if it considers it appropriate to do so, adjourn a first diet.

(10) In this section "the court" means the sheriff court.".

(3) In section 76 of that Act (preliminary diet)—

(a) in subsection (1)—

(i) after the words "where a party" there shall be inserted " to a case which is to be tried in the High Court "; and

(ii) for the words "court before which the trial is to take place" there shall be substituted " High Court "; and

(b) after subsection (6) there shall be inserted the following subsections—

"(6A) At a preliminary diet the court shall, in addition to disposing of any matter specified in a notice given under subsection (1) above or referred to in subsection (3) above, ascertain, so far as is reasonably practicable, whether the case is likely to proceed to trial on the date assigned as the trial diet and, in particular—

(a) the state of preparation of the prosecutor and of the accused with respect to their cases; and

(b) the extent to which the prosecutor and the accused have complied with the duty under section 84A(1) of this Act.

(6B) At a preliminary diet the court may ask the prosecutor and the accused any question in connection with any matter specified in a notice under subsection (1) above or referred to in subsection (3) above or which it is required to ascertain under subsection (6A) above.

(6C) Where at a preliminary diet the court concludes that the case is unlikely to proceed to trial on the date assigned for the trial diet, the court—

(a) shall, unless having regard to previous proceedings in the case it considers it inappropriate to do so, postpone the trial diet; and

(b) may fix a further preliminary diet.

(6D) Subject to subsection (6C) above, the court may, if it considers it appropriate to do so, adjourn a preliminary diet.".

(4) In section 76A(1) of that Act (appeal in connection with preliminary diet), for the words "preliminary diet" there shall be substituted " first diet or a preliminary diet, other than a decision to adjourn the diet or to postpone the trial diet ".

14 Intermediate diet in summary proceedings.

(1) Section 337A of the 1975 Act (intermediate diet) shall be amended as follows.

(2) In subsection (1)—

(a) after the word "ascertaining" there shall be inserted " , so far as is reasonably practicable, whether the case is likely to proceed to trial on the date assigned as the trial diet and, in particular ";

(b) the word "and" immediately following paragraph (a) shall cease to have effect; and

(c) after paragraph (b) there shall be inserted—

"; and

(c) the extent to which the prosecutor and the accused have complied with the duty under section 333B(1) of this Act.".

(3) After subsection (1) there shall be inserted the following subsections—

"(1A) Where at an intermediate diet the court concludes that the case is unlikely to proceed to trial on the date assigned for the trial diet, the court—

(a) shall, unless having regard to previous proceedings in the case it considers it inappropriate to do so, postpone the trial diet; and

(b) may fix a further intermediate diet.

(1B) Subject to subsection (1A) above, the court may, if it considers it appropriate to do so, adjourn an intermediate diet.".

(4) At the end of subsection (3) there shall be inserted—

"unless—

(a) he is legally represented; and

(b) the court considers that there are exceptional circumstances justifying him not attending.

(4) The foregoing provisions of this section shall have effect as respects any court prescribed by the Secretary of State by order, in relation to proceedings commenced after such date as may be so prescribed, with the following modifications—

(a) in subsection (1), for the word "may" there shall be substituted "shall, subject to subsection (1C) below,"; and

(b) after subsection (1B) there shall be inserted the following subsections—

(1C) If, on a joint application by the prosecutor and the accused made at any time before the commencement of the intermediate diet, the court considers it inappropriate to have such a diet, the duty under subsection (1) above shall not apply and the court shall discharge any such diet already fixed.

(1D) The court may consider an application under subsection (1C) above without hearing the parties.

(5) An order under subsection (5) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.".

Commencement Information

I2 S. 14 wholly in force at 31.3.1996; s. 14 not in force at Royal Assent see s. 118(2); s. 14(4) in force for certain purposes at 5.3.1996 and s. 14 in force at 31.3.1996 insofar as not already in force by S.I. 1996/517, art. 3, **Sch.**

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Delay in trial

15 Calculation of specified period where accused detained outside Scotland.

In section 101 of the 1975 Act (prevention of delay in trials), after subsection (1) there shall be inserted the following subsection—

"(1A) In calculating the period of 12 months specified in subsection (1) above there shall be left out of account any period during which the accused is detained, other than while serving a sentence of imprisonment or detention, in any other part of the United Kingdom or in any of the Channel Islands or the Isle of Man in any prison or other institution or place mentioned in subsection (1) or (1A) of section 29 of the Criminal Justice Act 1961 (transfer of prisoners for certain judicial purposes).".

Evidence

16 Uncontroversial evidence.

(1) This section applies where, in any criminal proceedings, a party (in this section referred to as "the first party") considers that facts which that party would otherwise be seeking to prove are unlikely to be disputed by the other parties to the proceedings.

(2) Where this section applies, the first party may prepare and sign a statement—

(a) specifying the facts concerned; or

(b) referring to such facts as set out in a document annexed to the statement,

and shall, not less than 14 days before the trial diet, serve a copy of the statement and any such document on every other party.

(3) Unless any other party serves on the first party, not more than seven days after the date of service of the copy on him under subsection (2) above or by such later time as the court may in special circumstances allow, a notice that he challenges any fact specified or referred to in the statement, the facts so specified or referred to shall be deemed to have been conclusively proved.

(4) Where a notice is served under subsection (3) above, the facts specified or referred to in the statement shall be deemed to have been conclusively proved only in so far as unchallenged in the notice.

(5) Subsections (3) and (4) above shall not preclude a party from leading evidence of circumstances relevant to, or other evidence in explanation of, any fact specified or referred to in the statement.

(6) Notwithstanding subsections (3) and (4) above, the court—

(a) may, on the application of any party, where it is satisfied that there are special circumstances; and

(b) shall, on the joint application of all the parties,

direct that the presumptions in those subsections shall not apply in relation to such fact specified or referred to in the statement as is specified in the direction.

(7) An application under subsection (6) above may be made at any time after the commencement of the trial and before the commencement of the prosecutor's address to the court on the evidence.

(8) Where the court makes a direction under subsection (6) above it shall, unless all the parties otherwise agree, adjourn the trial and may, without prejudice to sections 149 and 350 of the 1975 Act, permit any party to lead evidence as to any such fact as is specified in the direction, notwithstanding that a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 81 and 82(2) of that Act has not been given.

(9) A copy of a statement or a notice required, under this section, to be served on any party shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served such copy or notice together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.

17 Exceptions to the rule that hearsay evidence is inadmissible.

(1) Subject to the following provisions of this section, evidence of a statement made by a person otherwise than while giving oral evidence in court in criminal proceedings shall be admissible in those proceedings as evidence of any matter contained in the statement where the judge is satisfied—

(a) that the person who made the statement will not give evidence in the proceedings of such matter for any of the reasons mentioned in subsection (2) below;

(b) that evidence of the matter would be admissible in the proceedings if that person gave direct oral evidence of it;

(c) that the person who made the statement would have been, at the time the statement was made, a competent witness in such proceedings; and

(d) that there is evidence which would entitle a jury properly directed, or in summary proceedings would entitle the judge, to find that the statement was made and that either—

(i) it is contained in a document; or

(ii) a person who gave oral evidence in the proceedings as to the statement has direct personal knowledge of the making of the statement.

(2) The reasons referred to in paragraph (a) of subsection (1) above are that the person who made the statement—

(a) is dead or is, by reason of his bodily or mental condition, unfit or unable to give evidence in any competent manner;

(b) is named and otherwise sufficiently identified, but is outwith the United Kingdom and it is not reasonably practicable to secure his attendance at the trial or to obtain his evidence in any other competent manner;

(c) is named and otherwise sufficiently identified, but cannot be found and all reasonable steps which, in the circumstances, could have been taken to find him have been so taken;

(d) having been authorised to do so by virtue of a ruling of the court in the proceedings that he is entitled to refuse to give evidence in connection with the subject matter of the statement on the grounds that such evidence might incriminate him, refuses to give such evidence; or

(e) is called as a witness and either—

(i) refuses to take the oath or affirmation; or

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(ii) having been sworn as a witness and directed by the judge to give evidence in connection with the subject matter of the statement refuses to do so,

and in the application of this paragraph to a child, the reference to a witness refusing to take the oath or affirmation or, as the case may be, to having been sworn shall be construed as a reference to a child who has refused to accept an admonition to tell the truth or, having been so admonished, refuses to give evidence as mentioned above.

(3) Evidence of a statement shall not be admissible by virtue of subsection (1) above where the judge is satisfied that the occurrence of any of the circumstances mentioned in paragraphs (a) to (e) of subsection (2) above, by virtue of which the statement would otherwise be admissible, is caused by—

(a) the person in support of whose case the evidence would be given; or

(b) any other person acting on his behalf,

for the purpose of securing that the person who made the statement does not give evidence for the purposes of the proceedings either at all or in connection with the subject matter of the statement.

(4) Where in any proceedings evidence of a statement made by any person is admitted by reference to any of the reasons mentioned in paragraphs (a) to (c) and (e)(i) of subsection (2) above—

(a) any evidence which, if that person had given evidence in connection with the subject matter of the statement, would have been admissible as relevant to his credibility as a witness shall be admissible for that purpose in those proceedings;

(b) evidence may be given of any matter which, if that person had given evidence in connection with the subject matter of the statement, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party; and

(c) evidence tending to prove that that person, whether before or after making the statement, made in whatever manner some other statement which is inconsistent with it shall be admissible for the purpose of showing that he has contradicted himself.

(5) Subject to subsection (6) below, where a party intends to apply to have evidence of a statement admitted by virtue of subsection (1) above he shall, before the trial diet, give notice in writing of—

(a) that fact;

(b) the witnesses and productions to be adduced in connection with such evidence; and

(c) such other matters as may be prescribed by Act of Adjournal,

to every other party to the proceedings and, for the purposes of this subsection, such evidence may be led notwithstanding that a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 81 and 82(2) of the 1975 Act has not been given.

(6) A party shall not be required to give notice as mentioned in subsection (5) above where—

(a) the grounds for seeking to have evidence of a statement admitted are as mentioned in paragraph (d) or (e) of subsection (2) above; or

(b) he satisfies the judge that there was good reason for not giving such notice.

(7) If no other party to the proceedings objects to the admission of evidence of a statement by virtue subsection (1) above, the evidence shall be admitted without the judge requiring to be satisfied as mentioned in that subsection.

(8) For the purposes of the determination of any matter upon which the judge is required to be satisfied under subsection (1) above—

(a) except to the extent that any other party to the proceedings challenges them and insists in such challenge, it shall be presumed that the circumstances are as stated by the party seeking to introduce evidence of the statement; and

(b) where such a challenge is insisted in, the judge shall determine the matter on the balance of probabilities, and he may draw any reasonable inference—

(i) from the circumstances in which the statement was made or otherwise came into being; or

(ii) from any other circumstances, including, where the statement is contained in a document, the form and contents of the document.

(9) Where evidence of a statement has been admitted by virtue of subsection (1) above on the application of one party to the proceedings, without prejudice to anything in any enactment or rule of law, the judge may permit any party to lead additional evidence of such description as the judge may specify, notwithstanding that a witness or production concerned is not included in any list lodged by the parties and that the notice required by sections 81 and 82(2) of the 1975 Act has not been given.

(10) Any reference in subsections (5), (6) and (9) above to evidence shall include a reference to evidence led in connection with any determination required to be made for the purposes of subsection (1) above.

18 Admissibility of prior statements of witnesses.

(1) Subject to the following provisions of this section, where a witness gives evidence in criminal proceedings, any prior statement made by the witness shall be admissible as evidence of any matter stated in it of which direct oral evidence by him would be admissible if given in the course of those proceedings.

(2) A prior statement shall not be admissible under this section unless—

(a) the statement is contained in a document;

(b) the witness, in the course of giving evidence, indicates that the statement was made by him and that he adopts it as his evidence; and

(c) at the time the statement was made, the person who made it would have been a competent witness in the proceedings.

(3) For the purposes of this section, any reference to a prior statement is a reference to a prior statement which, but for the provisions of this section, would not be admissible as evidence of any matter stated in it.

(4) Subsections (2) and (3) above do not apply to a prior statement—

(a) contained in a precognition on oath; or

(b) made in other proceedings, whether criminal or civil and whether taking place in the United Kingdom or elsewhere,

and, for the purposes of this section, any such statement shall not be admissible unless it is sufficiently authenticated.

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

19 Statements by accused.

(1) Subject to the following provisions of this section, nothing in sections 17 and 18 of this Act shall apply to a statement made by the accused.

(2) Evidence of a statement made by an accused shall be admissible by virtue of the said section 17 at the instance of another accused in the same proceedings as evidence in relation to that other accused.

(3) For the purposes of subsection (2) above, the first mentioned accused shall be deemed—

(a) where he does not give evidence in the proceedings, to be a witness refusing to give evidence in connection with the subject matter of the statement as mentioned in paragraph (e) of subsection (2) of the said section 17; and

(b) to have been, at the time the statement was made, a competent witness in the proceedings.

(4) Evidence of a statement shall not be admissible as mentioned in subsection (2) above unless the accused at whose instance it is sought to be admitted has given notice of his intention to do so as mentioned in subsection (5) of the said section 17; but subsection (6) of that section shall not apply in the case of notice required to be given by virtue of this subsection.

20 Construction of sections 17, 18 and 19.

(1) For the purposes of sections 17, 18 and 19 of this Act, a "statement" includes—

(a) any representation, however made or expressed, of fact or opinion; and

(b) any part of a statement,

but does not include a statement in a precognition other than a precognition on oath.

(2) For the purposes of the said sections 17, 18 and 19 a statement is contained in a document where the person who makes it—

(a) makes the statement in the document personally;

(b) makes a statement which is, with or without his knowledge, embodied in a document by whatever means or by any person who has direct personal knowledge of the making of the statement; or

(c) approves a document as embodying the statement.

(3) In the said sections 17, 18 and 19—

"criminal proceedings" include any hearing by the sheriff under section 42 of the [M6]Social Work (Scotland) Act 1968 of an application for a finding as to whether grounds for the referral of a child's case to a children's hearing are established, in so far as the application relates to the commission of an offence by the child;

"document" includes, in addition to a document in writing—

(a) any map, plan, graph or drawing;

(b) any photograph;

(c) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and

(d) any film, negative, tape, disc or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom;

"film" includes a microfilm;

"made" includes allegedly made.

(4) Nothing in the said sections 17, 18 and 19 shall prejudice the admissibility of a statement made by a person other than in the course of giving oral evidence in court which is admissible otherwise than by virtue of those sections.

(5) Nothing in the said sections 17, 18 and 19 shall apply to—

(a) proceedings commenced; or

(b) where the proceedings consist of an application to the sheriff by virtue of section 42(2)(c) of the [M7]Social Work (Scotland) Act 1968, an application made,

before those sections come into force; and for the purposes of paragraph (a) above, solemn proceedings are commenced when the indictment is served.

Marginal Citations

M6 1968 c. 49.

M7 1968 c. 49.

21 Evidence of biological material.

(1) Evidence as to the characteristics and composition of any biological material deriving from human beings or animals shall, in any criminal proceedings, be admissible notwithstanding that neither the material nor a sample of it is lodged as a production.

(2) A party wishing to lead such evidence as is referred to in subsection (1) above shall, where neither the material nor a sample of it is lodged as a production, make the material or a sample of it available for inspection by the other party unless the material constitutes a hazard to health or has been destroyed in the process of analysis.

22 Routine evidence.

(1) Section 26 of and Schedule 1 to the [M8]Criminal Justice (Scotland) Act 1980 (routine evidence) shall be amended as follows.

(2) After subsection (1) there shall be inserted the following subsections—

"(1A) The Secretary of State may by order—

(a) amend or repeal the entry in Schedule 1 to this Act in respect of any enactment; or

(b) insert in that Schedule an entry in respect of a further enactment.

(1B) An order under subsection (1A) above may make such transitional, incidental or supplementary provision as the Secretary of State considers necessary or expedient in connection with the coming into force of the order.".

(3) In subsection (2), the word "summary" and the words from "In the foregoing" to the end of the subsection shall cease to have effect.

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Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

(4) After that subsection there shall be inserted the following subsection—

"(2A) A forensic scientist is authorised for the purposes of subsection (2) above if—

(a) he is authorised for those purposes by the Secretary of State; or

(b) he—

(i) is a constable or is employed by a police authority under section 9 of the Police (Scotland) Act 1967;

(ii) possesses such qualifications and experience as the Secretary of State may for the purposes of that subsection by order prescribe; and

(iii) is authorised for those purposes by the chief constable of the police force maintained for the police area of that authority.".

(5) In subsection (3)—

(a) for the words "the prosecution" there shall be substituted " the prosecutor or the accused ";

(b) in paragraph (a)—

(i) for the words "accused" there shall be substituted " other party "; and

(ii) for the word "his" there shall be substituted " the "; and

(c) in paragraph (b)—

(i) for the word "accused" where it first occurs there shall be substituted " other party ";

(ii) for the words from "less" to "trial" in the second place where it occurs there shall be substituted " more than seven days after the date of service of the copy on him under paragraph (a) above or by such later time "; and

(iii) for the words "prosecutor that the accused" there shall be substituted " first party that he ".

(6) In subsection (4), after the word "accused" where it first occurs there shall be inserted " or the prosecutor ".

(7) After subsection (4) there shall be inserted the following subsection—

"(4A) Where, following service of a notice under subsection (3)(b) above, evidence is given in relation to a report referred to in subsection (2) above by both of the forensic scientists purporting to have signed the report, the evidence of those forensic scientists shall be sufficient evidence of any fact (or conclusion as to fact) contained in the report.".

(8) In subsection (5), the words "under summary procedure" shall cease to have effect.

(9) After subsection (7) there shall be inserted the following subsections—

"(7A) Where, following service of a notice by the accused under subsection (7) above, evidence is given in relation to an autopsy or forensic science report by both of the pathologists or forensic scientists purporting to have signed the report, the evidence of those pathologists or forensic scientists shall be sufficient evidence of any fact (or conclusion as to fact) contained in the report.

(7B) An order made under subsection (1A) or (2A)(b)(ii) above shall be made by statutory instrument.

(7C) No order shall be made under subsection (1A) above unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(7D) A statutory instrument containing an order under subsection (2A)(b)(ii) above shall be subject to annulment pursuant to a resolution of either House of Parliament.".

(10) Schedule 1 shall be amended in accordance with Schedule 1 to this Act.

Commencement Information

I3 S. 22 partly in force; s. 22 not in force at Royal Assent see s. 118(2); s. 22(1)(3)(4)(7)(9) in force at 26.9.1995 by S.I. 1995/2295, art. 3(2), **Sch.**; s. 22 in force at 31.3.1996 insofar as not already in force by S.I. 1996/517, **art. 3(2)**

Marginal Citations

M8 1980 c.62.

23 Proof of custody of productions.

In section 84 of the 1975 Act (proof as to productions)—

(a) after the word "prove" there shall be inserted " (a) ";

(b) after the word "police" in the second place where it occurs there shall be inserted—

"; or

(b) that the production examined by him is that taken possession of by the procurator fiscal or the police,"; and

(c) at the end there shall be inserted the words " or, as the case may be, that it is that taken possession of as aforesaid ".

24 Evidence of criminal record and character of accused.

(1) In section 141 of the 1975 Act (accused competent witness for defence in solemn proceedings)—

(a) in subsection (1), in paragraph (f)(ii) of the proviso—

(i) after the word "character" where it first occurs there shall be inserted " or impugning the character of the complainer "; and

(ii) after the word "prosecution" in the second place where it occurs there shall be inserted " or of the complainer "; and

(b) after that subsection there shall be inserted the following subsections—

"(1A) In a case to which sub-paragraph (ii) of paragraph (f) of the proviso to subsection (1) above applies, the prosecutor shall be entitled to ask the accused a question of a kind specified in that paragraph only if the court, on the application of the prosecutor, permits him to do so.

(1B) An application under subsection (1A) above shall be made in the course of the trial but in the absence of the jury.

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(1C) In subsection (1) above, references to the complainer include references to a victim who is deceased.".

(2) After section 141 of that Act there shall be inserted the following section—

"**141ZA Evidence of criminal record and character of accused.**

(1) This section applies where—

(a) evidence is led by the defence, or the defence asks questions of a witness for the prosecution, with a view to establishing the accused's good character or impugning the character of the prosecutor, of any witness for the prosecution or of the complainer; or

(b) the nature or conduct of the defence is such as to tend to establish the accused's good character or to involve imputations on the character of the prosecutor, of any witness for the prosecution or of the complainer.

(2) Where this section applies the court may, without prejudice to section 149 of this Act, on the application of the prosecutor, permit the prosecutor to lead evidence that the accused has committed, or has been convicted of, or has been charged with, offences other than that for which he is being tried, or is of bad character, notwithstanding that a witness or production concerned is not included in any list lodged by the prosecutor and that the notice required by sections 81 and 82(2) of this Act has not been given.

(3) An application under subsection (2) above shall be made in the course of the trial but in the absence of the jury.

(4) In subsection (1) above, references to the complainer include references to a victim who is deceased.".

(3) In section 160 of that Act (laying of previous convictions before jury), for subsection (2) there shall be substituted the following subsection—

"(2) Nothing in subsection (1) above shall prevent the prosecutor—

(a) asking the accused questions tending to show that he has been convicted of an offence other than that with which he is charged, where he is entitled to do so under section 141 of this Act; or

(b) leading evidence of previous convictions where it is competent to do so—

(i) as evidence in support of a substantive charge; or

(ii) under section 141ZA of this Act.".

(4) In section 346 of that Act (accused competent witness for defence in summary proceedings)—

(a) in subsection (1), in paragraph (f)(ii) of the proviso—

(i) after the word "character" where it first occurs there shall be inserted " or impugning the character of the complainer "; and

(ii) after the word "prosecution" in the second place where it occurs there shall be inserted " or of the complainer "; and

(b) after that subsection there shall be inserted the following subsections—

"(1A) In a case to which sub-paragraph (ii) of paragraph (f) of the proviso to subsection (1) above applies, the prosecutor shall be entitled to ask

the accused a question of a kind specified in that paragraph only if the court, on the application of the prosecutor, permits him to do so.

(1B) In subsection (1) above, references to the complainer include references to a victim who is deceased.".

(5) After section 346 of that Act there shall be inserted the following section—

"**346ZA Evidence of criminal record and character of accused.**

(1) This section applies where—

(a) evidence is led by the defence, or the defence asks questions of a witness for the prosecution, with a view to establishing the accused's good character or impugning the character of the prosecutor, of any witness for the prosecution or of the complainer; or

(b) the nature or conduct of the defence is such as to tend to establish the accused's good character or to involve imputations on the character of the prosecutor, of any witness for the prosecution or of the complainer.

(2) Where this section applies the court may, without prejudice to section 350 of this Act, on the application of the prosecutor, permit the prosecutor to lead evidence that the accused has committed, or has been convicted of, or has been charged with, offences other than that for which he is being tried, or is of bad character.

(3) In subsection (1) above, references to the complainer include references to a victim who is deceased.".

(6) In section 357 of that Act (laying of previous convictions before court), in subsection (5), for the words from "evidence" where it first occurs to the end there shall be substituted "the prosecutor—

(a) asking the accused questions tending to show that the accused has been convicted of an offence other than that with which he is charged, where he is entitled to do so under section 346 of this Act; or

(b) leading evidence of previous convictions where it is competent to do so—

(i) as evidence in support of a substantive charge; or

(ii) under section 346ZA of this Act.".

25 Evidence as to controlled drugs and medicinal products.

(1) For the purposes of any criminal proceedings, evidence given by an authorised forensic scientist, either orally or in a report purporting to be signed by him, that a substance which satisfies either of the conditions specified in subsection (2) below is—

(a) a particular controlled drug or medicinal product; or

(b) a particular product which is listed in the British Pharmacopoeia as containing a particular controlled drug or medicinal product,

shall, subject to subsection (3) below, be sufficient evidence of that fact notwithstanding that no analysis of the substance has been carried out.

(2) Those conditions are—

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(a) that the substance is in a sealed container bearing a label identifying the contents of the container; or

(b) that the substance has a characteristic appearance having regard to its size, shape, colour and manufacturer's mark.

(3) A party proposing to rely on subsection (1) above ("the first party") shall, not less than 14 days before the trial diet, serve on the other party ("the second party")—

(a) a notice to that effect; and

(b) where the evidence is contained in a report, a copy of the report,

and if the second party serves on the first party, not more than seven days after the date of service of the notice on him, a notice that he does not accept the evidence as to the identity of the substance, subsection (1) above shall not apply in relation to that evidence.

(4) A notice or copy report served in accordance with subsection (3) above shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served the notice or copy together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.

(5) In this section—

"controlled drug" has the same meaning as in the [M9]Misuse of Drugs Act 1971; and

"medicinal product" has the same meaning as in the [M10]Medicines Act 1968.

Marginal Citations

M9 1971 c. 38.

M10 1968 c. 67.

26 Evidence as to time and place of video surveillance recordings.

(1) For the purposes of any criminal proceedings, a certificate purporting to be signed by a person responsible for the operation of a video surveillance system and certifying—

(a) the location of the camera;

(b) the nature and extent of the person's responsibility for the system; and

(c) that visual images recorded on a particular video tape are images, recorded by the system, of events which occurred at a place specified in the certificate at a time and date so specified,

shall, subject to subsection (2) below, be sufficient evidence of the matters contained in the certificate.

(2) A party proposing to rely on subsection (1) above ("the first party") shall, not less than 14 days before the trial diet, serve on the other party ("the second party") a copy of the certificate and, if the second party serves on the first party, not more than seven days after the date of service of the copy certificate on him, a notice that he does not accept the evidence contained in the certificate, subsection (1) above shall not apply in relation to that evidence.

(3) A copy certificate or notice served in accordance with subsection (2) above shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served the copy or notice together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.

(4) In this section, "video surveillance system" means apparatus consisting of a camera mounted in a fixed position and associated equipment for transmitting and recording visual images of events occurring in any place.

27 Evidence in relation to fingerprints.

(1) For the purposes of any criminal proceedings, a certificate purporting to be signed by two constables and certifying that the fingerprints produced thereon were taken from a person designated in the certificate at a time, date and place specified therein shall, subject to subsection (2) below, be sufficient evidence of the facts contained in the certificate.

(2) A party proposing to rely on subsection (1) above ("the first party") shall, not less than 14 days before the trial diet, serve on the other party ("the second party") a copy of the certificate and, if the second party serves on the first party, not more than seven days after the date of service of the copy certificate on him, a notice that he does not accept the evidence contained in the certificate, subsection (1) above shall not apply in relation to that evidence.

(3) A copy certificate or notice served in accordance with subsection (2) above shall be served in such manner as may be prescribed by Act of Adjournal; and a written execution purporting to be signed by the person who served the copy or notice together with, where appropriate, the relevant post office receipt shall be sufficient evidence of such service.

28 Evidence in relation to sexual offences.

(1) In section 141A(2) of the 1975 Act (sexual offences in relation to which restrictions on admissible evidence apply)—

(a) after paragraph (b) there shall be inserted the following paragraph—

"(ba) clandestine injury to women;";

(b) after sub-paragraph (i) of paragraph (g) there shall be inserted the following sub-paragraphs—

"(ia) section 2A (incest);

(ib) section 2B (unlawful sexual intercourse with stepchild);

(ic) section 2C (unlawful sexual intercourse of person in position of trust with child under 16);"; and

(c) after sub-paragraph (iv) of that paragraph there shall be inserted the following sub-paragraph—

"(iva) section 7 (gross indecency between males)".

(2) In section 346A(2) of that Act (corresponding provision in relation to summary proceedings)—

(a) after paragraph (b) there shall be inserted the following paragraph—

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"(ba) clandestine injury to women;";

(b) after sub-paragraph (i) of paragraph (f) there shall be inserted the following sub-paragraphs—

"(ia) section 2A (incest);

(ib) section 2B (unlawful sexual intercourse with stepchild);

(ic) section 2C (unlawful sexual intercourse of person in position of trust with child under 16);"; and

(c) after sub-paragraph (iv) of that paragraph there shall be inserted the following sub-paragraph—

"(iva) section 7 (gross indecency between males)".

29 Proof of previous convictions.

(1) In section 162 of the 1975 Act (admissibility and proof of extract convictions in solemn proceedings), after subsection (3) there shall be inserted the following subsections—

"(4) Without prejudice to subsections (1) to (3) above, where proof of a previous conviction is competent in support of a substantive charge, any such conviction or an extract of it shall, if—

(a) it purports to relate to the accused and to be signed by the clerk of court having custody of the record containing the conviction; and

(b) a copy of it has been served on the accused not less than 14 days before the trial diet,

be sufficient evidence of the application of the conviction to the accused unless, within seven days of the date of service of the copy on him, he serves notice on the prosecutor that he denies that it applies to him.

(5) A copy of a conviction or extract conviction served under subsection (4) above shall be served on the accused in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person who served the copy together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of the copy.".

(2) In section 357 of that Act (previous convictions in summary proceedings), after subsection (5) there shall be inserted the following subsections—

"(6) Without prejudice to subsections (1) to (3) above, where proof of a previous conviction is competent in support of a substantive charge, any such conviction or an extract of it shall, if—

(a) it purports to relate to the accused and to be signed by the clerk of court having custody of the record containing the conviction; and

(b) a copy of it has been served on the accused not less than 14 days before the trial diet,

be sufficient evidence of the application of the conviction to the accused unless, within seven days of the date of service of the copy on him, he serves notice on the prosecutor that he denies that it applies to him.

(7) A copy of a conviction or extract conviction served under subsection (6) above shall be served on the accused in such manner as may be prescribed by Act of Adjournal, and a written execution purporting to be signed by the person

who served the copy together with, where appropriate, the relevant post office receipt shall be sufficient evidence of service of the copy.".

The trial

30 Death, illness or absence of trial judge.

(1) Section 128 of the 1975 Act (death or illness of judge in solemn proceedings) shall be amended in accordance with subsections (2) and (3) below.

(2) For subsection (1) of that section there shall be substituted the following subsections—

"(1) Where the court is unable to proceed owing to the death, illness or absence of the presiding judge, the clerk of court may convene the court (if necessary) and—

(a) in a case where no evidence has been led, adjourn the diet and any other diet appointed for that sitting to—

(i) a time later the same day, or a date not more than seven days later, when he believes a judge will be available; or

(ii) a later sitting not more than two months after the date of the adjournment; or

(b) in a case where evidence has been led—

(i) adjourn the diet and any other diet appointed for that sitting to a time later the same day, or a date not more than seven days later, when he believes a judge will be available; or

(ii) with the consent of the parties, desert the diet pro loco et tempore.

(1A) Where a diet has been adjourned under sub-paragraph (i) of either paragraph (a) or paragraph (b) of subsection (1) above the clerk of court may, where the conditions of that subsection continue to be satisfied, further adjourn the diet under that sub-paragraph; but the total period of such adjournments shall not exceed seven days.

(1B) Where a diet has been adjourned under subsection (1)(b)(i) above the court may, at the adjourned diet—

(a) further adjourn the diet; or

(b) desert the diet pro loco et tempore.".

(3) In subsection (2) of that section, for the words "(1)(c)" there shall be substituted " (1)(b)(ii) or (1B)(b) ".

(4) After section 331A of that Act there shall be inserted the following section—

"**331B Death, illness or absence of judge.**

(1) Where the court is unable to proceed owing to the death, illness or absence of the presiding judge, it shall be lawful for the clerk of court—

(a) where the diet has not been called, to convene the court and adjourn the diet;

(b) where the diet has been called but no evidence has been led, to adjourn the diet; and

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(c) where the diet has been called and evidence has been led—

(i) with the agreement of the parties, to desert the diet pro loco et tempore; or

(ii) to adjourn the diet.

(2) Where, under subsection (1)(c)(i) above, a diet has been deserted pro loco et tempore, any new prosecution charging the accused with the same or any similar offence arising out of the same facts shall be brought within two months of the date on which the diet was deserted notwithstanding that any other time limit for the commencement of such prosecution has elapsed.

(3) For the purposes of subsection (2) above, a new prosecution shall be deemed to commence on the date on which a warrant to apprehend or to cite the accused is granted, if such warrant is executed without undue delay.".

31 Removal of accused from court.

After section 337A of the 1975 Act there shall be inserted the following section—

"**337B Removal of accused from court.**

(1) Without prejudice to section 338 of this Act, and subject to subsection (2) below, no part of a trial shall take place outwith the presence of the accused.

(2) If during the course of his trial an accused so misconducts himself that in the view of the court a proper trial cannot take place unless he is removed, the court may order—

(a) that he is removed from the court for so long as his conduct makes it necessary; and

(b) that the trial proceeds in his absence,

but if he is not legally represented the court shall appoint counsel or a solicitor to represent his interests during such absence.".

32 Comment by prosecutor on accused's failure to give evidence.

Sections 141(1)(b) (prosecutor may not comment on failure of accused to give evidence in solemn proceedings) and 346(1)(b) (corresponding provision in relation to summary proceedings) of the 1975 Act shall cease to have effect.

Conviction and sentence

33 Sentence following guilty plea.

After each of sections 217 and 430 of the 1975 Act there shall be inserted the following section as, respectively, section 217A and section 430A—

. "**0 Sentence following guilty plea.**

In determining what sentence to pass on, or what other disposal or order to make in relation to, an offender who has pled guilty to an offence, a court may take into account—

(a) the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and

(b) the circumstances in which that indication was given.".

34 Sentencing guidelines.

(1) After section 254 of the 1975 Act there shall be inserted the following section—

"**254A Sentencing guidelines.**

(1) In disposing of an appeal under section 228(1)(b), (bb), (bc), (bd) or (c) or 228A of this Act the High Court may, without prejudice to any other power in that regard, pronounce an opinion on the sentence or other disposal or order which is appropriate in any similar case.

(2) Without prejudice to any rule of law, a court in passing sentence shall have regard to any relevant opinion pronounced under subsection (1) above.".

(2) After section 455 of the 1975 Act there shall be inserted the following section—

"**455A Sentencing guidelines.**

(1) In disposing of an appeal under section 442(1)(a)(ii), (iia) or (iii), (b)(ii) or (c) of this Act the High Court may, without prejudice to any other power in that regard, pronounce an opinion on the sentence or other disposal or order which is appropriate in any similar case.

(2) Without prejudice to any rule of law, a court in passing sentence shall have regard to any relevant opinion pronounced under subsection (1) above.".

35 Supervised attendance orders.

(1) Section 62 of the [M11]Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (supervised attendance orders) shall be amended in accordance with subsections (2) to (7) below.

(2) In subsection (1), at the end there shall be inserted the words " and shall, subject to paragraph 1 of Schedule 6 to this Act, make such an order where subsection (3A) below applies ".

(3) In subsection (2)—

(a) for the words "with the consent" there shall be substituted " in respect ";

(b) in paragraph (a), for the words "time, being 10, 20, 30, 40, 50 or 60 hours" there shall be substituted "period, being a period of not less than 10 hours and not more than—

(i) where the amount of the fine, part or instalment which the offender has failed to pay does not exceed level 1 on the standard scale, 50 hours; and

(ii) in any other case, 100 hours"; and

(c) in paragraph (b), for the word "time" there shall be substituted " period ".

(4) In subsection (3)(a), for the word "16" there shall be substituted " 18 ".

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

(5) After subsection (3) there shall be inserted the following subsections—

"(3A) This subsection applies where—

(a) the court is a court prescribed for the purposes of this subsection by order made by the Secretary of State;

(b) the offender is of or over 18 years of age and is not serving a sentence of imprisonment;

(c) having been convicted of an offence, he has had imposed on him a fine which (or any part or instalment of which) he has failed to pay and the court, but for this section, would have imposed on him a period of imprisonment under section 407(1)(b) of the Criminal Procedure (Scotland) Act 1975 (power of court to impose imprisonment for non-payment of fine); and

(d) the fine, or as the case may be, the part or instalment, is of an amount not exceeding level 2 on the standard scale.

(3B) An order under subsection (3A)(a) above shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.".

(6) After subsection (4) there shall be inserted the following subsection—

"(4A) The coming into force of a supervised attendance order shall have the effect of discharging the fine referred to in subsection (3)(b) or (3A)(c) above or, as the case may be, section 412A(3)(a) or 412B(1) of the Criminal Procedure (Scotland) Act 1975.".

(7) In subsection (6), the following definition shall be inserted in the appropriate place in alphabetical order—

""imprisonment" includes detention;".

(8) In Schedule 6 to that Act of 1990 (further provisions with respect to supervised attendance orders)—

(a) in paragraph 1(1)(a), after the word "persons" there shall be inserted " of a class which includes the offender ";

(b) in paragraph 4(2)(a), for the words from "as" to "made" in the second place where it occurs there shall be substituted—

"not exceeding—

(i) in the case of a sheriff court, three months; and

(ii) in the case of a district court, 60 days,

as the court considers appropriate; "; and

(c) in paragraph 5(1)(d), for the words from "as" to "made" in the second place where it occurs there shall be substituted—

"not exceeding—

(i) in the case of a sheriff court, three months; and

(ii) in the case of a district court, 60 days,

as the court considers appropriate; ".

(9) In section 194(2) of the 1975 Act, after the entry in respect of section 411 there shall be inserted—

" section 412A (supervised attendance orders in place of fines for 16 and 17 year olds);

section 412B (supervised attendance orders where court allows further time to pay;".

(10) In section 407(1)(b) of that Act (imprisonment for non-payment of fine), after the word "may" there shall be inserted " , subject to section 62(1) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, ".

(11) After section 412 of that Act there shall be inserted the following sections—

" Supervised attendance orders

412A Supervised attendance orders in place of fines for 16 and 17 year olds.

(1) This section applies where a person of 16 or 17 years of age is convicted of an offence by a court of summary jurisdiction and the court considers that, but for this section, the appropriate sentence is a fine.

(2) Where this section applies, the court shall determine the amount of the fine and shall consider whether the person is likely to pay a fine of that amount within 28 days.

(3) If the court considers that the person is likely to pay the fine as mentioned in subsection (2) above, it shall—

(a) impose the fine; and

(b) subject to paragraph 1 of Schedule 6 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 ("the 1990 Act"), make a supervised attendance order in default of payment of the fine within 28 days.

(4) A supervised attendance order made under subsection (3)(b) above—

(a) shall come into force on such date, not earlier than 28 days after the making of the order, as may be specified in the order, unless the person pays the fine within that period;

(b) shall, for the purposes of Schedule 6 to the 1990 Act, be deemed to be made on the date when it comes into force.

(5) Where, before the coming into force of a supervised attendance order made under subsection (3)(b) above, the person pays part of the fine, the period specified in the order shall be reduced by the proportion which the part of the fine paid bears to the whole fine, the resulting figure being rounded up or down to the nearest 10 hours; but this subsection shall not operate to reduce the period to less than 10 hours.

(6) If the court considers that the person is not likely to pay the fine as mentioned in subsection (2) above, it shall, subject to paragraph 1 of Schedule 6 to the 1990 Act, make a supervised attendance order in respect of that person.

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

(7) Sections 395A to 398, 400 to 404 and 407 of this Act shall not apply in respect of a person to whom this section applies.

(8) For the purposes of any appeal or review, a supervised attendance order made under this section is a sentence.

(9) In this section "supervised attendance order" means an order made in accordance with section 62(2), (5) and (6) of the 1990 Act.

412B Supervised attendance orders where court allows further time to pay fine.

(1) Where a court, on an application to it under section 397(1) of this Act, allows a person further time for payment of a fine or instalments thereof it may, in addition, subject to paragraph 1 of Schedule 6 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 ("the 1990 Act"), impose a supervised attendance order in default of payment of the fine or any instalment of it on the due date.

(2) A supervised attendance order made under subsection (1) above —
- (a) shall, if the person fails to pay the fine or any instalment of it on the due date, come into force on the day after the due date; and
- (b) shall, for the purposes of Schedule 6 to the 1990 Act, be deemed to be made on the date when it comes into force.

(3) Where, before the coming into force of a supervised attendance order under subsection (1) above, the person pays part of the fine, the period specified in the order shall be reduced by the proportion which the part of the fine paid bears to the whole fine, the resulting figure being rounded up or down to the nearest 10 hours; but this subsection shall not operate to reduce the period to less than 10 hours.

(4) In this section "supervised attendance order" means an order made in accordance with section 62(2), (5) and (6) of the 1990 Act.".

Modifications etc. (not altering text)
C1 S. 35 restricted (31.8.1995) by S.I. 1995/2295, **art. 4**

Marginal Citations
M11 1990 c. 40.

36 Supervised release orders: requirement for local authority report.

After subsection (1) of section 212A of the 1975 Act (supervised release orders) there shall be inserted the following subsection—

"(1A) A court shall, before making an order under subsection (1) above, consider a report by a relevant officer of a local authority about the offender and his circumstances and, if the court thinks it necessary, hear that officer.".

37 Offences committed by persons under supervision etc.: provision of local authority report.

(1) After section 179 of the 1975 Act there shall be inserted the following section—

"**179A Offence committed by person under supervision etc.: provision of local authority report.**

Where a person specified in section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968 commits an offence, the court shall not dispose of the case without obtaining from the local authority in whose area the person resides a report as to—

(a) the circumstances of the offence; and

(b) the character of the offender, including his behaviour while under the supervision, or as the case may be subject to the order, so specified in relation to him.".

(2) After section 380 of that Act there shall be inserted the following section—

"**380A Offence committed by person under supervision etc.: provision of local authority report.**

(1) Where a person specified in section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968 commits an offence, the court shall not dispose of the case without obtaining from the local authority in whose area the person resides a report as to—

(a) the circumstances of the offence; and

(b) the character of the offender, including his behaviour while under the supervision, or as the case may be subject to the order, so specified in relation to him.

(2) In subsection (1) above, "the court" does not include a district court.".

38 Probation orders to be made only after conviction.

(1) In section 183(5A) of the 1975 Act (probation order)—

(a) after the word "where" there shall be inserted " an offender has been convicted of an offence punishable by imprisonment and "; and

(b) in paragraph (a), the words "has committed an offence punishable by imprisonment and" shall cease to have effect.

(2) For paragraph (b) of subsection (2) of each of sections 186 and 387 of that Act (failure to comply with requirement of probation orders) there shall be substituted the following paragraph—

"(b) sentence the offender for the offence for which the order was made;".

(3) In section 384 of that Act (probation)—

(a) in subsection (1)—

(i) for the words "charged before a court of summary jurisdiction with" there shall be substituted " convicted of ";

(ii) the words from "and", where it first occurs, to "offence", in the third place where it occurs, shall cease to have effect; and

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(iii) for the words from ", without" to "applies)," there shall be substituted " instead of sentencing him ";

(b) in subsection (5A)—

(i) after the word "where" there shall be inserted " an offender has been convicted of an offence punishable by imprisonment and "; and

(ii) in paragraph (a), the words "has committed an offence punishable by imprisonment and" shall cease to have effect; and

(c) in subsection (6), the words "convicted of and" shall cease to have effect.

39 Probation orders requiring treatment for mental condition.

(1) In each of sections 184 and 385 of the 1975 Act (probation orders requiring treatment for mental condition)—

(a) in subsection (1), after the word "practitioner", in the second place where it occurs, there shall be inserted " or chartered psychologist "; and

(b) in each of subsections (2)(c), (5) and (5B)(b), after the word "practitioner" there shall be inserted " or chartered psychologist ".

(2) In section 462(1) of that Act (interpretation), at the appropriate place, there shall be inserted the following definition—

""chartered psychologist" means a person for the time being listed in the British Psychological Society's Register of Chartered Psychologists;".

40 Sentence for offence committed while subject to requirement to perform unpaid work.

(1) After subsection (2) of section 187 of the 1975 Act (commission of further offence while on probation) there shall be inserted the following subsections—

"(3) Where—

(a) a court has, under section 183(5A) of this Act, included in a probation order a requirement that an offender shall perform unpaid work; and

(b) the offender is convicted of an offence committed in the circumstances mentioned in subsection (4) below,

the court which sentences him for the offence shall, in determining the appropriate sentence for that offence, have regard to the fact that the offence was committed in those circumstances.

(4) The circumstances referred to in subsection (3) above are that the offence was committed—

(a) during the period that the offender was subject to a requirement to perform unpaid work or within the period of three months following the expiry of that period; and

(b) in any place where the unpaid work was being or had previously been performed.

(5) The court shall not, under subsection (3) above, have regard to the fact that the offence was committed in the circumstances mentioned in subsection (4) above unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.".

(2) After subsection (2) of section 388 of that Act (commission of further offence while on probation) there shall be inserted the following subsections—

"(3) Where—

(a) a court has, under section 384(5A) of this Act, included in a probation order a requirement that an offender shall perform unpaid work; and

(b) the offender is convicted of an offence committed in the circumstances mentioned in subsection (4) below,

the court which sentences him for the offence shall, in determining the appropriate sentence for that offence, have regard to the fact that the offence was committed in those circumstances.

(4) The circumstances referred to in subsection (3) above are that the offence was committed—

(a) during the period that the offender was subject to a requirement to perform unpaid work or within the period of three months following the expiry of that period; and

(b) in any place where the unpaid work was being or had previously been performed.

(5) The court shall not, under subsection (3) above, have regard to the fact that the offence was committed in the circumstances mentioned in subsection (4) above unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.".

(3) After section 5 of the [M12]Community Service by Offenders (Scotland) Act 1978 there shall be inserted the following section—

"**5A Commission of offence while community service order in force.**

(1) Where—

(a) a court has made a community service order under section 1(1) of this Act in respect of an offender; and

(b) the offender is convicted of an offence committed in the circumstances mentioned in subsection (2) below,

the court which sentences him for that offence shall, in determining the appropriate sentence for that offence, have regard to the fact that the offence was committed in those circumstances.

(2) The circumstances referred to in subsection (1) above are that the offence was committed—

(a) during the period when the community service order was in force or within the period of three months following the expiry of that order; and

(b) in any place where unpaid work under the order was being or had previously been performed.

(3) The court shall not, under subsection (1) above, have regard to the fact that the offence was committed in the circumstances mentioned in subsection (2) above unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.".

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Marginal Citations
M12 1978 c.49.

41 Amendment of records of conviction and sentence in summary proceedings.

After section 439 of the 1975 Act there shall be inserted the following section—

"**439A Amendment of records of conviction and sentence in summary proceedings.**

(1) Without prejudice to section 439 of this Act, where, on an application in accordance with subsection (2) below, the High Court is satisfied that a record of conviction or sentence in summary proceedings inaccurately records the identity of any person, it may authorise the clerk of the court which convicted or, as the case may be, sentenced the person to correct the record.

(2) An application under subsection (1) above shall be made after the determination of the summary prosecution and may be made by any party to the summary proceedings or any other person having an interest in the correction of the alleged inaccuracy.

(3) The High Court shall order intimation of an application under subsection (1) above to such persons as it considers appropriate and shall not determine the application without affording to the parties to the summary proceedings and to any other person having an interest in the correction of the alleged inaccuracy an opportunity to be heard.

(4) The power of the High Court under this section may be exercised by a single judge of the High Court in the same manner as it may be exercised by the High Court, and subject to the same provisions.".

Appeals

42 Leave to appeal.

(1) In section 228(1) of the 1975 Act (right of appeal), after the word "may" there shall be inserted " , with leave granted in accordance with section 230A of this Act, ".

(2) After section 230 of that Act there shall be inserted the following section—

"**230A Leave to appeal.**

(1) The decision whether to grant leave to appeal for the purposes of section 228(1) of this Act shall be made by a judge of the High Court who shall—

(a) if he considers that the documents mentioned in subsection (2) below disclose arguable grounds of appeal, grant leave to appeal and make such comments in writing as he considers appropriate; and

(b) in any other case—

(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(2) The documents referred to in subsection (1) above are—

(a) the note of appeal lodged under section 233(1)(a) of this Act;

(b) in a case to which section 236 of this Act applies, the certified copy or, as the case may be, the record of the proceedings at the trial;

(c) where the judge who presided at the trial furnishes a report under section 236A of this Act, that report; and

(d) where, by virtue of section 275(1) of this Act, a transcript of the charge to the jury of the judge who presided at the trial is delivered to the Clerk of Justiciary, that transcript.

(3) A warrant granted under subsection (1)(b)(ii) above shall not take effect until the expiry of the period of 14 days mentioned in subsection (4) below without an application to the High Court for leave to appeal having been lodged by the appellant under that subsection.

(4) Where leave to appeal is refused under subsection (1) above the appellant may, within 14 days of intimation under subsection (10) below, apply to the High Court for leave to appeal.

(5) In deciding an application under subsection (4) above the High Court shall—

(a) if, after considering the documents mentioned in subsection (2) above and the reasons for the refusal, the court is of the opinion that there are arguable grounds of appeal, grant leave to appeal and make such comments in writing as the court considers appropriate; and

(b) in any other case—

(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(6) Consideration whether to grant leave to appeal under subsection (1) or (5) above shall take place in chambers without the parties being present.

(7) Comments in writing made under subsection (1)(a) or (5)(a) above may, without prejudice to the generality of that provision, specify the arguable grounds of appeal (whether or not they are contained in the note of appeal) on the basis of which leave to appeal is granted.

(8) Where the arguable grounds of appeal are specified by virtue of subsection (7) above it shall not, except by leave of the High Court on cause shown, be competent for the appellant to found any aspect of his appeal on any ground of appeal contained in the note of appeal but not so specified.

(9) Any application by the appellant for the leave of the High Court under subsection (8) above—

(a) shall be made not less than seven days before the date fixed for the hearing of the appeal; and

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(b) shall, not less than seven days before that date, be intimated by the appellant to the Crown Agent.

(10) The Clerk of Justiciary shall forthwith intimate—

(a) a decision under subsection (1) or (5) above; and

(b) in the case of a refusal of leave to appeal, the reasons for the decision,

to the appellant or his solicitor and to the Crown Agent.".

(3) After subsection (3) of section 233 of that Act (restriction on arguing ground not in note of appeal) there shall be inserted the following subsection—

"(3A) Subsection (3) above shall not apply as respects any ground of appeal specified as an arguable ground of appeal by virtue of subsection (7) of section 230A of this Act.".

(4) In section 442(1)(a) of that Act (right of appeal), after the word "may" there shall be inserted " , with leave granted in accordance with section 442ZA or, as the case may be, 453AA of this Act, ".

(5) After section 442 of that Act there shall be inserted the following section—

"**442ZA Leave to appeal against conviction etc.**

(1) The decision whether to grant leave to appeal for the purposes of section 442(1)(a)(i) or (iii) of this Act shall be made by a judge of the High Court who shall—

(a) if he considers that the documents mentioned in subsection (2) below disclose arguable grounds of appeal, grant leave to appeal and make such comments in writing as he considers appropriate; and

(b) in any other case—

(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(2) The documents referred to in subsection (1) above are—

(a) the stated case lodged under subsection (4) of section 448 of this Act; and

(b) the documents transmitted to the Clerk of Justiciary under subsection (3)(b) of that section.

(3) A warrant granted under subsection (1)(b)(ii) above shall not take effect until the expiry of the period of 14 days mentioned in subsection (4) below without an application to the High Court for leave to appeal having been lodged by the appellant under that subsection.

(4) Where leave to appeal is refused under subsection (1) above the appellant may, within 14 days of intimation under subsection (10) below, apply to the High Court for leave to appeal.

(5) In deciding an application under subsection (4) above the High Court shall—

(a) if, after considering the documents mentioned in subsection (2) above and the reasons for the refusal, the court is of the opinion that there

are arguable grounds of appeal, grant leave to appeal and make such comments in writing as the court considers appropriate; and

(b) in any other case—

(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(6) Consideration whether to grant leave to appeal under subsection (1) or (5) above shall take place in chambers without the parties being present.

(7) Comments in writing made under subsection (1)(a) or (5)(a) above may, without prejudice to the generality of that provision, specify the arguable grounds of appeal (whether or not they are contained in the stated case) on the basis of which leave to appeal is granted.

(8) Where the arguable grounds of appeal are specified by virtue of subsection (7) above it shall not, except by leave of the High Court on cause shown, be competent for the appellant to found any aspect of his appeal on any ground of appeal contained in the stated case but not so specified.

(9) Any application by the appellant for the leave of the High Court under subsection (8) above—

(a) shall be made not less than seven days before the date fixed for the hearing of the appeal; and

(b) shall, not less than seven days before that date, be intimated by the appellant to the Crown Agent.

(10) The Clerk of Justiciary shall forthwith intimate—

(a) a decision under subsection (1) or (5) above; and

(b) in the case of a refusal of leave to appeal, the reasons for the decision,

to the appellant or his solicitor and to the Crown Agent.".

(6) After subsection (3) of section 452 of that Act (restriction on arguing ground not in stated case) there shall be inserted the following subsection—

"(3A) Subsection (3) above shall not apply as respects any ground of appeal specified as an arguable ground of appeal by virtue of subsection (7) of section 442ZA of this Act.".

(7) After section 453A of that Act there shall be inserted the following section—

"**453AA Leave to appeal against sentence.**

(1) The decision whether to grant leave to appeal for the purposes of section 442(1)(a)(ii) or (iia) of this Act shall be made by a judge of the High Court who shall—

(a) if he considers that the note of appeal and other documents sent to the Clerk of Justiciary under section 453B(4)(a) of this Act disclose arguable grounds of appeal, grant leave to appeal; and

(b) in any other case—

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(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(2) A warrant granted under subsection (1)(b)(ii) above shall not take effect until the expiry of the period of 14 days mentioned in subsection (3) below without an application to the High Court for leave to appeal having been lodged by the appellant under that subsection.

(3) Where leave to appeal is refused under subsection (1) above the appellant may, within 14 days of intimation under subsection (9) below, apply to the High Court for leave to appeal.

(4) In deciding an application under subsection (3) above the High Court shall—

(a) if, after considering the note of appeal and other documents mentioned in subsection (1) above and the reasons for the refusal, the court is of the opinion that there are arguable grounds of appeal, grant leave to appeal; and

(b) in any other case—

(i) refuse leave to appeal and give reasons in writing for the refusal; and

(ii) where the appellant is on bail and the sentence imposed on his conviction is one of imprisonment, grant a warrant to apprehend and imprison him.

(5) Consideration whether to grant leave to appeal under subsection (1) or (4) above shall take place in chambers without the parties being present.

(6) Comments in writing made under subsection (1)(a) or (4)(a) above may, without prejudice to the generality of that provision, specify the arguable grounds of appeal (whether or not they are contained in the note of appeal) on the basis of which leave to appeal is granted.

(7) Where the arguable grounds of appeal are specified by virtue of subsection (6) above it shall not, except by leave of the High Court on cause shown, be competent for the appellant to found any aspect of his appeal on any ground of appeal contained in the note of appeal but not so specified.

(8) Any application by the appellant for the leave of the High Court under subsection (7) above—

(a) shall be made not less than seven days before the date fixed for the hearing of the appeal; and

(b) shall, not less than seven days before that date, be intimated by the appellant to the Crown Agent.

(9) The Clerk of Justiciary shall forthwith intimate—

(a) a decision under subsection (1) or (4) above; and

(b) in the case of a refusal of leave to appeal, the reasons for the decision,

to the appellant or his solicitor and to the Crown Agent.”.

Modifications etc. (not altering text)
C2 S. 42 restricted (31.8.1995) by S.I. 1995/2295, **art. 5**

43 Reduction in quorum of High Court for appeals against sentence etc.

(1) In section 245 of the 1975 Act (quorum of High Court in relation to appeals)—

(a) at the beginning of subsection (1) there shall be inserted " Subject to subsection (1A) below, "; and

(b) after subsection (1) there shall be inserted the following subsection—

"(1A) For the purpose of hearing and determining any appeal under section 228(1)(b), (bb), (bc) or (bd) of this Act, or any proceeding connected therewith, two of the Lords Commissioners of Justiciary shall be a quorum of the High Court, and each judge shall be entitled to pronounce a separate opinion; but where the two Lords Commissioners of Justiciary are unable to reach agreement on the disposal of the appeal, or where they consider it appropriate, the appeal shall be heard and determined in accordance with subsection (1) above.".

(2) After section 451 of that Act there shall be inserted the following section—

"**451A Quorum of High Court in relation to appeals.**

(1) For the purpose of hearing and determining any appeal under this Part of this Act, or any proceeding connected therewith, three of the Lords Commissioners of Justiciary shall be a quorum of the High Court, and the determination of any question under this Part of this Act by the court shall be according to the votes of the majority of the members of the court sitting, including the presiding judge, and each judge so sitting shall be entitled to pronounce a separate opinion.

(2) For the purpose of hearing and determining appeals under section 442(1)(a)(ii) or (iia) of this Act, or any proceeding connected therewith, two of the Lords Commissioners of Justiciary shall be a quorum of the High Court, and each judge shall be entitled to pronounce a separate opinion; but where the two Lords Commissioners of Justiciary are unable to reach agreement on the disposal of the appeal, or where they consider it appropriate, the appeal shall be heard and determined in accordance with subsection (1) above.".

44 Trial judge's report.

(1) Without prejudice to sections 236A and 453B(3)(b) of the 1975 Act, the High Court may, in relation to any appeal—

(a) under section 228(1), 228A or 442(1) of the 1975 Act;

(b) by way of bill of suspension or advocation; or

(c) by way of petition to the nobile officium,

at any time before the appeal is finally determined, order the judge who presided at the trial, passed sentence or otherwise disposed of the case to provide to the Clerk of

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Justiciary a report in writing giving the judge's opinion on the case generally or in relation to any particular matter specified in the order.

(2) The Clerk of Justiciary shall send a copy of a report provided under subsection (1) above to the convicted person or his solicitor, the Crown Agent and, in relation to cases referred under section 263(1) of the 1975 Act, the Secretary of State.

(3) Subject to subsection (2) above, the report of the judge shall be available only to the High Court, the parties and, on such conditions as may be prescribed by Act of Adjournal, such other persons or classes of persons as may be so prescribed.

(4) Expressions used in this section and in the 1975 Act have the same meaning in this section as in that Act.

45 Extension of certain time limits with respect to appeals.

(1) In section 451(2) of the 1975 Act (power of sheriff principal to extend certain time limits with respect to appeal by stated case), for the words from "taken" to "the sheriff" there shall be substituted "taken—

(a) is temporarily absent from duty for any cause;
(b) is a temporary sheriff; or
(c) is a justice of the peace,

the sheriff ".

(2) In the proviso to subsection (4) of section 453B of that Act (power of sheriff principal to extend time limit with respect to appeal against sentence), for the words from "judge" to "extend" there shall be substituted "judge—

(a) is temporarily absent from duty for any cause;
(b) is a temporary sheriff; or
(c) is a justice of the peace,

extend ".

46 New prosecution for same or similar offence.

(1) In section 255 of the 1975 Act (supplementary provisions where High Court authorises new prosecution)—

(a) at the beginning of subsection (1) there shall be inserted " Subject to subsection (1A) below, ";
(b) after subsection (1) there shall be inserted the following subsections—

"(1A) In a new prosecution under this section the accused shall not be charged with an offence more serious than that of which he was convicted in the earlier proceedings.

(1B) In proceedings in a new prosecution under this section it shall, subject to subsection (1C) below, be competent for either party to lead any evidence which it was competent for him to lead in the earlier proceedings.

(1C) The indictment in a new prosecution under this section shall identify any matters as respects which the prosecutor intends to lead evidence

by virtue of subsection (1B) above which would not have been competent but for that subsection."; and

(c) after subsection (4) there shall be inserted the following subsections—

"(5) On granting authority under section 254(1)(c) of this Act to bring a new prosecution, the High Court shall, after giving the parties an opportunity of being heard, order the detention of the accused person in custody or admit him to bail.

(6) Subsections (2)(b) and (4) to (6) of section 101 of this Act (prevention of delay in trials) shall apply to an accused person who is detained under subsection (5) above as they apply to an accused person detained by virtue of being committed until liberated in due course of law.".

(2) In section 452B of the 1975 Act (corresponding provision in relation to summary proceedings)—

(a) at the beginning of subsection (1) there shall be inserted " Subject to subsection (1A) below, ";

(b) after subsection (1) there shall be inserted the following subsections—

"(1A) In a new prosecution under this section the accused shall not be charged with an offence more serious than that of which he was convicted in the earlier proceedings.

(1B) In proceedings in a new prosecution under this section it shall, subject to subsection (1C) below, be competent for either party to lead any evidence which it was competent for him to lead in the earlier proceedings.

(1C) The complaint in a new prosecution under this section shall identify any matters as respects which the prosecutor intends to lead evidence by virtue of subsection (1B) above which would not have been competent but for that subsection."; and

(c) after subsection (4) there shall be inserted the following subsection—

"(5) On granting authority under section 452A(1)(d) of this Act to bring a new prosecution, the High Court may, after giving the parties an opportunity of being heard, order the detention of the accused person in custody; but an accused person may not be detained by virtue of this subsection for a period of more than 40 days.".

Mental disorder and criminal proceedings

47 Insanity in bar of trial.

(1) For subsection (1) of section 174 of the 1975 Act (finding of insanity in bar of trial in solemn proceedings) there shall be substituted the following subsections—

"(1) Where the court is satisfied, on the written or oral evidence of two medical practitioners, that a person charged on indictment with the commission of an offence is insane so that his trial cannot proceed or, if it has commenced, cannot continue, the court shall, subject to subsection (1A) below—

(a) make a finding to that effect and state the reasons for that finding;

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(b) discharge the trial diet and order that a diet (in this Act referred to as an "an examination of facts") be held under section 174ZA of this Act; and

(c) remand the person in custody or on bail or, where the court is satisfied—

(i) on the written or oral evidence of two medical practitioners, that he is suffering from mental disorder of a nature or degree which warrants his admission to hospital under Part V of the Mental Health (Scotland) Act 1984; and

(ii) that a hospital is available for his admission and suitable for his detention,

make an order (in this section referred to as a "temporary hospital order") committing him to that hospital until the conclusion of the examination of facts.

(1A) Subsection (1) above is without prejudice to the power of the court, on an application by the prosecutor, to desert the diet pro loco et tempore.

(1B) The court may, before making a finding under subsection (1) above as to the insanity of a person, adjourn the case in order that investigation of his mental condition may be carried out.

(1C) The court which made a temporary hospital order may, at any time while the order is in force, review the order on the ground that there has been a change of circumstances since the order was made and, on such review—

(a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may remand him in custody or on bail;

(b) in any other case, the court may—

(i) confirm or vary the order; or

(ii) revoke the order and make such other order, under subsection (1)(c) above or any other provision of this Part of this Act, as the court considers appropriate.".

(2) For subsection (2) of section 375 of the 1975 Act (finding of insanity in bar of trial in summary proceedings) there shall be substituted the following subsections—

"(2) Where the court is satisfied, on the written or oral evidence of two medical practitioners, that a person charged summarily in the sheriff court with the commission of an offence is insane so that his trial cannot proceed or, if it has commenced, cannot continue, the court shall, subject to subsection (2A) below—

(a) make a finding to that effect and state the reasons for that finding;

(b) discharge the trial diet and order that a diet (in this Act referred to as an "examination of facts") be held in accordance with section 375ZA of this Act; and

(c) remand the person in custody or on bail or, where the court is satisfied—

(i) on the written or oral evidence of two medical practitioners, that he is suffering from mental disorder of a nature or degree which warrants his admission to hospital under Part V of the Mental Health (Scotland) Act 1984; and

(ii) that a hospital is available for his admission and suitable for his detention,

make an order (in this section referred to as a "temporary hospital order") committing him to that hospital until the conclusion of the examination of facts.

(2A) Subsection (2) above is without prejudice to the power of the court, on an application by the prosecutor, to desert the diet pro loco et tempore.

(2B) The court may, before making a finding under subsection (2) above as to the insanity of a person, adjourn the case in order that investigation of his mental condition may be carried out.

(2C) The court which made a temporary hospital order may, at any time while the order is in force, review the order on the ground that there has been a change of circumstances since the order was made and, on such review—

(a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may remand him in custody or on bail;

(b) in any other case, the court may—

(i) confirm or vary the order; or

(ii) revoke the order and make such other order, under subsection (2)(c) above or any other provision of this Part of this Act, as the court considers appropriate.".

48 Insanity as ground of acquittal in summary proceedings.

After subsection (3) of section 375 of the 1975 Act (insanity in bar of trial) there shall be inserted the following subsection—

"(3A) Where, in the case of any person charged summarily in the sheriff court, evidence is brought before the court that the person was insane at the time of doing the act or making the omission constituting the offence with which he is charged and the person is acquitted, the court shall state whether the person was insane at that time and, if so, whether he was acquitted on that ground.".

49 Examination of facts.

(1) After section 174 of the 1975 Act there shall be inserted the following sections—

"**174ZA Examination of facts.**

(1) At an examination of facts ordered under section 174(1)(b) of this Act the court shall, on the basis of the evidence (if any) already given in the trial and such evidence, or further evidence, as may be led by either party, determine whether it is satisfied—

(a) beyond reasonable doubt, as respects any charge on indictment in respect of which the accused was being or was to be tried, that he did the act or made the omission constituting the offence; and

(b) on the balance of probabilities, that there are no grounds for acquitting him.

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(2) Where the court is satisfied as mentioned in subsection (1) above, it shall make a finding to that effect.

(3) Where the court is not so satisfied it shall, subject to subsection (4) below, acquit the person of the charge.

(4) Where, as respects a person acquitted under subsection (3) above, the court is satisfied as to the matter mentioned in subsection (1)(a) above but it appears to the court that the person was insane at the time of doing the act or making the omission constituting the offence, the court shall state whether the acquittal is on the ground of such insanity.

(5) Where it appears to the court that it is not practicable or appropriate for the accused to attend an examination of facts the court may, if no objection is taken by or on behalf of the accused, order that the examination of facts shall proceed in his absence.

(6) Subject to the provisions of this section, section 174ZB of this Act and any Act of Adjournal, the rules of evidence and procedure and the powers of the court shall, in respect of an examination of facts, be as nearly as possible those applicable in respect of a trial.

(7) For the purposes of the application to an examination of facts of the rules and powers mentioned in subsection (6) above, an examination of facts—

(a) commences when the indictment is called; and

(b) concludes when the court—

(i) acquits the person under subsection (3) above;

(ii) makes an order under subsection (2) of section 174ZC of this Act; or

(iii) decides, under paragraph (e) of that subsection, not to make an order.

174ZB Examination of facts: supplementary provisions.

(1) An examination of facts ordered under section 174(1)(b) of this Act may, where the order is made at the trial diet, be held immediately following the making of the order and, where it is so held, the citation of the accused and any witness to the trial diet shall be a valid citation to the examination of facts.

(2) A warrant for citation of an accused and witnesses under section 69 of this Act shall be sufficient warrant for citation to an examination of facts.

(3) Where an accused person is not legally represented at an examination of facts the court shall appoint counsel or a solicitor to represent his interests.

(4) The court may, on the motion of the prosecutor and after hearing the accused, order that the examination of facts shall proceed in relation to a particular charge, or particular charges, in the indictment in priority to other such charges.

(5) The court may, on the motion of the prosecutor and after hearing the accused, at any time desert the examination of facts pro loco et tempore as respects either the whole indictment or any charge therein.

(6) Where, and to the extent that, an examination of facts has, under subsection (5) above, been deserted pro loco et tempore, the Lord Advocate may, at any time, raise and insist in a new indictment notwithstanding any time limit which would otherwise apply in respect of prosecution of the alleged offence.

(7) If, in a case where a court has made a finding under subsection (2) of section 174ZA above, a person is subsequently charged, whether on indictment or on a complaint, with an offence arising out of the same act or omission as is referred to in subsection (1) of that section, any order made under section 174ZC(2) of this Act shall, with effect from the commencement of the later proceedings, cease to have effect.

(8) For the purposes of subsection (7) above, the later proceedings are commenced when the indictment or, as the case may be, the complaint is served.".

(2) After section 375 of the 1975 Act there shall be inserted the following sections—

"**375ZA Examination of facts.**

(1) At an examination of facts ordered under section 375(2)(b) of this Act the court shall, on the basis of the evidence (if any) already given in the trial and such evidence, or further evidence, as may be led by either party, determine whether it is satisfied—

(a) beyond reasonable doubt, as respects any charge in a complaint in respect of which the accused was being or was to be tried, that he did the act or made the omission constituting the offence; and

(b) on the balance of probabilities, that there are no grounds for acquitting him.

(2) Where the court is satisfied as mentioned in subsection (1) above, it shall make a finding to that effect.

(3) Where the court is not so satisfied it shall, subject to subsection (4) below, acquit the person of the charge.

(4) Where, as respects a person acquitted under subsection (3) above, the court is satisfied as to the matter mentioned in subsection (1)(a) above but it appears to the court that the person was insane at the time of doing the act or making the omission constituting the offence, the court shall state whether the acquittal is on the ground of such insanity.

(5) Where it appears to the court that it is not practicable or appropriate for the accused to attend an examination of facts the court may, if no objection is taken by or on behalf of the accused, order that the examination of facts shall proceed in his absence.

(6) Subject to the provisions of this section, section 375ZB of this Act and any Act of Adjournal, the rules of evidence and procedure and the powers of the court in respect of an examination of facts shall be as nearly as possible those applicable in respect of a trial.

(7) For the purposes of the application to an examination of facts of the rules and powers mentioned in subsection (6) above, an examination of facts—

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(a) commences when the diet is called; and

(b) concludes when the court—

(i) acquits the person under subsection (3) above;

(ii) makes an order under subsection (2) of section 375ZC of this Act; or

(iii) decides, under paragraph (e) of that subsection, not to make an order.

375ZB Examination of facts: supplementary provisions.

(1) An examination of facts ordered under section 375(2)(b) of this Act may, where the order is made at the trial diet, be held immediately following the making of the order and, where it is so held, the citation of the accused and any witness to the trial diet shall be a valid citation to the examination of facts.

(2) Where an accused person is not legally represented at an examination of facts the court shall appoint counsel or a solicitor to represent his interests.

(3) The court may, on the motion of the prosecutor and after hearing the accused, order that the examination of facts shall proceed in relation to a particular charge, or particular charges, in the complaint in priority to other such charges.

(4) The court may, on the motion of the prosecutor and after hearing the accused, at any time desert the examination of facts pro loco et tempore as respects the whole complaint or any charge in the complaint.

(5) Where, and to the extent that, an examination of facts has, under subsection (4) above, been deserted pro loco et tempore, the prosecutor may, at any time, raise a fresh libel notwithstanding any time limit which would otherwise apply in respect of prosecution of the alleged offence.

(6) If, in a case where a court has made a finding under subsection (2) of section 375ZA of this Act, a person is subsequently charged, whether on indictment or on a complaint, with an offence arising out of the same act or omission as is referred to in subsection (1) of that section, any order made under section 375ZC(2) of this Act shall, with effect from the commencement of the later proceedings, cease to have effect.

(7) For the purposes of subsection (6) above, the later proceedings are commenced when the indictment or, as the case may be, the complaint is served.".

50 Disposal of case where accused found to be insane.

(1) After section 174ZB of the 1975 Act (inserted by section 49(1) of this Act) there shall be inserted the following section—

"**174ZC Disposal of case where accused found to be insane.**

(1) This section applies where—

(a) a person is, by virtue of section 174(2) or 174ZA(3) of this Act, acquitted on the ground of his insanity at the time of the act or omission; or

(b) following an examination of facts under section 174ZA, a court makes a finding under subsection (2) of that section.

(2) Subject to subsection (3) below, where this section applies the court may, as it thinks fit—

(a) make an order (which shall have the same effect as a hospital order) that the person be detained in such hospital as the court may specify;

(b) in addition to making an order under paragraph (a) above, make an order (which shall have the same effect as a restriction order) that the person shall, without limit of time, be subject to the special restrictions set out in section 62(1) of the Mental Health (Scotland) Act 1984;

(c) make an order (which shall have the same effect as a guardianship order) placing the person under the guardianship of a local authority or of a person approved by a local authority;

(d) make a supervision and treatment order (within the meaning of paragraph 1(1) of Schedule 5A to this Act); or

(e) make no order.

(3) Where the offence with which the person was charged is murder, the court shall make orders under both paragraphs (a) and (b) of subsection (2) above in respect of that person.

(4) Sections 175(1) and (3) to (6) and 176 to 178 of this Act shall have effect in relation to the making, terms and effect of an order under paragraph (a), (b) or (c) of subsection (2) above as those provisions have effect in relation to the making, terms and effect of, respectively, a hospital order, a restriction order and a guardianship order as respects a person convicted of an offence, other than an offence the sentence for which is fixed by law, punishable by imprisonment.".

(2) After section 375ZB of the 1975 Act (inserted by section 49(2) of this Act) there shall be inserted the following section—

"**375ZC Disposal of case where accused found to be insane.**

(1) This section applies where—

(a) a person is, by virtue of section 375(3A) or 375ZA(3) of this Act, acquitted on the ground of his insanity at the time of the act or omission; or

(b) following an examination of facts under section 375ZA, a court makes a finding under subsection (2) of that section.

(2) Where this section applies the court may, as it thinks fit—

(a) make an order (which shall have the same effect as a hospital order) that the person be detained in such hospital as the court may specify;

(b) in addition to making an order under paragraph (a) above, make an order (which shall have the same effect as a restriction order) that the person shall, without limit of time, be subject to the special restrictions set out in section 62(1) of the Mental Health (Scotland) Act 1984;

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(c) make an order (which shall have the same effect as a guardianship order) placing the person under the guardianship of a local authority or of a person approved by a local authority;

(d) make a supervision and treatment order (within the meaning of paragraph 1(1) of Schedule 5A to this Act); or

(e) make no order.

(3) Sections 376(1) and (6) to (9) and 377 to 379 of this Act shall have effect in relation to the making, terms and effect of an order under paragraph (a), (b) or (c) of subsection (2) above as those provisions have effect in relation to the making, terms and effect of, respectively, a hospital order, a restriction order and a guardianship order as respects a person convicted of an offence, other than an offence the sentence for which is fixed by law, punishable by imprisonment."

(3) The Schedule set out in Schedule 2 to this Act (which makes provision as respects supervision and treatment orders) shall be inserted in the 1975 Act as Schedule 5A to that Act.

51 Appeal by accused in case involving insanity.

(1) After section 174ZC of the 1975 Act (inserted by section 50(1) of this Act) there shall be inserted the following section—

"**174ZD Appeal by accused in case involving insanity.**

(1) A person may appeal to the High Court against—

(a) a finding made under section 174(1) of this Act that he is insane so that his trial cannot proceed or continue, or the refusal of the court to make such a finding;

(b) a finding under section 174ZA(2) of this Act; or

(c) an order made under section 174ZC(2) of this Act.

(2) An appeal under subsection (1) above shall be—

(a) in writing; and

(b) lodged—

(i) in the case of an appeal under paragraph (a) of that subsection, not later than seven days after the date of the finding or refusal which is the subject of the appeal;

(ii) in the case of an appeal under paragraph (b), or both paragraphs (b) and (c), of that subsection, not later than 28 days after the conclusion of the examination of facts;

(iii) in the case of an appeal under paragraph (c) of that subsection against an order made on an acquittal, by virtue of section 174(2) or 174ZA(3) of this Act, on the ground of insanity at the time of the act or omission, not later than 14 days after the date of the acquittal;

(iv) in the case of an appeal under that paragraph against an order made on a finding under section 174ZA(2), not later than 14 days after the conclusion of the examination of facts,

or within such longer period as the High Court may, on cause shown, allow.

(3) Subsections (1)(a) and (2)(b)(i) above are without prejudice to section 76A(1) of this Act.

(4) Where an appeal is taken under subsection (1) above, the period from the date on which the appeal was lodged until it is withdrawn or disposed of shall not count towards any time limit applying in respect of the case.

(5) An appellant in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.

(6) In disposing of an appeal under subsection (1) above the High Court may—

(a) affirm the decision of the court of first instance;

(b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or

(c) remit the case to that court with such directions in the matter as the High Court thinks fit.

(7) Section 280 of this Act shall not apply in relation to any order as respects which a person has a right of appeal under subsection (1)(c) above.".

(2) After section 375ZC of that Act (inserted by section 50(2) of this Act) there shall be inserted the following section—

"**375ZD Appeal by accused in case involving insanity.**

(1) A person may appeal to the High Court against—

(a) a finding made under section 375(2) of this Act that he is insane so that his trial cannot proceed or continue, or the refusal of the court to make such a finding;

(b) a finding under section 375ZA(2) of this Act; or

(c) an order made under section 375ZC(2) of this Act.

(2) An appeal under subsection (1) above shall be—

(a) in writing; and

(b) lodged—

(i) in the case of an appeal under paragraph (a) of that subsection, not later than seven days after the date of the finding or refusal which is the subject of the appeal;

(ii) in the case of an appeal under paragraph (b), or both paragraphs (b) and (c), of that subsection, not later than 28 days after the conclusion of the examination of facts;

(iii) in the case of an appeal under paragraph (c) of that subsection against an order made on an acquittal, by virtue of section 375(3A) or 375ZA(3) of this Act, on the ground of insanity at the time of the act or omission, not later than 14 days after the date of the acquittal;

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(iv) in the case of an appeal under that paragraph against an order made on a finding under section 375ZA(2), not later than 14 days after the conclusion of the examination of facts,

or within such longer period as the High Court may, on cause shown, allow.

(3) Where an appeal is taken under subsection (1) above, the period from the date on which the appeal was lodged until it is withdrawn or disposed of shall not count towards any time limit applying in respect of the case.

(4) An appellant in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.

(5) In disposing of an appeal under subsection (1) above the High Court may—

(a) affirm the decision of the court of first instance;

(b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or

(c) remit the case to that court with such directions in the matter as the High Court thinks fit.

(6) Section 443 of this Act shall not apply in relation to any order as respects which a person has a right of appeal under subsection (1)(c) above.".

52 Appeal by prosecutor in case involving insanity.

(1) After section 174ZD of the 1975 Act (inserted by section 51(1) of this Act) there shall be inserted the following section—

"**174ZE Appeal by Lord Advocate in case involving insanity.**

(1) The Lord Advocate may appeal to the High Court on a point of law against—

(a) a finding under subsection (1) of section 174 of this Act that an accused is insane so that his trial cannot proceed or continue;

(b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (2) of that section;

(c) an acquittal under section 174ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or

(d) any order made under section 174ZC(2) of this Act.

(2) An appeal under subsection (1) above shall be—

(a) in writing; and

(b) lodged—

(i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;

(ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,

or within such longer period as the High Court may, on cause shown, allow.

(3) Subsection (1)(a) and (2)(b)(i) above are without prejudice to section 76A(1) of this Act.

(4) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.

(5) In disposing of an appeal under subsection (1) above the High Court may—

(a) affirm the decision of the court of first instance;

(b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or

(c) remit the case to that court with such directions in the matter as the High Court thinks fit.".

(2) After section 375ZD of that Act (inserted by section 51(2) of this Act) there shall be inserted the following section—

"**375ZE Appeal by prosecutor in case involving insanity.**

(1) The prosecutor may appeal to the High Court on a point of law against—

(a) a finding under subsection (2) of section 375 of this Act that an accused is insane so that his trial cannot proceed or continue;

(b) an acquittal on the ground of insanity at the time of the act or omission by virtue of subsection (3A) of that section;

(c) an acquittal under section 375ZA(3) of this Act (whether or not on the ground of insanity at the time of the act or omission); or

(d) any order made under section 375ZC(2) of this Act.

(2) An appeal under subsection (1) above shall be—

(a) in writing; and

(b) lodged—

(i) in the case of an appeal under paragraph (a) or (b) of that subsection, not later than seven days after the finding or, as the case may be, the acquittal which is the subject of the appeal;

(ii) in the case of an appeal under paragraph (c) or (d) of that subsection, not later than seven days after the conclusion of the examination of facts,

or within such longer period as the High Court may, on cause shown, allow.

(3) A respondent in an appeal under this section shall be entitled to be present at the hearing of the appeal unless the High Court determines that his presence is not practicable or appropriate.

(4) In disposing of an appeal under subsection (1) above the High Court may—

(a) affirm the decision of the court of first instance;

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(b) make any other finding or order which that court could have made at the time when it made the finding or order which is the subject of the appeal; or

(c) remit the case to that court with such directions in the matter as the High Court thinks fit.".

53 Review of committal of mentally disordered accused to hospital.

In each of sections 25 and 330 of the 1975 Act (power of court to commit to hospital person suffering from mental disorder), after subsection (4) there shall be inserted the following subsections—

"(5) Without prejudice to subsection (3) above, the court may review an order under subsection (1) above on the ground that there has been a change of circumstances since the order was made and, on such review—

(a) where the court considers that such an order is no longer required in relation to a person, it shall revoke the order and may deal with him in such way mentioned in subsection (3) above as the court thinks appropriate;

(b) in any other case, the court may—

(i) confirm or vary the order; or

(ii) revoke the order and deal with him in such way mentioned in subsection (3) above as the court considers appropriate.

(6) Subsections (1) to (4) above shall apply to the review of an order under subsection (5) above as they apply to the making of an order under subsection (1) above.".

54 Restriction orders to be without limit of time.

(1) In subsection (1) of each of sections 178 and 379 of the 1975 Act (power of court to impose restriction order in addition to hospital order), the words "either" and "or during such period as may be specified in the order" shall cease to have effect.

(2) The amendments made by subsection (1) above shall not have effect in relation to any restriction order made before the coming into force of this section.

55 Committal to hospital for inquiry into mental condition.

(1) Each of sections 180 and 381 of the 1975 Act (remand for inquiry into physical or mental condition) shall be amended as follows.

(2) In subsection (1) for the words "shall remand him in custody or on bail for" there shall be substituted—

"shall—

(a) for the purpose of inquiry solely into his physical condition, remand him in custody or on bail;

(b) for the purpose of inquiry into his mental condition (whether or not in addition to his physical condition), remand him in custody or on bail or, where the court is satisfied—

(i) on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder; and

(ii) that a hospital is available for his admission and suitable for his detention,

make an order committing him to that hospital,

for ".

(3) After subsection (1) there shall be inserted the following subsections—

"(1A) Where the court is of the opinion that a person ought to continue to be committed to hospital for the purpose of inquiry into his mental condition following the expiry of the period specified in an order for committal to hospital under paragraph (b) of subsection (1) above, the court may—

(a) if the condition in sub-paragraph (i) of that paragraph continues to be satisfied and a suitable hospital is available for his continued detention, renew the order for such further period not exceeding three weeks as the court thinks necessary to enable a medical examination and report to be made; and

(b) in any other case, remand the person in custody or on bail in accordance with subsection (1) above.

(1B) An order under subsection (1A)(a) above may, unless objection is made by or on behalf of the person to whom it relates, be made in his absence.

(1C) Where, before the expiry of the period specified in an order for committal to hospital under subsection (1)(b) above, the court considers, on an application made to it, that committal to hospital is no longer required in relation to the person, the court shall revoke the order and may make such other order, under subsection (1)(a) above or any other provision of this Part of this Act, as the court considers appropriate.".

(4) In subsection (4), after the word "section" there shall be inserted " to remand in custody or on bail ".

(5) After subsection (4) there shall be inserted the following subsection—

"(4A) On making an order of committal to hospital under subsection (1)(b) above the court shall send to the hospital specified in the order a statement of the reasons for which the court is of the opinion that an inquiry ought to be made into the mental condition of the person to whom it relates, and of any information before the court about his mental condition.".

(6) In subsection (5)—

(a) after the word "imposed" there shall be inserted " , and a person committed to hospital under this section may appeal against the order of committal, ";

(b) after the word "remand" there shall be inserted " or, as the case may be, committal "; and

(c) at the end of paragraph (b) there shall be inserted—

"; or

(c) in the case of an appeal against an order of committal to hospital, revoke the order and remand the person in custody.".

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

(7) After subsection (5) there shall be inserted the following subsections—

"(6) The court may, on cause shown, vary an order for committal to hospital under subsection (1)(b) above by substituting another hospital for the hospital specified in the order.

(7) Subsection (1)(b) above shall apply to the variation of an order under subsection (6) above as it applies to the making of an order for committal to hospital.".

Miscellaneous

56 Criminal Courts Rules Council.

(1) There shall be established a body, to be known as the Criminal Courts Rules Council (in this section referred to as "the Council") which shall have the functions conferred on it by subsection (9) below.

(2) The Council shall consist of—

(a) the Lord Justice General, the Lord Justice Clerk and the Clerk of Justiciary;

(b) a further Lord Commissioner of Justiciary appointed by the Lord Justice General;

(c) the following persons appointed by the Lord Justice General after such consultation as he considers appropriate—

(i) two sheriffs;

(ii) two members of the Faculty of Advocates;

(iii) two solicitors;

(iv) one sheriff clerk; and

(v) one person appearing to him to have a knowledge of the procedures and practices of the district court;

(d) two persons appointed by the Lord Justice General after consultation with the Lord Advocate, at least one of whom must be a procurator fiscal;

(e) two persons appointed by the Lord Justice General after consultation with the Secretary of State, at least one of whom must be a person appearing to the Lord Justice General to have—

(i) a knowledge of the procedures and practices of the courts exercising criminal jurisdiction in Scotland; and

(ii) an awareness of the interests of victims of crime and of witnesses in criminal proceedings; and

(f) any persons appointed under subsection (3) below.

(3) The Lord Justice General may appoint not more than two further persons, and the Secretary of State may appoint one person, to membership of the Council.

(4) The chairman of the Council shall be the Lord Justice General or such other member of the Council, being a Lord Commissioner of Justiciary, as the Lord Justice General may nominate.

(5) The members of the Council appointed under paragraphs (b) to (f) of subsection (2) above shall, so long as they retain the respective qualifications (if any) mentioned in those paragraphs, hold office for three years and be eligible for reappointment.

(6) Any vacancy in the membership of the Council by reason of the death or demission of office, prior to the expiry of the period for which he was appointed, of a member appointed under any of paragraphs (b) to (f) of subsection (2) above shall be filled by the appointment by the Lord Justice General or, as the case may be, the Secretary of State, after such consultation (if any) as is required by the paragraph in question, of another person having the qualifications (if any) required by that paragraph, and a person so appointed shall hold office only until the expiry of that period.

(7) The Council shall meet—

(a) at intervals of not more than 12 months; and

(b) at any time when summoned by the chairman or by three members of the Council,

but shall, subject to the foregoing, have power to regulate the summoning of its meetings and the procedure at such meetings.

(8) At any meeting of the Council six members shall be a quorum.

(9) The functions of the Council shall be—

(a) to keep under general review the procedures and practices of the courts exercising criminal jurisdiction in Scotland (including any matters incidental or relating to those procedures or practices); and

(b) to consider and comment on any draft Act of Adjournal submitted to it by the High Court, which shall, in making the Act of Adjournal, take account to such extent as it considers appropriate of any comments made by the Council under this paragraph.

(10) In the discharge of its functions under subsection (9) above the Council may invite representations on any aspect of the procedures and practices of the courts exercising criminal jurisdiction in Scotland (including any matters incidental or relating to those procedures or practices) and shall consider any such representations received by it, whether or not submitted in response to such an invitation.

(11) Except where the context otherwise requires, expressions used in this section and in the 1975 Act have the same meaning in this section as in that Act.

57 Information for financial and other purposes.

(1) The Secretary of State shall in each year publish such information as he considers expedient for the purpose of—

(a) enabling persons engaged in the administration of criminal justice to become aware of the financial implications of their decisions; or

(b) facilitating the performance by such persons of their duty to avoid discriminating against any persons on the ground of race or sex or any other improper ground.

(2) Publication under subsection (1) above shall be effected in such manner as the Secretary of State considers appropriate for the purpose of bringing the information to the attention of the persons concerned.

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

58 Prints, samples etc. in criminal investigations.

(1) Section 28 of the [M13]Prisoners and Criminal Proceedings (Scotland) Act 1993 (prints, samples etc. in criminal investigations) shall be amended in accordance with subsections (2) to (4) below.

(2) In subsection (3)—

(a) at the beginning there shall be inserted the words " Subject to subsection (3A) below, ";

(b) after the words "subsection (2) above" there shall be inserted " , all samples taken under subsection (4) below and all information derived from such samples "; and

(c) for the word "immediately" there shall be substituted " as soon as possible ".

(3) After subsection (3) there shall be inserted the following subsections—

"(3A) The duty under subsection (3) above to destroy samples taken under subsection (4) below and information derived from such samples shall not apply where the destruction of the sample or the information could have the effect of destroying any sample, or any information derived therefrom, lawfully held in relation to a person other than the person from whom the sample was taken.

(3B) No sample, or information derived from a sample, retained by virtue of subsection (3A) above shall be used—

(a) in evidence against the person from whom the sample was taken; or

(b) for the purposes of the investigation of any offence.

(3C) The duty under subsection (3) above shall not apply where the record, sample or information in question is of the same kind as a record, a sample or, as the case may be, information lawfully held by or on behalf of any police force in relation to the person.".

(4) In subsection (4)—

(a) in paragraph (a)—

(i) after the word "body" there shall be inserted " , other than pubic hair, "; and

(ii) for the words "or combing" there shall be substituted " , combing or plucking "; and

(b) at the end there shall be inserted the following paragraph—

"(d) from the inside of the mouth, by means of swabbing, a sample of saliva or other material".

(5) After section 28 of that Act of 1993 there shall be inserted the following sections—

"28A Prints, samples etc. in criminal investigations: supplementary provisions.

(1) This section applies where a person convicted of an offence—

(a) has not, since the conviction, had a sample, print or impression taken from him; or

(b) has (whether before or after the conviction) had a sample, print or impression taken from him but it was not suitable for the means of

analysis for which it was taken or, though suitable, was insufficient (either in quantity or in quality) to enable information to be obtained by that means of analysis.

(2) Where this section applies, a constable may, within the permitted period—

(a) take from the convicted person fingerprints, palmprints and such other prints and impressions of an external part of the body as the constable reasonably considers it appropriate to take; and

(b) with the authority of an officer of a rank no lower than inspector, take from the person any sample mentioned in any of paragraphs (a) to (d) of subsection (4) of section 28 of this Act by the means specified in that paragraph in relation to that sample.

(3) A constable—

(a) may require the convicted person to attend a police station for the purposes of subsection (2) above;

(b) may, where the convicted person is in legal custody within the meaning of the 1975 Act, exercise the powers conferred by subsection (2) above in relation to the person in the place where he is for the time being.

(4) In subsection (2) above, "the permitted period" means—

(a) in a case to which paragraph (a) of subsection (1) above applies, the period of one month beginning with the date of the conviction;

(b) in a case to which paragraph (b) of that subsection applies, the period of one month beginning with the date on which a constable of the police force which instructed the analysis receives written intimation that the sample, print or impression was unsuitable or, as the case may be, insufficient as mentioned in that paragraph.

(5) A requirement under subsection (3)(a) above—

(a) shall give the person at least seven days' notice of the date on which he is required to attend;

(b) may direct him to attend at a specified time of day or between specified times of day.

(6) Any constable may arrest without warrant a person who fails to comply with a requirement under subsection (3)(a) above.

28B Use of prints, samples etc.

Without prejudice to any power to do so apart from this section, prints, impressions and samples lawfully held by or on behalf of any police force or in connection with or as a result of an investigation of an offence and information derived therefrom may be checked against other such prints, impressions, samples and information.".

Marginal Citations

M13 1993 c. 9.

59 Calculation of period of detention at police station where person previously detained under another enactment etc.

In section 2(3A) of the [M14]Criminal Justice (Scotland) Act 1980 (detention and questioning at police station)—

(a) for the words from "he" to "be" there shall be substituted " and is "; and

(b) after the word "detention" there shall be inserted " , the period of six hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention ".

Marginal Citations

M14 1980 c. 62.

60 Jurisdiction of district court in relation to statutory offences.

For subsection (1) of section 7 of the [M15]Criminal Justice (Scotland) Act 1980 (jurisdiction of district courts in relation to statutory offences) there shall be substituted the following subsections—

"(1) Except in so far as any enactment (including this Act and an enactment passed after this Act) otherwise provides, it shall be competent for a district court to try any statutory offence which is triable summarily.

(1A) Without prejudice to any other or wider power conferred by any enactment, it shall not be competent for a district court, as respects any statutory offence—

(a) to impose a sentence of imprisonment for a period exceeding 60 days;

(b) to impose a fine of an amount exceeding level 4 on the standard scale; or

(c) to ordain an accused person to find caution for any period exceeding six months or to an amount exceeding level 4 on the standard scale.".

Marginal Citations

M15 1980 c. 62.

61 Conditional offer of fixed penalty by procurator fiscal.

(1) Section 56 of the [M16]Criminal Justice (Scotland) Act 1987 (conditional offer of fixed penalty by procurator fiscal) shall be amended as follows.

(2) After subsection (2) there shall be inserted the following subsection—

"(2A) In this section "the appropriate fixed penalty" means such fixed penalty on the scale prescribed under subsection (7) below as the procurator fiscal thinks fit having regard to the circumstances of the case.".

(3) In subsection (3)(b)(i), after the word "the" in the second place where it occurs there shall be inserted " appropriate ".

(4) After subsection (3) there shall be inserted the following subsection—

"(3A) A conditional offer may be made in respect of more than one relevant offence and shall, in such a case, state the amount of the appropriate fixed penalty for all the offences in respect of which it is made.".

(5) In each of subsections (4) and (6), after the words "payment of the" there shall be inserted " appropriate ".

(6) For subsection (7) there shall be substituted the following subsections—

"(7) The Secretary of State shall, by order, prescribe a scale of fixed penalties for the purposes of this section, the amount of the maximum penalty on the scale being a sum not exceeding level 1 on the standard scale.

(7A) An order under subsection (7) above—

(a) may contain provision as to the payment of fixed penalties by instalments; and

(b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.".

(7) In subsection (8), after the words "instalment of the" there shall be inserted " appropriate ".

Commencement Information

I4 S. 61 wholly in force at 31.3.96; s. 61 not in force at Royal Assent see s. 118(2); s. 61(6) in force for certain purposes at 5.3.1996 and s. 61 in force at 31.3.1996 insofar as not already in force by S.I. 1996/517, art. 3, **Sch.**

Marginal Citations

M16 1987 c. 41.

62 Time limit for summary prosecution of statutory offences.

(1) Section 331 of the 1975 Act (time limit for summary prosecution of statutory offences) shall be amended as follows.

(2) In subsection (1), after the words "in respect of" there shall be inserted " any offence triable only summarily and consisting of ".

(3) Subsection (2) shall cease to have effect.

63 Abolition of private summary prosecutions.

After section 310 of the 1975 Act there shall be inserted the following section—

"**310A Abolition of private summary prosecutions.**

Except where any enactment otherwise expressly provides, all prosecutions under this Part of this Act shall be brought at the instance of the procurator fiscal.".

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

64 Legal aid in case involving insanity in bar of trial.

In subsection (1) of section 22 of the [M17]Legal Aid (Scotland) Act 1986 (circumstances in which criminal legal aid automatically available), after paragraph (d) there shall be inserted the following paragraphs—

"(da) in relation to any proceedings under solemn or summary procedure whereby the court determines (whether or not on a plea by the accused person) whether he is insane so that his trial cannot proceed or continue;

(db) in relation to an examination of facts held under section 174ZA or 375ZA of the Criminal Procedure (Scotland) Act 1975 and the disposal of the case following such examination of facts;

(dc) in relation to any appeal under section 174ZD (appeal by accused in case involving insanity) or 174ZE (appeal by Lord Advocate in case involving insanity) or section 375ZD or 375ZE (equivalent provisions as respects summary procedure) of that Act of 1975;".

Marginal Citations
M17 1986 c. 47.

65 Legal aid in criminal appeals.

(1) Section 25 of the [M18]Legal Aid (Scotland) Act 1986 (legal aid in criminal appeals) shall be amended in accordance with subsections (2) to (5) below.

(2) In subsection (1)—

(a) after the word "sentence" there shall be inserted " , other disposal "; and

(b) at the end there shall be inserted the words " other than an appeal in relation to which section 22(1)(dc) of this Act applies. ".

(3) In subsection (2)—

(a) the words "the Board is satisfied" shall cease to have effect;

(b) in paragraph (a), after the word "below," there shall be inserted " the Board is satisfied "; and

(c) for paragraph (b) and the preceding "and" there shall be substituted—

"(b) in the case of an appeal under section 228(1) or 442(1)(a) of the Criminal Procedure (Scotland) Act 1975, leave to appeal is granted; and

(c) in the case of an appeal under any provision of that Act other than sections 228(1) and 442(1)(a), where the applicant is the appellant, the Board is satisfied that in all the circumstances of the case it is in the interests of justice that the applicant should receive criminal legal aid.".

(4) After subsection (2) there shall be inserted the following subsection—

"(2A) Where the Board has refused an application for criminal legal aid on the ground that it is not satisfied as mentioned in subsection (2)(c) above the High Court may, at any time prior to the disposal of an appeal, whether or not on application made to it, notwithstanding such refusal determine that it is in the interests of justice that the applicant should receive criminal legal aid in

connection with the appeal, and the Board shall forthwith make such legal aid available to him.".

(5) For subsection (5) there shall be substituted the following subsections—

"(5) Subsections (2)(a), (3) and (4) above shall apply to an application for criminal legal aid in connection with consideration under section 230A, 442ZA or 453AA of the Criminal Procedure (Scotland) Act 1975 whether to grant leave to appeal as if—

(a) in subsection (2)(a), for the words "of the appeal" there were substituted "in connection with consideration whether to grant leave to appeal"; and

(b) in subsection (4), after the word "is" there were inserted ", subject to leave being granted,".

(6) Subsections (2)(a) and (c) and (2A) to (4) above shall apply to an application for criminal legal aid in connection with a petition to the nobile officium of the High Court of Justiciary (whether arising in the course of any proceedings or otherwise) as they apply for the purposes of subsection (1) above.

(7) Subsections (2)(a), (3) and (4) above shall apply to an application for criminal legal aid in connection with a reference by the Secretary of State under section 263 of the Criminal Procedure (Scotland) Act 1975 as they apply for the purposes of subsection (1) above.".

(6) In section 30(3) of that Act (application of section 25 of that Act to legal aid in contempt proceedings)—

(a) before the words "Section 25" there shall be inserted " Subsections (2)(a) and (c), (2A) to (4) and (6) of ";

(b) for the words "it applies" there shall be substituted " they apply ";

(c) after the word "sentence" there shall be inserted " , other disposal ";

(d) after the word "application" there shall be inserted the following paragraph—

"(za) in subsection (2A) of that section, the reference to the High Court shall include a reference to the Court of Session;"; and

(e) in paragraph (b), for the word "(5)" there shall be substituted " (6) ".

Modifications etc. (not altering text)
C3 S. 65 restricted (31.8.1995) by S.I. 1995/2295, **art. 6**

Marginal Citations
M18 1986 c. 47.

66 Supervision and care of persons diverted from prosecution or subject to supervision requirement etc.

In section 27(1) of the [M19]Social Work (Scotland) Act 1968 (supervision and care of persons put on probation or released from prisons etc.)—

(a) after paragraph (a) there shall be inserted—

"(aa) making available to any children's hearing such reports relating to persons aged 16 and 17 years in relation to the

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Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

commission of an offence, as the hearing may require for the disposal of a case;

(ab) making available to any procurator fiscal or the Lord Advocate such reports as the procurator fiscal or the Lord Advocate may request in relation to persons who are charged with an offence;"; and

(b) after sub-paragraph (iv) of paragraph (b) there shall be inserted the following sub-paragraphs—

"(v) without prejudice to sub-paragraphs (i) to (iv) above, persons in their area who are subject to a supervision and treatment order made under section 174ZC(2)(d) or 375ZC(2)(d) of the Criminal Procedure (Scotland) Act 1975; and

(vi) persons in their area aged 16 and 17 years who are subject to a supervision requirement imposed in relation to the commission of any offence by that person; and

(vii) persons in their area who are charged with, but not prosecuted for, any offence and are referred to the local authority by the procurator fiscal or the Lord Advocate; and".

Marginal Citations
M19 1968 c.49.

67 Transfer of fine orders.

(1) Section 403 of the 1975 Act (transfer of fine orders), shall be amended as follows.

(2) In subsection (3), at the beginning there shall be inserted the words " Subject to subsections (3A) and (3B) below, ".

(3) After subsection (3) there shall be inserted the following subsections—

"(3A) Where—

(a) the court specified in a transfer of fine order is satisfied, after inquiry, that the offender is not residing within the jurisdiction of that court; and

(b) the clerk of that court, within 14 days of receiving the notice required by section 404(1) of this Act, sends to the clerk of the court which made the order notice to that effect,

the order shall cease to have effect.

(3B) Where a transfer of fine order ceases to have effect by virtue of subsection (3A) above, the functions referred to in subsection (3) above shall again be exercisable by the court which made the order or, as the case may be, by the clerk of that court.".

Status: *Point in time view as at 31/03/1996.*
Changes to legislation: *There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I. (See end of Document for details)*

68 Liability of bankrupt to pay fines and compensation orders.

In section 55(2) of the [M20]Bankruptcy (Scotland) Act 1985 (effect of discharge of bankrupt on certain liabilities), after paragraph (a) there shall be inserted the following paragraphs—

"(aa) any liability to pay a fine imposed in a district court;

(ab) any liability under a compensation order within the meaning of section 58 of the Criminal Justice (Scotland) Act 1980;".

Marginal Citations

M20 1985 c.66.

69 Child detainees unlawfully at large.

For subsection (3) of section 40 of the [M21]Prisons (Scotland) Act 1989 (persons unlawfully at large) there shall be substituted the following subsection—

"(3) In this section—

(a) any reference to a person sentenced to imprisonment shall be construed as including a reference to any person sentenced or ordered to be detained under section 205, 206 or 413 of the 1975 Act;

(b) any reference to a prison shall be construed as including a reference to a place where the person is liable to be detained under the sentence or order; and

(c) any reference to a sentence shall be construed as including a reference to an order under section 413 of that Act.".

Marginal Citations

M21 1989 c.45.

Status:
Point in time view as at 31/03/1996.

Changes to legislation:
There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, PART I.